

---

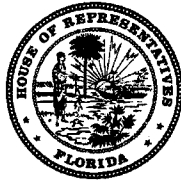
# **LOCAL & FEDERAL AFFAIRS COMMITTEE**

## **MEETING PACKET**

**Thursday, March 6, 2014**  
**10:00 a.m.**  
**Webster Hall (212 Knott)**

**Will W. Weatherford**  
Speaker

**Eduardo "Eddy" Gonzalez**  
Chair



# The Florida House of Representatives

## Local & Federal Affairs Committee

Will W. Weatherford  
Speaker

Eduardo "Eddy" Gonzalez  
Chair

### AGENDA

Webster Hall (212 Knott)  
Thursday, March 6, 2014, 10:00 a.m.

- I. CALL TO ORDER AND WELCOME REMARKS
- II. CONSIDERATION OF THE FOLLOWING BILL(S):
  - CS/HB 17 Motorist Safety by Transportation & Highway Safety Subcommittee, Slosberg
  - CS/HB 21 County Employees by Government Operations Subcommittee, Porter
  - HM 81 Congressional Term Limits by Caldwell
  - CS/HB 325 Brownfields by Economic Development & Tourism Subcommittee, Stone
  - HB 421 Pub. Rec./Taxpayer's E-mail Address by Hooper
  - HB 911 City of Panama City, Bay County by Patronis
  - HB 915 Board of Trustees of Bay Medical Center, Bay County by Patronis
  - HB 919 Bay County Tourist Development Council, Bay County by Patronis
- III. Consideration of the following proposed committee substitute(s):
  - PCS for HM 233—Federal Government Shutdown/Payment of Federal Taxes
  - PCS for HB 503—Municipal Governing Body Meetings
- IV. ADJOURNMENT



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 17 Motorist Safety  
**SPONSOR(S):** Slosberg and others  
**TIED BILLS:** HB 19 IDEN./SIM. **BILLS:** SB 262

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	14 Y, 0 N, As CS	Thompson	Miller
2) Local & Federal Affairs Committee		<i>AD</i> Dougherty	Rojas <i>JK</i>
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

CS/HB17 authorizes, but does not require, the governing board of a county to create a "yellow dot critical motorist medical information program" for the purpose of assisting emergency medical responders and program participants in the event of a motor vehicle accident or a medical emergency involving a participant's vehicle. Participants in the program receive a yellow dot decal to place on their vehicle's rear window, which alerts emergency services personnel to look for a corresponding yellow dot folder in the glove box. The yellow dot folder includes the participant's emergency contact and medical information.

Under the bill, a person's participation in the program is voluntary and free. A county, or group of counties, may solicit sponsorships to cover expenditures, including the cost of the yellow dot decals and folders. The bill also authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to provide education and training to encourage emergency medical responders to participate in the program. DHSMV and DOT may also take reasonable measures to publicize the program.

The bill limits the liability of emergency medical responders, and requires the governing body of a participating county to adopt guidelines and procedures to ensure that the confidential information is not made public.

This bill has no fiscal impact.

This bill will take effect on July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The yellow dot program is a system to alert first responders at an accident scene to search for medical information about the injured—especially if the injured is unconscious or unable to speak.<sup>1</sup> According to the newspaper *USA Today*, the yellow dot program is "...simple but effective: [p]articipants in the free program receive a yellow dot to place on their rear window; it alerts emergency services personnel to look for a corresponding yellow folder in the glove box."<sup>2</sup> The yellow folder may include the injured participant's name, photograph, emergency contact information, medical information, hospital preference, and other vital information.

The program began in Connecticut in 2002, and now, with slight variations, is in counties scattered across at least eight other states: Kansas, Illinois, Iowa, Minnesota, Massachusetts, Virginia, Alabama and New York.<sup>3</sup>

##### **Effect of Proposed Changes**

The bill authorizes the governing body of a county to create a yellow dot critical motorist medical information program to facilitate the provision of emergency medical care to program participants by emergency medical responders by making critical medical information readily available to responders in the event of a motor vehicle accident or a medical emergency involving a participant's vehicle.

Under the bill, a person's participation in the program is voluntary and free. A county, or group of counties, may solicit sponsorships from business entities and not-for-profit organizations to cover expenditures, including the cost of the yellow dot decals and folders that are provided free of charge to participants. Two or more counties also may enter into an interlocal agreement to solicit such sponsorships.

The bill also authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to provide education and training to encourage emergency medical responders to participate in the program. DHSMV and DOT may also take reasonable measures to publicize the program.

Any owner or lessee of a motor vehicle may participate in the program upon submission of an application and documentation on a form prescribed by the governing body of the county. The application form must include a statement that the information submitted will be disclosed only to authorized personnel of law enforcement and public safety agencies, emergency medical services agencies, and hospitals in the case of a motor vehicle accident or other emergency situation. The application must describe the confidential nature of the medical information voluntarily provided by the participant. The application must include a notice to the participant stating that, by providing the medical information and signing the form, he or she agrees to the disclosure of the medical information to authorized personnel and their use of such information in the case of a motor vehicle accident or other emergency situation.

---

<sup>1</sup> Additional information about the Yellow Dot program at [www.yellow-dot.com](http://www.yellow-dot.com) (Last viewed on 2/5/14).

<sup>2</sup> "Yellow Dot car program speeds to help crash victims." Larry Copeland, *USA Today* (5/24/2011) at [http://usatoday30.usatoday.com/news/nation/2011-05-23-yellow-dot-seniors-drivers-baby-boomers\\_n.htm](http://usatoday30.usatoday.com/news/nation/2011-05-23-yellow-dot-seniors-drivers-baby-boomers_n.htm) (Last viewed on 2/5/14).

<sup>3</sup> *Id.*

After submitting a completed application, the participant is given a yellow dot decal to affix onto the lower left corner of his or her vehicle's rear window (or a clearly visible location on a motorcycle), a yellow dot folder, and a form for the participant's information.

The form, which is to be placed inside the yellow dot folder, must contain the following information:

- the participant's name;
- the participant's photograph;
- emergency contact information of no more than two persons;
- the participant's medical information, including medical conditions, recent surgeries, allergies and medications;
- the participant's hospital preference; and
- contact information for no more than two physicians.

The yellow dot folder must be stored in the glove compartment of a motor vehicle or in a compartment attached to a motorcycle. The use of the information contained in the yellow dot folder by an emergency medical responder at the scene is limited to the following functions:

- to positively identify the participant;
- to ascertain whether the participant has a medical condition that might impede communications between the participant and the responder;
- to access the medical information form; and
- to ensure that the participant's current medications and preexisting medical conditions are considered when emergency medical treatment is administered for any injury to or condition of the participant.

A motor vehicle passenger may also participate in the yellow dot program, but may not be issued a decal if a decal is issued to the owner or lessee of the motor vehicle in which the person rides.

When the driver of a vehicle with an affixed yellow dot decal is involved in an accident or emergency situation, an emergency medical responder at the scene is authorized to search the glove compartment of the vehicle for the corresponding yellow dot folder. With regard to liability, the bill provides that—except for wanton or willful conduct—an emergency medical responder, or the employer of a responder, does not incur any liability if the responder disseminates or fails to disseminate any information from the yellow dot folder to any other emergency medical responder, hospital, or health care provider who renders emergency medical treatment to the participant.

The governing body of a participating county is required to adopt guidelines and procedures to prevent the public disclosure of confidential information through the program.

## B. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law authorizing a motorist medical information program.

Section 2: Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None. Neither DHSMV nor DOT is required to provide training, education or to publicize the program.

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

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

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

See FISCAL COMMENTS.

**D. FISCAL COMMENTS:**

The bill does not require a county to create a yellow dot program. If the governing body of a county decides to create such a program, the bill authorizes the county's governing body to seek sponsorships to cover costs. Public participation in the program is voluntary and free.

The cost of the program is unknown. Yellow Dot LLC, a Nevada business, advertises a booklet with a sticker priced at \$5.00.<sup>4</sup>

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

**Other Comments**

Under its home rule powers,<sup>5</sup> a county may enact a yellow dot program without the authority provided by this bill. Nonetheless, a statute, such as the one proposed, may serve to encourage participation in this program, while requiring some uniformity.

CS/HB 19 creates a public record exemption for a yellow dot program participant's personal and medical information that is held by a participating county. CS/HB 19 is linked to the passage of this bill.

<sup>4</sup> See, <http://www.yellow-dot.com/3301.html>. (Last viewed 2/5/14).

<sup>5</sup> Home rule powers are conferred to Florida counties by Article VIII, Section 1(f), of the Florida Constitution (1968), and by s. 125.01, F.S.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 14, 2014, the Transportation & Highway Safety Subcommittee adopted a strike-all amendment to HB 17 before reporting it favorably as a committee substitute. The amendment makes technical changes to conform to the Senate companion. The strike-all does not change the substance of the bill. The strike-all also removes the provision that would have authorized emergency medical responders to inform a participant's emergency contacts about the location, condition, or death of the participant. However, this is not generally a common practice or responsibility of emergency medical responders.

This analysis is drafted to CS/HB 17.



1                                    A bill to be entitled  
 2                    An act relating to motorist safety; authorizing the  
 3                    governing body of a county to create a yellow dot  
 4                    critical motorist medical information program for  
 5                    certain purposes; authorizing a county to solicit  
 6                    sponsorships for the medical information program and  
 7                    enter into an interlocal agreement with another county  
 8                    to solicit such sponsorships; authorizing the  
 9                    Department of Highway Safety and Motor Vehicles and  
 10                    the Department of Transportation to provide education  
 11                    and training and publicize the program; requiring the  
 12                    program to be free to participants; providing for  
 13                    applications to participate; providing for a yellow  
 14                    dot decal and a yellow dot folder to be issued to  
 15                    participants and a form containing specified  
 16                    information about the participant; providing  
 17                    procedures for use of the decal, folder, and form;  
 18                    providing for limited use of information on the forms  
 19                    by emergency medical responders; limiting liability of  
 20                    emergency medical responders; requiring the governing  
 21                    body of a participating county to adopt guidelines and  
 22                    procedures to ensure that confidential information is  
 23                    not made public; providing a contingent effective  
 24                    date.

25  
 26    Be It Enacted by the Legislature of the State of Florida:  
 27

28                    Section 1.    Yellow dot critical motorist medical

29 information program; yellow dot decal, folder, and information  
 30 form.—

31 (1) The governing body of a county may create a yellow dot  
 32 critical motorist medical information program to assist  
 33 emergency medical responders and drivers and passengers who  
 34 participate in the program by making critical medical  
 35 information readily available to a responder in the event of a  
 36 motor vehicle accident or a medical emergency involving a  
 37 participant's vehicle.

38 (2) (a) The governing body of a county may solicit  
 39 sponsorships from interested business entities and not-for-  
 40 profit organizations to cover costs of the program, including  
 41 the cost of the yellow dot decals and folders that shall be  
 42 provided free of charge to participants. Two or more counties  
 43 may enter into an interlocal agreement to solicit such  
 44 sponsorships.

45 (b) The Department of Highway Safety and Motor Vehicles or  
 46 the Department of Transportation may provide education and  
 47 training to encourage emergency medical responders to  
 48 participate in the program and may take reasonable measures to  
 49 publicize the program.

50 (3) (a) Any owner or lessee of a motor vehicle may  
 51 participate in the program upon submission of an application and  
 52 documentation in the form and manner prescribed by the governing  
 53 body of the county.

54 (b) The application form shall include a statement that  
 55 the information submitted will be disclosed only to authorized  
 56 personnel of law enforcement and public safety agencies,

57 emergency medical services agencies, and hospitals for the  
 58 purposes authorized in subsection (5).

59 (c) The application form shall describe the confidential  
 60 nature of the medical information voluntarily provided by the  
 61 participant and shall state that, by providing the medical  
 62 information, the participant has authorized the use and  
 63 disclosure of the medical information to authorized personnel  
 64 solely for the purposes listed in subsection (5). The  
 65 application form shall also require the participant's express  
 66 written consent for such use and disclosure.

67 (d) The county may not charge any fee to participate in  
 68 the yellow dot program.

69 (4) A participant shall receive a yellow dot decal, a  
 70 yellow dot folder, and a form with the participant's  
 71 information.

72 (a) The participant shall affix the decal onto the rear  
 73 window in the left lower corner of a motor vehicle or in a  
 74 clearly visible location on a motorcycle.

75 (b) A person who rides in a motor vehicle as a passenger  
 76 may also participate in the program but may not be issued a  
 77 decal if a decal is issued to the owner or lessee of the motor  
 78 vehicle in which the person rides.

79 (c) The yellow dot folder, which shall be stored in the  
 80 glove compartment of the motor vehicle or in a compartment  
 81 attached to a motorcycle, shall contain a form with the  
 82 following information about the participant:

- 83 1. The participant's name.
- 84 2. The participant's photograph.

85       3. Emergency contact information of no more than two  
 86 persons for the participant.

87       4. The participant's medical information, including  
 88 medical conditions, recent surgeries, allergies, and medications  
 89 being taken.

90       5. The participant's hospital preference.

91       6. Contact information for no more than two physicians for  
 92 the participant.

93       (5) (a) If a driver or passenger of a motor vehicle becomes  
 94 involved in a motor vehicle accident or emergency situation, and  
 95 a yellow dot decal is affixed to the vehicle, an emergency  
 96 medical responder at the scene is authorized to search the glove  
 97 compartment of the vehicle for the corresponding yellow dot  
 98 folder.

99       (b) An emergency medical responder at the scene may use  
 100 the information in the yellow dot folder for the following  
 101 purposes only:

102       1. To positively identify the participant.

103       2. To ascertain whether the participant has a medical  
 104 condition that might impede communications between the  
 105 participant and the responder.

106       3. To inform the participant's emergency contacts about  
 107 the location, condition, or death of the participant.

108       4. To learn the nature of any medical information reported  
 109 by the participant on the form.

110       5. To ensure that the participant's current medications  
 111 and preexisting medical conditions are considered when emergency

HB 17

2014

112 medical treatment is administered for any injury to or condition  
 113 of the participant.

114 (6) Except for wanton or willful conduct, an emergency  
 115 medical responder or the employer of a responder does not incur  
 116 any liability if a responder is unable to make contact, in good  
 117 faith, with a participant's emergency contact person, or if a  
 118 responder disseminates or fails to disseminate any information  
 119 from the yellow dot folder to any other emergency medical  
 120 responder, hospital, or healthcare provider who renders  
 121 emergency medical treatment to the participant.

122 (7) The governing body of a participating county shall  
 123 adopt guidelines and procedures for ensuring that any  
 124 information that is confidential is not made public through the  
 125 program.

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

1                                    A bill to be entitled  
 2                    An act relating to motorist safety; authorizing the  
 3                    governing body of a county to create a yellow dot  
 4                    critical motorist medical information program for  
 5                    certain purposes; authorizing a county to solicit  
 6                    sponsorships and enter into an interlocal agreement  
 7                    with another county to solicit such sponsorships for  
 8                    the medical information program; authorizing the  
 9                    Department of Highway Safety and Motor Vehicles and  
 10                  the Department of Transportation to provide education  
 11                  and training and publicize the program; requiring the  
 12                  program to be free to participants; providing for  
 13                  yellow dot program applications, decals, folders, and  
 14                  participant information forms; providing procedures  
 15                  for use of the decal, folder, and form; providing for  
 16                  limited use of information on the forms by emergency  
 17                  medical responders; limiting liability of emergency  
 18                  medical responders in certain circumstances; requiring  
 19                  the governing body of a participating county to adopt  
 20                  guidelines and procedures to ensure that confidential  
 21                  information is not made public; providing an effective  
 22                  date.

23  
 24        Be It Enacted by the Legislature of the State of Florida:  
 25

26           Section 1. Yellow dot critical motorist medical  
 27 information program; yellow dot decal, folder, and information  
 28 form.—

29           (1) The governing body of a county may create a yellow dot  
 30 critical motorist medical information program to facilitate the  
 31 provision of emergency medical care to program participants by  
 32 emergency medical responders by making critical medical  
 33 information readily available to responders in the event of a  
 34 motor vehicle accident or a medical emergency involving a  
 35 participant's vehicle.

36           (2) (a) The governing body of a county may solicit  
 37 sponsorships from business entities and not-for-profit  
 38 organizations to cover the costs of the program, including the  
 39 cost of decals and folders that must be provided free of charge  
 40 to participants. Two or more counties may enter into an  
 41 interlocal agreement to solicit such sponsorships.

42           (b) The Department of Highway Safety and Motor Vehicles or  
 43 the Department of Transportation may provide education and  
 44 training to encourage emergency medical responders to  
 45 participate in the program and may take reasonable measures to  
 46 publicize the program.

47           (3) Any owner or lessee of a motor vehicle may participate  
 48 in the program upon submission of an application and  
 49 documentation in the form and manner prescribed by the governing  
 50 body of the county.

51           (a) The application form must include a statement that the

52 information submitted will be disclosed only to authorized  
 53 personnel of law enforcement and public safety agencies,  
 54 emergency medical services agencies, and hospitals for the  
 55 purposes authorized in subsection (5).

56 (b) The application form must describe the confidential  
 57 nature of the medical information voluntarily provided by the  
 58 participant and must include a notice to the participant stating  
 59 that, by providing the medical information and signing the form,  
 60 he or she agrees to the disclosure of the medical information to  
 61 authorized personnel and their use of such information solely  
 62 for the purposes listed in subsection (5).

63 (c) The county may not charge a fee to participate in the  
 64 yellow dot program.

65 (4) A participant shall receive a yellow dot decal, a  
 66 yellow dot folder, and a form containing the personal and  
 67 medical information provided by the participant.

68 (a) The participant shall affix the decal onto the rear  
 69 window in the left lower corner of a motor vehicle or in a  
 70 clearly visible location on a motorcycle.

71 (b) A person who rides in a motor vehicle as a passenger  
 72 may also participate in the program but may not be issued a  
 73 decal if a decal has been issued to the owner or lessee of the  
 74 motor vehicle in which the person rides.

75 (c) The yellow dot folder, which shall be stored in the  
 76 glove compartment of the motor vehicle or in a compartment  
 77 attached to a motorcycle, shall contain a form with the



78 following information about the participant:

79 1. The participant's name.

80 2. The participant's photograph.

81 3. Emergency contact information for no more than two  
 82 persons.

83 4. The participant's medical information, including  
 84 medical conditions, recent surgeries, allergies, and current  
 85 medications.

86 5. The participant's hospital preference.

87 6. Contact information for no more than two physicians.

88 (5)(a) If the driver or a passenger of a motor vehicle is  
 89 involved in a motor vehicle accident or emergency situation and  
 90 a yellow dot decal is affixed to the vehicle, an emergency  
 91 medical responder at the scene may search the glove compartment  
 92 of the vehicle for the corresponding yellow dot folder.

93 (b) The use of the information contained in the yellow dot  
 94 folder by an emergency medical responder at the scene is limited  
 95 to the following purposes:

96 1. To positively identify the participant.

97 2. To ascertain whether the participant has a medical  
 98 condition that might impede communications between the  
 99 participant and the responder.

100 3. To access the medical information form.

101 4. To ensure that the participant's current medications  
 102 and preexisting medical conditions are considered when emergency  
 103 medical treatment is administered for any injury to or condition

104 | of the participant.

105 |       (6) Except for wanton or willful conduct, an emergency  
 106 | medical responder or his or her employer is not liable if a  
 107 | responder disseminates or fails to disseminate any information  
 108 | from the yellow dot folder to any other emergency medical  
 109 | responder, hospital, or health care provider who renders  
 110 | emergency medical treatment to the participant.


111 |       (7) The governing body of a participating county shall  
 112 | adopt guidelines and procedures to prevent the public disclosure  
 113 | of confidential information through the program.

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



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 21 County Employees  
**SPONSOR(S):** Government Operations Subcommittee; Porter and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 106

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 0 N, As CS	Stramski	Williamson
2) Local & Federal Affairs Committee		AD Dougherty	Rojas 
3) State Affairs Committee			

**SUMMARY ANALYSIS**

Florida counties have broad home rule authority under the State Constitution. The Florida Statutes further outline the powers and duties of counties, including the power to employ personnel.

This bill clarifies that the existing authority of counties to employ personnel includes the ability to determine available benefits for different types of positions, including, but not limited to, insurance coverage and paid leave. The bill also clarifies that ch.121, F.S., governs the participation of county employees in the Florida Retirement System.

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

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### County Government

The State Constitution contains provisions specifically related to the county form of government in Florida, and requires the state to be divided by law into political subdivisions called "counties."<sup>1</sup> It provides that counties may be created, abolished, or changed by law, with provision for payment or apportionment of the public debt.<sup>2</sup> Pursuant to general or special law, a county government may be established by charter, which must be adopted, amended, or repealed only upon a vote of the electors of the county in a special election called for that purpose.<sup>3</sup>

The State Constitution recognizes two types of county government in Florida: charter and non-charter. Subsections 1(f) and (g), Art. VIII of the State Constitution, respectively, provide as follows:

**NON-CHARTER GOVERNMENT.** Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

**CHARTER GOVERNMENT.** Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

The most significant distinction between charter and non-charter county power is that the State Constitution provides a direct constitutional grant of the power of self-government to a county upon charter approval, whereas a non-charter county has "such power of self-government as is provided by general or special law."<sup>4</sup> While all counties have broad home rule authority, charter counties possess greater home rule authority than non-charter counties.

The Florida Statutes outline the powers and duties of charter and non-charter counties. The enumeration of powers is not deemed exclusive or restrictive, but is deemed to incorporate the implied powers necessary to carry out the enumerated powers.<sup>5</sup> The powers include, but are not limited to, the powers to:

- establish civil service systems and boards;<sup>6</sup>
- employ personnel;<sup>7</sup>

---

<sup>1</sup> See, Art. VIII, s. 1 of the State Constitution.

<sup>2</sup> Art. VIII, s. 1(a) of the State Constitution.

<sup>3</sup> Art. VIII, s. 1(c) of the State Constitution.

<sup>4</sup> Art. VIII, s. 1(f) of the State Constitution.

<sup>5</sup> See, ss. 125.01(1) and (3), F.S.

<sup>6</sup> Section 125.01(1)(u), F.S.

<sup>7</sup> Section 125.01(3)(a), F.S.

- expend funds;<sup>8</sup>
- enter into contractual obligations;<sup>9</sup>
- perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county;<sup>10</sup> and
- exercise all powers and privileges not specifically prohibited by law.<sup>11</sup>

## Employment Benefits

### *Federal Law*

Federal law provides certain requirements regarding employee benefits that may be applicable to counties, including requirements relating to insurance and leave. For example, the "Patient Protection and Affordable Care Act" requires employers with more than 50 employees to provide health insurance to their full-time employees or pay a penalty.<sup>12,13</sup> Federal law also sets forth certain minimum requirements with respect to family and medical leave under the "Family Medical Leave Act," and overtime under the "Fair Labor Standards Act."<sup>14</sup>

### *Florida Law*

Florida law provides various benefits to certain county employees.

Specific to county law enforcement officers and firefighters, Florida law provides that:

- A county law enforcement officer is entitled to travel expenses if he or she appears as a witness at any legal proceeding resulting from that employment.<sup>15</sup>
- A county firefighter or law enforcement officer is entitled to certain presumptions in disability proceedings if the firefighter or officer suffers death or disability due to certain causes<sup>16</sup> and, under certain circumstances, is entitled to death benefits if killed while performing his or her duties.<sup>17</sup>

Current law also provides that:

- Travel expenses of county employees are subject to minimum requirements set by statute.<sup>18</sup>
- The establishment of county deferred compensation programs is governed by statute.<sup>19</sup>
- Those county employees who are called to active military service receive certain leave of absence protections.<sup>20</sup>
- Florida's established state minimum wage is applicable to all employers, including counties.<sup>21</sup>

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Section 125.01(1)(w), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> 26 U.S.C. s. 4980H.

<sup>13</sup> The implementation and enforcement of the employer mandate has been postponed until 2015. Statement by Mark Mazur, Assistant Secretary for Tax Policy at the U.S. Department of Treasury, available at <http://www.treasury.gov/connect/blog/Pages/Continuing-to-Implement-the-ACA-in-a-Careful-Thoughtful-Manner-.aspx> (last visited January 8, 2014).

<sup>14</sup> "Family and Medical Leave Act," 29 U.S.C. s. 2601, *et seq.*, and the "Fair Labor Standards Act," 29 U.S.C. s. 201, *et seq.*

<sup>15</sup> Section 92.141, F.S.

<sup>16</sup> Section 112.18, F.S.

<sup>17</sup> Sections 112.19 and 112.191, F.S.

<sup>18</sup> Section 112.061, F.S.

<sup>19</sup> Section 112.215, F.S.

<sup>20</sup> Sections 115.14, F.S. and 250.48, F.S.

<sup>21</sup> Section 448.110, F.S.

Additionally, current law +authorizes counties to provide health and other insurance benefits to employees.<sup>22</sup>

### Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits.<sup>23</sup> It is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities.

Membership in the FRS is compulsory for all county officers and employees, except for certain elected officials, who are employed in a regularly established position.<sup>24</sup> With respect to a county employer, a regularly established position is one that will be in existence for a period beyond six consecutive months, except as provided by rule.<sup>25</sup> A temporary position is a position that will exist for less than six consecutive months, or other positions as determined by rule, regardless of whether they will exist for six consecutive months or longer.<sup>26</sup> An employee in a temporary position may not be a member of the FRS.

### **Effect of the Bill**

The bill clarifies that the existing authority of counties to employ personnel includes the ability to determine available benefits for different types of positions, including, but not limited to, insurance coverage and paid leave. As this appears to be a clarification of current law, the bill would not impact any county employee benefits required by state or federal law.

The bill also clarifies that the provisions of ch. 121, F.S., govern the participation of county employees in the FRS.

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

Section 1: amends s. 125.01, F.S., authorizing the governing body of a county to determine available benefits of county employees, and providing for the applicability of ch. 121, F.S., to county employees in the FRS.

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:**

---

<sup>22</sup> See, s. 112.08, F.S.

<sup>23</sup> See, ch. 121, F.S.

<sup>24</sup> Section 121.051(1), F.S.

<sup>25</sup> Section 121.021(52)(b), F.S.

<sup>26</sup> Section 121.021(53)(b), F.S.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create a need for additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Drafting Issues**

None.

**Other Comments**

A representative of the Association of Counties has indicated that it views the proposed bill as clarifying current county authority.<sup>27</sup>

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 14, 2014, the Government Operations Subcommittee adopted an amendment, and reported the bill favorably with committee substitute. The amendment clarifies that ch. 121, F.S., governs the participation of county employees in the Florida Retirement System.

This analysis is drafted to the Committee Substitute.

---

<sup>27</sup> Lisa M. Hurley, Esq., Senior Legislative Advocate, Florida Association of Counties, January 24, 2014, telephone message.



1                                    A bill to be entitled  
 2                    An act relating to county employees; amending s.  
 3                    125.01, F.S.; authorizing the governing body of a  
 4                    county to determine available benefits of county  
 5                    employees; providing for applicability of certain  
 6                    provisions relating to the Florida Retirement System;  
 7                    providing an effective date.

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

10  
 11            Section 1. Paragraph (a) of subsection (3) of section  
 12            125.01, Florida Statutes, is amended to read:

13            125.01 Powers and duties.—

14            (3)(a) The enumeration of powers herein may ~~shall~~ not be  
 15            deemed exclusive or restrictive, but is ~~shall be~~ deemed to  
 16            incorporate all implied powers necessary or incident to carrying  
 17            out such powers enumerated, including, specifically, authority  
 18            to employ personnel, expend funds, enter into contractual  
 19            obligations, and purchase or lease and sell or exchange real or  
 20            personal property. The authority to employ personnel includes  
 21            the authority to determine available benefits for different  
 22            types of positions, if any, including, but not limited to,  
 23            insurance coverage and paid leave. The provisions of chapter  
 24            121, which include compulsory membership in the Florida  
 25            Retirement System of employees meeting certain criteria, apply  
 26            only to the retirement benefits of county employees who are  
 27            enrolled in the Florida Retirement System.

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

CS/HB 21

2014

1                                   A bill to be entitled  
 2           An act relating to county employees; amending s.  
 3           125.01, F.S.; authorizing the governing body of a  
 4           county to determine available benefits of county  
 5           employees; providing for applicability of certain  
 6           provisions relating to the Florida Retirement System;  
 7           providing an effective date.

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

10  
 11           Section 1. Paragraph (a) of subsection (3) of section  
 12           125.01, Florida Statutes, is amended to read:

13           125.01 Powers and duties.—

14           (3)(a) The enumeration of powers herein may ~~shall~~ not be  
 15           deemed exclusive or restrictive, but is ~~shall be~~ deemed to  
 16           incorporate all implied powers necessary or incident to carrying  
 17           out such powers enumerated, including, specifically, authority  
 18           to employ personnel, expend funds, enter into contractual  
 19           obligations, and purchase or lease and sell or exchange real or  
 20           personal property. The authority to employ personnel includes,  
 21           but is not limited to, the authority to determine the benefits  
 22           available to different types of positions. Such benefits may  
 23           include, but are not limited to, insurance coverage and paid  
 24           leave. The provisions of chapter 121 govern the participation of  
 25           county employees in the Florida Retirement System.

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HM 81 Congressional Term Limits  
**SPONSOR(S):** Caldwell and others  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

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

### SUMMARY ANALYSIS

HM 81 urges the United States Congress to propose an amendment to the U.S. Constitution to limit the number of consecutive terms that a member of Congress may serve in the same office. Currently, there is no limit on the number of terms a U.S. Senator or Representative can serve. As a result, incumbent congressional members are able to stay in office for an undetermined amount of time. This memorial does not specify a particular term limit. Instead, it advocates for *some limit*, which it states would allow for better service of this Nation's interests.

Support for congressional term limits gained measurable traction around the early 1990s when 23 states, including Florida, passed laws imposing term limits on their respective federal legislators. In 1995, the states' efforts were soon rendered void, when the U.S. Supreme Court held that states could not impose term limits on federal legislators and that such limitation could only be accomplished by amending the U.S. Constitution. Accordingly, since that case supporters for term limits have focused their lobbying efforts on amending the Constitution.

To amend the U.S. Constitution each house of Congress must approve a proposal for an amendment by a two-thirds majority. Then, three-fourths of the states have to ratify that proposal. Since 1995, congressional members have filed about 70 bills proposing an amendment to limit their terms, but none have been successful.

A similar memorial, HM 83, passed the Florida House of Representative on February 29, 2012 and the Florida Senate on March 1, 2012.

This memorial is identical to HM 763, a memorial filed with the Florida House of Representatives for the 2013 Legislative Session. HM 763 passed in the House, but died in the Senate.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The United States Constitution governs congressional membership.<sup>1</sup> Specifically, it states that members of the U.S. House of Representatives serve two-year terms and members of the U.S. Senate serve six-year terms.<sup>2</sup> However, the Constitution does not limit the number of terms or years a member of Congress may serve.<sup>3</sup> Thus, the only check or limit on the length of congressional membership is the possibility of not being reelected.<sup>4</sup>

Supporters of congressional term limits find this check inadequate.<sup>5</sup> Supporters 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.<sup>6</sup> 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 of their constituency.<sup>7</sup> Supporters also contend setting term limits is a popular mechanism used by various states for checks on state and local political officials.<sup>8</sup> Due to its popularity, term limits should be implemented at the federal level.<sup>9</sup>

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.<sup>10</sup> Opponents further argue that term limits would produce a more novice congressional membership that would not reduce the power of lobbyists and special interests.<sup>11</sup> Some opponents even argue that term limits would increase the power of special interests.<sup>12</sup>

##### Background on the Term Limit Debate

The term limit debate stems back to the creation of the U.S. Constitution.<sup>13</sup> However, it has taken many years to develop into the debate's present form.<sup>14</sup> 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.<sup>15</sup> As time progressed, reelection rates for congressional incumbents began to

---

<sup>1</sup> U.S. CONST. art. I., § 2, cl. 2; U.S. CONST. art. I., § 3, cl. 3.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See *Citizens for Term Limits*, TERMLIMITS.COM, available at <http://www.termlimits.com>; *U.S. Term Limits*, TERMLIMITS.ORG, available at <http://termlimits.org>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Kristi Keck, *Anti-Incumbent Mood Fuels Term Limit Debate*, CNN.COM (July 19, 2010), available at <http://www.cnn.com/2010/POLITICS/07/19/term.limits/index.html>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> 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. See *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 877 (1995).

<sup>14</sup> Tiffanie Kovacevich, *Constitutionality of Term Limits: Can States Limit the Terms of Members of Congress?*, 23 PAC. L.J. 1677, 1680 (1992).

<sup>15</sup> *Id.*

increase,<sup>16</sup> as did the push for term limits.<sup>17</sup> However, 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.<sup>18</sup> These efforts were eventually rendered void, however, with the 1995 Supreme Court case, *U.S. Term Limits, Inc. v. Thornton*.<sup>19</sup> In that case, the Supreme Court held 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.<sup>20</sup>

Accordingly, since the *Thornton* decision, proponents for term limits have focused their lobbying efforts on amending the Constitution.<sup>21</sup> To successfully amend the U.S. Constitution each side of Congress must approve a proposal for amendment by a two-thirds majority.<sup>22</sup> Then, three-fourths (38 states) of the states have to ratify the proposal.<sup>23</sup> Since 1995, congressional members have filed about 70 bills proposing an amendment to limit their terms, but none have been successful.<sup>24</sup>

### Effect of Proposed Changes

HM 81 urges Congress to propose an amendment to the U.S. Constitution to limit the number of consecutive terms that a member of Congress may serve in the same office. The memorial does not advocate for a permanent ban from service of congressional members once their term limits expire. Under the memorial's approach, a member could be reelected to the same position as long as there is a break between periods of service. In addition, the memorial does not specify a particular term limit. Instead, it advocates for *some limit*, which it states would allow for better service of the Nation's interests.

A similar memorial, HM 83, passed the Florida House of Representatives on February 29, 2012 and the Florida Senate on March 1, 2012.

This memorial is identical to HM 763, a memorial filed with the Florida House of Representatives for the 2013 Legislative Session. HM 763 passed in the House, but died in the Senate.

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

---

<sup>16</sup> See *Reelection Rates Over the Years*, OPENSECRETS.ORG, available at <http://www.opensecrets.org/bigpicture/reelect.php> (showing data on re-election rates since 1964).

<sup>17</sup> 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.

<sup>18</sup> Sula P. Richardson, *Term Limits for Members of Congress: State Activity*, U.S. Congressional Research Service (June 4, 1998), available at [http://digital.library.unt.edu/ark:/67531/metacrs582/m1/1/high\\_res\\_d/96-152\\_1998Jun04.pdf](http://digital.library.unt.edu/ark:/67531/metacrs582/m1/1/high_res_d/96-152_1998Jun04.pdf) (finding 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).

<sup>19</sup> *Thornton*, 514 U.S. 779, 881 (1995).

<sup>20</sup> *Id.*

<sup>21</sup> See *Citizens for Term Limits*, TERMLIMITS.COM, available at <http://www.termlimits.com>; *U.S. Term Limits*, TERMLIMITS.ORG, available at <http://termlimits.org>.

<sup>22</sup> U.S. Const., art V.

<sup>23</sup> *Id.*

<sup>24</sup> CONGRESS.GOV (Feb. 3, 2014), available at <http://beta.congress.gov/search?q=%7B%22source%22%3A%22legislation%22%2C%22search%22%3A%22term%20limits%22%7>.

**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**

HM 81

2014

1 House Memorial

2 A memorial to the Congress of the United States,  
 3 urging Congress to propose to the states an amendment  
 4 to the Constitution of the United States that would  
 5 limit the consecutive terms of office which a member  
 6 of the United States Senate or the United States House  
 7 of Representatives may serve.

8  
 9 WHEREAS, Article V of the Constitution of the United States  
 10 authorizes Congress to propose amendments to the Constitution  
 11 which shall become valid when ratified by the states, and

12 WHEREAS, a continuous and growing concern has been  
 13 expressed that the best interests of this nation will be served  
 14 by limiting the terms of members of Congress, a concern  
 15 expressed by the Founding Fathers and incorporated into the  
 16 Articles of Confederation, and

17 WHEREAS, the voters of the State of Florida, by the  
 18 gathering of petition signatures, placed on the general election  
 19 ballot of 1992 a measure to limit the consecutive years of  
 20 service for several offices, including the offices of United  
 21 States Senator and United States Representative, and

22 WHEREAS, the voters of Florida incorporated this limitation  
 23 into the State Constitution as Section 4, Article VI, by an  
 24 approval vote that exceeded 76 percent in the general election  
 25 of 1992, and



HM 81

2014

26 WHEREAS, in 1995, the United States Supreme Court ruled in  
 27 *U.S. Term Limits, Inc., et al., v. Thornton, et al.*, 514 U.S.  
 28 779 (1995), a five-to-four decision, that the individual states  
 29 did not possess the requisite authority to establish term  
 30 limits, or additional qualifications, for persons elected to the  
 31 United States Senate or United States House of Representatives,  
 32 and

33 WHEREAS, upon reflecting on the intent of the voters of  
 34 this state and their overwhelming support of congressional term  
 35 limits, the Legislature, in its 114th Regular Session since  
 36 Statehood in 1845, did express through a memorial to Congress  
 37 the desire to receive an amendment to the Constitution of the  
 38 United States to limit the number of consecutive terms that a  
 39 person may serve in the United States Senate or the United  
 40 States House of Representatives, and

41 WHEREAS, the Legislature, in its 116th Regular Session  
 42 since Statehood in 1845, does again express the same desire to  
 43 receive such an amendment, NOW, THEREFORE,

44

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

46

47 That the Florida Legislature respectfully petitions the  
 48 Congress of the United States to propose to the states an  
 49 amendment to the Constitution of the United States to limit the  
 50 number of consecutive terms which a person may serve in the

HM 81

2014

51 | United States Senate or the United States House of  
52 | Representatives.

53 |       BE IT FURTHER RESOLVED that copies of this memorial be  
54 | dispatched to the President of the United States, to the  
55 | President of the United States Senate, to the Speaker of the  
56 | United States House of Representatives, to each member of the  
57 | Florida delegation to the United States Congress, and to the  
58 | presiding officer of each house of the legislature of each  
59 | state.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HM 81 (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 Caldwell offered the following:

4

5 **Amendment**


6 Remove line 27 and insert:

7 *U.S. Term Limits, Inc. v. Thornton*, 514 U.S.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 325 Brownfields  
**SPONSOR(S):** Stone  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	11 Y, 1 N, As CS	Duncan	West
2) Local & Federal Affairs Committee		Dougherty	SDD Rojas 
3) Finance & Tax Subcommittee			
4) Economic Affairs Committee			

**SUMMARY ANALYSIS**

CS/HB 325 revises the process for designating brownfield areas and specifies the criteria that must be met when a brownfield designation is proposed by a local government, or a person other than a governmental entity, such as an individual, corporation, community-based organization, or not-for-profit corporation.

The bill clarifies the requirements that apply to all local procedures for brownfield area designations, including the notice and hearing requirements and criteria that must be met for brownfield designation proposals.

Local governments that designate brownfield areas pursuant to the procedures within the Brownfields Redevelopment Act are not required to use the term "brownfield area" within the name of the area designated by the local government.

The bill provides relief from liability for claims of property damage caused by contamination for those who successfully implement a brownfield site rehabilitation agreement. The liability protection applies to causes of action accruing on or after July 1, 2014. The bill also provides the circumstances under which liability protection would not apply and provides that liability protection does not limit the right of a third party other than the state to pursue an action for damages to persons for bodily harm.

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

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Brownfields

In 1995, the U.S. Environmental Protection Agency (EPA) initiated a program to empower states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and reuse brownfields.<sup>1</sup>

The federal brownfields program was significantly expanded on January 11, 2002, when President Bush signed into law the Small Business Liability Relief and Brownfields Revitalization Act,<sup>2</sup> also known as the "Brownfields Law." Sections 221-22 of the Brownfield Law included liability exemptions for prospective purchasers, and for owners of contiguous properties who were not a fault in causing the contamination.<sup>3</sup> The main purpose of this law was to create incentives for the redevelopment of brownfield properties and Superfund sites and provide grants to assess or cleanup a brownfields property.

Florida followed federal law in 1997 when the Legislature enacted the Brownfields Redevelopment Act<sup>4</sup> (Act). The Act is intended to provide incentives for private sector entities to redevelop abandoned or underused real property, which was complicated by real or perceived environmental contamination.<sup>5</sup> Included in the Act was a process for designating brownfield areas, environmental contamination cleanup criteria, eligibility criteria and liability protections, and economic and financial incentives.<sup>6</sup>

According to the Department of Environmental Protection (DEP), as of November 22, 2013, local governments in Florida have adopted 352 resolutions that officially designate brownfield areas and 190 Brownfield Site Rehabilitation Agreements have been executed with entities to rehabilitate brownfield sites. Sixty-nine Site Rehabilitation Completion Orders sometimes referred to as "No Further Action" orders have been issued since the beginning of the program for brownfield sites that have been cleaned up to levels protective of human health and the environment. The remaining sites are in some phase of site assessment or cleanup.<sup>7</sup>

##### Brownfield Designation and Administration

A "brownfield area" is a contiguous area of one or more brownfield sites, portions of which may not be contaminated, and which has been designated by local government resolution. Brownfield areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones,

---

<sup>1</sup> Brownfields and Land Revitalization, Community Reinvestment Fact Sheet, U.S. Environmental Protection Agency, *available at* <http://www.epa.gov/swerosps/bf/laws/cra.htm> (last visited Dec.10, 2013).

<sup>2</sup> Public Law No. 107-118, 115 stat. 2356.

<sup>3</sup> Summary of the Small Business Liability Relief and Brownfields Revitalization Act, U.S. Environmental Protection Agency, *available at* <http://epa.gov/brownfields/laws/2869sum.htm> (last visited Dec. 10, 2013).

<sup>4</sup> Ch. 97-277, L.O.F.; codified at ss. 376.77 – 376.86, F.S., are known as the "Brownfields Redevelopment Act."

<sup>5</sup> See s. 376.78, F.S., relating to legislative intent, and s. 376.79(3), F.S., which defines "brownfield site."

<sup>6</sup> The Brownfields Redevelopment Act authorizes various financial, regulatory, and technical assistance to persons and businesses involved in the redevelopment of brownfields, including the Brownfield Areas Loan Guarantee Program under s. 376.86, F.S. See ss. 376.78 – 376.84, F.S.

<sup>7</sup> Department of Environmental Protection, 2014 Agency Legislative Bill Analysis, HB 325, Dec. 10, 2013. Document on file with the House Economic Development & Tourism Subcommittee.

other such designated economically deprived communities and areas, and EPA-designated brownfield pilot projects.<sup>8</sup>

The designation of a brownfield area may be initiated in one of two ways:<sup>9</sup>

- by a local government to encourage redevelopment of an area of specific interest to the community; or
- by a person<sup>10</sup> with a plan to rehabilitate and redevelop a brownfield site.

To designate a brownfield area, a local government must pass a local resolution specifying the exact area to be designated. Once a brownfield area has been designated, the local government must notify DEP and attach a map that clearly identifies the parcels proposed for designation or a less-detailed map accompanied by a detailed legal description of the brownfield area. If a property owner within the proposed area requests in writing to have his or her property removed from the proposed designation, then the local government must grant the request.<sup>11</sup>

If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government must adopt a resolution pursuant to the process established under the Act. At least one of the required public hearings must be conducted as close as reasonably practicable to the area proposed for designation to provide an opportunity for the public to provide input as to the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other local issues.<sup>12</sup>

#### *Required Considerations*

In determining the area to be designated, the local government must consider the following:<sup>13</sup>

- whether the brownfield area warrants economic development and has a reasonable potential for such activities;
- whether the proposed area to be designated represents a reasonable focused approach and is not overly large in geographic coverage;
- whether the area has potential to interest the private sector in participating in rehabilitation; and
- whether the area contains sites or parts of sites suitable for limited recreational open space, cultural or historical preservation purposes.

#### *Required Conditions*

A local government must designate a brownfield area under the following conditions:<sup>14</sup>

- the person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate the site;
- the redevelopment and rehabilitation of the proposed brownfield site will result in economic productivity of the area and will create at least five new permanent jobs at the brownfield site. The full-time positions must not be associated with the implementation of the brownfield site

---

<sup>8</sup> See s. 376.79(4), F.S. "Brownfield sites" are real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination. Section 376.79(3), F.S.

<sup>9</sup> See s. 376.80, F.S.

<sup>10</sup> "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity. Section 376.79(14), F.S.

<sup>11</sup> Section 376.80(1), F.S.

<sup>12</sup> Section 376.80(2)(a), F.S.

<sup>13</sup> Section 376.80(2)(a)1.-4., F.S.

<sup>14</sup> Section 376.80(2)(b) 1.-5., F.S.

agreement<sup>15</sup> or the redevelopment project's demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area;

- the redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations;
- notice has been provided to neighbors and nearby residents of the proposed area to be designated and the person proposing the area for designation has provided the neighbors and residents an opportunity to comment and make suggestions about rehabilitation; and
- the person proposing the area for designation has provided reasonable assurance that there are sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield area.

The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitle the identified person to negotiate a brownfield site rehabilitation agreement with DEP or an approved local pollution control program.<sup>16</sup>

#### *Public Notice Requirements*

The Act also establishes public notice requirements for local governments to follow when designating a brownfield. Municipalities are required to adopt a resolution in accordance with the procedures under the Municipal Home Rule Powers Act<sup>17</sup> and counties are required to adopt a resolution in accordance with the county self-government provisions of state law.<sup>18</sup>

For municipalities,<sup>19</sup> the notice for public hearings on the proposed resolution must follow the procedures used when a proposed ordinance changes the permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land of 10 contiguous acres or more, which are as follows:

- Two advertised public hearings on the proposed ordinance, one of which must be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day.
  - The first public hearing must be held at least seven days after the day that the first advertisement is published.
  - The second hearing must be held at least 10 days after the first hearing and advertised at least five days prior to the public hearing.
- The required advertisements must be no less than 2 columns wide by 10 inches long in a standard size or tabloid size newspaper and the headline must be in a type of at least 18 point.
  - The advertisement must be placed in a newspaper of general paid circulation in the municipality and of general interest and readership in the municipality, not one of limited subject matter.<sup>20</sup> The legislative intent is that whenever possible, the advertisement appears in a newspaper that is published at least five days a week unless the only newspaper in the municipality is published less than five days a week. The form of the notice is provided.<sup>21</sup>

<sup>15</sup> See s. 376.80(5), F.S., for the contents of a brownfield site agreement.

<sup>16</sup> Section 376.80(2)(c), F.S. The Brownfields Redevelopment Act defines "local pollution control program" as a local pollution control program that has received delegated authority from DEP under ss. 376.80(9) and 403.182, F.S. Section 376.79(11), F.S.

<sup>17</sup> Section 376.80(1), F.S.; See s. 166.041, F.S. Ch. 166, F.S., is known as the Municipal Home Rule Powers Act. Section 166.011, F.S.

<sup>18</sup> Sections 376.80(1). See also s. 125.66, F.S., relating to county ordinances.

<sup>19</sup> Section 166.041(3)(c)2., F.S.

<sup>20</sup> See ch. 50, F.S.

<sup>21</sup> See s. 166.041(3)(c)2., F.S.



- With the exception of amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement must contain a geographic location map clearly indicating the area covered by the proposed ordinance. The map must include major street names and must also be included in an online<sup>22</sup> notice.

For counties,<sup>23</sup> it is unclear whether the notice for the public hearings must follow the procedures used when a proposal seeks zoning changes. The statutory reference under the Act describes how the required advertisements are to appear in a newspaper of general circulation. However, it is unclear if counties are required to hold public hearings.<sup>24</sup> Thus, there appears to be a technical error in the statutory cross-reference under the Act.

### Eligibility criteria

A person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, is eligible to participate in the brownfield program.<sup>25</sup> However, certain sites are not eligible for the program. Those sites include areas that are subject to an ongoing formal judicial or administrative enforcement or corrective action pursuant to federal authority; or have obtained or are required to obtain a hazardous waste operation, storage, or disposal facility permit.<sup>26</sup>

### Protection from contamination remediation liability

A person who executes and complies with the terms of a brownfield rehabilitation agreement is relieved of further liability for remediation of the contaminated sites to the state and to third parties and of liability in contribution to any other party who has or may incur cleanup liability for the contaminated site or sites.<sup>27</sup>

Until a person successfully completes a rehabilitation agreement, liability protection may be revoked upon that person's failure to comply with the rehabilitation agreement.<sup>28</sup> In an effort to secure federal liability protection for those persons willing to undertake remediation responsibility at a brownfield site, DEP must attempt to negotiate an agreement with the EPA to forego federal enforcement of corrective action authority.<sup>29</sup>

The eligibility and liability provisions of the Act do not limit the right of a third party other than the state to pursue an action for property damages or personal injury. However, such an action may not compel site rehabilitation beyond what is required in the approved brownfield site rehabilitation agreement or required by DEP or an approved local pollution control program.<sup>30</sup>

If a state or local government has acquired a contaminated site within a brownfield area as a gift or by virtue of its operations as a sovereign, it is not liable for implementing site rehabilitation corrective actions, unless the state or local government has caused or contributed to a release of contaminants at the brownfield site.<sup>31</sup> In addition, nonprofit conservation organizations, acting for the public interest,

<sup>22</sup> See s. 50.0211, relating to internet website publication.

<sup>23</sup> See s. 125.66(4)(b)2., F.S.

<sup>24</sup> See ss. 376.80(1), F.S., and 125.66(4)(b), F.S.

<sup>25</sup> Section 376.82(1), F.S. Persons who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, and who, prior to DEP's approval of a brownfield site rehabilitation agreement, are subject to corrective action or enforcement under state authority established in ch. 376, F.S., or ch. 403, F.S., relating to environmental control, including those persons subject to a pending consent order with the state, are eligible to participate in a brownfield site rehabilitation agreement under certain conditions. See s. 376.82(1)(b), F.S.

<sup>26</sup> Section 376.82(1)(a), F.S.

<sup>27</sup> Section 376.82(2)(a) and (2)(d), F.S.

<sup>28</sup> See s. 376.80(8), F.S.

<sup>29</sup> See s. 376.82(2)(g), F.S.

<sup>30</sup> Section 376.82(2)(b), F.S.

<sup>31</sup> Section 376.82(2)(h), F.S.

which purchase contaminated sites and did not contribute to the release of contamination on the site also warrant protection from liability.<sup>32</sup>

Lenders are afforded certain liability protections to encourage financing of real property in brownfield areas. Essentially, the same liability protections apply to lenders if they have not caused or contributed to a release of a contaminant at the brownfield site.<sup>33</sup>

## **Effect of Proposed Changes**

### Legislative Intent

The bill specifies that brownfields redevelopment, when properly done, can be a significant element in community revitalization, especially within community redevelopment areas, empowerment zones, closed military bases, or designated brownfield pilot project areas.

### Brownfield Program Administration Process

The bill revises the provisions relating to the process for designating brownfield areas and clarifies the criteria that must be satisfied when a brownfield area designation is proposed by a local government or a person other than a governmental entity, such as an individual, corporation, community-based organization, or not-for-profit corporation.

The bill clarifies the requirements that apply to all brownfield area designations, regardless of whether the area proposed for designation is located inside or outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area:

- A local government must notify DEP, and if applicable, the local pollution control program<sup>34</sup> within 30 days after the adoption of a resolution by the local governing body of its decision to designate a brownfield area for rehabilitation.
- As required in current law, the adopted resolution must include a map that clearly identifies the parcels proposed for designation or a less-detailed map accompanied by a detailed legal description of the brownfield area.

### *Public hearing and notice requirements*

The bill clarifies which provisions of the Act relating to the public hearings, conditions, and criteria apply when a local government proposes to designate a brownfield area *within* and *outside* the following redevelopment areas:

- community redevelopment area;
- enterprise zone;
- empowerment zone;
- closed military base; or
- designated brownfield pilot project.

As provided in current law, municipalities and counties are required to adopt the designation resolution in accordance with the procedures in chapters 166 and 125, F.S., respectively. The bill corrects a statutory cross-reference under the Act. By referencing s. 166(4)(b), F.S., the bill requires counties to notice public hearings in the manner used when a proposed ordinance changes the list of permitted, conditional, or prohibited uses within a zoning category, or changes the zoning map designation of a

---

<sup>32</sup> Section 376.82(2)(j), F.S.

<sup>33</sup> See s. 376.82(4), F.S.

<sup>34</sup> See *supra* note 16.

parcel or parcels of land involving 10 contiguous acres or more. In addition, the bill clarifies that counties must also hold two advertised public hearings and states when the hearings must be held.

The bill maintains the requirement that the local government or person proposing the designation to conduct at least one public hearing as close as reasonably practicable to the area proposed for designation to give the public an opportunity to provide input as to the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, and neighborhood residents' considerations. The bill specifies that this public hearing must occur prior to the designation of the proposed brownfield area.

The bill provides that a local government that designates a brownfield area pursuant to the Act is not required to use the term "brownfield area" within the name of the area designated by the local government.

#### Liability Protection

The liability portion of the bill expands the protections provided to the person responsible for the brownfield site rehabilitation. Specifically, the bill provides relief from liability for claims of property damages, including but not limited to, diminished value of real property or improvements; lost or delayed rent, sale, or use of real property or improvements; or stigma to real property or improvements caused by contamination for those who execute and comply with the terms of a brownfield site rehabilitation agreement. The liability protection applies to causes of action accruing on or after July 1, 2014.

The bill further provides that such liability protection does not apply to a person who fraudulently demonstrates site conditions or fraudulently completes site rehabilitation of a property subject to a brownfield site rehabilitation agreement. Nor does liability protection apply to a person who exacerbates the contamination of a property subject to a brownfield site rehabilitation agreement in violation of applicable laws, and which causes property damage. The bill also provides that liability protection does not limit the right of a third party other than the state to pursue an action for damages to persons for bodily harm.

#### B. SECTION DIRECTORY:

- Section 1: Amends s. 376.78(8), F.S., relating to legislative intent, to provide that brownfield redevelopment when done properly can be significant element in community revitalization, especially community redevelopment areas, enterprise zones, empowerment zones, closed military bases, and designated brownfield pilot project areas.
- Section 2: Amends s. 376.80(1) and (2), F.S., and creates subsection (12) of s. 376.80, F.S., relating to the brownfield program administration process, to revise the process for designating brownfield areas and clarifying the criteria that must be met when a brownfield area designation is proposed by a local government or a person other than a governmental entity such as an individual, corporation, community-based organization, or not-for-profit corporation. A new subsection (12) is added to provide that a local government that designates a brownfield area pursuant to the Act is not required to use the term "brownfield area" within the name of the area designated by the local government.
- Section 3: Amends s. 376.82(2), F.S., relating to eligibility criteria and liability protection, to provide relief from liability for property damages caused by contamination for those who execute and comply with the terms of a brownfield site rehabilitation agreement. The liability protection applies to causes of action accruing on or after July 1, 2014. The bill also provides the circumstances under which liability protection would not apply and provides

that liability protection does not limit the right of a third party other than the state to pursue an action for damages to persons for bodily harm.

Section 4: Provides an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

Local governments, individuals, corporations, community-based organizations, and not-for-profit corporations proposing to designate brownfield areas should benefit from clearer provisions in the Act.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2014, the House Economic Development & Tourism Subcommittee adopted a strike-all amendment and passed the bill as a committee substitute. The committee substitute:

- Clarifies the procedures for the public hearings on the proposed resolution required to be adopted by a local government proposing to designate a brownfield area.
- Removes inconsistent provisions relating to the size of the public notice for the newspaper. Pursuant to s. 376.80(1)(c), F.S., the bill requires counties and municipalities to follow the public notice and hearing requirements in ss. 125.66 and 166.041, F.S., respectively.
- Clarifies that a local government does not have to use the term “brownfield area” in the name of such area after the brownfield area has been designated by the local government.

The analysis has been updated to reflect the strike-all amendment.

1                                   A bill to be entitled  
 2       An act relating to brownfields; amending s. 376.78,  
 3       F.S.; revising legislative intent with regard to  
 4       community revitalization in certain areas; amending s.  
 5       376.80, F.S.; revising procedures for designation of  
 6       brownfield areas; authorizing local governments to use  
 7       a term other than "brownfield area" when naming such  
 8       areas; amending s. 376.82, F.S.; providing certain  
 9       liability protection against claims of property  
 10      damages; providing for applicability; providing an  
 11      effective date.

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

14  
 15           Section 1. Subsection (8) of section 376.78, Florida  
 16   Statutes, is amended to read:

17           376.78 Legislative intent.—The Legislature finds and  
 18   declares the following:

19           (8) The existence of brownfields within a community may  
 20   contribute to, or may be a symptom of, overall community  
 21   decline, including issues of human disease and illness, crime,  
 22   educational and employment opportunities, and infrastructure  
 23   decay. The environment is an important element of quality of  
 24   life in any community, along with economic opportunity,  
 25   educational achievement, access to health care, housing quality  
 26   and availability, provision of governmental services, and other

27 socioeconomic factors. Brownfields redevelopment, properly done,  
 28 can be a significant element in community revitalization,  
 29 especially within community redevelopment areas, enterprise  
 30 zones, empowerment zones, closed military bases, or designated  
 31 brownfield pilot project areas.

32 Section 2. Subsections (1) and (2) of section 376.80,  
 33 Florida Statutes, are amended, and subsection (12) is added to  
 34 that section, to read:

35 376.80 Brownfield program administration process.—

36 (1) The following general procedures apply to brownfield  
 37 designations:

38 (a) The local government with jurisdiction over a proposed  
 39 brownfield area shall designate such area pursuant to this  
 40 section.

41 (b) For a brownfield area designation proposed by:

42 1. The jurisdictional local government, the designation  
 43 criteria under paragraph (2)(a) apply, except if the local  
 44 government proposes to designate as a brownfield area a  
 45 specified redevelopment area as provided in paragraph (2)(b).

46 2. Any person, other than a governmental entity,  
 47 including, but not limited to, individuals, corporations,  
 48 partnerships, limited liability companies, community-based  
 49 organizations, or not-for-profit corporations, the designation  
 50 criteria under paragraph (2)(c) apply.

51 (c) Except as otherwise provided, the following provisions  
 52 apply to all proposed brownfield area designations:

53 1. Notification to department following adoption.—A local  
 54 government with jurisdiction over the brownfield area must  
 55 notify the department, and, if applicable, the local pollution  
 56 control program under s. 403.182, of its decision to designate a  
 57 brownfield area for rehabilitation for the purposes of ss.  
 58 376.77-376.86. The notification must include a resolution  
 59 adopted, by the local government body. The local government  
 60 shall notify the department, and, if applicable, the local  
 61 pollution control program under s. 403.182, of the designation  
 62 within 30 days after adoption of the resolution.

63 2. Resolution adoption.—The brownfield area designation  
 64 must be carried out by a resolution adopted by the  
 65 jurisdictional local government, ~~to~~ which includes ~~is attached~~ a  
 66 map adequate to clearly delineate exactly which parcels are to  
 67 be included in the brownfield area or alternatively a less-  
 68 detailed map accompanied by a detailed legal description of the  
 69 brownfield area. For municipalities, the governing body shall  
 70 adopt the resolution in accordance with the procedures outlined  
 71 in s. 166.041, except that the notice for the public hearings on  
 72 the proposed resolution must be in the form established in s.  
 73 166.041(3)(c)2. For counties, the governing body shall adopt the  
 74 resolution in accordance with the procedures outlined in s.  
 75 125.66, except that the notice for the public hearings on the  
 76 proposed resolution shall be in the form established in s.  
 77 125.66(4)(b).

78 3. Right to be removed from proposed brownfield area.—If a



79 property owner within the area proposed for designation by the  
 80 local government requests in writing to have his or her property  
 81 removed from the proposed designation, the local government  
 82 shall grant the request. ~~For municipalities, the governing body~~  
 83 ~~shall adopt the resolution in accordance with the procedures~~  
 84 ~~outlined in s. 166.041, except that the notice for the public~~  
 85 ~~hearings on the proposed resolution must be in the form~~  
 86 ~~established in s. 166.041(3)(c)2. For counties, the governing~~  
 87 ~~body shall adopt the resolution in accordance with the~~  
 88 ~~procedures outlined in s. 125.66, except that the notice for the~~  
 89 ~~public hearings on the proposed resolution shall be in the form~~  
 90 ~~established in s. 125.66(4)(b)2.~~

91 4. Notice and public hearing requirements for designation  
 92 of a proposed brownfield area outside a redevelopment area or by  
 93 a nongovernmental entity.-Compliance with the following  
 94 provisions is required before designation of a proposed  
 95 brownfield area under paragraph (2)(a) or paragraph (2)(c):

96 a. At least one of the required public hearings shall be  
 97 conducted as closely as is reasonably practicable to the area to  
 98 be designated to provide an opportunity for public input on the  
 99 size of the area, the objectives for rehabilitation, job  
 100 opportunities and economic developments anticipated,  
 101 neighborhood residents' considerations, and other relevant local  
 102 concerns.

103 b. Notice of the public hearing must be made in a  
 104 newspaper of general circulation in the area, and the notice

105 must be at least 16 square inches in size, must be in ethnic  
 106 newspapers or local community bulletins, must be posted in the  
 107 affected area, and must be announced at a scheduled meeting of  
 108 the local governing body before the actual public hearing.

109 (2) (a) Local government-proposed brownfield area  
 110 designation outside specified redevelopment areas.—If a local  
 111 government proposes to designate a brownfield area that is  
 112 outside a community redevelopment area areas, enterprise zone  
 113 zones, empowerment zone zones, closed military base bases, or  
 114 designated brownfield pilot project area areas, the local  
 115 government shall provide notice, adopt the resolution, and  
 116 conduct ~~the public hearings pursuant to paragraph in accordance~~  
 117 ~~with the requirements of subsection (1) (c), except at least one~~  
 118 ~~of the required public hearings shall be conducted as close as~~  
 119 ~~reasonably practicable to the area to be designated to provide~~  
 120 ~~an opportunity for public input on the size of the area, the~~  
 121 ~~objectives for rehabilitation, job opportunities and economic~~  
 122 ~~developments anticipated, neighborhood residents'~~  
 123 ~~considerations, and other relevant local concerns. Notice of the~~  
 124 ~~public hearing must be made in a newspaper of general~~  
 125 ~~circulation in the area and the notice must be at least 16~~  
 126 ~~square inches in size, must be in ethnic newspapers or local~~  
 127 ~~community bulletins, must be posted in the affected area, and~~  
 128 ~~must be announced at a scheduled meeting of the local governing~~  
 129 ~~body before the actual public hearing. At a public hearing to~~  
 130 designate the proposed brownfield area ~~In determining the areas~~

131 ~~to be designated~~, the local government must consider:

132 1. Whether the brownfield area warrants economic  
133 development and has a reasonable potential for such activities;

134 2. Whether the proposed area to be designated represents a  
135 reasonably focused approach and is not overly large in  
136 geographic coverage;

137 3. Whether the area has potential to interest the private  
138 sector in participating in rehabilitation; and

139 4. Whether the area contains sites or parts of sites  
140 suitable for limited recreational open space, cultural, or  
141 historical preservation purposes.

142 (b) Local government-proposed brownfield area designation  
143 within specified redevelopment areas.—Paragraph (a) does not  
144 apply to a proposed brownfield area if the local government  
145 proposes to designate the brownfield area inside a community  
146 redevelopment area, enterprise zone, empowerment zone, closed  
147 military base, or designated brownfield pilot project area and  
148 the local government complies with paragraph (1)(c).

149 (c) ~~(b)~~ Brownfield area designation proposed by persons  
150 other than a governmental entity.—For designation of a  
151 brownfield area that is proposed by a person other than the  
152 local government, the local government with jurisdiction over  
153 the proposed brownfield area shall provide notice and adopt a  
154 resolution to designate the a brownfield area pursuant to  
155 paragraph (1)(c) if, at the public hearing to adopt the  
156 resolution, the person establishes all of the following under

157 | ~~the provisions of this act provided that:~~

158 |       1. A person who owns or controls a potential brownfield  
159 | site is requesting the designation and has agreed to  
160 | rehabilitate and redevelop the brownfield site.†

161 |       2. The rehabilitation and redevelopment of the proposed  
162 | brownfield site will result in economic productivity of the  
163 | area, along with the creation of at least 5 new permanent jobs  
164 | at the brownfield site that are full-time equivalent positions  
165 | not associated with the implementation of the brownfield site  
166 | rehabilitation agreement and that are not associated with  
167 | redevelopment project demolition or construction activities  
168 | pursuant to the redevelopment of the proposed brownfield site or  
169 | area. However, the job creation requirement does ~~shall~~ not apply  
170 | to the rehabilitation and redevelopment of a brownfield site  
171 | that will provide affordable housing as defined in s. 420.0004  
172 | or the creation of recreational areas, conservation areas, or  
173 | parks.†

174 |       3. The redevelopment of the proposed brownfield site is  
175 | consistent with the local comprehensive plan and is a  
176 | permissible use under the applicable local land development  
177 | regulations.†

178 |       4. Notice of the proposed rehabilitation of the brownfield  
179 | area has been provided to neighbors and nearby residents of the  
180 | proposed area to be designated pursuant to paragraph (1)(c), and  
181 | the person proposing the area for designation has afforded to  
182 | those receiving notice the opportunity for comments and

183 suggestions about rehabilitation. Notice pursuant to this  
 184 subparagraph must be made in a newspaper of general circulation  
 185 in the area, at least 16 square inches in size, and the notice  
 186 must be posted in the affected area. ~~and~~

187 5. The person proposing the area for designation has  
 188 provided reasonable assurance that he or she has sufficient  
 189 financial resources to implement and complete the rehabilitation  
 190 agreement and redevelopment of the brownfield site.

191 (d) (e) Negotiation of brownfield site rehabilitation  
 192 agreement.—The designation of a brownfield area and the  
 193 identification of a person responsible for brownfield site  
 194 rehabilitation simply entitles the identified person to  
 195 negotiate a brownfield site rehabilitation agreement with the  
 196 department or approved local pollution control program.

197 (12) A local government that designates a brownfield area  
 198 pursuant to this section is not required to use the term  
 199 "brownfield area" within the name of the brownfield area  
 200 proposed for designation by the local government.

201 Section 3. Paragraphs (a) and (b) of subsection (2) of  
 202 section 376.82, Florida Statutes, are amended to read:

203 376.82 Eligibility criteria and liability protection.—

204 (2) LIABILITY PROTECTION.—

205 (a) Any person, including his or her successors and  
 206 assigns, who executes and implements to successful completion a  
 207 brownfield site rehabilitation agreement, is ~~shall be~~ relieved  
 208 of:

209           1. Further liability for remediation of the contaminated  
 210 site or sites to the state and to third parties. ~~and of~~

211           2. Liability in contribution to any other party who has or  
 212 may incur cleanup liability for the contaminated site or sites.

213           3. Liability for claims of property damages, including,  
 214 but not limited to, diminished value of real property or  
 215 improvements; lost or delayed rent, sale, or use of real  
 216 property or improvements; or stigma to real property or  
 217 improvements caused by contamination addressed by a brownfield  
 218 site rehabilitation agreement. Notwithstanding any other  
 219 provision of this chapter, this subparagraph applies to causes  
 220 of action accruing on or after July 1, 2014. This subparagraph  
 221 does not apply to a person who commits fraud in demonstrating  
 222 site conditions or completing site rehabilitation of a property  
 223 subject to a brownfield site rehabilitation agreement or who  
 224 exacerbates contamination of a property subject to a brownfield  
 225 site rehabilitation agreement in violation of applicable laws  
 226 which causes property damages.

227           (b) This section does not limit ~~shall not be construed as~~  
 228 ~~a limitation on~~ the right of a third party other than the state  
 229 to pursue an action for damages to persons for bodily harm  
 230 ~~property or person~~; however, such an action may not compel site  
 231 rehabilitation in excess of that required in the approved  
 232 brownfield site rehabilitation agreement or otherwise required  
 233 by the department or approved local pollution control program.

234           Section 4. This act shall take effect July 1, 2014.

1                   A bill to be entitled  
 2           An act relating to brownfields; amending s. 376.78,  
 3           F.S.; revising legislative intent with regard to  
 4           community revitalization in certain areas; amending s.  
 5           376.80, F.S.; revising procedures for designation of  
 6           brownfield areas; authorizing local governments to use  
 7           a term other than "brownfield area" when naming such  
 8           areas; amending s. 376.82, F.S.; providing certain  
 9           liability protection against claims of property  
 10          damages; providing for applicability; providing an  
 11          effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:  
 14

15           Section 1. Subsection (8) of section 376.78, Florida  
 16 Statutes, is amended to read:

17           376.78 Legislative intent.—The Legislature finds and  
 18 declares the following:

19           (8) The existence of brownfields within a community may  
 20 contribute to, or may be a symptom of, overall community  
 21 decline, including issues of human disease and illness, crime,  
 22 educational and employment opportunities, and infrastructure  
 23 decay. The environment is an important element of quality of  
 24 life in any community, along with economic opportunity,  
 25 educational achievement, access to health care, housing quality  
 26 and availability, provision of governmental services, and other

27 socioeconomic factors. Brownfields redevelopment, properly done,  
 28 can be a significant element in community revitalization,  
 29 especially within community redevelopment areas, enterprise  
 30 zones, empowerment zones, closed military bases, or designated  
 31 brownfield pilot project areas.

32 Section 2. Subsections (1) and (2) of section 376.80,  
 33 Florida Statutes, are amended, and subsection (12) is added to  
 34 that section, to read:

35 376.80 Brownfield program administration process.—

36 (1) The following general procedures apply to brownfield  
 37 designations:

38 (a) The local government with jurisdiction over a proposed  
 39 brownfield area shall designate such area pursuant to this  
 40 section.

41 (b) For a brownfield area designation proposed by:

42 1. The jurisdictional local government, the designation  
 43 criteria under paragraph (2)(a) apply, except if the local  
 44 government proposes to designate as a brownfield area a  
 45 specified redevelopment area as provided in paragraph (2)(b).

46 2. Any person, other than a governmental entity,  
 47 including, but not limited to, individuals, corporations,  
 48 partnerships, limited liability companies, community-based  
 49 organizations, or not-for-profit corporations, the designation  
 50 criteria under paragraph (2)(c) apply.

51 (c) Except as otherwise provided, the following provisions  
 52 apply to all proposed brownfield area designations:



53        1. Notification to department following adoption.—A local  
 54 government with jurisdiction over the brownfield area must  
 55 notify the department, and, if applicable, the local pollution  
 56 control program under s. 403.182, of its decision to designate a  
 57 brownfield area for rehabilitation for the purposes of ss.  
 58 376.77-376.86. The notification must include a resolution  
 59 adopted~~7~~ by the local government body. The local government  
 60 shall notify the department, and, if applicable, the local  
 61 pollution control program under s. 403.182, of the designation  
 62 within 30 days after adoption of the resolution.

63        2. Resolution adoption.—The brownfield area designation  
 64 must be carried out by a resolution adopted by the  
 65 jurisdictional local government, ~~to~~ which includes ~~is attached~~ a  
 66 map adequate to clearly delineate exactly which parcels are to  
 67 be included in the brownfield area or alternatively a less-  
 68 detailed map accompanied by a detailed legal description of the  
 69 brownfield area. For municipalities, the governing body shall  
 70 adopt the resolution in accordance with the procedures outlined  
 71 in s. 166.041, except that the procedures for the public  
 72 hearings on the proposed resolution must be in the form  
 73 established in s. 166.041(3)(c)2. For counties, the governing  
 74 body shall adopt the resolution in accordance with the  
 75 procedures outlined in s. 125.66, except that the procedures for  
 76 the public hearings on the proposed resolution shall be in the  
 77 form established in s. 125.66(4)(b).

78        3. Right to be removed from proposed brownfield area.—If a

79 property owner within the area proposed for designation by the  
 80 local government requests in writing to have his or her property  
 81 removed from the proposed designation, the local government  
 82 shall grant the request. ~~For municipalities, the governing body~~  
 83 ~~shall adopt the resolution in accordance with the procedures~~  
 84 ~~outlined in s. 166.041, except that the notice for the public~~  
 85 ~~hearings on the proposed resolution must be in the form~~  
 86 ~~established in s. 166.041(3)(c)2. For counties, the governing~~  
 87 ~~body shall adopt the resolution in accordance with the~~  
 88 ~~procedures outlined in s. 125.66, except that the notice for the~~  
 89 ~~public hearings on the proposed resolution shall be in the form~~  
 90 ~~established in s. 125.66(4)(b)2.~~

91 4. Notice and public hearing requirements for designation  
 92 of a proposed brownfield area outside a redevelopment area or by  
 93 a nongovernmental entity.-Compliance with the following  
 94 provisions is required before designation of a proposed  
 95 brownfield area under paragraph (2)(a) or paragraph (2)(c):

96 a. At least one of the required public hearings shall be  
 97 conducted as closely as is reasonably practicable to the area to  
 98 be designated to provide an opportunity for public input on the  
 99 size of the area, the objectives for rehabilitation, job  
 100 opportunities and economic developments anticipated,  
 101 neighborhood residents' considerations, and other relevant local  
 102 concerns.

103 b. Notice of the public hearing must be made in ethnic  
 104 newspapers or local community bulletins, must be posted in the

105 affected area, and must be announced at a scheduled meeting of  
 106 the local governing body before the actual public hearing.

107 (2) (a) Local government-proposed brownfield area  
 108 designation outside specified redevelopment areas.—If a local  
 109 government proposes to designate a brownfield area that is  
 110 outside a community redevelopment area areas, enterprise zone  
 111 zones, empowerment zone zones, closed military base bases, or  
 112 designated brownfield pilot project area areas, the local  
 113 government shall provide notice, adopt the resolution, and  
 114 conduct ~~the~~ public hearings pursuant to paragraph ~~in accordance~~  
 115 ~~with the requirements of subsection (1) (c), except at least one~~  
 116 ~~of the required public hearings shall be conducted as close as~~  
 117 ~~reasonably practicable to the area to be designated to provide~~  
 118 ~~an opportunity for public input on the size of the area, the~~  
 119 ~~objectives for rehabilitation, job opportunities and economic~~  
 120 ~~developments anticipated, neighborhood residents'~~  
 121 ~~considerations, and other relevant local concerns. Notice of the~~  
 122 ~~public hearing must be made in a newspaper of general~~  
 123 ~~circulation in the area and the notice must be at least 16~~  
 124 ~~square inches in size, must be in ethnic newspapers or local~~  
 125 ~~community bulletins, must be posted in the affected area, and~~  
 126 ~~must be announced at a scheduled meeting of the local governing~~  
 127 ~~body before the actual public hearing. At a public hearing to~~  
 128 designate the proposed brownfield area ~~In determining the areas~~  
 129 ~~to be designated~~, the local government must consider:

- 130 1. Whether the brownfield area warrants economic

131 development and has a reasonable potential for such activities;

132 2. Whether the proposed area to be designated represents a  
 133 reasonably focused approach and is not overly large in  
 134 geographic coverage;

135 3. Whether the area has potential to interest the private  
 136 sector in participating in rehabilitation; and

137 4. Whether the area contains sites or parts of sites  
 138 suitable for limited recreational open space, cultural, or  
 139 historical preservation purposes.

140 (b) Local government-proposed brownfield area designation  
 141 within specified redevelopment areas.—Paragraph (a) does not  
 142 apply to a proposed brownfield area if the local government  
 143 proposes to designate the brownfield area inside a community  
 144 redevelopment area, enterprise zone, empowerment zone, closed  
 145 military base, or designated brownfield pilot project area and  
 146 the local government complies with paragraph (1)(c).

147 (c) ~~(b)~~ Brownfield area designation proposed by persons  
 148 other than a governmental entity.—For designation of a  
 149 brownfield area that is proposed by a person other than the  
 150 local government, the local government with jurisdiction over  
 151 the proposed brownfield area shall provide notice and adopt a  
 152 resolution to designate the a brownfield area pursuant to  
 153 paragraph (1)(c) if, at the public hearing to adopt the  
 154 resolution, the person establishes all of the following ~~under~~  
 155 the provisions of this act provided that:

156 1. A person who owns or controls a potential brownfield

157 | site is requesting the designation and has agreed to  
 158 | rehabilitate and redevelop the brownfield site.†

159 |         2. The rehabilitation and redevelopment of the proposed  
 160 | brownfield site will result in economic productivity of the  
 161 | area, along with the creation of at least 5 new permanent jobs  
 162 | at the brownfield site that are full-time equivalent positions  
 163 | not associated with the implementation of the brownfield site  
 164 | rehabilitation agreement and that are not associated with  
 165 | redevelopment project demolition or construction activities  
 166 | pursuant to the redevelopment of the proposed brownfield site or  
 167 | area. However, the job creation requirement does ~~shall~~ not apply  
 168 | to the rehabilitation and redevelopment of a brownfield site  
 169 | that will provide affordable housing as defined in s. 420.0004  
 170 | or the creation of recreational areas, conservation areas, or  
 171 | parks.†

172 |         3. The redevelopment of the proposed brownfield site is  
 173 | consistent with the local comprehensive plan and is a  
 174 | permissible use under the applicable local land development  
 175 | regulations.†

176 |         4. Notice of the proposed rehabilitation of the brownfield  
 177 | area has been provided to neighbors and nearby residents of the  
 178 | proposed area to be designated pursuant to paragraph (1)(c), and  
 179 | the person proposing the area for designation has afforded to  
 180 | those receiving notice the opportunity for comments and  
 181 | suggestions about rehabilitation. Notice pursuant to this  
 182 | subparagraph ~~must be made in a newspaper of general circulation~~

183 ~~in the area, at least 16 square inches in size, and the notice~~  
 184 ~~must be posted in the affected area.~~ and

185 5. The person proposing the area for designation has  
 186 provided reasonable assurance that he or she has sufficient  
 187 financial resources to implement and complete the rehabilitation  
 188 agreement and redevelopment of the brownfield site.

189 ~~(d)(e)~~ Negotiation of brownfield site rehabilitation  
 190 agreement.—The designation of a brownfield area and the  
 191 identification of a person responsible for brownfield site  
 192 rehabilitation simply entitles the identified person to  
 193 negotiate a brownfield site rehabilitation agreement with the  
 194 department or approved local pollution control program.

195 (12) A local government that designates a brownfield area  
 196 pursuant to this section is not required to use the term  
 197 "brownfield area" within the name of the brownfield area  
 198 designated by the local government.

199 Section 3. Paragraphs (a) and (b) of subsection (2) of  
 200 section 376.82, Florida Statutes, are amended to read:

201 376.82 Eligibility criteria and liability protection.—

202 (2) LIABILITY PROTECTION.—

203 (a) Any person, including his or her successors and  
 204 assigns, who executes and implements to successful completion a  
 205 brownfield site rehabilitation agreement, is ~~shall be~~ relieved  
 206 of:

207 1. Further liability for remediation of the contaminated  
 208 site or sites to the state and to third parties. ~~and of~~

209           2. Liability in contribution to any other party who has or  
 210 may incur cleanup liability for the contaminated site or sites.

211           3. Liability for claims of property damages, including,  
 212 but not limited to, diminished value of real property or  
 213 improvements; lost or delayed rent, sale, or use of real  
 214 property or improvements; or stigma to real property or  
 215 improvements caused by contamination addressed by a brownfield  
 216 site rehabilitation agreement. Notwithstanding any other  
 217 provision of this chapter, this subparagraph applies to causes  
 218 of action accruing on or after July 1, 2014. This subparagraph  
 219 does not apply to a person who commits fraud in demonstrating  
 220 site conditions or completing site rehabilitation of a property  
 221 subject to a brownfield site rehabilitation agreement or who  
 222 exacerbates contamination of a property subject to a brownfield  
 223 site rehabilitation agreement in violation of applicable laws  
 224 which causes property damages.

225           (b) This section does not limit ~~shall not be construed as~~  
 226 ~~a limitation on~~ the right of a third party other than the state  
 227 to pursue an action for damages to persons for bodily harm  
 228 ~~property or person~~; however, such an action may not compel site  
 229 rehabilitation in excess of that required in the approved  
 230 brownfield site rehabilitation agreement or otherwise required  
 231 by the department or approved local pollution control program.

232           Section 4. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 325 (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 Stone offered the following:

4  
5 **Amendment**

6 Remove line 103 and insert:

7 b. Notice of a public hearing must be made in a newspaper  
8 of general circulation in the area, must be made in ethnic  
9





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 421 Pub. Rec./Taxpayer's E-mail Address

**SPONSOR(S):** Hooper

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 538

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Kelly <i>JK</i>	Rojas <i>JR</i>
2) Government Operations Subcommittee			
3) Finance & Tax Subcommittee			

### SUMMARY ANALYSIS

HB 421 would create s. 197.3225, F.S. which would exempt tax collectors in Florida from releasing a taxpayer's email address when it is obtained to be used under the following circumstances:

- (1) sending a quarterly tax notice for prepayment of estimated taxes;
- (2) obtaining the taxpayer's consent to send the tax notice;
- (3) sending an additional tax notice or delinquent tax notice to the taxpayer;
- (4) sending a tax notice to the designated third party, mortgagee, or vendee.

These e-mail addresses would be considered confidential and exempt from public record requirements. However, email addresses provided by a taxpayer on the tax collector's website for other means of correspondence would not be exempt from Florida's public records laws

The bill provides for repeal of the exemption on October 2, 2019, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

A tax payer must first give consent to their local tax collector in order for the tax collector to retain an individual's email address.<sup>1</sup> Tax collectors utilize email to send these electronic tax notices because email is becoming a frequently used mechanism for business communication due to its efficiency and low cost.

Using email correspondence does not come without its risks. For example, the IRS has cited various recent scams related to the use of taxpayers' email addresses. In one case, numerous taxpayers received e-mails falsely claiming to come from the IRS, asking the targeted taxpayer for personal account information.<sup>2</sup>

Under current law, an agent of the government must post a disclaimer on the agent's website stating all email addresses used to send messages to the agent are public records and thus, are subject to Florida's public record laws.<sup>3</sup>

##### **Background**

##### Public Records

Access to government records is a recognized right in the Florida Constitution.<sup>4</sup> Specifically, the Florida Constitution guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government, and all agents that belong to these branches.<sup>5</sup> The right to public records is further codified in Florida Statutes, which states all state, county, and municipal records are open for public inspection and that access to these public records is the duty of each respective agency.<sup>6</sup> These agencies must allow the public records to be inspected and copied under reasonable time, conditions, and by the supervision of the custodian of those public records.<sup>7</sup>

##### Public Records Exemptions

While all government records are initially subject to Florida's public records laws, the Legislature may provide in general law certain exemptions from the Florida Constitution and Florida Statutes.<sup>8</sup> These exemptions must include:

- (1) a public necessity statement, showing a specific the public necessity that justifies the exemption; and
- (2) this exemption is no broader than necessary to accomplish its public purpose.<sup>9</sup>

---

<sup>1</sup> See ss. 197.222(3); 197.322(3); 197.343; 197.344(1), F.S.

<sup>2</sup> Internal Revenue Service, Problem Alerts, *available at* <http://www.irs.gov/uac/Problem-Alerts>.

<sup>3</sup> Section 668.6076, F.S.

<sup>4</sup> FLA. CONST., art. I, s. 24(a).

<sup>5</sup> "Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution." FLA. CONST., art. I, s. 24(a).

<sup>6</sup> Section 119.01(1), F.S.

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> FLA. CONST., art. I, s. 24(c)-(d).

; Section 119.07(1)(d)-(f).

These requirements are also codified in the Open Government Sunset Review Act (Act), and thus a public records exemption is also be subject to the Act.<sup>10</sup> Under the Act, the requisite public necessity statement must fall under one of the following categories:

- (1) allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- (2) protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or
- (3) protecting trade or business secrets.<sup>11</sup>

Further, per the Act, the exemption is subject to repeal on October 2nd of the 5th year of the law's enactment, unless the Legislature acts to reenact the exemption.<sup>12</sup>

### HB 421

In the requisite public necessity statement, HB 421 states email is an increasingly used method used for business communication. As such, local tax collectors have been using this method to carry out business with local taxpayers via taxpayer email addresses. Currently, taxpayers' emails are public records. These taxpayer email addresses, used in combination with other readily accessible taxpayer information, make various types of identity theft, taxpayer scams, or other invasive contacts easy to execute. Thus, exempting these email addresses is one way to prevent identity theft, taxpayer scams, or other invasive contacts. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose. However, the DOR has stated the bill's list of circumstances in which a taxpayer's email address will be exempt may not be an exhaustive list of official documents that are sent from local tax collector via email.<sup>13</sup> Finally, HB 421 includes the requisite repeal date on October 2nd of the 5th year of the law's enactment.

After the 2013 Legislative Session, Governor Scott vetoed HB 249, a similar bill which provided for a similar exemption for voter email addresses collected by local supervisor of elections across the state.

### Vote Requirement

Article I, s. 24(c) of the Florida Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption.<sup>14</sup> The bill creates a public records exemption; thus, it requires a two-thirds vote for passage.

### **Effect of Proposed Changes**

HB 421 would create s. 197.3225, F.S. which would exempt tax collectors in Florida from releasing a taxpayer's emails when the taxpayer's email is obtained to be used under the following circumstances:

- (1) sending a quarterly tax notice for prepayment of estimated taxes;<sup>15</sup>
- (2) obtaining the taxpayer's consent to send the tax notice;<sup>16</sup>
- (3) sending an additional tax notice or delinquent tax notice to the taxpayer;<sup>17</sup>

---

<sup>9</sup> FLA. CONST., art. I, s. 24(c)-(d).

<sup>10</sup> Section 119.15(2)-(7), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 119.15(3), F.S.

<sup>13</sup> Florida Department of Revenue, 2014 Bill Analysis, HB 421.

<sup>14</sup> FLA. CONST., art. I, s. 24(c).

<sup>15</sup> Section 197.222(3), F.S.

<sup>16</sup> Section 197.322(3), F.S.

<sup>17</sup> Section 197.343, F.S.

- (4) sending a tax notice to the designated third party, mortgagee, or vendee.<sup>18</sup>

These e-mail addresses will be considered confidential and exempt from public record requirements.<sup>19</sup> However, email addresses provided by a taxpayer on the tax collector's website for other means of correspondence will not be exempt from Florida's public records laws. Pursuant to s. 668.6076, F.S., this bill would not relinquish the requirement for a government's agent to post a disclaimer stating all email addresses used to send messages to the agent are public records and thus, are subject to Florida's public record laws.<sup>20</sup>

## B. SECTION DIRECTORY:

**Section 1:** Creates s. 197.3225, F.S., providing for an exemption from public records requirements email addresses collected by tax collectors for certain tax notice purposes; provisions for further legislative review and repeal of the exemption under the Open Government Sunset Review Act.

**Section 2:** Provides a public necessity statement.

**Section 3:** Provides a contingent effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate. The bill likely could create a minimal fiscal impact on agencies, because staff responsible for complying with public record requests could require training related to expansion of the public record exemption. In addition, those agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the agency.

---

<sup>18</sup> Section 197.344(1), F.S.

<sup>19</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Attorney General Opinion 85-62, August 1, 1985.

<sup>20</sup> Section 668.6076, F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

Vote Requirement

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

Public Necessity Statement

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

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption limited to the e-mail address of a taxpayer collected for use under certain circumstances. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                    A bill to be entitled  
 2                    An act relating to public records; creating s.  
 3                    197.3225, F.S.; providing an exemption from public  
 4                    records requirements for e-mail addresses obtained by  
 5                    the tax collector for the purpose of electronically  
 6                    sending tax notices or obtaining the consent of the  
 7                    taxpayer to the electronic transmission of tax  
 8                    notices; providing for future review and repeal of the  
 9                    exemption; providing a statement of public necessity;  
 10                   providing an effective date.

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

13  
 14                    Section 1. Section 197.3225, Florida Statutes, is created  
 15 to read:

16                    197.3225 Confidentiality of e-mail addresses.-

17                    (1) Notwithstanding s. 668.6076, a taxpayer's e-mail  
 18 address held by a tax collector for the following purposes is  
 19 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 20 of the State Constitution:

21                    (a) Sending a quarterly tax notice for prepayment of  
 22 estimated taxes under s. 197.222(3) to the taxpayer.

23                    (b) Obtaining the taxpayer's consent to send the tax  
 24 notice described in s. 197.322(3).

25                    (c) Sending an additional tax notice or delinquent tax  
 26 notice to the taxpayer under s. 197.343.



27 (d) Sending a tax notice to a designated third party,  
 28 mortgagee, or vendee as provided under s. 197.344(1).

29 (2) An e-mail address provided by a taxpayer to the tax  
 30 collector via the tax collector's website or other  
 31 correspondence for a purpose other than those listed in  
 32 subsection (1) is not exempt from the state's public record law  
 33 pursuant to s. 668.6076.

34 (3) This section is subject to the Open Government Sunset  
 35 Review Act in accordance with s. 119.15 and shall stand repealed  
 36 on October 2, 2019, unless reviewed and saved from repeal  
 37 through reenactment by the Legislature.

38 Section 2. The Legislature finds that it is a public  
 39 necessity that the e-mail address of a taxpayer which is held by  
 40 the tax collector for the purpose of sending a tax notice or  
 41 obtaining the consent of the taxpayer to the electronic  
 42 transmission of a tax notice be made confidential and exempt  
 43 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of  
 44 the State Constitution. E-mail rather than traditional postal  
 45 mail is increasingly used as a means for communicating and  
 46 conducting business, including official state business such as  
 47 the payment of taxes. In order to carry out business  
 48 electronically with the tax collector, the taxpayer must report  
 49 his or her personal e-mail address. Under current law, e-mail  
 50 addresses are public records available to anyone for any  
 51 purpose. However, such addresses are unique to the individual  
 52 and, when combined with other personal identifying information,

HB 421

2014

53 | can be used for identify theft, taxpayer scams, and other  
54 | invasive contacts. The public availability of personal e-mail  
55 | addresses invites and exacerbates thriving and well-documented  
56 | criminal activities putting property owners at increased risk of  
57 | harm. Such harm could be significantly curtailed by allowing the  
58 | tax collector to remove the availability of taxpayer e-mail  
59 | addresses.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 421 (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 Hooper offered the following:

4

5 **Amendment**

6 Remove line 53 and insert:

7 can be used for identity theft, taxpayer scams, and other



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 911 City of Panama City, Bay County  
**SPONSOR(S):** Patronis  
**TIED BILLS:** IDEN./SIM. BILLS:

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

### SUMMARY ANALYSIS

Panama City allows the sale, possession and consumption of alcoholic beverages (beverages) during designated special events held in its downtown centers. Properly licensed temporary vendors may sell beverages in the event areas. However, downtown restaurants are prohibited from allowing customers to carry beverages off-premises into the event areas, despite the presence of beverage vendors and the City's allowance of beverage possession and consumption.

HB 911 defines two areas where the City typically holds special events during which the sale, possession and consumption of beverages is allowed. The bill requires the Department of Business and Professional Regulation (DBPR) to allow restaurants and other licensees in the event area to sell beverages for off-premises consumption during designated special events. The bill requires DBPR to grant allowances up to 15 times per year in each defined area.

This bill will take effect upon becoming law.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Throughout the year, the City of Panama City holds a number of festivals and special events in its urban cores. For example, the City's Downtown Improvement Board (DIB) hosts "Friday Fest," a monthly downtown street festival with live music and vendors set up along downtown streets adjacent to local shops and restaurants.

During these special events, the City allows individuals to possess, sell and consume open alcoholic beverages on public rights-of-way, provided they stay within the event area.<sup>1</sup> Under state law, vendors are allowed to sell beverages in the event area,<sup>2</sup> but restaurants are prohibited by their licenses from selling beverages for customers to consume off-premises.<sup>3</sup> Thus, if an individual desires to walk around the festival with a beverage, they must purchase it from a vendor.

##### City Ordinances

Panama City Ordinances prohibit the possession, consumption and sale of any open container containing an alcoholic beverage in or on any public way within the municipal limits.<sup>4</sup> However, the city council may provide exceptions to this rule during designated times and in designated areas.<sup>5</sup>

##### State Beverage Law

The Division of Alcoholic Beverages and Tobacco of DBPR is responsible for enforcement of the state Beverage Law. DBPR may issue one alcoholic beverage license for every 7,500 residents in a county.<sup>6</sup>

One exception to this rule allows non-profit civic organizations to sell alcoholic beverages for consumption on-premises for a period not to exceed 3 days by obtaining an ABT 6003 permit.<sup>7</sup> "On-premises" in this case may include a park or public street where an event is being held. In Panama City, DIB obtains this permit to allow the sale of alcoholic beverages by vendors.

A second exception to this rule is for restaurants, which may obtain a beverage license provided certain conditions are met.<sup>8</sup> However, restaurants under this exception may not operate as a "package store," meaning they cannot sell alcohol for consumption off-premises. This limitation prevents restaurants from allowing customers from leaving the premises with open containers, even when the possession of said containers is allowed under local law.

Officials in Panama City know of at least one instance of DBPR citing a restaurant for allowing patrons to leave with open containers while an event allowing open containers was on going.<sup>9</sup>

---

<sup>1</sup> Section 3-3(c), Panama City Municipal Code.

<sup>2</sup> Section 561.422, F.S.

<sup>3</sup> Section 561.20(2)(a)(4), F.S.

<sup>4</sup> Section 3-3(b), Panama City Municipal Code.

<sup>5</sup> Section 3-3(c), Panama City Municipal Code.

<sup>6</sup> Section 561.20(1), F.S.

<sup>7</sup> Section 561.422, F.S.

<sup>8</sup> Section 561.20(2)(a)(4), F.S.

<sup>9</sup> Per Nevin Zimmerman, Panama City Attorney.

## Effect of Proposed Changes

HB 911 creates two entertainment districts in Panama City: the Historic St. Andrews Entertainment District and the Historic Downtown Entertainment District. The St. Andrews Entertainment District is centered around Bell Avenue and comprises approximately 10 city blocks located along St. Andrews Bay and adjacent to St. Andrews Marina. The Downtown Entertainment District is centered around Harrison Avenue and is comprised of over 30 city blocks. The Downtown District is bounded by 6<sup>th</sup> Avenue to the North, Massalina Bayou to the East and St. Andrews Bay to the South and West.

HB 911 requires DBPR to allow restaurants and other licensees located within the entertainment districts to sell beverages for off-premises consumption. DBPR may only grant the allowance for the duration of special events held within the entertainment districts. Only valid license holders may qualify for the allowance. No special application or permit is required to receive the allowance, it will be conferred automatically upon the holding of a special event. Once DBPR has granted allowances for 15 events in an entertainment district in a given year, it may not grant any more allowances for that district until the beginning of the next year.

### B. SECTION DIRECTORY:

- Section 1      Creates and defines the boundaries of the Historic St. Andrews Entertainment District and the Historic Downtown Entertainment District.
- Section 2      Requires DBPR to grant a special allowance to beverage license holders within the entertainment districts to sell beverages for off-premises consumption during designated special events.
- Section 3      Provides that the bill shall take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED?    Yes     No

IF YES, WHEN?      December 27, 2013

WHERE?      *The News Herald*, a daily newspaper published at Panama City, in Bay County, FL.

B. REFERENDUM(S) REQUIRED?    Yes     No

IF YES, WHEN? N/A

C. LOCAL BILL CERTIFICATION FILED?    Yes, attached     No

D. ECONOMIC IMPACT STATEMENT FILED?    Yes, attached     No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

**B. RULE-MAKING AUTHORITY:**

The rule appears to be self-executing and should not require additional rulemaking or amendments to existing rules.<sup>10</sup>

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

---

<sup>10</sup> Department of Business and Professional Regulation Legislative Bill Analysis for HB 911. Mar. 3, 2014.  
**STORAGE NAME:** h0911.LFAC.DOCX  
**DATE:** 2/28/2014



Rep. Paterson  
HB 911

# Halifax Media Group

PUBLISHERS OF THE NEWS HERALD  
Panama City, Bay County, Florida  
Published Daily

## State of Florida County of Bay

Before the undersigned authority appeared Angella Lewis, who on oath says that she is Legal Advertising Representative of The News Herald, a daily newspaper published at Panama City, in Bay County, Florida; that the attached copy of advertisement, being a Legal Advertisement # **96991** in the matter of **PUBLIC NOTICE - City of Panama City** in the Bay County Court, was published in said newspaper in the issue of **December 27, 2013**

Affiant further says that The News Herald is a direct successor of the Panama City News and that this publication, together with its direct predecessor, has been continuously published in said Bay County, Florida, each day (except that the predecessor, Panama City News, was not published on Sundays), and that this publication together with its said predecessor, has been entered as periodicals matter at the post office in Panama City, in said Bay County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or 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.

### PUBLIC NOTICE

NOTICE OF INTENT  
TO SEEK  
LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2014 Legislature and any Special or Extended Sessions, for passage of an act relating to Panama City, in regards to entertainment districts for special events, authorizing a limited special exemption from the requirements of Chapter 581 Florida Statutes, and providing for an effective date.

CITY COMMISSION OF  
PANAMA CITY,  
FLORIDA  
December 27, 2013

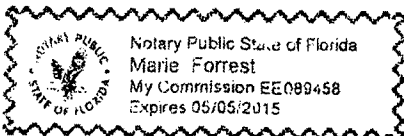
Angella Lewis

State of Florida  
County of Bay

Sworn and subscribed before me this 27th day of December, A.D., 2013, by Angella Lewis, Legal Advertising Representative of The News Herald, who is personally known to me or has produced N/A as identification.

Marie Forrest

Notary Public, State of Florida at Large



HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #:

HB 911

SPONSOR(S):

Rep- Jimmy Patronis

RELATING TO:

Panama City

(Indicate Area Affected (City, County, or Special District) and Subject)

NAME OF DELEGATION:

Bay County Delegation

CONTACT PERSON:

Patti Butchikas

PHONE NO.:

(850) 944-6300 / 717-5006

E-Mail:

patti.butchikas@myfloridahouse.gov

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

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

YES  NO [ ]

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

YES  NO [ ]

Date hearing held:

December 5, 2013

Location:

Panama City, County Commission Meeting Room

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

Room

YES  NO [ ]

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

Has this constitutional notice requirement been met?

Notice published:

YES  NO [ ]

DATE

December 27, 2013

Where?

News Herald County

Bay

Referendum in lieu of publication:

YES [ ]

NO

Date of Referendum

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

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

YES [ ] NO  NOT APPLICABLE [ ]

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

YES [ ] NO  NOT APPLICABLE [ ]

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

YES [ ] NO [ ]

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

X   
Delegation Chair (Original Signature)

X 2/12/14  
Date

X JIMMY PATRONIS  
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 #: 45728 HB 911  
SPONSOR(S): Representative Jimmy Patronis  
RELATING TO: Panama City  
[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.

This special act is "revenue neutral". No new revenues or costs are anticipated.

The act will enable Panama City to have festival events and allow  
restaurants in the festival area to compete with street beer vendors.

**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: Individuals can purchase an alcoholic beverage in a restaurant and then go out to the street festival.
2. Advantages to Businesses: Local restaurants within the entertainment district will be able to compete with street vendors.
3. Advantages to Government: Local police or state beverage agents will not have to determine where beer was purchased - if in a restaurant or from a vendor.

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: No disadvantages.  
\_\_\_\_\_  
\_\_\_\_\_
2. Disadvantages to Businesses: No disadvantages.  
\_\_\_\_\_  
\_\_\_\_\_
3. Disadvantages to Government: No disadvantages.  
\_\_\_\_\_  
\_\_\_\_\_

**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:

There will be more competition in that restaurants can compete with  
street vendors selling alcohol during festivals.  
\_\_\_\_\_

2. Impact on the Open Market for Employment:

None. The street vendors and restaurants are presently open during  
festival events.  
\_\_\_\_\_

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.

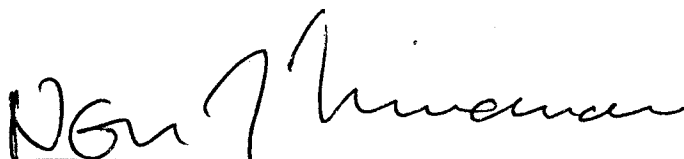
Information commonly known and discussed at City Commission meetings

---

---

---

PREPARED BY:

  
[Must be signed by Preparer]

Print preparer's name:

Nevin J. Zimmerman

2/10/14

Date

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

City Attorney, Panama City

REPRESENTING:

City of Panama City

PHONE:

(850) 215-6604

E-MAIL ADDRESS:

nzimmerman@burkeblue.com

HB 911

2014

1                                   A bill to be entitled  
 2           An act relating to the City of Panama City, Bay  
 3           County; designating boundaries of entertainment  
 4           districts within the downtown area of the city;  
 5           authorizing the Division of Alcoholic Beverages and  
 6           Tobacco of the Department of Business and Professional  
 7           Regulation to make special allowances for existing  
 8           bona fide licensees operating within such  
 9           entertainment districts for the sale of alcoholic  
 10          beverages for consumption off the premises at outdoor  
 11          events on public rights-of-way and public park  
 12          property; requiring that such events be declared by  
 13          the city commission; providing that special allowances  
 14          are in addition to certain other authorized temporary  
 15          permits; requiring the bona fide licensees to comply  
 16          with all other statutory requirements; providing an  
 17          exemption from general law; providing an effective  
 18          date.

19  
 20   Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. For purposes of this act, there are created  
 23           special zones within the downtown area of the City of Panama  
 24           City known as "entertainment districts." The areas are described  
 25           as:



26        (1) The Historic St. Andrews Entertainment District is  
 27 that part of Panama City described as all those parcels lying  
 28 within and adjacent to the following:

29  
 30        Begin at the intersection of 13th Street and Bayview  
 31 Avenue. Thence North along said Bayview Avenue  
 32 Centerline to the intersection of Bayview Avenue and  
 33 15th Street. Thence East along said 15th Street to the  
 34 intersection of 15th Street and Chestnut Avenue.  
 35 Thence South along Chestnut Avenue to the Shoreline of  
 36 St. Andrew's Bay. Thence westerly and northerly along  
 37 said shoreline to the St. Andrews Marina, thence along  
 38 said shoreline of St. Andrews Marina to the St.  
 39 Andrews Bay shoreline. Thence northerly and westerly  
 40 along said shoreline to the extended centerline of  
 41 13th Street, thence easterly along said 13th Street to  
 42 the intersection with Bayview Avenue, also being the  
 43 point of beginning.

44  
 45        (2) The Historic Downtown Entertainment District is that  
 46 part of Panama City described as all those parcels lying within  
 47 and adjacent to the following:

48  
 49        Begin at the intersection of Beach Drive and 6th  
 50 Street, thence east along 6th Street to the  
 51 intersection of Allen Avenue. Thence south along the

52 extended centerline of Allen Avenue to the westerly  
 53 shoreline of Massalina Bayou. Thence southerly and  
 54 westerly along said shoreline to the St. Andrews Bay  
 55 shoreline. Thence northerly and westerly along said  
 56 shoreline and existing improvements to the Johnson  
 57 Bayou channel. Thence northerly along said channel of  
 58 Johnson Bayou to Beach Drive. Thence easterly and  
 59 southerly along Beach Drive to the intersection of 6th  
 60 Street, also being the point of beginning.

61  
 62 Section 2. (1) Notwithstanding chapter 561, Florida  
 63 Statutes, and any other provision of law, the Division of  
 64 Alcoholic Beverages and Tobacco of the Department of Business  
 65 and Professional Regulation shall make, for bona fide licensees  
 66 operating validly licensed premises within the areas described  
 67 as entertainment districts, and upon declaration of a special  
 68 event and valid street closure by the City Commission of Panama  
 69 City, a special allowance to temporarily sell alcoholic  
 70 beverages for consumption off the premises at outdoor events on  
 71 public rights-of-way and public park property within the  
 72 entertainment districts of Panama City. Such special allowance  
 73 may be authorized for no more than 15 special events per  
 74 calendar year for each one of the entertainment districts, and  
 75 each allowance is valid only for the duration of the special  
 76 event declared by the city commission.

HB 911

2014

77        (2) The special allowances authorized by this act are in  
78 addition to any other temporary permits authorized pursuant to  
79 chapter 561, Florida Statutes.

80        (3) The bona fide licensees shall comply with all other  
81 requirements of chapter 561, Florida Statutes, during the  
82 special allowances authorized by this act.

83        Section 3. This act shall take effect upon becoming a law.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 915 Board of Trustees of Bay Medical Center, Bay County  
**SPONSOR(S):** Patronis  
**TIED BILLS:**                   **IDEN./SIM. BILLS:**

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

**SUMMARY ANALYSIS**

The Board of Trustees of Bay Medical Center (the "Board") is an independent special district created by special act of the Florida legislature. It served as the governing body of the county hospital and related facilities until 2012 when entered an asset purchase agreement with several private hospital groups. The Board's only remaining primary functions are managing the approximately \$30 million of net proceeds from the transaction and administering the pension plan.

The independent, nine-member Board is composed of community leaders and medical staff. The board of county commissioners nominates one Board member; the Board, six; medical staff of the primary hospital, two. The board of county commissioners maintains confirmation powers over all nine seats. Members may be removed by the Governor for cause.

HB 915 provides for the board of county commissioners to remove the single member they appointed to the Board at any time without cause.

Subject to the Governor's veto powers, the bill will take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Special District: The Board of Trustees of Bay Medical Center

##### *The Board of Trustees as an Independent Special District*

The Board of Trustees of Bay Medical Center (the "Board") is an independent special district established by special act of the Florida Legislature to own and operate the Bay Medical Center and other healthcare facilities.<sup>1</sup> The Bay Medical Center was originally established as the Bay Memorial Hospital of Bay County, Florida, in 1945.<sup>2</sup> As a county hospital, it was controlled by the Bay County Board of County Commissioners. In 1948, the county commissioners petitioned the Governor to appoint a board of trustees to administer the hospital under the general laws of the state until the Legislature enacted a special act to establish the terms and authority by which the hospital would be administered and operated. That special act was not enacted until 1995; however, in the meantime, the Legislature repeatedly recognized the existence of the board of trustees.<sup>3</sup> In 1995, the Legislature specifically affirmed the corporate authority of the Board as a body politic in existence and operating without interruption since 1948, thus clarifying and confirming its status as an independent special district.<sup>4</sup>

##### *Bay Medical Center District Act*

The Bay Medical Center District Act (the "Act")<sup>5</sup> provides for the Board of Trustees of Bay Medical Center to own and operate one or more hospitals in Bay County. The purpose of the Act is to allow the Trustees the reasonable opportunity and flexibility to manage and develop a public hospital to provide health care services to the citizens of Bay County, regardless of ability to pay, in an increasingly competitive and rapidly changing marketplace.<sup>6</sup>

##### *The Board of Trustees*

The independent, nine-member Board is composed of community leaders and medical staff.<sup>7</sup> The board of county commissioners nominates one Board member; the Board, six; medical staff of the primary hospital, two. The board of county commissioners maintains confirmation powers over all nine seats.

Approximately 30 days before the expiration of the county-nominated member's term, the county must nominate and confirm the next appointee. For the other eight seats, the next appointee must be

---

<sup>1</sup> Chapter 2005-343, L.O.F.

<sup>2</sup> Chapter 23183, L.O.F. (1945). The 1945 act was subsequently amended by special acts of the legislature in 1951, 1955, 1959, 1961, 1993, 1995, and 2005.

<sup>3</sup> The Legislature authorized the board of trustees to organize a medical staff (ch. 27396 (1951), L.O.F.), conferred upon the board of trustees specific powers to provide hospitalization insurance and other fringe benefits for its employees (ch. 61-1871, L.O.F.), and revised the method of appointing its members (ch. 93-375, L.O.F.).

<sup>4</sup> Chapter 95-510, L.O.F.

<sup>5</sup> Chapter 2005-343, L.O.F. Pursuant to s. 189.429, F.S., the Act constitutes the codification of all special acts relating to Board of Trustees of Bay Medical Center. The Legislative intent of such codification is to provide a single, comprehensive special act charter for the independent special district that ratifies and continues without interruption all powers and authority granted to the board by, or implicit in, the several previous legislative enactments.

<sup>6</sup> Section 10, ch. 2005-343, L.O.F.

<sup>7</sup> Section 3, ch. 2005-343, L.O.F.

nominated approximately 60 days before the term expires and the county commissioners must rule on each of these eight nominees within 30 days. If the county commissioners reject three consecutive nominations for a single seat, the county commissioners make the appointment alone. Vacancies due to resignation, death, removal, or suspension are filled by a similar process for the remainder of the term or length of suspension.

Board members serve a four-year term. Members who have served two full, consecutive terms shall not be eligible for reconfirmation until the next regular appointment process approximately two years after their second term ends.

Members must be a Florida citizen and resident, of sound mind and good moral character, and have no competing interests that may impact Bay Medical Center or their fiduciary duties. Other restrictions on Board member eligibility also apply, such as employees of Bay Medical Center and parties governing or with material interests in competing facilities.

Members may be removed by the Governor for cause. The Act does not provide any other removal language.

The Act grants a broad array of powers to the Board, all related to overseeing the on-going operation of a hospital and providing related health care services. As set forth in the Act, the Board is empowered "to establish, lease, acquire, own, and operate one or more hospitals or other health care or ancillary facilities ...; to provide health care services determined by the board or its delegates to be in the best interest of the persons utilizing such facilities and services; to do and perform any and all acts or services that may be incidental or necessary to carry out those purposes intended to improve the physical or mental health of the persons utilizing such facilities and services. . ."<sup>8</sup>

Powers granted to the Board include the following:<sup>9</sup>

- Contract and enter into agreements with public and private entities.
- Acquire, purchase, and develop real and personal property.
- Borrow money and incur indebtedness.
- Establish a medical staff.
- Determine lines and levels of medical services.
- Establish rates and charges for use of services and facilities.
- Provide and pay for employee benefits.
- Make charitable contributions.
- Do all things customarily done by other hospitals.

Additionally, the Board has "neither the power to levy any tax nor the power to appropriate property by eminent domain."<sup>10</sup> Without these two fundamental government powers, the Board relies solely upon its operating revenues to provide health services to the citizens of Bay County.

#### Sale/Lease of the Board's Assets

Exercising the above powers, the Board operated for more than 60 years. On March 31, 2012, through an asset purchase agreement and lease, the Board transferred all assets of Bay Medical Center to Bay County Health System, LLC, LHP Hospital Group, Inc., and Sacred Heart Health System, Inc. (collectively "the hospital systems"). Finalizing a 40-year lease and asset purchase agreement, LHP Hospital Group and Sacred Heart Health System formed a joint venture that leases and operates Bay Medical Center.

---

<sup>8</sup> Section 2, ch. 2005-343, L.O.F.

<sup>9</sup> Section 2, ch. 2005-343, L.O.F.

<sup>10</sup> Section 2, ch. 2005-343, L.O.F.

After paying off bonds and retiring other debt, the Board retained more than \$30 million from the transaction. The Board's only remaining primary functions are managing these net proceeds from the transaction and administering the Bay Medical Center Pension Plan.

### **Effect of Proposed Changes**

HB 915 provides for the removal of the single board member appointed by the board of county commissioners by said commissioners at any time without cause.

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

Section 1: Provides that the board of county commissioners may remove their single appointee to the Board of Trustees of Bay Medical Center at any time without cause.

Section 2: Provides an effective date.

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

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 19, 2013

WHERE? The *Panama City News Herald*, a daily newspaper published at Panama City in Bay County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A



Rep. Patricia  
HB 915

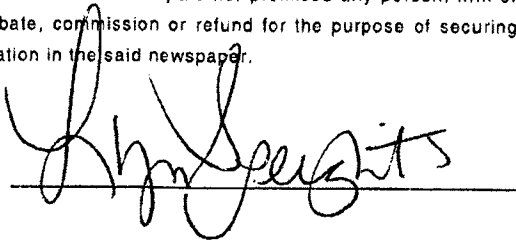
# Halifax Media Group

PUBLISHERS OF THE NEWS HERALD  
Panama City, Bay County, Florida  
Published Daily

## State of Florida County of Bay

Before the undersigned authority appeared Lynda Speights, who on oath says that she is Legal Advertising Representative of The News Herald, a daily newspaper published at Panama City, in Bay County, Florida; that the attached copy of advertisement, being a Legal Advertisement # 96905 in the matter of NOTICE OF INTENT- Bay County Board of County Commissioners in the Bay County Court, was published in said newspaper in the issue of December 19, 2013.

Affiant further says that The News Herald is a direct successor of the Panama City News and that this publication, together with its direct predecessor, has been continuously published in said Bay County, Florida, each day (except that the predecessor, Panama City News, was not published on Sundays), and that this publication together with its said predecessor, has been entered as periodicals matter at the post office in Panama City, in said Bay County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or 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.



State of Florida  
County of Bay

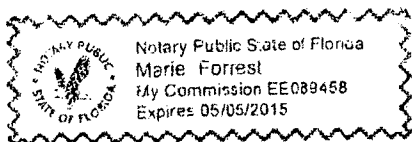
Sworn and subscribed before me this 19th day of December, A.D., 2013, by Lynda Speights, Legal Advertising Representative of The News Herald, who is personally known to me or has produced N/A as identification.

96905  
PUBLIC NOTICE

NOTICE OF  
INTENT TO SEEK  
LEGISLATION

TO WHOM IT MAY  
CONCERN: Notice is  
given of intent to apply  
to the 2014 Legislature  
for passage of legisla-  
tion amending Chapter  
2005-343, Laws of Flor-  
ida, relating to the  
Board of Trustees of  
Bay Medical Center, to  
provide that Bay  
County may remove its  
appointed Board mem-  
ber with or without  
cause; providing an ef-  
fective date.

BOARD OF COUNTY  
COMMISSIONERS  
OF BAY  
COUNTY, FLORIDA  
December 19, 2013



  
\_\_\_\_\_  
Notary Public, State of Florida at Large

HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: Re: Appointee HB 915
SPONSOR(S): Rep. Jimmy Patronis
RELATING TO: Board of Trustees of Bay Medical Center, Bay County, Special District
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Bay County Delegation
CONTACT PERSON: Patti Butchikus
PHONE NO.: (850) 914-6300 / 717-5006 E-Mail: patti.butchikus@myfloridahouse.gov

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

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

YES [X] NO [ ]

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

YES [X] NO [ ]

Date hearing held: December 5, 2013

Location: Bay County Government Center, Commission Chambers

(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 19, 2013

Where? Panama City News Herald County Bay County

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  NOT APPLICABLE [ ]

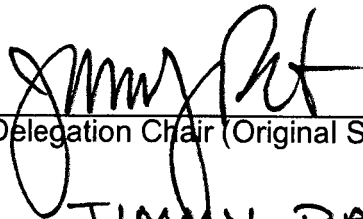
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO  NOT APPLICABLE [ ]

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

YES [ ] NO

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



Delegation Chair (Original Signature)

12/12/14  
Date

JIMMY PATRONIS

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 915  
**SPONSOR(S):** Representative Jimmy Patronis  
**RELATING TO:** Board of Trustees of Bay Medical Center, Bay County, Special District.  
[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>00.00</u>	\$ <u>00.00</u>
Revenue increase due to bill:	\$ <u>00.00</u>	\$ <u>00.00</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>00.00</u>	\$ <u>00.00</u>

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

There is no cost to providing that the Bay County Board of County Commissioners may remove its appointee to the Board of Trustees of Bay Medical Center Board.

---

---

**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:	\$ 00.00	\$ 00.00
State:	\$ 00.00	\$ 00.00
Federal:	\$ 00.00	\$ 00.00

**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: There are no additional advantages.  

---
2. Advantages to Businesses: There is no affect on business.  

---
3. Advantages to Government: Bay County may replace its  
appointee to the Board of Trustees of  
Bay Medical Center.  

---

**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: There are none.  
\_\_\_\_\_  
\_\_\_\_\_
2. Disadvantages to Businesses: The bill does not affect businesses.  
\_\_\_\_\_  
\_\_\_\_\_
3. Disadvantages to Government: There are 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:  
There are no impacts on competition.  
\_\_\_\_\_  
\_\_\_\_\_

2. Impact on the Open Market for Employment:  
There are no impacts 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.

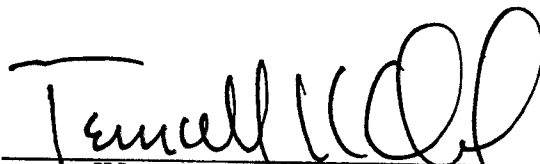
There was no data used.

---

---

---

PREPARED BY:

  
[Must be signed by Preparer]

Print preparer's name:

Terrell K. Arline

2/13/14

Date

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

Bay County Attorney

REPRESENTING:

Bay County

PHONE:

(850) 248-8175

E-MAIL ADDRESS:

tarline@baycountyfl.gov

1                   A bill to be entitled  
 2           An act relating to the Board of Trustees of Bay  
 3           Medical Center, Bay County; amending chapter 2005-343,  
 4           Laws of Florida; providing for the removal of a  
 5           certain board member; providing an effective date.

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

8  
 9           Section 1. Section 3 of section 3 of chapter 2005-343,  
 10          Laws of Florida, is amended to read:

11           Section 3. The Board of Trustees of Bay Medical Center  
 12          shall consist of nine persons, one of whom shall be nominated  
 13          and confirmed by the board of county commissioners, six of whom  
 14          shall be nominated by the board of trustees and confirmed by the  
 15          board of county commissioners, and two of whom shall be  
 16          nominated by the medical staff of the primary hospital operated  
 17          by the board of trustees and confirmed by the board of county  
 18          commissioners. Each medical staff nominee shall be selected by  
 19          majority vote of active medical staff members conducted in  
 20          accordance with the bylaws governing regular medical staff  
 21          affairs and approved by the board of trustees for submission to  
 22          the board of county commissioners. The board of county  
 23          commissioners shall nominate and confirm its single appointee  
 24          approximately 30 days prior to the end of the expiring term, who  
 25          may be removed and replaced by the board of county commissioners  
 26          at any time, without cause. For all other appointments, one



HB 915

2014

27 | qualified person shall be nominated for each vacancy  
28 | approximately 60 days prior to the end of the expiring term. The  
29 | board of county commissioners shall confirm or reject such  
30 | nominee within 30 days after the nomination is made. If the  
31 | nominee is rejected, one additional qualified person shall be  
32 | nominated within 30 days thereafter and the process shall be  
33 | repeated in like manner until the appointment is complete or  
34 | three nominations have been made. If the third nominee is  
35 | rejected, the board of county commissioners alone shall make the  
36 | appointment. The appointment of all members of the board of  
37 | trustees in office on the effective date of this act, and the  
38 | seats and terms for which they were appointed, are hereby  
39 | ratified and validated. Upon the expiration of their respective  
40 | terms, successors to Seats One, Two, Three, Four, Five, and Six  
41 | shall be nominated by the board of trustees and confirmed by the  
42 | board of county commissioners for a term of 4 years; successors  
43 | to Seats Eight and Nine shall be nominated by the medical staff  
44 | as provided herein and confirmed by the board of county  
45 | commissioners for a term of 4 years; and successors to Seat  
46 | Seven shall be nominated and confirmed by the board of county  
47 | commissioners alone for a term of 4 years. In the event a seat  
48 | becomes vacant by reason of resignation, death, removal,  
49 | suspension, or otherwise, the bodies or body nominating and  
50 | confirming that member shall by similar procedure nominate and  
51 | confirm a member to fill the vacant seat for the remainder of  
52 | the term or, in the event of a suspension, the period of

Page 2 of 4

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

hb0915-00

53 suspension. Every member shall serve until the expiration of  
 54 that member's term or the confirmation of that member's  
 55 successor by the board of county commissioners, whichever occurs  
 56 later. A person who has served two full, consecutive terms as a  
 57 member of the board of trustees shall not be eligible for  
 58 reconfirmation until the next regular appointment process  
 59 occurring approximately 2 years after that person's termination  
 60 of service. Each member of the board of trustees shall be and  
 61 remain a citizen and resident of the state, of sound mind and  
 62 good moral character, and without economic or other interests  
 63 either in competition with the best interests of the facilities,  
 64 services, and businesses operated and provided by Bay Medical  
 65 Center or likely to create a continuing or frequently recurring  
 66 temptation to disregard the member's fiduciary duty to Bay  
 67 Medical Center. Without limiting the foregoing, the following  
 68 persons are declared to be disqualified from service on the  
 69 board of trustees: any person employed by Bay Medical Center or  
 70 any entity controlled by Bay Medical Center; any person employed  
 71 by, holding a material interest in, or serving as an officer,  
 72 director, manager of, or business consultant or advisor to, any  
 73 business entity operating or providing facilities or services  
 74 the majority of which are in competition with the facilities or  
 75 health care services operated or offered by Bay Medical Center  
 76 or any entity controlled by Bay Medical Center; and any person  
 77 serving upon any executive, administrative, or credentialing  
 78 committee of the medical staff of any facility or organization

HB 915

2014


79 | operated by Bay Medical Center or any entity controlled by Bay  
80 | Medical Center. As used herein, "material interest" means direct  
81 | or indirect, legal, equitable, or beneficial ownership of or  
82 | interest in more than 5 percent of the total assets or capital  
83 | stock of any business entity. For purposes of this act, indirect  
84 | ownership includes, without limitation, ownership by a spouse or  
85 | minor child. A determination by the board of county  
86 | commissioners, after full and fair disclosure of all relevant  
87 | facts, that a nominee or board member is qualified  
88 | notwithstanding the appearance of a conflict shall constitute a  
89 | legislative determination of that fact. Members of the board of  
90 | trustees may be removed by the Governor for cause.  
91 | Notwithstanding the qualifications for members of the board of  
92 | trustees set forth above, any otherwise valid act of the board  
93 | of trustees shall be valid notwithstanding a subsequent  
94 | determination that one or more members of the board of trustees  
95 | were not qualified under this act to serve at the time such  
96 | action was taken.

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



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 919 Bay County Tourist Development Council, Bay County  
**SPONSOR(S):** Patronis  
**TIED BILLS:** IDEN./SIM. BILLS:

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

### SUMMARY ANALYSIS

The Bay County Tourist Development Council (Council) is a nine member advisory council that creates plans to promote tourism in Bay County using funds from the tourist development tax.

Two membership seats on the Council are reserved for elected officials from a municipality within the Bay County Tourist Development Tax District (tax district), with one seat reserved for an official from the most populous municipality. The tax district encompasses the cities of Panama City Beach and Mexico Beach. Presently, both municipal officials on the Council are from Panama City Beach, which generates over 95 percent of all revenue from the tourist development tax.

The Council is currently contemplating expansion of the tax district into Panama City. If this occurs, statute would automatically grant one municipal seat on the Council to Panama City, despite it generating less revenue than Panama City Beach, because it would become the most populous city in the tax district.

HB 919 provides an exemption from general law for the membership requirements of the Council, requiring both municipal officials to come from the city that generates the highest amount of revenue from the tourist development tax. This ensures Panama City Beach will retain both municipal seats on the Council, maintaining the status quo if the tax district expands to include Panama City.

This bill is effective upon becoming law.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) may apply to this bill.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Tourist Development Councils

A Tourist Development Council is a county level council that creates plans to promote tourism with funds generated by a county's tourism development tax, an optional bed tax levied on hotel room rates.<sup>1</sup> The Council prepares a tourist development plan that estimates the revenue from the tax and allocates the funds toward specific projects. Projects may include: repairing, constructing, or acquiring convention centers, sports arenas, aquariums, and museums; promoting and advertising tourism or establishing tourism information centers; and maintaining beaches and shorelines.<sup>2</sup>

The tourist development plan is prepared by the Council in anticipation of the county levying the tourist development tax. The Board of County Commissioners must approve the plan and incorporate it into an ordinance authorizing the levy of the tourist development tax. County electors must then approve the ordinance authorizing levy of the tax by referendum.<sup>3</sup>

The Council is intended to have an advisory capacity and any major amendments it makes to the tourism development plan must be approved by the Board.<sup>4</sup>

Membership on a Tourist Development Council is apportioned in the following manner:

- one member from the county board;
- *two elected municipal officials, one of whom must be from the most populous city in the county or sub-county tax district; and*
- six members who are individuals involved in the tourism industry, three or four of whom must be subject to the tax.<sup>5</sup>

##### The Bay County Tourist Development Council

The Bay County Ordinances created the Bay County Tourist Development Council.<sup>6</sup> The current tourist development tax rate in Bay County is five percent.<sup>7</sup> Three of the five cents collected are designated to promote tourism, one cent is designated to maintain and protect beaches, and one cent is designated to support low cost air service.<sup>8</sup> In FY 2012-2013, Bay County collected \$16,189,140 in tourist development tax revenue, \$15,734,252 of which was collected in Panama City Beach.<sup>9</sup>

---

<sup>1</sup> S. 125.0104, F.S. Specifically, the tax is levied on "every person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, condominium, or timeshare resort for a term of 6 months or less."

<sup>2</sup> S. 125.0104(5), F.S.

<sup>3</sup> S. 125.0104(4)(a), F.S.

<sup>4</sup> S. 125.0104(4)(d), F.S.

<sup>5</sup> S. 125.0104(4)(e), F.S.

<sup>6</sup> Bay County Code, Sec. 14-43.

[http://library.municode.com/HTML/14281/level4/BAY\\_CO\\_CODE\\_CH14LITAMIBURE\\_ARTIITODETA\\_DIV1GE.html#BAY\\_CO\\_CODE\\_C\\_H14LITAMIBURE\\_ARTIITODETA\\_DIV1GE\\_S14-43TODECO](http://library.municode.com/HTML/14281/level4/BAY_CO_CODE_CH14LITAMIBURE_ARTIITODETA_DIV1GE.html#BAY_CO_CODE_C_H14LITAMIBURE_ARTIITODETA_DIV1GE_S14-43TODECO)

<sup>7</sup> 2014 Local option Tourist/Food and Beverage/ Tax Rates in Florida's Counties. Office of Economic and Demographic Research. 2/14/14

<sup>8</sup> Bay County Comprehensive Annual Financial Report for Fiscal Year, ending Sep. 30, 2012. p. B-12.

<sup>9</sup> Bay County Tourism Development Revenue Analysis. <http://www.visitpanamacitybeach.com/partners/about-the-tdc/tourist-development-tax/> Retrieved Feb. 26<sup>th</sup>, 2014.

The tax is collected from a special taxing district that stretches along the gulf coast of Bay County from Phillips Inlet Bridge on the west end to the intersection of Thomas Drive and West Highway 98 on the east end.<sup>10</sup> The district also includes Shell Island and Crooked Island (Mexico Beach). The district covers the entire expanse of Panama City Beach, as well as unincorporated portions of Bay County that are adjacent to Panama City Beach. The district does not cover any portion of Panama City.

Bay County ordinance requires two members of the council to be elected municipal officials, a less specific standard than provided in state law. However, the council is still required to comply with the membership rules provided in the Florida Statutes.<sup>11</sup> There are seven incorporated cities in Bay County. Panama City is the most populous, with a population of 36,484. Panama City Beach has a population of 12,018.<sup>12</sup> Because the tax district does not encompass Panama City, the most populous city in the sub-county portion of the tax district is Panama City Beach. Presently, both elected municipal officials sitting on the Council are from Panama City Beach.<sup>13</sup>

The Council is considering plans to expand the tax district to cover portions of Panama City.<sup>14</sup> If this occurs, Panama City would obtain a seat on the Council, despite collecting significantly less tourist development tax revenue than Panama City Beach. Panama City has indicated support for allowing Panama City Beach to retain both seats on the council in the event of the tax district expansion.<sup>15</sup>

### Effect of Proposed Changes

HB 919 provides an exemption from general law for the two municipal official seats on the Council. The bill revises the membership requirements for these seats, reserving both for elected officials from the municipality generating the most revenue from the tourist development tax. The bill removes the requirement that one seat shall be filled by an official from the most populous municipality in the tax district.

The bill effectively allocates two seats on the Council to elected officials from Panama City Beach, because the city generates the most revenue from the tourist tax. The other cities located in the tax district, Mexico Beach and potentially Panama City (if the district expands), will not be eligible to have a seat on the Council unless they begin to generate the highest revenues for the tax district.

#### B. SECTION DIRECTORY:

Section 1      Creates exemption from general law, changing the membership requirements for the two elected municipal officials sitting on the Council.

Section 2      Provides that the act shall take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED?    Yes     No

<sup>10</sup> Tourist Development Tax. Bay County Clerk of Court and Comptroller. <http://www.baycoclerk.com/finance/tourist-development-tax/> Retrieved Feb. 25<sup>th</sup>, 2014.

<sup>11</sup> Bay County Code Sec. 14-43.

<sup>12</sup> 2010 US Census Populations. See Office of Economic and Demographic Research City Profiles. <http://edr.state.fl.us/Content/area-profiles/2010-census-city/n-r.cfm>. Retrieved Feb. 25<sup>th</sup>, 2014.

<sup>13</sup> "About the TDC." <http://www.visitpanamacitybeach.com/partners/about-the-tdc/> Retrieved Feb. 26<sup>th</sup>, 2014.

<sup>14</sup> Minutes from the Bay County TDC/CVB Combined Board Meeting, p.7. Dec. 18<sup>th</sup>, 2013.

<http://www.visitpanamacitybeach.com/partners/about-the-tdc/board-meeting-minutes/> Retrieved Feb 26<sup>th</sup>, 2014.

<sup>15</sup> Panama City Resolution No. 11262013.8. Adopted by the City of Panama City Commission on Nov. 26, 2013.

[http://library1.municode.com:80/minutes/home.htm?view=home&doc\\_action=setdoc&doc\\_keytype=tocid&doc\\_key=9b5279273dc1ffb6eef20760ce3f485&infobase=30067](http://library1.municode.com:80/minutes/home.htm?view=home&doc_action=setdoc&doc_keytype=tocid&doc_key=9b5279273dc1ffb6eef20760ce3f485&infobase=30067)

IF YES, WHEN? December 27<sup>th</sup>, 2013.

WHERE? *The News Herald*, a daily newspaper published at Panama City, in Bay County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES



Rep. Patronis  
HB 919

# Halifax Media Group

PUBLISHERS OF THE NEWS HERALD  
Panama City, Bay County, Florida  
Published Daily

## State of Florida County of Bay

Before the undersigned authority appeared Angella Lewis, who on oath says that she is Legal Advertising Representative of The News Herald, a daily newspaper published at Panama City, in Bay County, Florida; that the attached copy of advertisement, being a Legal Advertisement # **96993** in the matter of **PUBLIC NOTICE - City of Panama City** in the Bay County Court, was published in said newspaper in the issue of **December 27, 2013**

Affiant further says that The News Herald is a direct successor of the Panama City News and that this publication, together with its direct predecessor, has been continuously published in said Bay County, Florida, each day (except that the predecessor, Panama City News, was not published on Sundays), and that this publication together with its said predecessor, has been entered as periodicals matter at the post office in Panama City, in said Bay County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or 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.

96993  
PUBLIC NOTICE

NOTICE OF INTENT  
TO SEEK  
LEGISLATION

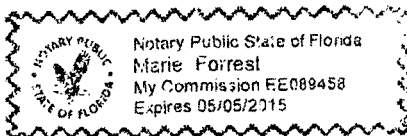
TO WHOM IT MAY CONCERN: Notice is hereby given of intent to seek legislation before the 2014 Legislature, or 2014 Legislative Sessions, or 2014 Legislature and any Special or Extended Sessions relating to the Bay County Tourist Development Council, Bay County; revising the membership of the council; providing the effective date for such changes in council membership; providing an effective date.

CITY COMMISSION OF  
PANAMA CITY,  
FLORIDA  
December 27, 2013

Angella Lis

State of Florida  
County of Bay

Sworn and subscribed before me this 27th day of December, A.D., 2013, by Angella Lewis, Legal Advertising Representative of The News Herald, who is personally known to me or has produced N/A as identification.



Marie Forrest  
Notary Public, State of Florida at Large

HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: HB 914

SPONSOR(S): REP. JIMMY PATRONIS

RELATING TO: PANAMA CITY  
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: BAY COUNTY DELEGATION

CONTACT PERSON: PATTI BUTCHKAS

PHONE NO.: 850 914-6300/717-5006 E-Mail: PATTI.BUTCHKAS@MY.FLORIDAHOUSE.GOV

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

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

YES  NO

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

YES  NO

Date hearing held: DECEMBER 5, 2013

Location: PANAMA CITY, COUNTY COMMISSION MEETING ROOM

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

YES  NO

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

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE DECEMBER 27, 2013

Where? NEWS HERALD County BAY

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

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

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

YES [ ] NO  NOT APPLICABLE [ ]

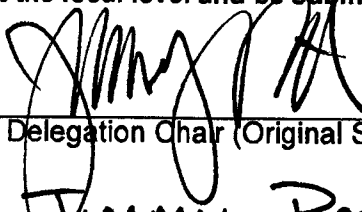
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO  NOT APPLICABLE [ ]

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

YES [ ] NO

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



Delegation Chair (Original Signature)

2/12/14  
Date

JIMMY PATRONIS  
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 919  
**SPONSOR(S):** Representative Jimmy Patronis  
**RELATING TO:** Bay County Tourist Development Council Membership Composition  
[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.

No additional expense or 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: No advantages. Neutral.  
\_\_\_\_\_  
\_\_\_\_\_
2. Advantages to Businesses: No advantages. Neutral.  
\_\_\_\_\_  
\_\_\_\_\_
3. Advantages to Government: Proposed legislation only changes the way Committee Members are designated.  
This provides flexibility in the event there is an expansion of Tourist Development Tax District to include Panama City.

**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: No disadvantages. Neutral.  
\_\_\_\_\_  
\_\_\_\_\_
2. Disadvantages to Businesses: No disadvantages. Neutral.  
\_\_\_\_\_  
\_\_\_\_\_
3. Disadvantages to Government: No disadvantages.  
\_\_\_\_\_  
\_\_\_\_\_

**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.

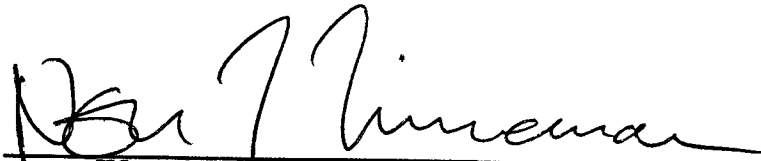
1. Impact on Competition:  
No impact.  
\_\_\_\_\_  
\_\_\_\_\_
2. Impact on the Open Market for Employment:  
No impact.  
\_\_\_\_\_  
\_\_\_\_\_

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.

Information provided at public hearings by Panama City, Bay County  
and Legislative Delegation.

PREPARED BY:

  
[Must be signed by Preparer]

Print preparer's name:

Nevin J. Zimmerman

2/28/14

Date

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

City Attorney

REPRESENTING:

City of Panama City

PHONE:

(850) 215-6604

E-MAIL ADDRESS:

nzimmerman@burkeblue.com

1                   A bill to be entitled  
 2           An act relating to the Bay County Tourist Development  
 3           Council, Bay County; revising membership of the  
 4           council; providing an exception to general law;  
 5           providing an effective date.

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

8  
 9           Section 1. Bay County Tourist Development Council;  
 10 composition.-

11           (1) Notwithstanding s. 125.0104(4)(e), Florida Statutes,  
 12 the Bay County Tourist Development Council as established by Bay  
 13 County ordinance pursuant to s. 125.0104, Florida Statutes,  
 14 shall be composed of nine members who shall be appointed by the  
 15 Board of County Commissioners of Bay County:

16           (a) The chair of the Board of County Commissioners of Bay  
 17 County or any other member of the county commission designated  
 18 by the chair shall serve on the council.

19           (b) Two members of the council shall be elected municipal  
 20 officials, both of whom shall be from the municipality that  
 21 generated the highest revenues from the tourist tax in the  
 22 previous 5 fiscal years.

23           (c) Six members of the council shall be persons who are  
 24 involved in the tourist industry and who have demonstrated an  
 25 interest in tourist development, not less than three nor more  
 26 than four of whom shall be owners or operators of motels,



HB 919

2014

27 hotels, recreational vehicle parks, or other tourist  
28 accommodations in the county and subject to the tax.

29 (2) Each member of the council must be an elector of the  
30 county.

31 (3) Except as otherwise expressly provided in this  
32 section, s. 125.0104(4)(e), Florida Statutes, applies to the Bay  
33 County Tourist Development Council.

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



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HM 233 Federal Government Shutdown/Payment of Federal Taxes  
**SPONSOR(S):** Local & Federal Affairs Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local & Federal Affairs Committee		Dougherty <i>ADD</i>	Rojas <i>gR</i>

**SUMMARY ANALYSIS**

The federal government entered a shutdown in October 2013 due to Congress's failure to enact appropriations for fiscal year 2014. During the 16-day shutdown, most government services were reduced or discontinued, including The Head Start Program, food safety inspections, government defense contracts, imports and exports, immigration, shelter and support centers, national parks, and IRS processing. Approximately 800,000 non-exempt federal employees were furloughed but later received backpay. Essential government functions and those funded by long-term or mandatory appropriations were continued.

Recognizing the potential for another budget impasse to result in a future shutdown, supporters of this memorial believe taxpayers should not be required to pay for the services diminished or cancelled.

PCS for HM 233 urges Congress to authorize a prorated reduction of federal taxes to compensate taxpayers for reduced or discontinued services during a future federal government shutdown.

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.

This memorial does not have a fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The federal government shutdown from October 1 – 16, 2013 after a congressional budget impasse. For various political and partisan motivations, the United States House of Representatives and Senate failed to enact appropriation legislation for fiscal year 2014 or a continuing resolution to authorize interim appropriations. During the shutdown, most routine federal government functions were diminished or discontinued. These included The Head Start Program, food safety inspections, government defense contracts, imports and exports, immigration, shelter and support centers, national parks, IRS processing, and loans programs.

This had severe negative consequences on not only the national economy, but also many people and business that rely on governmental services and funding. Over 800,000 government employees were indefinitely furloughed and over 1 million others were required to work without known payment. This was the most significant federal shutdown in terms of employee furlough days: 6.6 million.<sup>1</sup> Despite the initial uncertainty, all of these employees eventually received backpay. Experts estimate that the total cost of pay for furloughed employees is roughly \$2 billion.<sup>2</sup> Total compensation costs, including benefits, are about 30 percent larger, in the range of \$2.5 billion.<sup>3</sup> Other quantified effects of the furloughs include the following:<sup>4</sup>

- Stalling reduction of the backlog of veterans' disability claims.
- Delaying almost \$4 billion in tax refunds and delaying the start of the 2014 tax filing season by up to two weeks.
- Stopping Head Start centers from serving nearly 6,300 children for up to nine days
- Delaying home loan decisions for 8,000 rural families.
- Delaying nearly 500 food and feed FDA domestic inspections and roughly 355 food safety inspections.
- Preventing the investigation of 59 airplane accidents by the National Transportation Safety Board.
- Delaying transition and employment workshops for 1,400 military service members.
- Preventing Centers for Disease Control and Prevention (CDC) flu season surveillance and monitoring, leaving local public health authorities without access to national flu season data.
- Stopping research, with 98 percent of National Science Foundation, nearly 75 percent National Institutes of Health, and 66 percent of CDC employees furloughed.
- Stopping Environmental Protection Agency inspections at about 1,200 sites, including hazardous waste facilities, chemical facilities, and drinking water systems.

Experts estimate that the shutdown will reduce fourth quarter Gross Domestic Product growth by 0.2-0.6 percentage points, or \$2-\$6 billion in lost output.<sup>5</sup> The Council of Economic Advisers estimates that the combination of the government shutdown and debt limit brinksmanship may have resulted in 120,000 fewer private-sector jobs created during the first two weeks of October.<sup>6</sup>

---

<sup>1</sup> Executive Office of the President, "Impacts and Costs of the October 2013 Federal Government Shutdown," November 2013, available at <http://www.whitehouse.gov/sites/default/files/omb/reports/impacts-and-costs-of-october-2013-federal-government-shutdown-report.pdf>.

<sup>2</sup> This estimate is based on average salary costs for furloughed employees by agency. It includes only costs for normal work days (excluding weekends and Columbus Day).

<sup>3</sup> See note 1.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Council of Economic Advisers, "Economic Activity During the Government Shutdown and Debt Limit Brinksmanship," October 2013, available at [http://www.whitehouse.gov/sites/default/files/docs/weekly\\_indicators\\_report\\_final.pdf](http://www.whitehouse.gov/sites/default/files/docs/weekly_indicators_report_final.pdf).

Essential government functions, such as air traffic control and emergency services, were continued under emergency funding statutes. Agencies funded by long-term or mandatory appropriations, such as mail delivery and social security benefits, continued their services.

**Effect of Proposed Changes**

PCS for HM 233 urges Congress to authorize prorated payment reduction of federal taxes to compensate for diminished or discontinued services during a future federal government shutdown resulting from congressional inability to fund such services.

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**

House Memorial

A memorial to the Congress of the United States,  
 urging Congress to waive the payment of all federal  
 taxes that become due and are owed during a shutdown  
 of the Federal Government.

WHEREAS, it is not the fault of taxpaying individuals and  
 businesses that the executive and legislative branches of the  
 Federal Government are unable or unwilling to reach an agreement  
 on a budget, and

WHEREAS, the result of that stalemate is the shutting down  
 of government services, which affects many aspects of the  
 nation's economy, and

WHEREAS, the shutting down directly and indirectly impacts  
 many American citizens and businesses negatively, ranging from  
 those 800,000 government employees who have been furloughed and  
 are not receiving paychecks to those commercial enterprises that  
 depend on government employees to purchase goods or pay their  
 bills, and

WHEREAS, the shutting down of government services also  
 results in the suspension of government programs that affect  
 individuals who depend on those programs to carry out their  
 everyday activities, as well as businesses that employ workers  
 who are funded by those programs, and all Americans who depend  
 on government programs to conduct regulatory activities that

HM 233

2014

26 | guarantee the health and safety of products in the stream of  
 27 | commerce, and

28 |       WHEREAS, all taxpayers are required to timely pay their  
 29 | federal taxes despite the furlough of 91 percent of Internal  
 30 | Revenue Service employees, resulting in the unavailability of  
 31 | tax assistance and the nonpayment of tax refunds, and

32 |       WHEREAS, hardworking taxpayers should not be required to  
 33 | pay federally imposed taxes while the Federal Government is  
 34 | unable to provide them with needed services, and

35 |       WHEREAS, once the budget impasse is resolved and an  
 36 | agreement is reached to restart services and programs, then, and  
 37 | only then, should individuals and businesses begin to once again  
 38 | pay taxes to the Federal Government, NOW, THEREFORE,

39 |  
 40 | Be It Resolved by the Legislature of the State of Florida:

41 |  
 42 |       That as long as the Federal Government is unable to pass a  
 43 | continuing resolution to fund the Federal Government and,  
 44 | therefore, must reduce or discontinue government services, the  
 45 | payment of all federal taxes that become due and are owed during  
 46 | such shutdown should be permanently waived.

47 |       BE IT FURTHER RESOLVED that copies of this memorial be  
 48 | dispatched to the President of the United States, to the  
 49 | President of the United States Senate, to the Speaker of the  
 50 | United States House of Representatives, and to each member of



HM 233

2014

51 | the Florida delegation to the United States Congress.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 503 Municipal Governing Body Meetings  
**SPONSOR(S):** Local & Federal Affairs Committee  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 730

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local & Federal Affairs Committee		Flegiel MF	Rojas JR

**SUMMARY ANALYSIS**

The Florida Constitution and Statutes require that the exercise of extra-territorial powers by a municipality be authorized by general or special law. These provisions have been interpreted to prohibit a municipality's governing body from holding meetings outside its boundaries absent enactment of a law authorizing such meetings.

PCS for HB 503 authorizes a municipal governing body to hold joint meetings with the governing body of the municipality's home county or the governing body of other municipalities to discuss and act on matters of mutual concern at a place and time prescribed by ordinance or resolution.

This bill will take effect on July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### County Government Meeting Authority:

The Florida Constitution provides non-charter counties the power of self-government as is provided by general or special law.<sup>1</sup> The legislative and governing body of a non-charter county has the power to carry on county government to the extent not inconsistent with general or special law.<sup>2</sup> Non-charter counties are further authorized to hold special and regular meetings at “any appropriate public place in the county,” after giving proper public notice.<sup>3</sup> Charter counties have all powers of local self-government not inconsistent with general law or special law.<sup>4</sup> These provisions give charter and non-charter counties the authority to hold joint meetings with cities at any place within the county.

##### Municipal Government Meeting Authority:

The Florida Constitution provides municipalities with the governmental, corporate and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and to exercise any municipal power for municipal purposes except as otherwise provided by law.<sup>5</sup> This provision allows municipalities to hold joint meeting with county governments, however, unlike the laws regulating county meetings, the laws regulating municipal meetings are not explicit as to where municipalities may meet.

The Florida Constitution requires that the exercise of extra-territorial powers by a municipality shall be as provided by general or special law.<sup>6</sup> Municipal bodies are authorized to adopt legislation concerning any subject matter upon which the Legislature may act, except for: “[t]he subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution.”<sup>7</sup>

The Florida Attorney General has recognized the Legislature’s role in authorizing extraterritorial powers. In a 2003 opinion concerning the authority of a municipality to meet roughly four miles outside its boundaries, the Attorney General wrote that city councils may not hold meetings outside municipal limits without authorization from general or special law, and that all acts and proceedings at meetings without statutory authorization are void.<sup>8</sup>

In 2008, the Legislature enacted ch. 2008-286, L.O.F., authorizing the City of Belleair Beach’s governing board to hold meetings outside the municipality’s boundaries at such time and place as prescribed by ordinance, resolution or interlocal agreement. Language in the bill provided that the city council was encouraged to hold its meetings in close proximity to the people it serves.

In 2011, the Legislature enacted ch. 2011-147, L.O.F., creating s. 166.0213, F.S., which authorized very small municipalities, defined as cities with populations of 500 or less, to hold meetings up to five miles outside their municipal boundaries.

Joint meetings between the governing bodies of cities and counties are common practice across the state. These meetings generally take place in the concerned city, however, legislative staff has found several

---

<sup>1</sup> Art. VIII, Sec. 1(f), Florida Constitution.

<sup>2</sup> S. 125.01, F.S.

<sup>3</sup> S. 125.001, F.S.

<sup>4</sup> Art. VIII, Sec. 1(g), Florida Constitution.

<sup>5</sup> Art. VIII, Sec. 2(b), Florida Constitution.

<sup>6</sup> Art. VIII, Section 2(c), Florida Constitution.

<sup>7</sup> S. 166.021(3)(a), F.S.

<sup>8</sup> OAG 2003-03

instances of joint meetings held beyond municipal boundaries, including in the counties of Highlands, Charlotte and Indian River.<sup>9</sup> Joint meetings between municipalities are also common practice<sup>10</sup> and by their nature cannot take place in both concerned municipalities at the same time.

In 2010, a civil complaint was filed against the Town of Lake Placid Commission for holding joint meetings with the Highlands County Commission in the county seat of Sebring, located approximately 20 miles away from Lake Placid.<sup>11</sup> The complaint alleged that the Town did not have the authority to meet beyond its municipal boundaries.<sup>12</sup> The Circuit Court ruled in favor of the Town of Lake Placid on Summary Judgment. The case is presently on appeal to the Second District Court of Appeals.<sup>13</sup>

### **Effect of Proposed Changes**

PCS for HB 503 explicitly authorizes municipality governing bodies to hold joint meetings with county governing bodies and municipal governing bodies for the purpose of hearing, discussing, and acting upon matters affecting both parties. PCS for HB 503 gives municipalities the authority to determine the time and location of joint meetings by ordinance or resolution.

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

Section 1: Creates s. 166.0213(2), F.S., authorizing joint meetings between municipalities and counties at certain locations.

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

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

---

<sup>9</sup> List of Meeting Notices for Joint meetings held beyond municipal boundaries on file with LFAC staff.

<sup>10</sup> Id.

<sup>11</sup> Wiggins v. Town of Lake Placid. FL. 10<sup>th</sup> Circuit Court (2010). Case #10-1012GCS. Verified Complaint Seeking Declaratory and Injunctive Relief.

<sup>12</sup> Id.

<sup>13</sup> See Docket for Case 10-1012GCS, on file with Highlands County Clerk of Court. <http://www.hcclerk.org/Home.aspx>.

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

The Florida Constitution's Sunshine Law requires public meetings to be noticed and open to the public.<sup>14</sup> Florida courts have held that "open to the public" means the public must be given a reasonable opportunity to attend open public meetings.<sup>15</sup> The First District Court of Appeals held that a public meeting 100 miles away from the relevant jurisdiction was a violation of the state's Sunshine Laws because the affected citizens were not given a "reasonable opportunity to attend."<sup>16</sup>

In determining whether citizens have a "reasonable opportunity to attend" courts balance the interests of the body holding the public meeting versus the interests of the public in attending (the *Rhea* test).<sup>17</sup> Factors in the balancing test include the distance of the meeting from the constituents it is affecting, efforts of the public body to minimize the impact of the distance, and the need for the public body to hold the meeting at a location that is further away than normal from its constituency.<sup>18</sup> After passage of HB 503, cities and counties would still have to comply with s. 286.011, F.S., and the *Rhea* test. Nothing in this bill alters the *Rhea* test or authorizes cities and counties to disregard Florida's Sunshine Law.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

---

<sup>14</sup> Section 24(b), Art. I of the State Constitution, and s. 286.011, F.S. (2013).

<sup>15</sup> *Rhea v. School Bd. Of Alachua County*, 636 So.2d 1383 (Fla. 1<sup>st</sup> DCA 1994).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 1385-1386.

1 A bill to be entitled  
 2 An act relating to municipal governing body meetings;  
 3 amending s. 166.0213, F.S.; authorizing the governing  
 4 body of a municipality to hold joint meetings with the  
 5 governing body of the county within which the  
 6 municipality is located; providing an effective date.

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

9  
 10 Section 1. Section 166.0213, Florida Statutes, is amended  
 11 to read:

12 166.0213 Governing body meetings.—

13 (1) The governing body of a municipality having a  
 14 population of 500 or fewer residents may hold meetings within 5  
 15 miles of the exterior jurisdictional boundary of the  
 16 municipality at such time and place as may be prescribed by  
 17 ordinance or resolution.

18 (2) The governing body of a municipality may hold joint  
 19 meetings to receive, discuss, and act upon matters of mutual  
 20 interest with the governing body of the county within which the  
 21 municipality is located at such time and place as may be  
 22 prescribed by ordinance or resolution.

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

