LOCAL GOVERNMENT AFFAIRS SUBCOMMITTEE

MEETING PACKET

Monday, February 1, 2016
11:30 a.m.
Webster Hall (212 Knott)

Steve Crisafulli
Speaker

Debbie Mayfield
Chair

The Florida House of Representatives

Local Government Affairs Subcommittee

Steve Crisafulli
Speaker

Debbie Mayfield
Chair

Meeting Agenda
Monday, February 1, 2016
Webster Hall (212 Knott)
11:30 a.m. – 2:30 p.m.

I. Call to Order

II. Roll Call

III. Pledge of Allegiance

IV. Welcome and Opening Remarks

V. Consideration of the Following Bill(s):

HB 483 Local Government Neighborhood Improvement Districts by Bracy

HB 1015 Determination of Maximum Millage Rates by Nuñez

HB 1321 Discounts on Public Park Entrance Fees and Transportation Fares by Rader

HB 1361 Growth Management by La Rosa

HB 1433 Martin County by Magar

HB 1435 Village of Estero, Lee County by Rodrigues, R.

HB 1437 Port of Palm Beach District, Palm Beach County by Hager

HB 1439 Hillsborough County Public Transportation Commission/Transportation Network Companies by Raulerson, Young

VI. Adjournment

317 House Office Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 717-4862 Fax: (850) 410-0129

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 483 Local Government Neighborhood Improvement Districts
SPONSOR(S): Bracy
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee		Darden	Miller
2) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The Safe Neighborhoods Act authorizes local governments to create neighborhood improvement districts to promote the health, safety, and general welfare of residents, property owners, workers, and visitors to these neighborhoods. A local government creating a neighborhood improvement district may manage the affairs of the district directly or appoint a board consisting of residents, for residential districts, or property owners, for commercial districts, to manage the district.

The bill would allow a designated representative of a property owner to sit on the board of directors of a local government commercial neighborhood improvement district in lieu of the owner.

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

The effective date of the bill is July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Safe Neighborhood Improvement Districts

In 1987, the Legislature authorized the creation of neighborhood improvement districts (NID) with the passage of the Safe Neighborhoods Act.[1] These districts were authorized for the purpose of "accomplish[ing] the coordinated, balanced, and harmonious development of safe neighborhoods" and "promot[ing] the health, safety, and general welfare of these areas and their inhabitants, visitors, property owners, and workers."[2]

A neighborhood improvement district may be formed in an area where more than 75 percent of the land is used for residential purposes, or in an area where more than 75 percent of the land is used for commercial, office, business, or industrial purposes.[3] The land area of public facilities is excluded from this calculation, but may be included as part of the district.[4]

The district must have a plan to reduce crime through:[5]

- Environmental design (natural access control, natural surveillance, and territorial reinforcement designed to reduce criminal opportunity and foster positive social interaction);[6]
- Environmental security (urban planning and design processes that integrate crime prevention with neighborhood design and community development);[7]
- Defensible space techniques (physical designs of the environment to create the ability to monitor and control the environment along individual perceived zones of territorial influence);[8] or
- Community policing innovation (visible presence of police in the community, including community mobilization, neighborhood block watch, citizen patrol, citizen contact patrol, foot patrol, neighborhood storefront police stations, field interrogation, or intensified motorized patrol).[9]

The safe neighborhood improvement plan must include:[10]

- Demographics of the district;
- Crime activity data and analysis;
- Land use, zoning, housing, and traffic analysis;
- Determination of the problems of crime-to-environment relationship and the stability of the NID;
- Statement of the district's goal and objectives;
- Assessment of crime prevention though the methods specified by s. 163.503(1), F.S. and tactics applied to the crime-to-environment problems;
- Cost estimates and methods of financing;
- Outline of program participants and their functions and responsibilities;

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[1] Ch. 87-243, Laws of Fla.
[2] Section 163.502(3), F.S.
[3] Section 163.503(1), F.S.
[4] *Id.*
[5] *Id.*
[6] Section 163.503(6), F.S.
[7] Section 163.503(5), F.S.
[8] Section 163.504(7), F.S.
[9] Section 163.340(23), F.S.
[10] Section 163.516(1), F.S.

- Schedule for executing program activities; and
- Evaluation guidelines.

The plan must also include diagrams and general explanations of:[11]

- Property intended for use as public parks, recreation areas, streets, public utilities, and public improvements of any nature;
- Specific publicly funded capital improvement projects to be undertaken within the district;
- Adequate assurances that the improvements will be carried out pursuant to the plan;
- Provisions for retaining control and establishing restrictions and covenants of lands leased for private use to effectuate the purposes of the statute;
- Projected costs of improvements, including debts;
- Advertising programs to be undertaken by the district or in conjunction with local businesses;
- Physical improvements necessary for the safety of residents and visitors; and
- Law enforcement and security plans.

The plan must be consistent with the county or municipality's comprehensive plan.[12] The plan may be prepared by the county, a municipality, the district, or members of the community.[13] Before the plan can be implemented, it must be submitted to the local governing body for review as to its consistency with the local government's comprehensive plan.[14] The local governing body must make a decision within sixty days of submission and a modified version of the plan may be submitted to address any errors.[15]

After adoption by the local governing body, the board of the district is required to hold a public hearing.[16] After the hearing, the board may approve the plan if the plan has been approved as consistent with the local government's comprehensive plan, and will improve the promotion, appearance, safety, security, and public amenities of the NID.[17] Any amendments to the plan must be approved using the same procedure.[18] The plan must be approved by the county or municipality before any fee or assessment may be levied by the district.[19]

The governing body of a county or municipality may authorize creation of the district by one of four methods:[20]

- Local government NID;[21]
- Property owners association NID;[22]
- Special NID;[23] or
- Community development NID.[24]

Each county and municipality creating a safe neighborhood improvement district may request a grant from the Department of Legal Affairs to aid in the creation of a safe neighborhood plan for the district.[25]

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[11] Section 163.516(2), F.S.
[12] Section 163.516(3), F.S.
[13] Section 163.516(4), F.S.
[14] *Id.*
[15] *Id.*
[16] Section 163.516(5), F.S.
[17] Section 163.516(6), F.S.
[18] Section 163.516(7), F.S.
[19] Section 163.516(8), F.S.
[20] Section 163.504(1), F.S.
[21] Section 163.506, F.S.
[22] Section 163.508, F.S.
[23] Section 163.511, F.S.
[24] Section 163.512, F.S.
[25] Section 163.504(2), F.S.

Not applying for the grant does not exempt the county or municipality from the planning requirements of s. 163.516, F.S.[26]

Local Government Neighborhood Improvement District

The governing body of a county or municipality may enact an ordinance creating a NID.[27] The ordinance must:[28]

- Specify the boundaries, size, and name of the district;
- Authorize the district to receive a planning grant from the Department of Legal Affairs;
- Authorize the NID to levy an ad valorem tax on real and personal property of up to two mills annually;
- Authorize the use of special assessments to support planning and implementing district improvements;
- Designate the local governing body as the board of directors of the district;
- Establish an advisory council to the board of directors comprised of property owners or residents;
- State which powers authorized by s. 163.514, F.S., if any, may not be utilized by the district; and
- Require the district to notify the Department of Legal Affairs and the Department of Economic Opportunity in writing about the establishment of the district.

The advisory council created by the ordinance may be authorized to perform specific duties authorized by the local government's governing body and submit reports on the district's activities and budget.[29]

The local government creating the district may choose appoint a governing body of three to seven directors instead of serving as the governing board of the district.[30] Appointed members serve three-year terms, with an exception for some initial appointments.[31] Members of the board must be residents of the district, for residential NIDs, or property owners, for commercial NIDs.

The district may be dissolved by the governing body that created it by rescinding the ordinance creating the district.[32]

Effect of the Bill

The bill would allow a designated representative of a property owner to sit on the board of directors of a local government commercial neighborhood improvement district in lieu of the owner.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.506, F.S., allowing designated representatives of property owners to serve on the appointed boards of commercial neighborhood improvement districts

Section 2: Provides an effective date of July 1, 2016.

[26] Section 163.504(3), F.S.
[27] Section 163.506(1), F.S.
[28] *Id.*
[29] Section 163.506(2), F.S.
[30] Section 163.506(3), F.S.
[31] *Id.* One initially appointed member serves a one-year term, while one serves a two-year term.
[32] Section 163.506(4), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to local government neighborhood improvement districts; amending s. 163.506, F.S.; amending the list of people who are eligible for membership on the board of directors of neighborhood improvement districts; providing an effective date.

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

Section 1. Subsection (3) of section 163.506, Florida Statutes, is amended to read:

163.506 Local government neighborhood improvement districts; creation; advisory council; dissolution.—

(3) As an alternative to designating the local governing body as the board of directors, a majority of the local governing body of a city or county may appoint a board of three to seven directors for the district who shall be residents of the proposed area and who are subject to ad valorem taxation in the residential neighborhood improvement district or who are property owners or the designated representatives of the property owners in a commercial neighborhood improvement district. The directors shall be appointed for staggered terms of 3 years. The initial appointments shall be as follows: one director for a 1-year term; one director for a 2-year term; and one director for a 3-year term. If more than three directors are to be appointed, the additional members shall initially be

appointed for 3-year terms. Vacancies shall be filled for the unexpired portion of a term in the same manner as the initial appointments were made. Each director shall hold office until his or her successor is appointed and qualified unless the director ceases to be qualified or is removed from office. Upon appointment and qualification and in January of each year, the directors shall organize by electing from their number a chair and a secretary.

Section 2. This act shall take effect July 1, 2016.

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	_____

Committee/Subcommittee hearing bill: Local Government Affairs Subcommittee

Representative Bracy offered the following:

Amendment

Remove lines 20-21 and insert:

property owners or an employee designated by the property owner in a commercial neighborhood improvement

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1015 Determination of Maximum Millage Rates
SPONSOR(S): Nuñez
TIED BILLS: **IDEN./SIM. BILLS:** SB 1222

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	16 Y, 0 N	Dugan	Langston
2) Local Government Affairs Subcommittee		Monroe KDM	Miller
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

Property tax rates (i.e., millage rates) are set by local government governing boards each year and applied to local property tax bases to generate funding for local government uses. Since 2007, Florida law provides a formula to determine millage rates each year which may not be exceeded by a county, municipal, or special district governing board except by certain extraordinary votes. The formula sets the maximum millage that can be levied by simple majority vote of the governing board (simple majority maximum tax rate) by assuming the previous year's maximum tax rate was levied, then adjusted by the change in Florida per capita personal income. The actual tax rate is commonly lower than the maximum.

The bill changes the formula for calculating the simple majority vote maximum millage rate. Instead of having a formula which assumes the previous year's maximum rate was levied, the formula would use the prior year's actual levy. The formula change will reduce the simple majority maximum tax rate for most counties, cities, and special districts.

The Revenue Estimating Conference has not met to evaluate this bill. Staff estimates that the impact on county, municipal, and special district property taxes, while indeterminate, will be negative to the extent that governments cannot achieve the extraordinary votes needed to exceed the lower maximum tax rates.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Ad Valorem Taxation Overview

The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts. The amount of tax levied is based on the taxable value of real and tangible personal property as of January 1 of each year and the tax rate (millage rate) applied to such value.[1] The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.[2]

The Florida Constitution requires that "all ad valorem taxation shall be at a uniform rate within each taxing unit . . ."[3] Generally, this requirement means that a taxing authority may not levy different rates on property located in different geographic areas within the taxing authority nor levy different rates on different types of property.

With the exception of the ad valorem tax and other home-rule revenue sources, local governments are dependent on the Legislature for authority to levy any other form of taxation. Local governments in Florida, levied approximately $28.3 billion in Fiscal Year 2015-16.[4] Ad valorem property tax revenues are also a major revenue source for school districts. Of the $28.3 billion levied statewide for FY 2015-16, school districts levied approximately $12.0 billion in property taxes.[5]

The "taxable value" of real and tangible personal property is the fair market value, or "just value," of the real and tangible personal property adjusted for any exclusions, differentials, or exemptions allowed by the Constitution or the statutes.[6] The Florida Constitution strictly limits the Legislature's authority to provide exemptions or adjustments to fair market value.[7]

Millage Rates

Property tax rates, or millage rates, are set by each taxing authority and vary throughout the state. Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards, by the taxable value of property within that jurisdiction. The Florida Constitution limits the millage rates that may be levied, depending on the type of taxing authority.

Counties, Municipalities and Schools

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[1] Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes as stated in art. VII, s. 1(b), Fla. Const., and defined in other statutes) capable of manual possession and whose chief value is intrinsic to the article itself.
[2] Art. VII, s. 1(a), Fla. Const.
[3] Art. VII, s. 2, Fla. Const.
[4] *Florida Tax Handbook*, p. 195 (2016).
[5] *Florida Tax Handbook*, p. 195 (2016).
[6] Sections 192.001(2) and (16), F.S., define the terms "assessed value" and "taxable value." "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the $25,000 homestead exemption. "Just value" is the estimated market value of the property.
[7] Art. VII, s. 4, Fla. Const.

Counties, municipalities, and school districts are each limited to levy up to ten mills (or one percent).[8] By referendum, local voters may authorize counties, municipalities, and school districts to levy additional mills above the ten mill limitation to repay bonds to finance capital projects and for other purposes for a period of no longer than two years.[9] Counties providing municipal services may also levy up to an additional ten mills above the ten mill county limitation within those areas where the county is providing municipal-type services, if authorized by general law.[10]

Special Districts

Independent special district millage rates are limited by the law establishing such districts and must be approved by the voters within the district. Dependent special district millage rates are included in the limitation applicable to the authority to which they are dependent. Up to one mill may be levied for water management purposes,[11] except in northwest Florida where the limit is 0.05 mill.[12]

Schools

The Florida Constitution requires that the Legislature provide by law for a uniform, efficient, safe, secure and high quality system of free public schools.[13] The Legislature accomplishes this by providing for the funding of public schools through a combination of ad valorem taxes and other state revenues. In addition to the constitutional millage limitation, school districts are subject to certain statutory requirements in order to participate in the state's K-12 funding program, called the Florida Education Finance Program (FEFP).[14]

Limits on Growth of Property Tax Levies

In 2007, the Legislature enacted statutory changes[15] that established a maximum millage rate and required most taxing authorities to reduce their millage rates.[16] Exceptions were made for certain fiscally limited governments and for certain types of activities. The legislation created a formula to determine a maximum millage rate that could be levied by a county, municipal, or special district governing board by simple majority vote. Exceeding the maximum would require certain extraordinary votes by the governing board to achieve certain.

The maximum millage rate that most non-school taxing authorities can levy by simple majority vote is a rate based on the amount of taxes which would have been levied in the prior year if the maximum millage rate had been applied in that year, adjusted by the change in Florida per capita personal income.[17] Local governments are allowed to override the maximum millage rate by extraordinary votes of their governing boards or by referenda of the electorate. A higher rate may be adopted only under the following conditions:

1. A rate of not more than 110 percent of the rate based on the previous year's maximum millage rate, adjusted for change in per capita Florida personal income, may be adopted if approved by a two-thirds vote of the membership of the governing body of the taxing authority; or
2. A rate in excess of 110 percent may be adopted if approved by a unanimous vote of the membership of the governing body of the taxing authority or by a three-fourths vote of the

[8] Art. VII, s. 9(b), Fla. Const.. A rate of one mill may be expressed as follows: 1 mill = 0.1 cent or $0.001; $1 per $1,000; or 0.1%.
[9] Art. VII, s. 9(b), Fla. Const.
[10] *Id.*
[11] Water management taxes are levied by the water management districts.
[12] Art. VII, s. 9(b), Fla. Const.
[13] Art. IX, s. 1(a), Fla. Const.
[14] Section 1011.71, F.S.
[15] Ch. 2007-321, Laws of Fla.
[16] Section 200.065(5), F.S.
[17] Section 200.065(5), F.S. Calculation of Florida per capita personal income is to be provided by the Office of Economic and Demographic Research, per s. 200.001(8)(i), F.S.

membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.[18]

A taxing authority, by levying less than the maximum millage which could be levied by a simple majority vote, can build up a "cushion" between their actual tax rate and the allowed maximum millage rate which they could levy. Over time, many taxing authorities have built up large enough cushions that the maximum millage rates have no effect.

In 2015, 35 counties and 64 municipalities had built up a sufficient cushion that the potential maximum rates calculated under the current statute were in excess of the 10 mill constitutional limit for county or municipal purposes.[19] In the same year, of the 574 local governments subject to simple majority maximum millage rates, 51 (8.9 percent) required a two-thirds vote to approve their adopted millages, and six (one percent) required a unanimous vote.[20] The total taxes levied by these 574 (less one extreme outlier) were almost 27 percent below the taxes that could have been levied at their simple majority maximum tax rates.[21]

Proposed Changes

The bill is intended to change the maximum millage rate that a taxing authority can levy to a rate based on the amount of taxes the taxing authority actually levied in the prior year, as opposed to basing the rate on the maximum rate which could have been levied.

The bill is intended to prevent taxing authorities from building up a "cushion" which keeps the maximum millage rate limitation from having an effect on their levy in any given year. This would result in more taxing authorities needing to either obtain an extraordinary vote to levy their proposed tax rates, or reducing their tax rate. However, it may also provide a disincentive for taxing authorities to levy less than the maximum millage rate which could be levied by a simple majority vote because doing so would no longer allow taxing authorities to build their cushion, and would limit the amount of taxes which could be levied by a simple majority vote in the following year. Consequently, a taxing authority might increase levies to the maximum tax rate which can be levied by a simple majority and potentially collect more ad valorem revenue than necessary for that fiscal year's budget.

To illustrate the difference between current law and the intended effect of this bill, consider the following example: In a hypothetical Florida city there are no annexations, no construction, no interest, and no other extraneous economic factors to complicate the annual millage calculation. The city council is quite good at holding the line on taxes and continues to actually levy 5 mils every year.

Under current law the maximum millage calculations would work as follows: In 2010, the maximum millage calculation in that year would allow a levy of 6 mils. That is, the current maximum millage calculation would allow the city to levy 20% more than the previous levy without an extraordinary vote. The amount which could be levied by a simple majority vote (the maximum millage) increases each year by the change in personal income. Thus, in 2012 the city could levy 6.53 mils by simple majority vote. By 2015 that figure has climbed to 7.06 mils. By 2017 the city could levy 7.61 mils of taxation, with a simple majority vote, which would be 52% more than the amount levied the year before. Assuming a drop in personal income in 2018 (identical to the drop experienced in 2009), the city could still levy up to 7.22 mills in that year without an extraordinary vote.

[18] Section 200.065(5)(a), F.S.

[19] Department of Revenue, 2015 Maximum Millage Compliance Reports, found at ftp://sdrftp03.dor.state.fl.us/MaximumMillageData/MillCapComp011516.pdf

[20] Department of Revenue, 2015 Maximum Millage Compliance Reports, found at ftp://sdrftp03.dor.state.fl.us/MaximumMillageData/MillCapComp011516.pdf

[21] Department of Revenue, 2015 Comparison of Property Taxes Levied, found at ftp://sdrftp03.dor.state.fl.us/MaximumMillageData/comp15.pdf

Under the change proposed by the bill, the city can only increase its levy by the change in personal income over the previous year. Thus, by a simple majority vote, the city could only increase its levy by 0.8% over the previous year in 2010, by 2.13% over the previous year in 2012, and by 4.6% in 2017. However, in 2018, because of the decrease in personal income, the city would have to have a two-thirds vote to maintain the 5 mill levy.

In chart form, the example is:

Year	% change in personal income	Actual levy	Maximum levy by simple majority under current law	Maximum levy by simple majority under proposed change
2009		5	6	
2010	0.80%	5	6.05	5.04
2011	5.65%	5	6.39	5.28
2012	2.13%	5	6.53	5.11
2013	2.85%	5	6.71	5.14
2014	1.96%	5	6.84	5.10
2015	3.17%	5	7.06	5.16
2016	3.20%	5	7.29	5.16
2017	4.46%	5	7.61	5.22
2018	-5.14%	5	7.22	4.74

The actual effect of this bill is unknown because the language in s. 200.065(5)(a)1., F.S., which contains the calculation of when a supermajority vote is needed, was not amended.

The effective date of the bill is July 1, 2016.

B. SECTION DIRECTORY:

Section 1. Amends s. 200.065, F.S., to change the calculation of the maximum millage rate of a local government taxing authority other than a school district;

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference has not met to evaluate this bill. Staff estimates that the impact on county, municipal, and special district property taxes, while indeterminate, will be

negative to the extent that governments cannot achieve the extraordinary votes needed to exceed the lower simple majority maximum tax rates.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of property in a taxing authority that reduces its millage rate may experience a lower property tax liability.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection 18(b) of article VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate. It is unclear whether the requirement for a supermajority vote to exceed the lower millage limitations resulting from this bill represents a reduction of revenue raising authority as contemplated by subsection 18(b). If the purpose of subsection 18(b) is to determine whether the amount of potential revenue available to counties and municipalities was reduced, then this bill does not reduce that potential and the requirement for a two-thirds vote is not applicable. However, if the purpose of subsection 18(b) is to look at the method for adopting a millage rate, then the provisions of this bill requiring a supermajority vote to adopt a millage rate that could currently be adopted by a majority vote may be considered a mandate requiring a two-thirds vote of the Legislature. There is no legal authority to guide the Legislature in making a determination regarding this issue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill changes the definition of maximum millage rate in s. 200.065(5)(a), F.S. However, because a conforming change is not made in s. 200.065(5)(a)1., F.S., which is the paragraph limiting the tax rate which can be levied by a simple majority vote, the bill may not operate as intended.

In a year when percentage change in personal income is negative, this bill would require an extraordinary vote by a taxing authority to levy the rolled-back rate. The rolled-back rate is defined as that rate which would produce the same amount of revenue for the taxing authority exclusive of new construction, additions to structures, deletions, geographic boundary changes and other similar factors.[22]

[22] Section 200.065(1), F.S., contains the formula for calculating the rolled-back rate.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to determination of maximum millage rates; amending s. 200.065, F.S.; revising the method for computing the rolled-back rate for purposes of determining the maximum millage rate for certain local governments; providing an effective date.

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

Section 1. Paragraph (a) of subsection (5) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(5) In each fiscal year:

(a) The maximum millage rate that a county, municipality, special district dependent to a county or municipality, municipal service taxing unit, or independent special district may levy is a rolled-back rate based on the amount of taxes actually ~~which would have been~~ levied in the prior year ~~if the maximum millage rate had been applied~~, adjusted for change in per capita Florida personal income, unless a higher rate was adopted, in which case the maximum is the adopted rate. The maximum millage rate applicable to a county authorized to levy a county public hospital surtax under s. 212.055 and which did so in fiscal year 2007 shall exclude the revenues required to be contributed to the county public general hospital in the current fiscal year for the purposes of making the maximum millage rate

calculation, but shall be added back to the maximum millage rate allowed after the roll back has been applied, the total of which shall be considered the maximum millage rate for such a county for purposes of this subsection. The revenue required to be contributed to the county public general hospital for the upcoming fiscal year shall be calculated as 11.873 percent times the millage rate levied for countywide purposes in fiscal year 2007 times 95 percent of the preliminary tax roll for the upcoming fiscal year. A higher rate may be adopted only under the following conditions:

1. A rate of not more than 110 percent of the rolled-back rate based on the previous year's maximum millage rate, adjusted for change in per capita Florida personal income, may be adopted if approved by a two-thirds vote of the membership of the governing body of the county, municipality, or independent district; or

2. A rate in excess of 110 percent may be adopted if approved by a unanimous vote of the membership of the governing body of the county, municipality, or independent district or by a three-fourths vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.

Any unit of government operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the

State Constitution of 1968, which is granted the authority in the State Constitution to exercise all the powers conferred now or hereafter by general law upon municipalities and which exercises such powers in the unincorporated area shall be recognized as a municipality under this subsection. For a downtown development authority established before the effective date of the 1968 State Constitution which has a millage that must be approved by a municipality, the governing body of that municipality shall be considered the governing body of the downtown development authority for purposes of this subsection.

Section 2. This act shall take effect July 1, 2016.

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	_____

Committee/Subcommittee hearing bill: Local Government Affairs Subcommittee

Representative Nuñez offered the following:

Amendment

Remove everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (5) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(5) In each fiscal year:

(a) The maximum millage rate that a county, municipality, special district dependent to a county or municipality, municipal service taxing unit, or independent special district may levy is a rolled-back rate based on the amount of taxes actually ~~which would have been~~ levied in the prior year ~~if the maximum millage rate had been applied~~, adjusted for change in

per capita Florida personal income, unless the change in per capita Florida personal income is negative ~~a higher rate was adopted~~, in which case the maximum is the rolled-back ~~adopted~~ rate. The maximum millage rate applicable to a county authorized to levy a county public hospital surtax under s. 212.055 and which did so in fiscal year 2007 shall exclude the revenues required to be contributed to the county public general hospital in the current fiscal year for the purposes of making the maximum millage rate calculation, but shall be added back to the maximum millage rate allowed after the roll back has been applied, the total of which shall be considered the maximum millage rate for such a county for purposes of this subsection. The revenue required to be contributed to the county public general hospital for the upcoming fiscal year shall be calculated as 11.873 percent times the millage rate levied for countywide purposes in fiscal year 2007 times 95 percent of the preliminary tax roll for the upcoming fiscal year. A higher rate may be adopted only under the following conditions:

1. A rate of not more than 110 percent of the rolled-back rate based on the amount of taxes actually levied in the prior year ~~previous year's maximum millage rate~~, adjusted for change in per capita Florida personal income, may be adopted if approved by a two-thirds vote of the membership of the governing body of the county, municipality, or independent district; or

2. A rate in excess of 110 percent may be adopted if approved by a unanimous vote of the membership of the governing

body of the county, municipality, or independent district or by a three-fourths vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.

Any unit of government operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution of 1968, which is granted the authority in the State Constitution to exercise all the powers conferred now or hereafter by general law upon municipalities and which exercises such powers in the unincorporated area shall be recognized as a municipality under this subsection. For a downtown development authority established before the effective date of the 1968 State Constitution which has a millage that must be approved by a municipality, the governing body of that municipality shall be considered the governing body of the downtown development authority for purposes of this subsection.

Section 2. This act shall take effect on July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1321 Discounts on Public Park Entrance Fees and Transportation Fares
SPONSOR(S): Rader
TIED BILLS: **IDEN./SIM. BILLS:** SB 1202

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Veteran & Military Affairs Subcommittee	12 Y, 0 N	Renner	Thompson
2) Local Government Affairs Subcommittee		Renner	Miller
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

Currently, there are over 260 county and municipal parks and recreation agencies in Florida, and most of them do not charge entrance fees. Although current law requires state parks to offer discounts on annual entrance passes to active duty servicemembers, honorably discharged veterans, and the surviving spouse and parents of fallen servicemembers, law enforcement officers, and firefighters, there is no such requirement at the county or municipal level.

The bill requires county and municipal parks and recreation departments to provide discounts on local park entrance fees to the following individuals who present any information satisfactory to the county or municipal department, which evidences the individual's eligibility:

- Current members, honorably discharged veterans, and veterans with a service-connected disability, of the United States Armed Forces, or their reserve components, including the Air or Army National Guard;
- The surviving spouse or parent of a deceased member of the United States Armed Forces, or their reserve components, including the Air or Army National Guard, who died in the line of duty under combat-related conditions; and
- The surviving spouse and parents of a law enforcement officer, firefighter, or an emergency medical technician or paramedic employed by state or local government.

For the purpose of minimizing any potential fiscal impact on county or municipal revenue, the bill:

- Allows a county or municipal park to determine the amount of the discount; and
- Narrowly defines a "park entrance fee" to exclude "additional fees for amenities."

The bill also requires regional transportation authorities to provide disabled veterans, who provide information satisfactory to the authority, with discounts on fares or charges.

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature. However, Article VII, section 18(d) of the Florida Constitution provides an exemption from the two-thirds requirement for any general law that has an insignificant fiscal impact.

The bill has yet to be heard by the Revenue Estimating Conference (REC). However, the REC reviewed a similar bill, HB 1095, during the 2015 legislative session and estimated that the bill would have had a negative indeterminate fiscal impact to local governments. However, most local parks do not charge entrance fees. As a result, the bill will likely have an insignificant fiscal impact. In addition, the bill will likely have a positive fiscal impact on veterans, their families, and the families of deceased veterans, law enforcement, firefighters, emergency medical technicians, and paramedics.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Military and Veteran Presence in Florida

Current law defines a "veteran" as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions, or who later received an upgraded discharge under honorable conditions.[1]

A person who is active duty is in the military full time. They work for the military full time, may live on a military base, and can be deployed at any time. Persons in the Reserve or National Guard are not full-time active duty military personnel, although they can be deployed at any time should the need arise.[2]

The reserves are comprised of seven components (the Army National Guard of the United States, the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, and the Coast Guard Reserve). The purpose of the seven reserve components, as codified in 10 U.S.C. 10102, is to "provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the armed forces whenever more units and persons are needed than are in the regular components."

Florida is home to over 61,000 active-duty military servicemembers,[3] over 36,000 Reservists,[4] and over 1.5 million veterans.[5] Approximately 299,000 of Florida's 1.5 million plus veterans are service-disabled.[6] The Florida National Guard (Guard) has nearly 12,000 members, with 9,900 National Guard personnel and 2,000 Air National Guard personnel.[7]

Florida State Park System

The Department of Environmental Protection (DEP), through its Division of Recreation and Parks (DRP), oversees Florida's 161 state parks, 10 state trails, nearly 800,000 acres, and 100 miles of beaches.[8] Florida state parks and trails welcomed more than 31 million visitors during the 2014-2015

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[1] s. 1.01(14), F.S.

[2] USDVA Veterans Employment Toolkit Handout created April 6, 2012, available at: http://www.va.gov/vetsinworkplace/docs/em_activeReserve.html last visited January 21, 2016).

[3] Enterprise Florida, Inc., "Florida The Perfect Climate For Business, DEFENSE/HOMELAND SECURITY, available at: https://www.enterpriseflorida.com/wp-content/uploads/brief-defense-homeland-security-florida.pdf (last visited January 18, 2016).

[4] Office of the Deputy Assistant Secretary of Defense (Military Community and Family Policy), under contract with ICF International, "2014 Demographics, PROFILE OF THE MILITARY COMMUNITY", at page 115, available at: http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0ahUKEwiuv9fjprbKAhVH1h4KHdVzCJwQFggiMAE&url=http%3A%2F%2Fdownload.militaryonesource.mil%2F12038%2FMOS%2FReports%2F2014-Demographics-Report.pdf&usg=AFQjCNG_LrPZb-lBHXLaYuLQg8lK14xG-g&sig2=QNyKLB2s3OC2dDArQpN0ww (last visited January 18, 2016). According to the report, reserve components include the Department of Defense's Army National Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard and Air Force Reserve, and DHS's Coast Guard Reserve.

[5] FDVA, Annual Report Fiscal Year 2014-2015, page 18, available at: http://webcache.googleusercontent.com/search?q=cache:yH3YPyF1VNkJ:floridavets.org/wp-content/uploads/2012/08/Cabinet-Meeting-Material.pdf+&cd=1&hl=en&ct=clnk&gl=us (last visited January 18, 2016).

[6] U.S. Department of Veterans Affairs, Veterans Benefits Administration, Annual Benefits Report, Fiscal Year 2014, page 22 of 80, available at: http://www.benefits.va.gov/REPORTS/abr/ABR-IntroAppendix-FY13-09262014.pdf (Last visited January 18, 2016).

[7] Florida National Guard website, available at: http://www.floridaguard.army.mil/?page_id=7 (last visited January 18, 2016).

[8] Florida Department of Environmental Protection website, available at: http://www.dep.state.fl.us/parks/ (last visited January 18, 2016).

fiscal year.[9] During this same time period, Florida state parks and trails generated over $2.8 billion in direct economic impact, and approximately $184 million in increased sales tax revenue.[10]

To administer, improve, and maintain Florida state parks and trails, the DRP charges reasonable fees for the use or operation of park and trail facilities.[11] Typically, these fees are categorized as entrance fees and activity fees, although other fees may be charged in some cases.[12] Daily entrance fees are typically charged per vehicle and range from $4.00-$6.00 for a single-occupant vehicle (or motorcycle admission) to $5.00-$10.00 for vehicles with two to eight occupants.[13] Annual entrance passes are also available.[14] The regular price for an annual entrance pass is $60 for an individual and $120 for a family.[15]

State Park Fee Discounts

Currently, DPR provides discounts on state park fees to certain persons who present written documentation. An active-duty military servicemember or honorably discharged veteran is eligible for a 25-percent discount on an annual entrance pass, and as a result, would only pay $45 for an individual entrance pass or $90 for a family entrance pass.[16]

An honorably discharged veteran who has a service-connected disability is eligible to receive lifetime family annual entrance passes at no charge.[17] Also, the surviving spouse and parents of the following persons are eligible to receive lifetime family annual entrance passes at no charge:

- A member of the United States Armed Forces, National Guard, or reserve components who was killed in combat.
- A law enforcement officer, as defined in s. 943.10(1), F.S., or a firefighter, as defined in s. 633.102, F.S., who died in the line of duty.

Discount Type	Estimated Passes Sold	Revenue
Individual Annual Entrance Pass	11,470	$688,199.35
Individual Annual Entrance Pass (Military Discount)	1,466	$65,957.50
Family Annual Entrance Pass	19,291	$2,314,890
Family Annual Entrance Pass (Military discount)	4,687	$421,813.70

[9] Florida Department of Environmental Protection, Fiscal Year 2014-2015 Economic Impact Assessment for the Florida State Park System, January 19, 2016. On file with Veteran & Military Affairs Subcommittee staff.
[10] *Id.* 'Direct economic impact' is defined as "the amount of new dollars spent in the local economy by non-local park visitors and park operations. "Increased State Sales Tax" is defined as "the estimated amount of tax dollars the state receives as a result of park visitor expenditures."
[11] s. 258.014, F.S.
[12] A county surcharge is an example of an "other fee." Florida State Parks website, "Fees," available at: https://www.floridastateparks.org/things-to-know/fees#daily (last visited January 18, 2016).
[13] Florida State Parks Fee Schedule, available at: https://www.floridastateparks.org/sites/default/files/Division%20of%20Recreation%20and%20Parks/documents/FPSFeeSchedule.pdf (last visited January 18, 2016).
[14] *Id.*
[15] *Id.*
[16] s. 258.0145(1), F.S.
[17] s. 258.0145(2), F.S.
[18] DEP provided the estimated sales information to the Veteran & Military Affairs Subcommittee on January 19, 2016.

Lifetime Military Entrance Pass (distribution based on inventory numbers since no revenue collected)	10,977	
Total for FY 2013-2014	**47,891**	**$3,490,860.55**

County and Municipal Parks

According to the Florida Recreation & Park Association, there are over 260 county and municipal parks and recreation agencies in Florida, and most of them do not charge entrance fees.

Disabled Veterans

Section 295.07(1)(a), F.S., requires the state and its political subdivisions to give preference in employment to disabled veterans. The law defines disabled veterans as follows:

- Those who have served on active duty in any branch of the United States Armed Forces, received an honorable discharge, and have a service-connected disability pursuant to the United States Department of Veterans Affairs; or
- Those who are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the United States Department of Veterans Affairs and the United States Department of Defense.

Law Enforcement, Firefighters, Emergency Medical Technicians, and Paramedics

Current law defines a "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof. Such persons are vested with the authority to bear arms, make arrests, prevent and detect crime, and enforce the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers. The definition does not include support personnel employed by the employing agency.[19]

The State Fire Marshal within the Department of Financial Services regulates firefighters. A "firefighter" is defined as an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the Division of State Fire Marshal within the Department of Financial Services, under s. 633.408, F.S.[20]

The Department of Health (DOH), Division of Emergency Operations regulates emergency medical technicians (EMTs) and paramedics. EMTs and paramedics are regulated pursuant to ch. 401, Part III, F.S. During fiscal year 2013-2014, there were over 31,000 active in-state licensed EMTs and over 28,000 active in-state licensed paramedics in Florida.[21]

"Emergency Medical Technician" is defined to mean a person who is certified by DOH to perform basic life support.[22] "Paramedic" means a person who is certified by DOH to perform basic and advanced life support.[23]

[19] s. 943.10, F.S.
[20] s. 633.102, F.S.
[21] Florida Department of Health, Division of Medical Quality Assurance, Annual Report and Long Range Plan: 2014-2015 (pg. 10), available at: http://mqawebteam.com/annualreports/1415/#13/z (last visited January 21, 2016).
[22] s. 401.23(11), F.S.
[23] s. 401.23(2), F.S.

"Basic life support" means the assessment or treatment by a person qualified under this part through the use of techniques described in the EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation and approved by the department. The term includes the administration of oxygen and other techniques that have been approved and are performed under conditions specified by rules of the department.[24]

"Advanced life support service" means any emergency medical transport or nontransport service which uses advanced life support techniques.[25]

Florida Transportation Authorities and Passenger Rail Systems

Chapters 343, and 349, F.S., provide for various Regional Transportation Authorities in the state. Chapter 343, F.S., provides for the creation of the South Florida Regional Transportation Authority, the Central Florida Regional Transportation Authority, the Northwest Florida Transportation Corridor Authority, and the Tampa Bay Area Regional Transportation Authority. Chapter 349, F.S., establishes the Jacksonville Transportation Authority.

Tri-Rail, operated by the South Florida Regional Transportation Authority, is the only publicly funded passenger rail system in the state.[26] Tri-Rail currently offers a 50 percent discount on Fare EASY Cards to persons with disabilities. A few of the acceptable forms of documentation to present at the ticket kiosk include a Disabled Veterans ID, a letter from a physician, a driver license indicating disability, a Medicare Card, or Social Security documentation for Disability Benefits.[27] The second commuter service is Lynx, which is operated by the Central Florida Regional Transportation Authority.[28]

Section 163.567, F.S., provides that any two or more contiguous counties, municipalities, other political subdivisions, or combinations thereof in this state are authorized and empowered to convene a charter committee for the purpose of developing a regional transportation authority.[29] However, no county, municipality, or other political subdivision may be a member in more than one authority created under this part.[30] Currently, no authorities have been created pursuant to this section.

Proposed Changes

Local Park Entrance Fee Discounts

The bill requires county and municipal parks to provide a full or partial discount on park entrance fees to the following individuals:

- Current members, honorably discharged veterans, and honorably discharged veterans with a service-connected disability, of the United States Armed Forces, or their reserve components, including the Air National Guard or Army National Guard;
- The surviving spouse or parent of a deceased member of the United States Armed Forces, or their reserve components, including the Air National Guard or Army National Guard, who died in the line of duty under combat-related conditions;
- The surviving spouse or parent of the following:
    - Law enforcement officers as defined in s. 943.10, F.S.;
    - Firefighters as defined in s. 633.102;

[24] s. 401.23(7), F.S.
[25] s. 401.23(2), F.S.
[26] South Florida Regional Transportation Authority, Overview, http://www.sfrta.fl.gov/overview.aspx (last visited January 18, 2016).
[27] Tri-Rail, Discount Policy, http://www.tri-rail.com/fares/discount-policy/ (last visited January 18, 2016).
[28] See the LYNX website available at: http://www.golynx.com/ (last visited January 18, 2016).
[29] s. 163.597, F.S.
[30] Id.

- Emergency medical technicians (EMT) employed by state or local government;
- Paramedics employed by state or local government;

In order to take advantage of the discount, a park visitor must present any "information" satisfactory to the county or municipal department, which evidences the individual's eligibility. Typically, documentation for an active duty military servicemember includes a current, valid military identification card, which may include the Common Access Cards (CAC),[31] which is the standard identification for active duty uniformed service personnel, Selected Reserve, Department of Defense (DoD) civilian employees, and eligible contractor personnel.[32]

For an honorably discharged veteran, sufficient written documentation may include a copy of the veteran's separation from service documents, or the Uniformed Services ID Card,[33] which allows access to various military service benefits or privileges.[34] There are seven types of Uniformed Services ID Cards and the benefits associated with each card depend on who the individual is.[35]

Documentation may also include an original, renewal, or replacement Florida driver license[36] or identification card[37] with the capital "V" designation, that Florida veterans are authorized to purchase.

It may be difficult for the family of a fallen veteran, fallen law enforcement officer, fallen firefighter, EMT, or paramedic to obtain written documentation regarding their fallen family member. Allowing the county, municipality, or regional transportation Authority to require any "information", instead of "written documentation," will allow flexibility in determining proof of eligibility, and thus, be less restrictive and onerous to the family members of the fallen persons who may not have written documentation.

The bill does not require Florida residency.

For the purpose of minimizing any potential fiscal impacts to county or municipal revenue, the bill:

- Allows a county or municipal park to determine the amount of the discount in accordance with its financial circumstances; and
- Narrowly defines a "park entrance fee" to exclude other expanded campground fees for the use of amenities such as:

  - Aquatic facilities,
  - Stadiums or arenas,
  - Special events,
  - Boat launching,
  - Golf,
  - Zoos,
  - Museums,
  - Gardens, or
  - Programs taking place within public lands.

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[31] An example of a CAC card can be found on the Department of Defense website on Common Access Cards, *available at* http://www.cac.mil/common-access-card/

[32] Department of Defense website on Common Access Cards, (last visited January 18, 2016) *available at* http://www.cac.mil/common-access-card/

[33] An example of a Uniformed Services ID Card can be found on the Department of Defense website on Uniformed Services ID Cards, *available at* http://www.cac.mil/uniformed-services-id-card/

[34] Department of Defense website on Uniformed Services ID Cards, (last visited January 18, 2016) *available at* http://www.cac.mil/uniformed-services-id-card/

[35] *Id.*

[36] s. 322.12, F.S.

[37] S. 322.051, F.S.

By restricting the park fee discounts to entrance fees, this may increase any potential positive fiscal impact on county or municipal revenue.

Although county and municipal parks may currently provide a full or partial discount on park entrance fees to these individuals, there may be a benefit from the uniformity that a state law would provide.

Transportation Fare Discounts

The bill also provides disabled veterans, as described in section 295.07(1)(a), with discounts when using a transportation system or facility owned or operated by a regional transportation authority as defined in ch. 163, F.S., ch. 343, F.S or ch. 349, F.S. The regional transportation authority shall provide a partial or full discount on fares for the use of a fixed-route transportation system operated by the authority. The veteran must present information satisfactory to the authority evidencing eligibility for the discount.

B. SECTION DIRECTORY:

Section 1: Creates s. 125.029, relating to military, law enforcement, and firefighter county park entrance fee discounts.

Section 2: Creates s. 163.58, F.S., relating to transportation fare discounts.

Section 3. Creates s. 166.0447, F.S., relating to military, law enforcement, and firefighter municipal park entrance fee discounts.

Section 4: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The REC has yet to hear the bill. However, the REC heard a similar bill, HB 1095, during the 2015 legislative session and determined the bill would have had a negative indeterminate fiscal impact to local governments. However, most local parks do not charge entrance fees.

   To the extent that county and municipal parks do charge park entrance fees, county and municipal parks may experience a decrease in revenue generated from park entrance fees.

   However, publicity generated from such park entrance fee discounts may lead to an overall increase in revenue for local governments.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Generally, the bill will have a positive fiscal impact on veterans, their families, and the families of deceased veterans and first responders.

Park fee discounts at county and municipal parks will be available to certain active-duty military servicemembers, honorably discharged veterans, honorably discharged disabled veterans, and certain family members of servicemembers who have died during combat. The surviving spouse or parent of an EMT, LEO, firefighter, or paramedic, who has died while in the line of duty is also included.

Disabled veterans will be eligible for a full or partial discount when using a system or facility owned or operated by a regional transportation authority.

Publicity generated from discounts to regional transportation authority facilities may lead to an increase in revenue to the communities surrounding such facilities.

D. FISCAL COMMENTS:

To the extent that disabled veterans may use a transportation system or facility owned or operated by a regional transportation authority, regional transportation authorities may experience a decrease in revenue generated from the discounted rates, fees and charges.

However, publicity generated from discounts to regional transportation authority facilities may lead to an increase in revenue to the facilities and surrounding communities.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature. However, Article VII, section 18(d) of the Florida Constitution provides an exemption from the two-thirds requirement for any general law that has an insignificant fiscal impact.

The REC has yet to hear the bill. However, the REC heard a similar bill, HB 1095, during the 2015 legislative session and estimated that the bill would have a negative indeterminate fiscal impact to local governments. However, most local parks do not charge entrance fees, As a result, the bill would likely have had an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to discounts on public park entrance fees and transportation fares; creating s. 125.029, F.S.; requiring a county park or recreation department to provide a partial or a full discount on park entrance fees to military members, veterans, and the spouse and parents of certain deceased military members, law enforcement officers, firefighters, emergency medical technicians, and paramedics; requiring that individuals seeking the discount present information satisfactory to the county department which evidences eligibility; defining the term "park entrance fee"; providing certain exclusions; creating s. 163.58, F.S.; requiring certain regional transportation authorities to provide a partial or a full discount on fares for certain disabled veterans; creating s. 166.0447, F.S.; requiring a municipal park or recreation department to provide a partial or a full discount on park entrance fees to military members, veterans, and the spouse and parents of certain deceased military members, law enforcement officers, firefighters, emergency medical technicians, and paramedics; requiring that individuals seeking the discount present information satisfactory to the municipal department or recreation department which evidences eligibility; defining the

term "park entrance fee"; providing certain exclusions; providing an effective date.

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

Section 1. Section 125.029, Florida Statutes, is created to read:

125.029 County park entrance fee discounts.—

(1) A county park or recreation department shall provide a partial or a full discount on park entrance fees to the following individuals who present information satisfactory to the county department which evidences eligibility for the discount:

(a) A current member of the United States Armed Forces or their reserve components, including the Air National Guard or the Army National Guard.

(b) An honorably discharged veteran of the United States Armed Forces or their reserve components, including the Air National Guard and the Army National Guard.

(c) An honorably discharged veteran of the United States Armed Forces or their reserve components, including the Air National Guard and the Army National Guard, who has a service-connected disability as determined by the United States Department of Veterans Affairs.

(d) A surviving spouse and parents of a deceased member of the United States Armed Forces or their reserve components,

including the Air National Guard or the Army National Guard, who died in the line of duty under combat-related conditions.

(e) A surviving spouse and parents of a law enforcement officer, as defined in s. 943.10(1), a firefighter, as defined in s. 633.102, or an emergency medical technician or paramedic employed by state or local government, who died in the line of duty.

(2) As used in this section, the term "park entrance fee" means a fee charged to access lands managed by a county park or recreation department. The term does not include expanded fees for amenities, such as campgrounds, aquatic facilities, stadiums or arenas, facility rentals, special events, boat launching, golf, zoos, museums, gardens, or programs taking place within public lands.

Section 2. Section 163.58, Florida Statutes, is created to read:

163.58 Transportation fare discounts.—An authority, as defined in this chapter, chapter 343, or chapter 349, shall provide a partial or a full discount on fares for the use of a fixed-route transportation system operated by the authority to a disabled veteran as described in s. 295.07(1)(a) who presents information satisfactory to the authority which evidences eligibility for the discount.

Section 3. Section 166.0447, Florida Statutes, is created to read:

166.0447 Municipal park entrance fee discounts.—

(1) A municipal park or recreation department shall provide a partial or a full discount on park entrance fees to the following individuals who present information satisfactory to the municipal department which evidences eligibility for the discount:

(a) A current member of the United States Armed Forces or their reserve components, including the Air National Guard or the Army National Guard.

(b) An honorably discharged veteran of the United States Armed Forces or their reserve components, including the Air National Guard or the Army National Guard.

(c) An honorably discharged veteran of the United States Armed Forces or their reserve components, including the Air National Guard or the Army National Guard, who has a service-connected disability as determined by the United States Department of Veterans Affairs.

(d) A surviving spouse and parents of a deceased member of the United States Armed Forces or their reserve components, including the Air National Guard or the Army National Guard, who died in the line of duty under combat-related conditions.

(e) A surviving spouse and parents of a law enforcement officer, as defined in s. 943.10(1), a firefighter, as defined in s. 633.102, or an emergency medical technician or paramedic employed by state or local government, who died in the line of duty.

(2) As used in this section, the term "park entrance fee"

means a fee charged to access lands managed by a municipal park or recreation department. The term does not include expanded fees for amenities, such as campgrounds, aquatic facilities, stadiums or arenas, facility rentals, special events, boat launching, golf, zoos, museums, gardens, or programs taking place within public lands.

Section 4. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1361 Growth Management
SPONSOR(S): La Rosa
TIED BILLS: **IDEN./SIM. BILLS:** SB 1190

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 1 N	Lukis	Duncan
2) Local Government Affairs Subcommittee		Darden	Miller
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill seeks to alter various provisions within four areas of the state's growth management laws: administrative challenges to comprehensive plan amendments; Developments of Regional Impact (DRIs); sector plans; and annexation of enclaves.

Administrative Challenges to Comprehensive Plan Amendments

- The bill provides that a recommended order submitted to the Department of Economic Opportunity (DEO) by an administrative law judge regarding a challenged comprehensive plan amendment becomes final within 90 days without agency action.
- The bill requires a 45 day time limit for certain expedited administrative proceedings.

Developments of Regional Impact

- The bill authorizes reductions in height, density, or intensity in DRIs without losing vested rights.
- The bill specifies that a proposed development or changes thereto that would otherwise require DRI review must follow the state coordinated review process, but only if the development or changes to the development require an amendment to the comprehensive plan.
- The bill allows a developer, DEO, and local government, to amend their agreement that a development is essentially built-out without a notification of proposed change necessary for a substantial deviation.
- The bill provides that certain unbuilt land uses specified in an agreement establishing that a development is "essentially built out," may be substituted for another land use.
- The bill creates a rebuttable presumption that certain changes to a DRI development order are substantial deviations requiring additional state and regional review.
- The bill provides that phase date extensions are not substantial deviations under certain circumstances.
- The bill provides that previously developed lands acquired for development as part of an existing DRI are not subject to aggregation under certain circumstances.
- The bill authorizes DRIs to rescind their DRI development order.

Sector Plans

- The bill decreases the minimum required acreage of sector plans from 15,000 acres to 5,000 acres.

Annexation of Enclaves

- The bill authorizes enclaves that are 110 acres in size to be annexed on an expedited basis.

See FISCAL COMMENTS.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Administrative Challenges to Comprehensive Plan Amendments

Comprehensive Plan Background and the Comprehensive Plan Amendment Process

In 1985, the Florida Legislature passed the landmark Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development.[1] A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first.[2]

State law requires a proposed comprehensive plan amendment to receive three public hearings, the first held by the local planning board.[3] The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies,[4] including the Department of Economic Opportunity (DEO), the relevant Regional Planning Council (RPC), and adjacent local governments that request to participate.

Upon receipt of the proposed plan amendment, state agencies review the proposed amendment for impacts related to their statutory purview.[5] The RPC reviews the amendment specifically for "extra-jurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region" as well as adverse effects on regional resources or facilities. The affected state agencies and the RPC then issue a report of their review to the local government, which then holds a second public hearing at which the governing body votes to approve the amendment or not.[6] If the amendment receives a favorable vote it is transmitted to DEO for final review.[7] The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant agency rules and laws.[8]

The Expedited State Review Process vs. the State Coordinated Review Process

In 2011, the Florida Legislature bifurcated the process for approving comprehensive plan amendments.[9] Most plan amendments were placed into the Expedited State Review Process, while plan amendments relating to large-scale developments were placed into the State Coordinated Review Process.[10] The two processes operate in much the same way; however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by DEO, rather than communicated directly to the permitting local government by each individual reviewing agency.[11]

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[1] Chapter 85-55, Laws of Fla.
[2] *See* s. 163.3163, F.S.
[3] Sections 163.3184 and 163. 3181, F.S.
[4] Section 163.3184, F.S.
[5] Section 163.3184(3), (4), F.S.
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] Ch. 2011-139, s. 17, Laws of Fla.
[10] *Id.*
[11] Section 163.3184(3), (4), F.S.

Administrative Challenges to Plan Amendments

Any "affected person" as defined in s. 163.3184(1)(a), F.S., may file a petition with the Division of Administrative Hearings (Division), to request a formal hearing to challenge whether a plan amendment is "in compliance" with law.[12] The petition must be filed with the Division within 30 days after the local government adopts the amendment.[13]

The state land planning agency (DEO) may also file a petition with the Division to request a formal hearing to challenge whether the plan amendment is in compliance.[14] Under the expedited state review process, this petition must be filed with the Division within 30 days after the DEO notifies the local government that the plan amendment package is complete. Under the state coordinated review process, this petition must be filed with the division within 45 days after DEO notifies the local government that the plan amendment package is complete.[15]

Once filed, an administrative law judge (ALJ) must hold a hearing on the petition in the affected local jurisdiction to determine whether to make a recommendation that the challenged plan amendment is in compliance or not in compliance.[16] In challenges filed by an affected person, the ALJ must determine a plan amendment to be in compliance if the local government's determination of compliance is "fairly debatable."[17] Conversely, in challenges filed by DEO, a plan amendment is presumed to be in compliance and will only be found not in compliance by a preponderance of the evidence.[18] Absent a showing of extraordinary circumstances, the ALJ must issue the recommended order, within 30 days after filing of the transcript, unless the parties agree in writing to a longer time.[19]

If the ALJ recommends that the amendment be found *not* in compliance, the ALJ must submit the recommended order to the Administration Commission for final agency action.[20] Upon submittal of the recommended order, the Administration Commission must enter a final order within 90 days.[21] Conversely, if the ALJ recommends that the amendment be found *in* compliance, the ALJ must submit its recommended order to DEO.[22]

If DEO determines that the plan amendment should be found in compliance, it must enter its final order within 90 days.[23] If DEO determines that the plan amendment should be found not in compliance, it must submit its recommended order to the Administration Commission for final action within 90 days.[24]

If the Administration Commission finds that the plan amendment is not in compliance with law, the Commission must specify remedial actions that would bring the plan amendment into compliance.[25] The Commission may also specify certain sanctions to which the local government will be subject if it elects to make the amendment effective notwithstanding the Commission's determination of noncompliance.[26]

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[12] Section 163.3184(5)(a), F.S. See definition of "in compliance" in s. 163.3184(1)(b), F.S.
[13] Section 163.3184(5)(a), F.S. At any time after the filing of a challenge, the state land planning agency and the local government may voluntarily enter into a compliance agreement to resolve one or more of the issues raised in the proceedings. Section 163.3184(6), F.S.
[14] Section 163.3184(5)(b), F.S.
[15] *Id.*
[16] Section 163.3184(5)(c), F.S.
[17] *Id.*
[18] *Id.*
[19] Section 163.3184(7)(c), F.S.
[20] Section 163.3184(5)(d), F.S. The Administration Commission consists of the Governor and Cabinet. S. 14.202, F.S.
[21] *Id.;* s. 120.569(2)(l), F.S.
[22] Section 163.3184(5)(e), F.S.
[23] *Id.*
[24] *Id.*
[25] Section 163.3184(8)(a), F.S.
[26] Section 163.3184(8)(b), F.S.

Mediation and Expedited Challenges

Challenges to comprehensive plans may also go through mediation or an expedited process.[27] At any time after the matter has been forwarded to the Division, the local government proposing the amendment may demand formal mediation.[28] Additionally, any time after the matter has been forwarded to the Division, the local government proposing the amendment or an affected person who is a party to the proceeding may demand informal mediation or expeditious resolution of the proceedings.[29] In either case, the party demanding mediation or expedited review must serve written notice on all other parties to the proceeding and the ALJ.

Upon receipt of the notice, the ALJ must set the matter for final hearing within 30 days.[30] Once a final hearing has been set, no continuance in the hearing, and no additional time for post-hearing submittals, may be granted without the written agreement of the parties absent a finding by the administrative law judge of extraordinary circumstances.[31]

Absent a showing of extraordinary circumstances, the ALJ must issue a recommended order within 30 days after filing of the transcript, unless the parties agree in writing to a longer time.[32] Absent a showing of extraordinary circumstances, the Administration Commission, upon receiving a recommended order of not in compliance (from the ALJ or DEO), must issue a final order within 45 days unless the parties agree in writing to a longer time.[33]

Developments of Regional Impact

Developments of Regional Impact Background

Section 380.06, F.S., defines a Development of Regional Impact (DRI) as "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." Given their size, DRIs are subject to a special review process and often require an amendment to a comprehensive plan.

The Legislature initially created the DRI program in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs.[34] However, the DRI program remained until 2015. In 2015,[35] the Legislature determined that *new* developments that would otherwise require DRI review must adhere to the state coordinated review process.[36] Accordingly, although there would be no additional DRIs, existing DRIs would remain intact and must adhere to existing DRI laws and review requirements.

DRI Review

Florida law requires all developments that meet the DRI thresholds and standards provided by statute and rules adopted by the Administration Commission to undergo DRI review, unless an exemption applies.[37] The developments that are exempt from DRI review include the following:

- particular types of developments for which the Legislature has provided an exemption (e.g., hospitals are exempt from DRI review);

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[27] Section 163.3184(7)(a), F.S.
[28] *Id.*
[29] *Id.*
[30] Section 163.3184(7)(b), F.S.
[31] *Id.*
[32] Section 163.3184(7)(c), F.S.
[33] Section 163.3184(7)(d), F.S.
[34] The Florida Senate, Committee on Community Affairs, Interim Report 2012-114, September 2011, citing: Thomas G. Pelham, *A Historical Perspective for Evaluating Florida's Evolving Growth Management Process*, in Growth Management in Florida: Planning for Paradise, 8 (Timothy S. Chapin, Charles E. Connerly, and Harrison T.Higgins eds. 2005).
[35] Chapter 2015-30, Laws of Fla.
[36] Section 380.06(30), F.S.
[37] Section 380.06(24), (28), (29), F.S.

- developments that are located within a "dense urban land area" (DULA)[38]; and
- developments that are located in a planning area receiving a legislative exemption such as a sector plan or a rural land stewardship area.[39]

The types of developments required to undergo DRI review may include attraction and recreation facilities, office developments, retail and service developments, mixed-use developments, residential developments, schools, or recreational vehicle developments. Over the years, the Legislature has enacted new exemptions and increased the thresholds that projects must surpass in order to trigger DRI review.[40]

The review process is a joint effort between Florida's 11 Regional Planning Councils (RPCs), the Department of Economic Opportunity (DEO or department), other state agencies, and local governments.[41]

A DRI review begins by a developer contacting the appropriate RPC to arrange a pre-application conference.[42] The developer or the RPC may request that other affected state and regional agencies participate in the conference to identify issues raised by the proposed project and the level of information that the agency will require in the application to assess those issues.[43] At the pre-application conference, the RPC provides the developer with information about the DRI process and uses the pre-application conference to identify issues and to coordinate the appropriate state and local agency requirements.[44]

The RPC and developer may reach an agreement regarding assumptions and methodology to be used in the application for development approval.[45] If an agreement is reached, the reviewing agencies may not later object to the agreed upon assumptions and methodologies unless the project changes or subsequent information makes the assumptions or methodologies no longer relevant.[46]

Upon completion of the pre-application conference with all parties, the developer files an application for development approval with the local government, the RPC, and the state land planning agency.[47] The RPC reviews the application for sufficiency and may request additional information (no more than twice) if the application is deemed insufficient.[48]

Once the RPC determines the application is sufficient or the developer declines to provide additional information, the local government must hold a public hearing on the application for development within 90 days.[49] Within 50 days after receiving notice of the public hearing, the RPC is required to prepare and submit to the local government a report and recommendations on the regional impact of the proposed development.[50] The RPC is required to identify regional issues specifically examining the following:

- whether the development will have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state (state comprehensive plan) or regional (strategic regional policy plan) plans;

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[38] Dense urban land areas are characterized by certain population densities. Section 380.06(29), F.S.
[39] *Id.*
[40] The Florida Senate, Committee on Community Affairs, Interim Report 2012-114, at 2. September 2011.
[41] *See* s. 380.06, F.S.
[42] Section 380.06(6)-(9), F.S.
[43] Section 380.06(7)-(8), F.S.
[44] Section 380.06(7), F.S.
[45] Section 380.06(8), F.S.
[46] *Id.*
[47] Section 380.06(7)-(10), F.S.
[48] Section 380.06(10), F.S.
[49] Section 380.06(11), F.S.
[50] Section 380.06(12), F.S.

- whether the development will significantly impact adjacent jurisdictions; and
- in reviewing the first two issues, whether the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.[51]

If the proposed project will have impacts within the purview of other state agencies, those agencies will also prepare reports and recommendations on the issues raised by the project and within their statutorily-prescribed jurisdiction.[52] These reports become part of the RPC's report, but the RPC may attach dissenting views.[53] When water management district and Department of Environmental Protection permits have been issued pursuant to Ch. 373, F.S., or Ch. 403, F.S., the RPC may comment on the regional implications of the permits but may not offer conflicting recommendations.[54] Finally, the state land planning agency (DEO) also reviews DRIs for compliance with state laws and to identify regional and state impacts and to make recommendations to local governments for approving, not approving, or suggesting mitigation conditions.[55]

At the local public hearing on the proposed DRI, concurrent comprehensive plan amendments associated with the proposed DRI must be heard as well.[56] When considering whether the development is approved, denied, or approved subject to conditions, restrictions, or limitations, the local government considers the following:

- whether the development is consistent with its comprehensive plan and land development regulations;
- whether the development is consistent with the report and recommendations of the RPC; and
- whether the development is consistent with the state comprehensive plan.[57]

Within 30 days of the public hearing on the application for development approval, the local government must decide whether to issue a development order or not.[58] Within 45 days after a development order is or is not rendered, the owner or developer of the property or the state land planning agency may appeal the order to the Governor and Cabinet, sitting as the Florida Land and Water Adjudicatory Commission. An "aggrieved or adversely affected party" may appeal and challenge the consistency of a development order with the local comprehensive plan.[59]

DRI review requires significant time and expense. Moreover, because DRIs (like all developments) must maintain consistency with the local government's comprehensive plan, changes to the DRI development order may meet further delay and expense if a change to the DRI triggers the need for a plan amendment.[60]

Local Government Development Order: Buildout Date and "Essentially Built Out"

Local government development orders, at a minimum, must include the following:

- the monitoring procedures and the local official responsible for assuring compliance with the development order;

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[51] *Id.*
[52] Section 380.06(9),(12), F.S.
[53] *Id.*
[54] *Id.*
[55] *Id.*
[56] Section 380.06(10)-(11), F.S.
[57] *Id.*
[58] Section 380.06(15), F.S.
[59] *Id.*
[60] *Bay Point Club, Inc. v. Bay County*, 820 So. 2d 256 (Fla. 1st DCA 2004).

- compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and a buildout date that reasonably reflects the time anticipated to complete the development;
- a date until which the local government agrees that the approved DRI is not subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by local government to be essential to the public health, safety, or welfare; and
- a legal description of the property.[61]

A local government may only issue permits for development subsequent to the buildout date under certain circumstances.[62] One of those circumstances includes when a project has been determined to be an "essentially built out" DRI through an agreement executed by the developer, DEO, and the local government.[63] An "essentially built-out" development of regional impact means the developers are in compliance with all applicable terms and conditions of the development order except the buildout date and either:

- the amount of development that remains to be built is less than the substantial deviation threshold for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or
- DEO and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.[64]

If the project is determined to be essentially built out, development may proceed after the termination or expiration date contained in the development order without further DRI review subject to the local government comprehensive plan and land development regulations or subject to a modified development-of-regional-impact analysis.[65]

Substantial Deviation

Any proposed change to a previously approved DRI development order that creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, constitutes a "substantial deviation" and requires such proposed change to be subject to further DRI review.[66] To determine whether a proposed change requires further DRI review, Florida law establishes the following:

- certain threshold criteria beyond which a change constitutes a substantial deviation;[67]
- certain changes in development that do not amount to a substantial deviation;[68]
- scenarios in which a substantial deviation is presumed;[69] and
- scenarios in which a change is presumed not to create a substantial deviation.[70]

[61] Section 380.06(15)(c), F.S.
[62] Section 380.06(15)(g), F.S.
[63] *Id.*
[64] *Id.*
[65] *Id.*
[66] Section 380.06(19)(a), F.S.
[67] Section 380.06(19)(b), F.S.
[68] Section 380.06(19)(e), F.S.
[69] Section 380.06(19)(c), F.S.
[70] Section 380.06(19)(d), F.S.

In addition, Florida law directs DEO to establish by rule standard forms for submittal of proposed changes to a previously approved DRI development order.[71] At a minimum, the form must require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.[72] The developer must submit the form to the local government, the regional planning agency, and DEO.[73]

After the developer submits the form, the appropriate regional planning agency or DEO must review the proposed change and, no later than 45 days after submittal of the proposed change, must advise the local government in writing whether it objects to the proposed change, specifying the reasons for its objection, and must provide a copy to the developer.[74]

In addition, the local government must give 15 days' notice and schedule a public hearing to consider the change.[75] This public hearing must be held within 60 days after submittal of the proposed changes, unless the developer wishes to extend the time.[76]

At the public hearing, the local government must determine whether the proposed change requires further DRI review based on the thresholds and standards set out in law.[77] The local government may also deny the proposed change based on matters relating to local issues, such as if the land on which the change is sought is plat restricted in a way that would be incompatible with the proposed change, and the local government does not wish to change the plat restriction as part of the proposed change.[78]

If the local government determines that the proposed change does not require further DRI review and is otherwise approved, the local government must issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change.[79] If, however, the local government determines that proposed change does require further DRI review, the local government must determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development.[80]

Aggregation of Developments

Section 380.0651, F.S., directs the Administration Commission to adopt statewide guidelines and standards for developments to undergo DRI review. As part of such guidelines and standards, the law provides for when two or more developments must be "aggregated" and treated as a single development.[81]

Specifically, two or more developments must be aggregated when they are determined to be part of a unified plan of development and are physically proximate to one other.[82] Three of the following four criteria must be met to determine that a "unified plan of development" exists:

- the same person has retained or shared control of the developments, the same person has ownership or a significant legal interest in the developments, or the developments share common management controlling the form of physical development or disposition of parcels of the development;

[71] Section 380.06(19)(f), F.S.
[72] *Id.*
[73] *Id.*
[74] *Id.*
[75] *Id.*
[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] *Id.*
[80] Section 380.06(19)(g), F.S.
[81] Section 380.0651(4), F.S.
[82] *Id.*

- there is a reasonable proximity in time between the completion of 80 percent or less of one development and the submission to a governmental agency of plans or drawings for the other development which is indicative of a common development effort;
- plans or drawings exist covering the developments sought to be aggregated which have been submitted to certain government bodies; and
- there is a common advertising scheme or promotional plan in effect for the developments.[83]

However, despite the finding of physical proximity and the existence of a unified plan, Florida law provides for the following circumstances in which aggregation is not applicable:

- developments which are otherwise subject to aggregation with a DRI, which has received approval through the issuance of a final development order may not be aggregated with the approved DRI;
- two or more developments, each of which is independently a DRI that has or will obtain a development order;
- completion of any development that has been vested;
- the developments sought to be aggregated were authorized to commence development prior to September 1, 1988, and could not have been required to be aggregated under the law existing prior to that date; and
- any development that qualifies for an exemption as a DULA.[84]

Rescission

Certain developments or portions of developments that have received a DRI development order may subsequently not be required to undergo DRI-impact review. This may occur on account of a change in statutory guidelines and standards, because the DRI has reduced its size below certain legal thresholds, or because a development becomes exempt from DRI review, for example in the case of a DULA.[85]

If one of these scenarios ensues, the development must continue to be governed by the DRI development order and may be completed pursuant to the development order unless the developer or landowner has followed the procedures for rescission.[86] Upon request by the developer or landowner, the DRI development order must be rescinded by the local government having jurisdiction "upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed" under an existing permit or some other equivalent authorization.[87]

Sector Plans

Background and History

Sector planning is a tool for large-area planning through which one or more local governments engage in long-term planning for areas of at least 15,000 acres.[88] Sector plans are intended to promote and encourage long-term planning for conservation, development, and agriculture on a landscape scale, to further support innovative and flexible planning and development strategies, to facilitate and emphasize protection of regionally significant resources, and to avoid duplication of effort in terms of the level of data and analysis required for a DRI.[89]

[83] Section 380.0615(4)(a), F.S.
[84] Section 380.0615(4)(c), F.S.
[85] Section 380.115(1), F.S.
[86] Section 380.115(1)(a), F.S.
[87] Section 380.115(1)(b), F.S.
[88] Section 163.3245(1), F.S.
[89] *Id.*

Prior to the creation of sector planning, such large scale plans were primarily left to DRIs and traditional comprehensive plans.[90] However, once Florida's population, and thus development began to dramatically increase in the 1990s, planners and lawmakers sought new approaches for a more long term and flexible approach to planning that maintained a principled focus on conservation.[91] This brought about the advent of sector plans in 1998.[92]

Sector Plan Process

The sector planning process encompasses two levels: adoption in the local government's comprehensive plan of a long-term master plan and subsequent adoption by local development order of two or more detailed specific area plans (DSAP) that implement the master plan.[93] Both levels require review and approval by affected local governments, and appropriate regional and state authorities.[94]

In addition to other requirements, a long-term master plan must include maps, illustrations, data, and analysis to address the following:

- a framework map that, at a minimum, generally depicts conservation land use, identifies allowed uses in the planning area, specifies maximum and minimum densities and intensities of use, and provides the general framework for the development pattern;
- a general identification of the water supplies needed and available sources of water, including water resource development and water supply development projects, and water conservation measures needed to meet the projected demand of the future land uses in the long-term master plan;
- a general identification of the transportation facilities to serve the future land uses in the long-term master plan;
- a general identification of other regionally significant public facilities necessary to support the future land uses;
- a general identification of regionally significant natural resources within the planning area and policies setting forth the procedures for protection or conservation of specific resources consistent with the overall conservation and development strategy for the planning area;
- general principles and guidelines addressing, among other things, future land uses, the use of lands identified for permanent preservation through recordation of conservation easements, achieving a healthy environment, limiting urban sprawl, enhancing the prospects for the creation of jobs, and providing housing types; and
- identification of general procedures and policies to facilitate intergovernmental coordination to address extra-jurisdictional impacts from the future land uses.[95]

Additionally, a long-term master plan may be based upon a planning period longer than the generally applicable planning period of the local comprehensive plan, and may include a phasing or staging schedule that allocates a portion of the local government's future growth to the planning area through the planning period.[96] A long-term master plan must specify the projected population within the planning

[90] David L. Powell, Gary K. Hunter, Jr., & Robert M. Rhodes, *Sector Plans*, Florida Environmental and Land Use Law, The Florida Bar, June 2014. Page 33.1-1 to 33.1-2. Article on file with House Economic Development & Tourism Subcommittee staff.
[91] *Id.*
[92] Section 163.3245, F.S.
[93] Section 163.3245(3), F.S.
[94] Section 163.3245, F.S.
[95] Section 163.3245(3)(a), F.S.
[96] *Id.*

area during the chosen planning period but is not required to demonstrate need based upon projected population growth or on any other basis.[97]

The DSAPs must be consistent with the long-term master plan and generally must include conditions and commitments that provide for the following:

- development or conservation of an area of at least 1,000 acres;
- detailed identification and analysis of the maximum and minimum densities and intensities of use and the distribution, extent, and location of future land uses;
- detailed identification of plans to address water needs of development in the DSAP;
- detailed identification of the transportation facilities to serve the future land uses in the DSAP;
- detailed identification of other regionally significant public facilities;
- detailed identification of public facilities necessary to serve development in the DSAP;
- detailed analysis and identification of specific measures to ensure the protection, restoration and management of lands within the boundary of the DSAP identified for permanent preservation through recordation of conservation easements;
- detailed principles and guidelines addressing, among other things, the future land uses, achieving a healthy environment, limiting urban sprawl, providing a range of housing types, protecting wildlife and natural areas, and advancing the efficient use of resources; and
- identification of specific procedures to facilitate intergovernmental coordination to address extra-jurisdictional impacts from the DSAP.[98]

A landowner, developer, or the state land planning agency may appeal a local government development order implementing a DSAP to the Florida Land and Water Adjudicatory Commission.[99] In addition, any owner of property within the planning area of a proposed long-term master plan may withdraw his or her consent to the master plan at any time prior to local government adoption, and the local government must exclude such parcels from the adopted master plan.[100] Thereafter, the long-term master plan and any DSAP do not apply to the subject parcels. After adoption of a long-term master plan, an owner may withdraw his or her property from the master plan only with the approval of the local government by plan amendment.[101]

As of July 1, 2014 there are seven approved sector plans in Florida:

- the Bay County (West Bay Area Vision) Sector Plan;
- the Orange County (Horizon West) Sector Plan;
- the City of Bartow (Clear Springs) Sector Plan;
- the Escambia County Sector Plan;
- the Nassau County (East Nassau County) Sector Plan;
- the Hendry County (Rodina) Sector Plan; and

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[97] *Id.*

[98] Section 163.3245(3)(b), F.S. Like a long-term master plan, a DSAP may be based upon a planning period longer than the generally applicable planning period of the local comprehensive plan. Again, like a long term master plan, a DSAP must specify the projected population within the specific planning area during the chosen planning period but is not required to demonstrate need based upon projected population growth or on any other basis.

[99] Section 163.3245(3)(e), F.S.

[100] Section 163.3245(8), F.S.

[101] *Id.*

- the Osceola County (Northeast District) Sector Plan.[102]

Annexation of Enclaves

Annexation Background

Florida law defines annexation as the adding of real property to the boundaries of an incorporated municipality.[103] The purpose of annexation varies. Historically, annexation was typically used to provide rural communities with access to municipal services—a proposition grounded in the notion that only cities could effectively deliver essential services such as police, fire, and water and sewer.[104] Presently, in addition to seeking out appropriate levels of service, annexation is often used either by developers to find the most favorable laws and regulations for a development, or by a municipality to increase its tax base.[105]

There are three threshold requirements to annex land: the annexed land must be unincorporated, "contiguous", and "compact."[106] Under Florida law, "contiguous" means that "a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality."[107] "Compactness" means "concentration of a piece of property in a single area and precludes any action which would create enclaves (discussed below), pockets, or finger areas in serpentine patterns."[108]

Assuming the land to be annexed is contiguous and compact, there are two primary methods of annexation procedures—involuntary and voluntary—and one exceptional method—expedited annexation of certain enclaves.[109] All three methods are discussed below; however, it is important to note that Florida law may allow certain special acts to supersede general laws related to annexation, and charter counties may have special annexation procedures.[110]

Involuntary Annexation

Involuntary annexation originates from a municipality wishing to annex unincorporated territory. The process begins with the municipality adopting an ordinance proposing to annex an area of contiguous, compact, and unincorporated territory.[111] Once the governing body of the municipality adopts the ordinance, a majority of the electors in the area to be annexed must vote in favor of the annexation in a referendum.[112]

The referendum must be conducted and paid for by the municipality seeking annexation and may not take place sooner than 30 days following the final adoption of the annexation ordinance.[113] Further, the governing body of the annexing municipality must publish notice of the referendum at least once each week for two consecutive weeks immediately preceding the date of the referendum in a newspaper of general circulation in the area in which the referendum is to be held.[114] The notice must contain several

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[102] Department of Economic Opportunity, *Sector Planning Program*, available at http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/sector-planning-program (last visited January 21, 2016).
[103] Section 171.031(1), F.S.
[104] Alison Yurko, *A Practical Perspective About Annexation in Florida*, 25 Stetson L. Rev. 669 (1996).
[105] *Id.*
[106] Section 171.043, F.S. Florida law also lays out many "prerequisites to annexation" in s. 171.042, F.S.
[107] Section 171.031(11), F.S.
[108] Section 171.031(12), F.S.
[109] Section 171.046, F.S.
[110] Sections 171.0413(4) and s. 171.044(4), F.S.
[111] Section 171.0413(1), F.S.
[112] Section 171.0413(2), F.S. If there are no electors in the area, there is no need for a referendum, but owners of more than 50 percent of the parcels of land in the area proposed to be annexed must consent to annexation. Section 171.0413(6), F.S.
[113] Section 171.0413(2), F.S.
[114] *Id.*

details including the ordinance number, the time and places for the referendum, and a general description of the area proposed to be annexed with an illustrating map.[115]

If more than 70 percent of the land to be annexed is owned by individuals, corporations, or legal entities which are not registered electors of such area, such area shall not be annexed unless the owners of more than 50 percent of the land consent to the annexation.[116] Otherwise, the annexation will become effective upon a simple majority vote in the referendum.

Voluntary Annexation

Voluntary annexation, in contrast to involuntary annexation, is born out of petition by the owner or owners of real property.[117] That is, the owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality.[118]

Typically, upon determination by the governing body of the municipality that the petition bears the signatures of all owners of property in the area proposed to be annexed, the governing body may, at any regular meeting, adopt a nonemergency ordinance to annex said property and redefine the boundary lines of the municipality to include said property.[119]

However, the process for voluntary annexation may differ as the laws relating to voluntary annexation in the Florida statutes are supplemental to any other procedure provided in general or special law.[120] Moreover, charter counties may provide (in their charter) for an exclusive method of municipal annexation.[121]

Annexation of Enclaves

The other method of annexation provided for in the Florida statutes deals with the annexation of "enclaves."[122] Florida law defines "enclave" as follows:

- any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or
- any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.[123]

The Legislature expressly recognizes in s. 171.046, F.S., that, "enclaves can create significant problems in planning, growth management, and service delivery, and therefore declare that it is the policy of the state to eliminate enclaves."[124] Accordingly, the Legislature authorizes two expedited methods of annexing enclaves of less than 10 acres into the municipality in which they exist:

- a municipality may annex such an enclave by interlocal agreement with the county having jurisdiction over the enclave; or

[115] *Id.*
[116] Section 171.0413(5), F.S.
[117] Section 171.044(1), F.S.
[118] *Id.*
[119] Section 171.044(2), F.S.
[120] Section 171.044(4), F.S.
[121] *Id.*
[122] Section 171.046, F.S.
[123] Section 171.031(13), F.S.
[124] Section 171.046(1), F.S.

- a municipality may annex such an enclave with fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave.[125]

Effect of Proposed Changes

The bill seeks to alter various provisions within four areas of the State's growth management laws: administrative challenges to comprehensive plan amendments; Developments of Regional Impact (DRIs); sector plans; and annexation of enclaves.

Administrative Challenges to Comprehensive Plan Amendments

- The bill provides that a recommended order to DEO by an administrative law judge that a challenged comprehensive plan amendment be found in compliance with law becomes a final order within 90 days after issuance unless:
  - DEO finds the plan amendment to be in compliance and issues its final order;
  - DEO finds the plan amendment not in compliance and it refers the recommended order to the Administration Commission for final action; or
  - all parties consent in writing to an extension of the 90 day period.
- The bill also specifies that a recommended order issued under expedited proceedings that recommends a plan amendment to be in compliance, becomes a final order 45 days after issuance unless all parties agree in writing to extend the 45 day period.

Developments of Regional Impact

- The bill specifies that a person does not lose his or her right to proceed with a development authorized as a DRI if a change is made to the development that has the effect only of reducing the height, density, or intensity of the originally approved development.
- The bill specifies that a proposed development or amendments thereto that would otherwise require DRI review must follow the state coordinated review process if the development or amendment to the development requires an amendment to the comprehensive plan.
- The bill allows a developer, DEO, and local government, to amend their agreement that a development is essentially built-out without the submission, review, or approval of a notification of proposed change necessary for a substantial deviation.
- The bill provides that unbuilt land uses specified in an agreement establishing that a development is essentially built out, may be developed in a manner by which one approved land use is substituted for another approved land use at a ratio that ensures there will be no increase in net external transportation impacts. Further, at the time of building permit issuance, the developer must demonstrate to the local government that the exchange ratio will not result in an increase in net external transportation impacts.
- The bill creates a presumption that certain changes to a DRI development order are substantial deviations to the DRI agreement or development order, which presumption may be rebutted with clear and convincing evidence. If not rebutted, the development is subject to further DRI review through the notification of proposed change process. The presumption is created for changes that under current law are deemed substantial deviations.
- The bill provides that the following is not a substantial deviation: a phase date extension, if DEO, in consultation with the appropriate regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.

[125] *See id.*

- The bill provides that previously developed lands acquired for development as part of an existing DRI are not subject to aggregation if the newly acquired lands comprise an area that is equal to or less than 10 percent of the total acreage subject to the existing DRI development order.
- The bill authorizes DRIs to rescind their DRI development order. Such rescission would be subject to local government oversight as to what form of substituted entitlement replaces the DRI development order.

Sector Plans

- The bill decreases the minimum required acreage of sector plans from 15,000 acres to 5,000 acres.

Annexation of Enclaves

- The bill increases the size of enclaves which can be annexed on an expedited basis from 10 acres to 110 acres.

The bill provides an effective date of July 1, 2016.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3167, F.S., allowing for the right to proceed with a DRI after changing the height, density, or intensity of the originally approved development.

Section 2: Amends s. 163.3184, F.S., clarifying when certain developments are subject to the state coordinated review process; and establishing time limits related to challenges to proposed plan amendments.

Section 3: Amends s. 163.3245, F.S., increasing the minimum required acreage for creating sector plans.

Section 4: Amends s. 171.046, F.S., increasing the maximum size of enclaves eligible for expedited annexation.

Section 5: Amends s. 380.06, F.S., providing for the ability to avoid the notice of proposed change requirements necessary for a substantial deviation when amending an agreement that a development is essentially built-out; allowing for the substitution of an approved land use for another in a development that is essentially built out in certain circumstances; allowing for the rebuttal of a presumption of a substantial deviation to a DRI agreement or development order in certain circumstances; providing that a phase date extension is not a substantial deviation in certain circumstances; and clarifying when certain developments are subject to the state coordinated review process.

Section 6: Amends s. 380.0651, F.S., providing that previously developed land acquired for development as a part of an existing DRI is not subject to aggregation in certain circumstances.

Section 7: Amends s. 380.115, F.S., expanding the projects subject to certain statutory vested rights protections and development order rescission procedures, to include developments that elect to rescind the development order.

Section 8: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In its analysis of the bill, DEO stated that "[t]he bill should have a minimal impact to expenditures due to reduction in the number and types of situations that result in DRI amendments or extensive review of amendments."[126]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[126] Department of Economic Opportunity, 2016 Agency Legislative Bill Analysis, page 7. January 14, 2016. Analysis on file with House Economic Development & Tourism Subcommittee staff.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to growth management; amending s. 163.3167, F.S.; authorizing certain changes to approved developments of regional impact; amending s. 163.3184, F.S.; specifying that certain developments must follow the state coordinated review process; providing timeframes within which the Division of Administrative Hearings must transmit certain recommended orders to the Administration Commission; providing that certain recommended orders become final orders; providing that certain recommended orders become final within a specified period after issuance unless the state land planning agency acts, or the parties agree, to extend the period; amending s. 163.3245, F.S.; revising the acreage thresholds for sector plans; amending s. 171.046, F.S.; revising the size of an enclave that a municipality may annex under certain circumstances; amending s. 380.06, F.S.; authorizing parties to amend certain development agreements without submittal, review, or approval of a notification of proposed change; providing criteria under which one approved land use may be substituted for another approved land use in certain land development agreements under certain circumstances; providing a rebuttable presumption that certain proposed changes to certain developments are a

substantial deviation; specifying that if the presumption is not rebutted, the development must undergo further development-of-regional-impact review; providing that certain phase date extensions to amend a development order are not substantial deviations under certain circumstances; specifying conditions under which certain proposed developments are not required to undergo the state coordinated review process; amending s. 380.0651, F.S.; providing that lands acquired for development are not subject to aggregation under certain circumstances; amending s. 380.115, F.S.; providing the procedures to be used by a development that elects to rescind a development order; providing an effective date.

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

Section 1. Subsection (5) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(5) ~~Nothing in~~ This act does not ~~shall~~ limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to chapter 380 or who has been issued a final local development order and development has commenced and is continuing in good faith. A person does not lose his or her right to proceed with a

development authorized as a development of regional impact if a change is made to the development that has the effect only of reducing the height, density, or intensity of the originally approved development.

Section 2. Paragraph (c) of subsection (2), paragraph (e) of subsection (5), and paragraph (d) of subsection (7) of section 163.3184, Florida Statutes, are amended, and paragraph (d) is added to subsection (2) of that section, to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

(c) Plan amendments that are in an area of critical state concern designated pursuant to s. 380.05; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan pursuant to s. 163.3245 or an amendment to an adopted sector plan; update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191; ~~propose a development that qualifies as a development of regional impact pursuant to s. 380.06;~~ or are new plans for newly incorporated municipalities adopted pursuant to s. 163.3167 shall follow the state coordinated review process in subsection (4).

(d) Proposed developments as set forth in s. 380.06(30), or plan amendments thereto, shall follow the state coordinated review process in subsection (4).

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(e) If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.

1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall make every effort to refer the recommended order and its determination expeditiously to the Administration Commission for final agency action, but at a minimum within the time period provided by s. 120.569.

2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall make every effort to enter its final order expeditiously, but at a minimum within the time period provided by s. 120.569.

3. The recommended order submitted under this paragraph becomes a final order within 90 days after issuance unless the state land planning agency acts as provided in subparagraph 1. or subparagraph 2. or all parties consent in writing to an extension of the 90-day period.

(7) MEDIATION AND EXPEDITIOUS RESOLUTION.—

(d) Absent a showing of extraordinary circumstances, the Administration Commission shall issue a final order, in a case proceeding under subsection (5), within 45 days after ~~the~~ issuance of the recommended order, unless the parties agree in writing to extend the 45-day period ~~a longer time~~. If the recommended order recommends a finding of in compliance, the recommended order becomes final 45 days after issuance unless

the state land planning agency acts, or the parties agree in writing, to extend the 45-day period.

Section 3. Subsection (1) of section 163.3245, Florida Statutes, is amended to read:

163.3245 Sector plans.—

(1) In recognition of the benefits of long-range planning for specific areas, local governments or combinations of local governments may adopt into their comprehensive plans a sector plan in accordance with this section. This section is intended to promote and encourage long-term planning for conservation, development, and agriculture on a landscape scale; to further support innovative and flexible planning and development strategies, and the purposes of this part and part I of chapter 380; to facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors; and to avoid duplication of effort in terms of the level of data and analysis required for a development of regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Sector plans are intended for substantial geographic areas that include at least 5,000 ~~15,000~~ acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.

Section 4. Subsection (2) of section 171.046, Florida Statutes, is amended to read:

171.046 Annexation of enclaves.—

(2) In order to expedite the annexation of enclaves of 110 ~~10~~ acres or less into the most appropriate incorporated jurisdiction, based upon existing or proposed service provision arrangements, a municipality may:

(a) Annex an enclave by interlocal agreement with the county having jurisdiction of the enclave; or

(b) Annex an enclave with fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave.

Section 5. Paragraph (g) of subsection (15), paragraphs (b) and (e) of subsection (19), and subsection (30) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(g) A local government shall not issue a permit ~~permits~~ for a development subsequent to the buildout date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) after ~~subsequent to~~ the termination or expiration date;

2. The proposed development is consistent with an

abandonment of development order that has been issued in accordance with ~~the provisions of~~ subsection (26);

3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order except the buildout date, and the amount of proposed development that remains to be built is less than 40 percent of any applicable development-of-regional-impact threshold; or

4. The project has been determined to be an essentially built-out development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations ~~or subject to a modified development-of-regional-impact analysis~~. The parties may amend the agreement without the submission, review, or approval of a notification of proposed change pursuant to subsection (19). For purposes of ~~As used in~~ this paragraph, a ~~an "essentially built-out"~~ development of regional impact is considered essentially built out, if ~~means~~:

a. The developers are in compliance with all applicable terms and conditions of the development order except the buildout date; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.

The single-family residential portions of a development may be considered "essentially built out" if all of the workforce housing obligations and all of the infrastructure and horizontal development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination. The mobile home park portions of a development may be considered "essentially built out" if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners. In order to accommodate changing market

demands and achieve maximum land use efficiency in an essentially built-out project, the unbuilt land uses specified in the agreement may be developed in a manner by which one approved land use is substituted for another approved land use at a ratio that ensures there will be no increase in net external transportation impacts. At the time of building permit issuance, the developer must demonstrate to the local government that the exchange ratio will not result in an increase in net external transportation impacts.

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall be presumed to create ~~constitute~~ a substantial deviation, and the presumption may be rebutted by clear and convincing evidence. If not rebutted, the development is subject to further development-of-regional-impact review through the notification of proposed change process ~~and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government~~:

1. An increase in the number of parking spaces at an attraction or recreational facility by 15 percent or 500 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 15 percent or 1,500 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25 percent lengthening of an existing runway, or a 25 percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development by 15 percent or 100,000 gross square feet, whichever is greater.

4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.

5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced before ~~prior to~~ the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of

this subparagraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater.

7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.

8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.

10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

11. Any change that would result in development of any

area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (e)2.j.

The substantial deviation numerical standards in subparagraphs 3., 6., and 9., excluding residential uses, and in subparagraph 10., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order which individually or cumulatively with any

previous change is less than any numerical criterion contained in subparagraphs (b)1.-10. and does not exceed any other criterion, or which involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice must include a description of previous individual changes made to the development, including changes previously approved by the local government, and must include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback which do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads which do not affect external access points.

e. Changes to the building design or orientation which stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of

Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, if no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, if there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, if these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries and configuration of areas described in subparagraph (b)11. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur before the time that a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.

k. Changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted by sub-subparagraph j.

l. A phase date extension, if the state land planning

agency, in consultation with the regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.

m.~~l.~~ Any other change that the state land planning agency, in consultation with the regional planning council, agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-l. ~~a.-k.~~ and that does not create the likelihood of any additional regional impact.

This subsection does not require the filing of a notice of proposed change but requires an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the state land planning agency the amendment to the development order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., sub-subparagraph j., sub-subparagraph k., or sub-subparagraph

m.~~1.~~ and if the agency believes that the change creates a reasonable likelihood of new or additional regional impacts.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development must include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence:~~.~~

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized

multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) and residential use.

6. If a local government agrees to a proposed change, a change in the transportation proportionate share calculation and mitigation plan in an adopted development order as a result of recalculation of the proportionate share contribution meeting the requirements of s. 163.3180(5)(h) in effect as of the date of such change shall be presumed not to create a substantial deviation. For purposes of this subsection, the proposed change in the proportionate share calculation or mitigation plan may not be considered an additional regional transportation impact.

(30) ~~NEW~~ PROPOSED DEVELOPMENTS.—A ~~new~~ proposed development otherwise subject to the review requirements of this section shall be approved by a local government pursuant to s. 163.3184(4) in lieu of proceeding in accordance with this section. However, if the proposed development is consistent with the comprehensive plan as provided in s. 163.3194(3)(b), the development is not required to undergo review pursuant to s. 163.3184(4) or this section. This subsection does not apply to amendments to a development order governing an existing development of regional impact.

Section 6. Paragraph (c) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners

or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(c) Aggregation is not applicable when the following circumstances and provisions of this chapter are applicable:

1. Developments which are otherwise subject to aggregation with a development of regional impact which has received approval through the issuance of a final development order shall not be aggregated with the approved development of regional impact. However, nothing contained in this subparagraph shall preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact.

2. Two or more developments, each of which is independently a development of regional impact that has or will obtain a development order pursuant to s. 380.06.

3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact shall not include review of the impacts resulting from the vested portions of the development.

4. The developments sought to be aggregated were

authorized to commence development prior to September 1, 1988, and could not have been required to be aggregated under the law existing prior to that date.

5. Any development that qualifies for an exemption under s. 380.06(29).

6. Lands acquired for development as a part of an existing development of regional impact that has been developed are not subject to aggregation if the newly acquired lands comprise an area that is equal to or less than 10 percent of the total acreage subject to the existing development-of-regional-impact development order.

Section 7. Subsection (1) of section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards.—

(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact. A development that has received a development-of-regional-impact development order pursuant to s. 380.06~~,~~ but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards, a development that ~~or~~ has reduced its size below the thresholds in s. 380.0651, ~~or~~ a development that is exempt pursuant to s. 380.06(24) or (29), or a development that elects to rescind the

development order shall be governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). Any proposed changes to those developments which continue to be governed by a development order shall be approved pursuant to s. 380.06(19) as it existed before a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria shall be doubled and all other criteria shall be increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), provided such permit or authorization is subject to enforcement through administrative or judicial remedies.

Section 8. This act shall take effect July 1, 2016.

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	_____

Committee/Subcommittee hearing bill: Local Government Affairs Subcommittee

Representative La Rosa offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (2), paragraph (e) of subsection (5), and paragraph (d) of subsection (7) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

(c) Plan amendments that are in an area of critical state concern designated pursuant to s. 380.05; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan

pursuant to s. 163.3245 or an amendment to an adopted sector plan; update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191; propose a development that is subject to the state coordinated review process ~~qualifies as a development of regional impact~~ pursuant to s. 380.06; or are new plans for newly incorporated municipalities adopted pursuant to s. 163.3167 must ~~shall~~ follow the state coordinated review process in subsection (4).

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(e) If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.

1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall make every effort to refer the recommended order and its determination expeditiously to the Administration Commission for final agency action, but at a minimum within the time period provided by s. 120.569.

2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall make every effort to enter its final order expeditiously, but at a minimum within the time period provided by s. 120.569.

3. The recommended order submitted under this paragraph becomes a final order 90 days after issuance unless the state land planning agency acts as provided in subparagraph 1. or subparagraph 2., or all parties consent in writing to an extension of the 90-day period.

(7) MEDIATION AND EXPEDITIOUS RESOLUTION.—

(d) For a case following the procedures under this subsection, absent a showing of extraordinary circumstances or written consent of the parties, if the administrative law judge recommends that the amendment be found not in compliance, the Administration Commission shall issue a final order~~, in a case proceeding under subsection (5),~~ within 45 days after the issuance of the recommended order~~, unless the parties agree in writing to a longer time~~. If the administrative law judge recommends that the amendment be found in compliance, the state land planning agency shall issue a final order within 45 days

after the issuance of the recommended order. If the state land planning agency fails to timely issue a final order, the recommended order finding the amendment to be in compliance immediately becomes final.

Section 2. Subsection (1) of section 163.3245, Florida Statutes, is amended to read:

163.3245 Sector plans.—

(1) In recognition of the benefits of long-range planning for specific areas, local governments or combinations of local governments may adopt into their comprehensive plans a sector plan in accordance with this section. This section is intended to promote and encourage long-term planning for conservation, development, and agriculture on a landscape scale; to further support innovative and flexible planning and development strategies, and the purposes of this part and part I of chapter 380; to facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors; and to avoid duplication of effort in terms of the level of data and analysis required for a development of regional impact, while ensuring the

adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Sector plans are intended for substantial geographic areas that include at least 5,000 ~~15,000~~ acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.

Section 3. Subsection (2) of section 171.046, Florida Statutes, is amended to read:

171.046 Annexation of enclaves.—

(2) In order to expedite the annexation of enclaves of 110 ~~10~~ acres or less into the most appropriate incorporated jurisdiction, based upon existing or proposed service provision arrangements, a municipality may:

(a) Annex an enclave by interlocal agreement with the county having jurisdiction of the enclave; or

(b) Annex an enclave with fewer than 25 registered voters by municipal ordinance when the annexation is approved in a

referendum by at least 60 percent of the registered voters who reside in the enclave.

Section 4. Subsection (14), paragraph (g) of subsection (15), paragraphs (b) and (e) of subsection (19), and subsection (30) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.— If the development is not located in an area of critical state concern, in considering whether the development is ~~shall be~~ approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:

(a) The development is consistent with the local comprehensive plan and local land development regulations.;

(b) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12).~~; and~~

(c) The development is consistent with the State Comprehensive Plan. In consistency determinations, the plan shall be construed and applied in accordance with s. 187.101(3).

However, a local government may approve a change to a development authorized as a development of regional impact if the change has the effect of reducing the originally approved height, density, or intensity of the development, and if the revised development would have been consistent with the comprehensive plan in effect when the development was originally approved. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5).

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(g) A local government may ~~shall~~ not issue a permit ~~permits~~ for a development subsequent to the buildout date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) after ~~subsequent to~~ the termination or expiration date;

2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with ~~the provisions of~~ subsection (26);

3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order except the buildout date, and the amount of proposed development that remains to be built is less than 40 percent of any applicable development-of-regional-impact threshold; or

4. The project has been determined to be an essentially built out ~~built-out~~ development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development of-regional-impact review subject to the local government comprehensive plan and land development regulations ~~or subject to a modified development-of-regional-impact analysis~~. The

parties may amend the agreement without submission, review, or approval of a notification of proposed change pursuant to subsection (19). For the purposes of ~~As used in~~ this paragraph, a ~~an "essentially built-out"~~ development of regional impact is essentially built out, if ~~means~~:

a. The developers are in compliance with all applicable terms and conditions of the development order except the buildout date; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.

The single-family residential portions of a development may be considered "essentially built out" if all of the workforce housing obligations and all of the infrastructure and horizontal development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination. The mobile home park portions of a development may be considered "essentially built out" if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners. In order to accommodate changing market demands and achieve maximum land use efficiency in an essentially built out project, when a developer is building out a project, a local government, without the concurrence of the state land planning agency, may adopt a resolution authorizing the developer to exchange one approved land use for another approved land use specified in the agreement. Before issuance of a building permit pursuant to an exchange, the developer must demonstrate to the local government that the exchange ratio will

not result in a net increase in impacts to public facilities and will meet all applicable requirements of the comprehensive plan and land development code. For developments previously determined to impact strategic intermodal facilities as defined in s. 339.63, the local government shall consult with the Department of Transportation in approving this change.

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the ~~following~~ criteria in subparagraphs 1.-11. constitutes ~~shall constitute~~ a substantial deviation and shall cause the development to be subject to further development-of regional-impact review through the notice of proposed change process under this subsection. ~~without the necessity for a finding of same by the local government:~~

1. An increase in the number of parking spaces at an attraction or recreational facility by 15 percent or 500 spaces, whichever is greater, or an increase in the number of spectators

that may be accommodated at such a facility by 15 percent or 1,500 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25 percent lengthening of an existing runway, or a 25 percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development by 15 percent or 100,000 gross square feet, whichever is greater.

4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.

5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced before

~~prior to~~ the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this subparagraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater.

7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.

8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.

10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

11. Any change that would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or

archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (e)2.j.

The substantial deviation numerical standards in subparagraphs 3., 6., and 9., excluding residential uses, and in subparagraph 10., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order which individually or cumulatively with any

previous change is less than any numerical criterion contained in subparagraphs (b)1.-10. and does not exceed any other criterion, or which involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice must include a description of previous individual changes made to the development, including changes previously approved by the local government, and must include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback which do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads which do not affect external access points.

e. Changes to the building design or orientation which stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, if no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, if there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, if these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries and configuration of areas described in subparagraph (b)11. due to science-based refinement of such areas by survey, by habitat evaluation, by

other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub subparagraph, the survey, habitat evaluation, or assessment must occur before the time that a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.

k. Changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted by sub-subparagraph j.

l. A phase date extension, if the state land planning agency, in consultation with the regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.

m.~~l.~~ Any other change that the state land planning agency, in consultation with the regional planning council, agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-l. ~~a.-k.~~ and that

does not create the likelihood of any additional regional impact.

This subsection does not require the filing of a notice of proposed change but requires an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the state land planning agency the amendment to the development order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h.,sub-subparagraph j., sub-subparagraph k., or sub-subparagraph m. ~~1.~~ and if the agency believes that the change creates a reasonable likelihood of new or additional regional impacts.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development must include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence:~~.~~

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development

order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) and residential use.

6. If a local government agrees to a proposed change, a change in the transportation proportionate share calculation and mitigation plan in an adopted development order as a result of recalculation of the proportionate share contribution meeting the requirements of s. 163.3180(5)(h) in effect as of the date of such change shall be presumed not to create a substantial deviation. For purposes of this subsection, the proposed change in the proportionate share calculation or mitigation plan may not be considered an additional regional transportation impact.

(30) ~~NEW~~ PROPOSED DEVELOPMENTS.— A ~~new~~ proposed development otherwise subject to the review requirements of this section shall be approved by a local government pursuant to s.

163.3184(4) in lieu of proceeding in accordance with this section. However, if the proposed development is consistent with the comprehensive plan as provided in s. 163.3194(3)(b), the development is not required to undergo review pursuant to s. 163.3184(4) or this section. This subsection does not apply to amendments to a development order governing an existing development of regional impact.

Section 5. Paragraph (c) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(c) Aggregation is not applicable when the following circumstances and provisions of this chapter apply ~~are applicable~~:

1. Developments that ~~which~~ are otherwise subject to aggregation with a development of regional impact which has

received approval through the issuance of a final development order may ~~shall~~ not be aggregated with the approved development of regional impact. However, ~~nothing contained in~~ this subparagraph does not ~~shall~~ preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact.

2. Two or more developments, each of which is independently a development of regional impact that has or will obtain a development order pursuant to s. 380.06.

3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact shall not include review of the impacts resulting from the vested portions of the development.

4. The developments sought to be aggregated were authorized to commence development before ~~prior to~~ September 1,

1988, and could not have been required to be aggregated under the law existing before ~~prior to~~ that date.

5. Any development that qualifies for an exemption under s. 380.06(29).

6. Newly acquired lands intended for development in coordination with a developed and existing development of regional impact are not subject to aggregation if such newly acquired lands comprise an area equal to, or less than, 10 percent of the total acreage subject to an existing development-of-regional impact development order.

Section 6. Subsection (1) of section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards.

(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact. A development that has received a development of-regional-impact development order pursuant to

s. 380.06~~,~~ but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards, a development that ~~or~~ has reduced its size below the thresholds specified in s. 380.0651, ~~or~~ a development that is exempt pursuant to s. 380.06(24) or (29), or a development that elects to rescind the development order are ~~shall be~~ governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). Any proposed changes to those developments which continue to be governed by a development order must ~~shall~~ be approved pursuant to s. 380.06(19) as it existed before a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria are ~~shall be~~ doubled and all other criteria are ~~shall be~~ increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as provided in ~~by~~ ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), if ~~provided~~ such permit or authorization is subject to enforcement through administrative or judicial remedies.

Section 7. This act shall take effect July 1, 2016.

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

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to growth management; amending s. 163.3184, F.S.; specifying that certain developments must follow the state coordinated review process; providing timeframes within which the Division of Administrative Hearings must transmit certain recommended orders to the Administration Commission;

establishing deadlines for the state land planning agency to take action on recommended orders relating to certain plan amendments; providing a procedure for issuing a final order if the state land planning agency fails to take action; amending s. 163.3245, F.S.; revising the acreage thresholds for sector plans; amending s. 171.046, F.S.; revising the size of an enclave that a municipality may annex on an expedited basis; amending s. 380.06, F.S.; authorizing certain changes to approved developments of regional impact; authorizing parties to amend certain development agreements without submittal, review, or approval of a notification of proposed change; providing criteria under which one approved land use may be submitted for another approved land use in certain land development agreements under certain circumstances; specifying that certain proposed changes to certain developments are a substantial deviation; specifying that such developments must undergo further development-of-regional-impact review; providing that certain phase date extensions to amend a development order are not substantial deviations under certain circumstances; specifying conditions under which certain proposed developments are not required to undergo the state-coordinated review process; amending s. 380.0651, F.S.; providing that lands acquired for development are not subject to aggregation under certain circumstances; amending s. 380.115, F.S.; providing the procedures to be used by a development that elects to rescind a development order; providing an effective date.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1433 Martin County
SPONSOR(S): Magar
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee		Renner	Miller
2) Regulatory Affairs Committee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

In 1963, the Legislature enacted ch. 63-1619, Laws of Florida (later amended by chs. 91-389 and 2011-246, Laws of Florida), to provide specific requirements regarding the issuance of Special Restaurant Beverage (SRX) licenses in Martin County. Under the special act, in Martin County SRX licenses may be issued to any bona fide hotel, motel, motor court, or to any bona fide restaurant with service for 200 or more patrons at tables and occupying more than 4,000 square feet of floor space, with the exception of the area within the legal boundaries of the community redevelopment areas (CRAs) for restaurants providing service for 150 or more patrons at tables and occupying more than 2,500 square feet of floor space.

The bill repeals chs. 63-1619, 91-389, and 2011-246, Laws of Florida, relating to the issuance of SRX licenses for hotels, motels, motor courts, and certain restaurants in Martin County. The issuance of subsequent SRX licenses in the county will be as provided under general law.

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

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Division of Alcoholic Beverages and Tobacco (DABT) of the Department of Business and Profession Regulation (DBPR) is responsible for the enforcement of Florida's Beverage Laws.[1]

Florida law limits the number of alcoholic beverage licenses that may be issued to one license for every 7,500 residents in a county, known as the "quota".[2] Special Restaurant Beverage (SRX) licenses may be issued in excess of the quota limitations in s. 561.20(1), F.S., and are regulated under Rule 61A-3.0141, F.A.C. To qualify for the SRX license, a restaurant must have a service area of at least 2,500 square feet, be equipped to serve at least 150 persons full meals at one time, and derive at least 51% of its revenue from the sale of food and nonalcoholic beverages.[3]

The specific requirements regarding the issuance of SRX licenses in Martin County are found in chs. 63-1619, 91-389, and 2011-246, Laws of Florida.

In Martin County, SRX licenses are issued to any bona fide hotel, motel, motor court, or to any bona fide restaurant with service for 200 or more patrons at tables and occupying more than 4,000 square feet of floor space, with the exception of the area within the legal boundaries of the community redevelopment areas (CRAs)[4] for restaurants providing service for 150 or more patrons at tables and occupying more than 2,500 square feet of floor space.

Licensees are prohibited from selling alcoholic beverages for consumption off the premises and from operating as a package store. The process for receiving SRX licenses includes obtaining approval from the Board of County Commissioners of Martin County, followed by applying to the Division within DBPR.

Effect of Proposed Changes

The bill repeals chs. 63-1619, 91-389, and 2011-246, Laws of Florida, relating to the issuance of SRX licenses for hotels, motels, motor courts, and certain restaurants in Martin County. The issuance of subsequent SRX licenses in the county will be as provided under general law.

B. SECTION DIRECTORY:

Section 1 Repeals chs. 63-1619, 91-389, and 2011-246, Laws of Florida., relating to the issuance of SRX licenses to hotels, motels, motor courts, and certain restaurants in Martin County.

Section 2 Provides the bill is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? December 8, 2015

[1] Chs. 561-568, F.S.
[2] Section 561.20(1), F.S.
[3] Section 561.20(2)(a)4., F.S.
[4] Martin County has seven CRA districts: Golden Gate, Hobe Sound, Indiantown, Jensen Beach, Old Palm City, Port Salerno, and Rio.

WHERE? *Treasure Coast Newspapers*, Martin County

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[redacted]

TREASURE COAST NEWSPAPERS

1939 SE Federal Highway, Stuart, Florida 34994
Affidavit of Publication
TREASURE COAST NEWSPAPERS

MARTIN CO COMMISSIONERS
2401 SE MONTEREY RD
STUART FL 34996

REFERENCE: 435812
831366 LEGISLATION-ZUMMO

STATE OF FLORIDA
COUNTY OF MARTIN, ST. LUCIE and INDIAN RIVER
Before the undersigned authority personally appeared and who on oath says that he/she is the Acct Adv Clerk of Treasure Coast Newspapers which publishes 3 daily newspapers in Martin Cnty: The Stuart News; St Lucie Cnty: St Lucie News Tribune: and Indian River Cnty: The Indian River Press Journal. Affiant further states that these newspapers are published daily, with offices and paid circulation in said counties, and distributed in said counties for one year preceding the first publication of the attached copy of advertisement; and affiant further states that he/she has neither paid nor promised any erson, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper(s). These newspapers have been entered as second class matter at the post office of Martin, St. Lucie and Indian River counties and have been for a period of one year preceding the first publication of the attached copy of advertisement.

PUBLISHED ON:
12/08/15

AD SPACE: 5.0 INCHES
FILED ON: 12/08/15

Sworn to and subscribed before me this day of Dec 8 2015, by [redacted], who is

X personally known to me or
_ who has produced _____ as identification.

Notary: Linda Rufo My Commission Expires: _____

LINDA RUFO
Notary Public - State of Florida
My Comm. Expires Oct 22, 2016
Commission # EE 212492
Bonded Through National Notary Assn.

NOTICE OF INTENT TO SEEK LEGISLATION

Notice is hereby given of intent to apply to the 2016 Legislature and any Special and Extended Sessions for passage of an act relating to Martin County, repealing chapter 63-1619, Laws of Florida, as amended by chapter 2011-246 and 91-389, relating to Special Restaurant License (SRX) requirements for Martin County; providing an effective date.

Martin County Board of County Commissioners
2401 SE Monterey Road, Stuart FL 34996

ELECTION 2016

ıds a waste of money?

THE ASSOCIATED PRESS

tial hopeful Donald Trump speaks Saturday in Davenport, Iowa.

f anything, I think attack ads would) stir ıp's base more and engage them more."

Curt Anderson, *voter at a Donald Trump rally*

tablishment rdless," said rofessor of University co. s in Davenconcur. obably want im more," Wheatland, hen asked ct of anti-

loes, how- at negative ould hurt if it targets one specific group: evangelicals, who make up 60 percent of Iowa caucusgoers. Turning them against Trump by using targeted mailings might prove effective, Goldstein said, if the candidate's past positions on abortion rights and advocacy for a single-payer health care system were targeted.

"Why was advertising so devastating to Mitt Romney? Because at the end of the day Mitt Romney's main message was 'I'm a job creator' while the Obama message was 'No, you're a job destroyer,'" Goldstein said. "If Trump's big message is 'I'm aggressive, I'm tough, I'm conservative' then saying things that don't knock at his strengths may not matter."

Voters who said they would not be swayed by ads that focus on Trump's rhetoric on the trail would be more likely to look into whether the charges were true, Goldstein argues. Those in attendance at Trump's rallies over the weekend seemed to prove Goldstein's point.

"I think if I fact-checked it myself and looked into whatever negative aspect they are pointing out I would take that a lot more seriously," Ryan, 30, from Silvis, Ill., said.

NOTICE OF INTENT TO SEEK LEGISLATION

Notice is hereby given of intent to apply to the 2016 Legislature and any Special and Extended Sessions for passage of an act relating to Martin County, repealing chapter 63-1619, Laws of Florida, as amended by chapter 2011-246 and 91-389, relating to Special Restaurant License (SRX) requirements for Martin County; providing an effective date.

Martin County Board of County Commissioners
2401 SE Monterey Road, Stuart FL 34996

HOUSE OF REPRESENTATIVES

2016 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1433

SPONSOR(S): Representative MaryLynn Magar

RELATING TO: Martin County Florida

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

NAME OF DELEGATION: Martin County Delegation

CONTACT PERSON: Ann Bodine

PHONE NO.: (772) 545-3481 **E-Mail:** Ann.Bodine@myfloridahouse.gov

I. ***House local bill policy requires the following steps must 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.
(4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify 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 7, 2015

Location: Martin County Commission Chambers

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

YES ☑ NO ☐

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?

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** Dec 8, 2015

Where? TC Palm **County** Martin, St Lucie, P. Beach

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 ☑

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

YES ☐ NO ☑

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 ☐

Please submit this completed, original form to the Local Government Affairs Subcommittee.

Gayle B. Harrell
Delegation Chair (Original Signature)

1/12/2016
Date

Gayle B. Harrell
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES

2016 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 Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 1433

SPONSOR(S): Representative MaryLynn Magar, District 82

RELATING TO: Martin County – The repeal of chapter 63-1619, Laws of Florida, as amended by chapter 2011-246 and 91-389, relating to Special Restaurant License (SRX) requirements for Martin County.

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

I. REVENUES:

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

	FY 16-17	FY 17-18
Revenue decrease due to bill:	$ 0	$ 0
Revenue increase due to bill:	$ 0	$ 0

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:

FY 16-17	FY 17-18
$	$

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

Martin County currently levies a one-time application processing fee of $390 for a county issued Special Liquor License. If the Legislature were to pass the local bill the county would no longer receive the fee - however, the staff time involved meets or at times exceeds the application fee (staff estimates that the total staff time per application is approximately 8 hours) and is the impact is thus revenue neutral.

III. FUNDING SOURCE(S):

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

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

	FY 16-17	FY 17-18
Local:	$ 0	$ 0
State:	$ 0	$ 0
Federal:	$ 0	$ 0

IV. 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: This bill will increase additional dining options for restaurant patrons in unincorporated Martin County.

2. Advantages to Businesses: This bill will increase business opportunities for restaurant operators, both new and current within unincorporated Martin County with the ability to operate full-service restaurants creating a level playing field for Martin County businesses.

3. Advantages to Government: The changes would eliminate additional regulation duplicative to services provided by other government agencies. This bill would make regulations in unincorporated Martin County consistent with the City of Stuart, Martin County's community redevelopment areas, and other jurisdictions within the State.

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.

VII. CERTIFICATION BY PREPARER

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY: _____
[Must be signed by Preparer]

Print preparer's name: Kate Parmelee

01/11/16
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):
Community & Strategic Partnerships Manager

REPRESENTING: Martin County Board of County Commissioners

PHONE: (772) 320-3095

E-MAIL ADDRESS: kparmele@martin.fl.us

1. Disadvantages to Individuals: None foreseen

2. Disadvantages to Businesses: None foreseen

3. Disadvantages to Government: None foreseen

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

This bill will reduce staff time involved in meeting with the applicant, processing application, preparing the Board agenda item, review and approval of agenda and the meeting itself which frequently exceeds the application fee (staff estimates that the total staff time per application is approximately 8 hours), resulting in greater efficiency and less cost and time to the applicant.

VI. 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.

Florida Statutes, Florida Administrative Code, Martin County Comprehensive Plan

Martin County Growth Management Department Staff Analysis of costs and efficiencies

A bill to be entitled

An act relating to Martin County; repealing chapters 63-1619, 91-389, and 2011-246, Laws of Florida, relating to the issuance of special alcoholic beverage licenses to hotels, motels, motor courts, and certain restaurants; providing an effective date.

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

Section 1. Chapters 63-1619, 91-389, and 2011-246, Laws of Florida, are repealed.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1435 Village of Estero, Lee County
SPONSOR(S): Rodrigues
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The Village of Estero was incorporated in 2014. The charter of the Village provides for amending the charter according to the Municipal Home Rules Powers Act, ch. 166, F.S., or as otherwise provided by general law. Charter amendments may be proposed by Village Council ordinance or petition of the qualified Village voters. The charter further provides that charter amendments are adopted if a majority of the registered voters of the Village vote in favor. The charter thus may be interpreted as consistent with s. 166.031, F.S., the exclusive method in general law to amend municipal charters.

HB 1435 amends the charter for the Village of Estero to require proposed amendments to the Village charter to be adopted by a vote of at least 60% of the electors voting in a referendum for that purpose.

The Economic Impact Statement for the bill projects no expenses or changes in revenues, characterizing this as a policy change without financial impact.

The bill provides the act is effective upon becoming law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 2014 the residential community of Estero, located in Lee County between the cities of Fort Myers to the north and Bonita Springs to the south, incorporated as the Village of Estero.[1] Following a referendum on November 4, 2014, approving the incorporation of the Village of Estero,[2] the Village officially was created on December 31, 2014.[3] As required by law, the charter prescribes the form of government and clearly defines the responsibility for the legislative and executive functions.[4]

Village of Estero Charter Provisions for Amendment

The current charter provides the following methods to amend the charter:

- Pursuant to the Municipal Home Rules Powers Act.[5] The operative section of the Act is s. 166.031, F.S.
- As otherwise may be provided by general law.
- By ordinance adopted by the Village council and submitted to the Village voters.
- By petition signed by 10% or 5,000, whichever is less, of the qualified electors in the Village registered to vote in the last regular Village election.[6]

The provisions for ordinance and petition are similar to the requirements in s. 166.031, F.S. Whether brought forward by ordinance or petition, the Village council is required to place a proposed amendment before the voters at the next Village election or a special election called for that purpose.[7] The charter provides that a proposed amendment is adopted if approved by a majority of the registered voters of the Village[8] and become effective either at the time provided in the amendment or, if no time is specified, 30 days after adoption by the voters.[9]

General Law for Municipal Charter Amendment

Regardless of any provisions in its charter, a municipality may amend its charter pursuant to s. 166.031, F.S.[10] Under the statute, amendments to a municipal charter may be proposed by:

- The governing body of the municipality, by ordinance, or
- By petition signed by 10% of the registered electors as of the last preceding municipal general election.[11]

Amendments so proposed must be placed by the governing body of the municipality as a referendum before the voters at the next general election held in the municipality or a special election called for the

[1] Ch. 2014-249, Laws of Fla.
[2] Official General Ballot election results for Lee County, November 4, 2014, available at http://www.leeelections.com/download/elhis14/141104/result2.html (last visited 03/14/2015).
[3] Ch. 2014-249, s. 1 at Charter s. 3(b), Laws of Fla.
[4] Section 165.061(1)(e)a., F.S.
[5] Ch. 166, F.S.
[6] Ch. 2014-249, s. 11(2)(a), Laws of Fla.
[7] Ch. 2014-249, s. 11(2)(b), Laws of Fla.
[8] Ch. 2014-249, s. 11(2)(c), Laws of Fla.
[9] *Id.*
[10] Section 166.031(3), F.S.
[11] Section 166.031(1), F.S. The statute also states these methods cannot be used to propose changes to that part of the charter describing the boundaries of the municipality.

purpose voting on the proposed amendment.[12] The proposed amendment is adopted if approved by a majority of the electors voting in a referendum on the proposal.[13] This section is supplemental to, not exclusive of, the provisions of other law pertaining to amending municipal charters.[14]

The right of referendum has been called "the essence of reserved power," those powers Floridians retained for themselves under the 1968 Constitution.[15] The Florida Constitution requires all referenda to be held as provided in law.[16] When the qualified electors of a municipality vote in a referendum on whether to amend the municipal charter, regardless of how the proposed change reached the ballot, they exercise this reserved power and "exercise greater control over the laws which directly affect them."[17]

Section 166.031, F.S., preserves the integrity of the referendum and is interpreted as the exclusive means to amend municipal charters. In one case, voters petitioned the City of Orlando to amend the municipal charter. The proposed amendments included a provision that they could not be repealed except "by a referendum election of the registered voters of the City of Orlando."[18] The appellate court interpreted this as an attempt to preclude the governing body of the City from proposing charter amendments by ordinance and ruled such a charter provision would have no legal effect.[19] A series of Attorney General opinions[20] concluded consistently that the statute is the exclusive method to amend municipal charters:

- "The provisions of s. 166.031, F.S., prevail over conflicting provisions contained in a municipal charter."[21]
- "The amendment of a city's charter is governed by s. 166.031, F.S., and no alternative method of charter amendment may be used."[22]
- "A municipal charter may not conflict with the provisions of section 166.031, Florida Statutes..."[23]

Conflict between the Charter and Statute

Closely paralleling the statute, the Village charter requires a proposed charter amendment be approved by "a majority of the registered voters of the village." Although s. 166.031, F.S., controls the manner of amending the charter, the present text could be construed simply to restate the statutory text in the charter. The terms of the statute preclude any other interpretation.[24]

For example, the present text cannot be construed to require a proposed amendment pass by a vote total equal to a majority of *all* registered voters in the Village. As of February 2, 2015, the Village of Estero had a total of 29,682 registered voters.[25] If 50%, or 14,841, of the registered electors voted in a referendum on a proposed charter amendment, applying the requirements of the statute would require approval by a majority of at least 7,421. However, if the charter provision is interpreted as requiring a

[12] Section 166.031(3), F.S.
[13] Section 166.031(2), F.S.
[14] Section 166.031(3), F.S.
[15] *Florida Land Company v. City of Winter Springs*, 427 So. 2d 170, 172 (Fla. 1983).
[16] Art. VI, s. 5(a), Fla. Const.
[17] *Florida Land Company,* at 172.
[18] *Gaines v. City of Orlando*, 450 So. 2d 1174, 1176-1177 (Fla. 5th DCA 1984).
[19] *Gaines*, at 1179.
[20] While not legally binding, opinions of the Attorney General are entitled to great weight and should be regarded as highly persuasive. *State v. Family Bank of Hallandale*, 623 So. 2d 474, 478 (Fla. 1993); *Beverly v. Division of Beverage of the Department of Business Regulation*, 282 So. 2d 657, 660 (Fla. 1st DCA 1973).
[21] AGO 1988-30.
[22] AGO 1993-23.
[23] AGO 2002-79.
[24] *Gaines v. City of Orlando*, at 1179; AGO 2002-79; AGO 1993-23; AGO 1988-30.
[25] Lee County Elections Book Closing Party Summary by District for ESTERO-SANIBEL, at http://www.leeelections.com/wp/elections/archive/elec150303/ (last accessed 1/26/2016).

vote equaling at least a majority of *all* registered voters, or 14,842, then every referendum would always require a supermajority of the voters actually voting unless turnout is 100%. Because this requirement conflicts with the exclusive requirements of s. 166.031, F.S., such an interpretation could not stand.

Effect of Proposed Changes

The bill would amend the charter for the Village of Estero to require all amendments to that municipal charter must be adopted by a minimum 60% of those electors voting in a referendum on that issue. This would be an exception to the controlling general law requiring charter amendments to be adopted if approved by a simple majority of the electors voting in the referendum. Because the statute has been interpreted as the exclusive manner for amending municipal charters, the bill could result in litigation over proposed charter amendments.

B. SECTION DIRECTORY:

Section 1: Amends the municipal charter for the Village of Estero to require any future charter amendment be approved by at least 60% of the qualified electors voting in a referendum on that issue.

Section 2: Provides the act is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 8, 2015

WHERE? Lee County, by the News-Press

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None, unless the charter amendment contained in the bill is construed as constraining the right of the Village voters to act through referendum in violation of article VI, s. 5(a), of the Florida Constitution.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Requiring a 60% majority of those voting to approve changes to a municipal charter would be inconsistent with the requirements of the general law, s. 166.031, F.S. The bill does not expressly except the charter for the Village of Estero from the statute, creating a potential inconsistency that if litigated may result in the statute being applied in lieu of the charter terms. If the 60% vote requirement is also interpreted as an undue burden on the exercise of the voters' rights to act through referendum

as reserved in the Constitution and judicially interpreted, the amendment in the bill could be ruled invalid as violating the Florida Constitution. As the present charter text could be construed to conform with the statute, amending the charter to require approval of charter amendments by a majority of those voting in a referendum would further align the charter with the current requirements of general law.

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

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Rep. Rodrigues
HB 1435 LB

The News-Press
media group
news-press.com A GANNETT COMPANY

NOTICE OF LEGISLATION
TO WHOM IT MAY CONCERN:
Notice is hereby given of intent to apply to the 2016 Legislature for passage of an act relating to the Village of Estero amending Chapter 2014-249, Laws of Florida, relating to charter amendments, requiring an approval of at least sixty-percent of the electors voting on the amendment; providing an effective date.
Ad No. 910968 December 8, 2015

Attn:
VILLAGE OF ESTERO - LEGALS
21500 THREE OAKS PKWY
ESTERO, FL 33928

STATE OF FLORIDA COUNTY OF LEE:
Before the undersigned authority personally appeared Shari Terrell, who on oath says that he or she is a Legal Assistant of the News-Press, a daily newspaper published at Fort Myers in Lee County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of

Notice of Action

In the Twentieth Judicial Circuit Court was published in said newspaper in the issues of:

12/08/15

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida, and that the said newspaper has heretofore been continuously published in said Lee County, Florida each day and has been entered as periodicals matter at the post office in Fort Myers, in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never 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.

Sworn to and Subscribed before me this 8th of December 2015, by Shari Terrell who is personally known to me.

Jessica Hanft
Notary Public for the State of Florida
My Commission expires February 12, 2017

JESSICA HANFT
MY COMMISSION # EE874397
EXPIRES February 12, 2017
(407) 398-0153 FloridaNotaryService.com

VILLAGE OF ESTERO, FL
RECEIVED
DEC 09 2015

HOUSE OF REPRESENTATIVES

2016 LOCAL BILL CERTIFICATION FORM

BILL #: 1435

SPONSOR(S): Ray Rodrigues

RELATING TO: Village of Estero

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

NAME OF DELEGATION: Lee County Delegation

CONTACT PERSON: James Mullen

PHONE NO.: (850) 717-5076 **E-Mail:** james.mullen@myfloridahouse.gov

I. ***House local bill policy requires the following steps must 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.
(4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

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

YES ☑ NO ☐

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

YES ☑ NO ☐

Date hearing held: October 14, 2015

Location: Room AA-177, Florida Southwestern State College, Fort Myers FL

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

YES ☑ NO ☐

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?

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** 12/8/15

Where? Fort Myers **County** Lee

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 ☑

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

YES ☐ NO ☑

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 ☐

Please submit this completed, original form to the Local Government Affairs Subcommittee.

Delegation Chair (Original Signature)

01/25/16
Date

Matt Caldwell
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES

2016 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 Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: 1435

SPONSOR(S): Ray Rodrigues

RELATING TO: Village of Estero

[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.

	FY 16-17	FY 17-18
Revenue decrease due to bill:	$ 0	$ 0
Revenue increase due to bill:	$ 0	$ 0

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:

FY 16-17	FY 17-18
$ 0	$ 0

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

This is a policy change for the village and will have no financial impact.

III. FUNDING SOURCE(S):

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

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

	FY 16-17	FY 17-18
Local:	$ 0	$ 0
State:	$ 0	$ 0
Federal:	$ 0	$ 0

IV. 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: This bill is a non-fiscal policy change and has no impact on the village finances.

2. Advantages to Businesses: There is no effect on businesses

3. Advantages to Government: There will be no economical impact on on the village.

Potential Disadvantages:

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

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

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

1. Disadvantages to Individuals: None

2. Disadvantages to Businesses: None

3. Disadvantages to Government: None

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

There will be no impact on the village's economics.

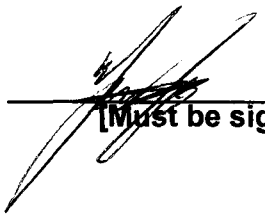
VI. SPECIFIC DATA USED IN REACHING ESTIMATES:

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.

None

VII. CERTIFICATION BY PREPARER

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:  **[Must be signed by Preparer]**

Print preparer's name: James Mullen

January 22, 2016

Date

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

Legislative Assistant, M.BA.

REPRESENTING: Ray Rodrigues

PHONE: 850-717-5076

E-MAIL ADDRESS: James.Mullen@MyFloridaHouse.gov

A bill to be entitled

An act relating to the Village of Estero, Lee County; amending chapter 2014-249, Laws of Florida; specifying that the vote required for adoption of a proposed charter amendment must be at least 60 percent of those electors voting in an election; providing an effective date.

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

Section 1. Subsection (2) of section 11 of chapter 2014-249, Laws of Florida, is amended to read:

Section 11. General provisions.—

(2) AMENDMENTS TO CHARTER.—

(a) Amendments.—The charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rules Powers Act, chapter 166, Florida Statutes, or as otherwise may be provided by general law. The council may, by ordinance, or the qualified registered voters of the village may, by petition signed by 10 percent or 5,000 electors, whichever is less, registered to vote in the last regular village election, submit to the electors of the village a proposed amendment to any part or all of the charter. The form, content, and certification of any petition to amend the charter shall be established by ordinance.

(b) Election.—The council shall place the proposed amendment contained in the ordinance or petition to a vote of the electors of the village at the next village election or at a special election called for such purpose.

(c) Adoption of amendment.—If the proposed amendment or revision is approved by a vote of at least 60 percent of the electors voting on the measure ~~a majority of the registered voters of the village vote in favor of a proposed charter amendment~~, the amendment shall become effective at the time fixed in the amendment or, if no time is fixed in the amendment, 30 days after the amendment is adopted by the voters.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1437 Port of Palm Beach District, Palm Beach County
SPONSOR(S): Hager
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee		Walker	Miller
2) Economic Affairs Committee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The Port of Palm Beach District (Port) is an independent special taxing district located in Palm Beach County. The most recent financial statement shows that the Board derives most of it revenues from rents and royalties and service changes. In 2014, the gross revenue of the Port was over $26 million.

The Port is governed by the Board of Commissioners of Port of Palm Beach District (Board), which is comprised of five elected members. The most recent adjustment in 1999 set the compensation level for Board members to $9,500.00/year. The bill raises the yearly compensation rate of Board members from $9,500 to $16,000, reflecting an approximate 3% yearly increase from the rate of compensation set in 1999. Thereafter, the salary may be adjusted annually by up to 3 percent by a majority vote of the Board.

One of the functions of the Board is to oversee Foreign-Trade Zone operations associated with the Port. In 2008, the federal government created new regulations expanding the locations and modification flexibility of Foreign-Trade Zone site locations. In 2012, the Port approved a resolution to apply for the new Foreign-Trade Zone status created by the regulations in order to expand their site locations into the neighboring Martin and St. Lucie Counties. This application could not be granted because the Port's current charter did not permit the flexibility for expansion needed under the new regulations. Currently, the Port is limited by its charter to operating within the corporate limits of Palm Beach County. The bill amends the Port's special act to allow the Port to apply for Foreign-Trade Zone site locations outside of Palm Beach County.

The economic impact statement (EIS) for the bill anticipates no increase in revenues or expenses directly to the Port but potential indirect advantages to freight logistics businesses represented by the Port being able to take advantage of the flexibility for expansion of the foreign trade zone under the recent federal regulations.

The bill provides the act is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

The Port of Palm Beach District (Port) is an independent special taxing district located in Palm Beach County. The Port was created by special act in 1915[1] and subsequently amended.[2] The Port is the fourth busiest container port in Florida, the eighteenth busiest in the continental U.S., and is a major shipper of Florida goods such as bulk sugar and produce.[3]

There are 16 port authorities in Florida[4] which collectively generate more than 680,000 direct and indirect jobs and contribute $96 billion in economic value to the state, accounting for approximately 13 percent of Florida's Gross Domestic Product and $2.4 billion in state and local taxes.[5] The most recent financial statement shows that the Port derives most of its revenues from rents, royalties, and service changes.[6] In 2014, the gross revenue of the Port was over $26 million.[7]The Port has not assessed ad valorem taxes in approximately 40 years.[8]

The Port is governed by the Board of Commissioners of Port of Palm Beach District (Board), which is comprised of five members elected by districtwide vote to serve four year terms.[9] The Board was originally compensated at a rate of $2,400.00/year, which has been adjusted periodically by the Legislature. The most recent adjustment in 1999 set the compensation level for Board members to $9,500.00/year.[10] The Board members receive the same retirement and insurance benefits as district employees, including: Health, Dental, Vision, Life Insurance, Short Term Disability, AFLAC, Long Term Life, FRS (Retirement Plan).[11]

The Board governs the operation, maintenance, and management of projects of the Port. These powers and duties include: entering into contracts on behalf of the Port; acquisition of harbor and Port property; construction and repair of Port facilities; establishing trade zones; creating and managing the Port budget; setting rates, tolls, and charges for Port services and use; raising ad valorem taxes as needed; personnel selection and supervision; and providing insurance, pension, and retirement benefits to employees.[12]

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[1] Ch. 7081, Laws of Fla. (1915).
[2] Ch. 74-570, Laws of Fla. (1974); ch. 81-459, Laws of Fla. (1981); ch. 99-457, Laws of Fla. (1999).
[3] PORT OF PALM BEACH, *General Information*, http://www.portofpalmbeach.com/121/General-Information (last visited 01/21/2016).
[4] FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY, *Official List of Special Districts Online, available at* http://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program (last accessed Jan. 21, 2016).
[5] FLORIDA PORTS COUNCIL, *The Florida System of Seaports*, http://flaports.org/about/the-florida-system-of-seaports/ (last accessed Jan. 21, 2016).
[6] DEPARTMENT OF FINANCIAL SERVICES, *Local Government General Ad Hoc Report 2010-2015*, available *at* http://www.myfloridacfo.com/Division/AA/LocalGovernments/default.htm (last accessed Jan. 21, 2016).
[7] Id.
[8] Id.; PORT OF PALM BEACH, *General Information*, http://www.portofpalmbeach.com/121/General-Information (last accessed Jan. 26, 2016).
[9] Ch. 74-570, Laws of Fla. (1974).
[10] Ch. 99-457, Laws of Fla. (1999).
[11] PORT OF PALM BEACH, *Human Resources*, http://www.portofpalmbeach.com/238/Human-Resources (last accessed Jan. 26, 2016).
[12] Ch. 74-570, Laws of Fla. (1974).

Foreign-Trade Zones (FTZs) are the United States' version of secure free-trade zones.[13] FTZs are subject to U.S. Customs and Border Protection (CBP) supervision but largely overseen by a designated local board. The authority to establish FTZs was created by Congress in the Foreign-Trade Zones Act of 1934.[14] The Foreign-Trade Zones Act is administered through two sets of regulations,[15] which were revised in 2008[16] to create a new variety of FTZ know as an Alternative Site Framework (ASF). Port entities operating under the revised ASF provisions have a number of operating advantages in terms of increased flexibility and predictability.[17] The ASF allows FTZ sites administered by port authorities to utilize the "minor boundary modification process" in order to extend FTZ benefits to areas outside of existing zones through a shorter streamlined application process. The ASF framework also expands the range of available FTZ sites include locations within 60 miles of the port of entry.

Currently, the Port is limited by its charter to operating within the corporate limits of Palm Beach County.[18] In 2012, the Port approved a resolution to apply for ASF status in order to expand their FTZ site locations into the neighboring Martin and St. Lucie County.[19] In 2013 the Port was informed the application could not advance for the following reasons:

- The Port's charter limited the ability of the Port to sponsor future sites outside of Palm Beach County.
- The Port's charter did not allow expansion outside the immediate port district without approval from the affected county or municipal governments.[20]

EFFECT OF THE BILL

The bill raises the yearly compensation rate of Board members from $9,500 to $16,000, reflecting an approximate 3% yearly increase from the rate of compensation set in 1999. Thereafter, the salary may be adjusted annually by up to 3 percent by a majority vote of the Board.

The bill also authorizes the Port to apply for FTZ site locations outside of Palm Beach County, within 60 miles of the port of entry pursuant to the new ASF regulations implemented in 2008. The bill removes language requiring approval from local governments before establishing FTZ site locations outside of the district but notes all such FTZs remain subject to local codes, ordinances, and laws.

B. SECTION DIRECTORY:

Section 1. Amends that section of the Port charter pertaining to commissioner compensation, raising the yearly compensation of each Board member from $9,500 to $16,000 and allowing subsequent adjustments of up to 3 percent per year by a majority vote of the Board.

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[13] U.S. CUSTOMS AND BORDER PROTECTION, *About Foreign-Trade Zones and Contact Info*, http://www.cbp.gov/border-security/ports-entry/cargo-security/cargo-control/foreign-trade-zones/about (Jan. 26, 2016).
[14] Foreign-Trade Zones Act of 1934, 19 U.S.C. 81a-81u.
[15] The FTZ Regulations (15 CFR Part 400) and CBP Regulations (19 CFR Part 146).
[16] 15 CFR Part 400- FTZ Regulations *available at* http://enforcement.trade.gov/ftzpage/grantee/regs.html (last accessed Jan. 26, 2016).
[17] U.S. CUSTOMS AND BORDER PROTECTION, *Foreign-Trade Zones Manual, available at* https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwi8s_zF68rKAhVH9h4KHdf7D5IQFggcMAA&url=https%3A%2F%2Fwww.cbp.gov%2Fsites%2Fdefault%2Ffiles%2Fdocuments%2FFTZmanual2011.pdf&usg=AFQjCNGMb22sCiQnmpxhGGTY-fzzVAktDA&bvm=bv.112766941,d.dmo (last accessed Jan. 27, 2016).
[18] Ch. 74-570, Laws of Fla. (1974).
[19] PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS, *Executive Brief, available at* http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwi58KDw8crKAhVCWh4KHV9tCjwQFggcMAA&url=http%3A%2F%2Fwww.pbcgov.com%2FpubInf%2FAgenda%2F20130416%2F5a1.pdf&usg=AFQjCNFa0Yju6uN0kXZ-Q6-_AjABetQRDA (last accessed Jan. 27, 2016).
[20] Letter from Andrew McGilvray, Executive Director, The Foreign-Trade Zones Board, U.S. Dept. of Commerce, to Beatrice Greffin, Port of Palm Beach (11/08/2013), a copy of which is retained by staff of the Local Government Affairs Subcommittee.

Section 2. Amends that section of the Port charter pertaining to Foreign Trade Zones, authorizing sites to be located outside of Palm Beach County but remaining subject to all local ordinances and laws.

Section 3. Provides that the act shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? Oct. 30, 2015

WHERE? The Palm Beach County Post in Palm Beach County, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires implementation by executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Rep. Magar
HB 1437 LB

The Palm Beach Post
REAL NEWS STARTS HERE
Palm Beach Daily News

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2016 Legislature for passage of an act relating to Palm Beach County, Port of Palm Beach District; amending chapter 74-570, Laws of Florida, as amended, setting commissioner compensation; approval of foreign trade zones; providing an effective date.

PUB: The Palm Beach Post
10-30/ 2015 #503318

PORT OF PALM BEACH PROOF OF PUBLICATION
STATE OF FLORIDA COUNTY OF PALM BEACH
Before the undersigned authority personally appeared Tiffani Everett, who on oath says that she is Call Center Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a Notice was published in said newspaper on First date of Publication 10/30/2015 and last date of Publication 10/30/2015 Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Also published in Martin and St. Lucie Counties.
NOTICE Ad ID: 955395 Ad Cost: 41.28

Signed

Sworn to and subscribed before 10/30/2015
Who is personally known to me.

NOTARY PUBLIC STATE OF OHIO

JUSTIN PETERSON, Notary Public
In and for the State of Ohio
My Commission Expires July 31, 2019

HOUSE OF REPRESENTATIVES

2016 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1437

SPONSOR(S): Rep. Bill Hager

RELATING TO: Port of Palm Beach, Palm Beach County

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

NAME OF DELEGATION: Palm Beach County

CONTACT PERSON: Rachael Ondrus

PHONE NO.: (850) 322-7908 **E-Mail:** rachael@mcnicholas.biz

I. ***House local bill policy requires the following steps must 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.
(4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify 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 8, 2015

Location: Lakeside Medical Center, 39200 Hooker Hwy, Belle Glade, FL 33430

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

YES ☑ NO ☐

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?

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** October 30, 2015

Where? Palm Beach Post **County** Palm Beach

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 ☑

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

YES ☐ NO ☑

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 ☐

Please submit this completed, original form to the Local Government Affairs Subcommittee.

MMagar — 1/11/16

Delegation Chair (Original Signature) — Date

Representative MaryLynn Magar

Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES

2016 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 Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 1437

SPONSOR(S): Representative Bill Hager

RELATING TO: Port of Palm Beach
[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.

	FY 16-17	FY 17-18
Revenue decrease due to bill:	$ 0	$ 0
Revenue increase due to bill:	$ 0	$ 0

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:

FY 16-17	FY 17-18
$ 0	$ 0

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

The Port of Palm Beach is funded through Port tenants and user-fees - No tax dollars are impacted.

III. FUNDING SOURCE(S):

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

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

	FY 16-17	FY 17-18
Local:	$ 0	$ 0
State:	$ 0	$ 0
Federal:	$ 0	$ 0

IV. 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: _____

2. Advantages to Businesses: ~~It will be easier for freight logis~~tics businesses to obtain a FT2 operators license.

3. Advantages to Government: Compensation will be limited to no more than 3% per year increase and will not require legislative action.

Potential Disadvantages:

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

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

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

1. Disadvantages to Individuals: None

2. Disadvantages to Businesses: None

3. Disadvantages to Government: None

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

Will streamline and make more effecient the designation of businesses to utilize foreign trade zone status

VI. 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.

N/A

VII. CERTIFICATION BY PREPARER

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY: _____
[Must be signed by Preparer]

Print preparer's name: Manny Almira

September 29, 2015
Date

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

Port Director

REPRESENTING: Port of Palm Beach

PHONE: (561) 383-4131

E-MAIL ADDRESS: malmira@portofpalmbeach.com

UNITED STATES DEPARTMENT OF COMMERCE
The Foreign-Trade Zones Board
Washington, D.C. 20230

November 8, 2013

Ms. Beatrice Greffin
Manager, Human Resources/Payroll & Foreign Trade Zone
Port of Palm Beach District
P.O. Box 9935
Riviera Beach, Florida 33419

Dear Ms. Greffin:

We have received the pre-docketing application of the Port of Palm Beach District to reorganize FTZ 135 under the alternative site framework (ASF) and to include Palm Beach, Martin and St. Lucie Counties in the proposed service area. Our initial review of the application has raised a key concern that seeking authority from the FTZ Board (through an ASF reorganization) to sponsor a range of potential future sites outside of Palm Beach County may not be consistent with the charter of the Port of Palm Beach District (grantee).

Specifically, in the response to the application's Question 2, you provided the following:

> (5) The establishment of trade zones. To exercise complex and exclusive control over the port and harbor facilities within the port district; and to apply to the proper public authorities of the United States of America for the right to establish, operate and maintain foreign or domestic trade zones or subzones ***within or without the boundaries of the port district***, and to operate and maintain such foreign and domestic trade zones;...(emphasis added).

Based on that language alone, there would be no concern about the grantee's legal authority to sponsor sites outside Palm Beach County. However, as required by our application format, Attachment C of the application which provides the entire section of the grantee's charter, which further states "provided, however, that such foreign trade zones shall comply with Federal laws and regulations applicable to trade zones and shall be located within the corporate limits of Palm Beach County" (emphasis added). That section of the charter also states: "In the event a trade zone site is established outside the boundaries of the port district, the county government, or, if within an incorporated area, the local municipal government, shall have approved the establishment of the trade zone within its jurisdiction, and such trade zone site shall be subject to such local government's applicable codes and ordinances."

In the context of the complete language of the section of the charter in question, we have two specific concerns:

1) It appears that seeking authority (through an ASF reorganization) to sponsor a range of potential future sites beyond Palm Beach County may not be consistent with the grantee's charter.

2) It appears that sites that outside the port district could only be approved with the approval of the county or municipal government (as applicable).

We believe these are threshold matters for an application from FTZ 135 seeking approval of a service area that includes all of Palm Beach, Martin and St. Lucie Counties. We will not be able to docket this application until these concerns are addressed. It appears that options to address these concerns would include the following:

1) modifying the proposed service area to include only the port district;

2) modifying the proposed service area to include only Palm Beach County and providing general letters from the county and any municipalities within the county that fall outside the port district "approving" any future sites of FTZ 135 in their respective jurisdictions;

3) amending the grantee's charter to allow the grantee to sponsor zone sites outside Palm Beach County and providing general letters from each of the counties within the proposed service area and any municipalities within those counties that fall outside the port district "approving" any future sites of FTZ 135 in their respective jurisdictions; and,

4) amending the grantee's charter to a) allow the grantee to sponsor zone sites outside Palm Beach County and b) eliminate the current requirement for the grantee to obtain approval from the relevant county or municipality for sites outside the port district.

We ask that FTZ 135 and its legal advisors review these matters and inform us in writing of the outcome of that review.

The FTZ Staff analyst has also provided the following comments (which appear to be minor in nature) on other parts of the application:

1. Questions 5 and 6. The correct acreage for Site 6 is 282 acres, not 286.
2. Question 10(a). Please describe in detail why this site was chosen for the requested waiver of sunset limits (*e.g.*, publicly-owned).
3. Question 11(a). Please provide Part III of Chapter 288 in its entirety. Per Section 288.38 – Applicability of state laws and rules concerning citrus fruits and products, please include in the application letter (Question 2) a statement that "all laws of this state and rules of the Florida Department of Citrus applicable to citrus fruit and processed citrus products shall equally apply within any foreign trade zone so established."

If you have any questions or additional comments/information you wish to provide, please contact Camille Evans of my staff at (202) 482-2350.

Sincerely,

Andrew McGilvray
Executive Secretary

A bill to be entitled

An act relating to the Port of Palm Beach District, Palm Beach County; amending chapter 74-570, Laws of Florida, as amended; increasing commissioner compensation; revising approval of foreign trade zones; providing an effective date.

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

Section 1. Section 3 of article VI of chapter 74-570, Laws of Florida, as amended by chapter 99-457, Laws of Florida, is amended to read:

ARTICLE VI. ORGANIZATION AND COMPENSATION OF BOARD OF COMMISSIONERS.—

Section 3. Compensation ~~Salary~~ of commissioners.—The initial salary of each commissioner~~, regardless of the office that he or she shall hold,~~ shall be $16,000. Thereafter, the salary may be adjusted annually by up to 3 percent by a majority vote of the commission ~~nine thousand five hundred dollars ($9,500) per annum, payable in monthly installments~~.

Section 2. Subsection (5) of section 1 of article VIII of chapter 74-570, Laws of Florida, as amended by chapter 90-462, Laws of Florida, is amended to read:

ARTICLE VIII. GRANT OF POWERS TO BOARD OF COMMISSIONERS.—

Section 1. General powers.—The Port of Palm Beach District by and through its Board of Commissioners, in addition to powers

set forth elsewhere herein, shall have full and complete power and authority:

(5) The establishment of foreign trade zones.—To exercise complete and exclusive control over the port and harbor facilities within the port district~~; and~~ to apply to the proper public authorities of the United States ~~of America~~ for the right to establish, operate, and maintain foreign ~~or domestic~~ trade zones inside or outside of ~~or subzones within or without~~ the boundaries of the port district, and to operate and maintain such foreign ~~and domestic~~ trade zones.~~; provided,~~ However, ~~that~~ such foreign trade zones must ~~shall~~ comply with federal laws and regulations applicable to foreign trade zones, and such foreign trade zones are subject to all local government codes, ordinances, and other laws ~~shall be located within the corporate limits of Palm Beach County; and provided further that the trade zone, if operating, shall maintain trade zone operations within the boundaries of the port district~~. ~~In the event a trade zone site is established outside the boundaries of the port district, the county government, or, if within an incorporated area, the local municipal government, shall have approved the establishment of the trade zone within its jurisdiction, and such trade zone site shall be subject to such local government's applicable codes and ordinances. In the event the Board of Commissioners of the Port of Palm Beach District approves a grant of the right to operate any portion of a foreign or domestic trade zone to a private owner-operator, such grant~~

~~shall be in writing and shall include the obligation of the owner-operator to provide to and maintain with the Port of Palm Beach District comprehensive general liability insurance with minimum coverage amounts as determined by the Port of Palm Beach District, and indemnity, and hold harmless agreements for any damages, claims, liabilities, losses, fines, demands, and costs which may arise out of the owner-operator's acts or omissions related to such foreign or domestic trade zone.~~

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1439 Hillsborough County Public Transportation Commission/Transportation Network Companies
SPONSOR(S): Raulerson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee		Darden	Miller
2) Economic Affairs Committee			

SUMMARY ANALYSIS

The Hillsborough County Public Transportation Commission (PTC) was created by the Legislature in 1983 to regulate the operation of vehicles for-hire in Hillsborough County. Among its many duties, the PTC conducts safety inspections and sets rates, fares, zones, and charges for taxicabs, limousines, vans, wreckers, and basic life support ambulances.

The bill provides a streamlined regulatory framework for the PTC to regulate the operations of transportation network companies (TNC). The bill provides a permitting process for TNCs to operate in Hillsborough County, sets insurance requirements, requires background checks for drivers, and sets other requirements.

The bill is expected to have a positive fiscal impact on Hillsborough County due to an increase in the number of applications for public vehicle driver licenses.

The bill takes 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. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

State Law Concerning Taxi Companies

Chapter 316, F.S., is the Florida Uniform Traffic Control Law, the purpose of which is to make uniform the traffic laws throughout the state.[1] Provisions in Ch. 316, F.S., relate to, but are not limited to, traffic laws, traffic infraction detectors, parking regulations, and driving under the influence.

Currently, most regulation of taxis and limousines is controlled by local governments. Florida law currently provides the following requirements relating to limousines and taxis:

- Taxis and limousines must maintain a motor vehicle liability policy with minimum limits of $125,000 per person for bodily injury, up to $250,000 per incident for bodily injury, and $50,000 for property damage;[2]
- An owner or lessee who is required to maintain insurance under s. 324.021(9)(b), F.S., and who operates at least 300 taxicabs, limousines, jitneys, or any other for-hire passenger vehicles is authorized to fulfill the requirement through self-insurance as provided by s. 324.171, F.S.;[3]
- With respect to workers' compensation, the driver of a taxicab, limousine, or other passenger vehicle-for-hire who operates the vehicles pursuant to a written agreement with a company providing any dispatch, marketing, insurance, communications, or other services and fees or charges pursuant to that agreement are not conditioned upon or expressed as a proportion of the driver's fare revenues is not an employee.[4]
- The child restraint requirements imposed by s. 316.613, F.S., do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of persons for compensation;[5] and
- To the extent not inconsistent with general or special law, the legislative and governing body of a county must have the power to carry on county government, including, but not restricted to, the power to license and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county; except that any constitutional charter county as defined in s. 125.011(1), F.S.,[6] must on July 1, 1988, have been authorized to have issued a number of permits to operate taxis which is no less than the ratio of one permit for each 1,000 residents of said county, and any such new permits issued after June 4, 1988, must be issued by lottery among individuals with such experience as a taxi driver as the county may determine.[7]

While the Municipal Home Rule Powers Act[8] does not expressly provide for regulation of taxis and limousines, municipalities have the authority to enact legislation concerning any subject matter upon which the Legislature may act, except:

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[1] Section 316.002, F.S.
[2] Section 324.032(1), F.S.
[3] Section 324.032(2), F.S.
[4] Section 440.02(15)(d)10., F.S.
[5] Section 316.613(6), F.S. The statute provides that it is the parent's or other caregiver's responsibility to meet the child restraint requirements.
[6] Section 125.011(1), F.S., defines "county" as "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions must include "board of county commissioners" of such county."
[7] Section 125.01(1)(n), F.S.
[8] Ch. 166, F.S.

- The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to art. VIII, s. 2(c), of the Florida Constitution;
- Any subject expressly prohibited by the constitution;
- Any subject expressly preempted to state or county government by the constitution or by general law; and
- Any subject preempted to a county pursuant to a county charter adopted under the authority of art. VIII, ss. 1(g), 3, and 6(e), of the constitution.[9]

Since the regulation of taxis, limousines, and other for-hire vehicles has not been expressly preempted to the state or county government, municipalities may regulate these vehicles under their broad home rule powers.

For-hire vehicle services are undergoing changes with respect to models most often associated with the provision of transportation to individuals, such as by taxi. Technological advances are resulting in new methods for consumers to arrange and pay for transportation, including software applications that make use of mobile smartphone applications, Internet web pages, e-mail, and text messages. Some states and local governments have taken steps to recognize and regulate companies using these new technologies, which describe themselves as "transportation network companies" (TNCs) and not vehicles for hire. Currently, Florida law does not recognize TNCs, but some local governments are in various stages of imposing regulations on TNCs and the regulations vary by jurisdiction.

National Criminal Database

A National Criminal Database, or Multi-Jurisdictional Search, is a database of criminal records collected by a commercial entity from a patchwork of state, local, and other criminal records. These resources are generally created by large background screening firms and other data aggregators who have specialized in the collection of criminal data for resale purposes. The information collected by individual background screening firms is unique to the company hosting the database. Although many records are similar, providers use different mixes of sources and methods to match results. No National Criminal Database has all criminal records to date.[10]

The Dru Sjodin National Sex Offender Public Website (NSOPW)

The Dru Sjodin National Sex Offender Public Website contains public information regarding individuals who are required to register through a State Sex Offender Registry, and consists of the individual registries and public registry websites operated by all 50 States, the District of Columbia, four of the principal U.S. Territories, as well as over 70 federally-recognized Indian Tribes. The NSOPW contains information on those who have committed sexually violent offenses against adults and children, as well as certain sexual contact and other crimes against victims who are minors. Information about individuals who appear on these lists depends on the individual states' registry requirements. The NSOPW, as well as more detailed databases for law enforcement, are administered through the United States Department of Justice.[11]

Hillsborough County Public Transportation Commission

The Hillsborough County Public Transportation Commission (PTC) is an independent special district created in 1983.[12] The PTC regulates the operation of vehicles for-hire in Hillsborough County,

[9] Section 166.021(3), F.S.
[10] NATIONAL ASSOCIATION OF PROFESSIONAL BACKGROUND SCREENERS (NAPBS), http://portal.napbs.com/files/public/Consumer_education/Resources/standardization_of_common_industry_terms.pdf (last visited Jan. 26, 2016).
[11] UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (SMART), https://www.nsopw.gov/en/Home/About (last visited Jan. 26, 2016).
[12] Ch. 2001-299, Laws of Fla., codifying ch. 83-423, Laws of Fla. and subsequent special acts.

including taxicabs, limousines, vans, basic life support ambulances, and wrecker services used by both public and private entities.[13] The PTC conducts safety inspections, controls the number of taxicab permits issued, and sets rates, fares, zones, and charges for taxicabs and other vehicles for-hire.[14]

Each operator of a vehicle for-hire must receive a certificate from the PTC.[15] The PTC is required to hold a public hearing on granting the certificate and other certificate holders may intervene in the process.[16] When makes its determination on granting the certificate, the PTC considers the adequacy of existing service, the quality of service being offered by the applicant, the type of service the applicant intends to offer, the applicant's ability to manage the number of vehicles allowed under the certificate, as well as personal information about the applicant, such as criminal, traffic, and credit records.[17]

In addition to a certificate, each driver is required to have a public vehicle driver license (PVDL) issued by the PTC.[18] Applicants for a PVDL must submit health information and answer questions about their traffic and criminal records.[19] The PTC may not grant a PVDL to a person currently on probation, who doesn't have a Florida driver's license, or who has less than six months of driving experience.[20] The PTC may reject PVDL applicants who have multiple violations of motor vehicle laws or who have committed a felony, sexual offense, or other crimes involving moral turpitude.[21] A PVDL is good for one year and may be renewed as long the driver has not committed criminal or traffic violations during the license period.[22] A PVDL is revoked upon conviction or a plea of nolo contendere to a felony, sex offense, prostitution, any crime involved in narcotics, and any crime for which the penalty includes revocation of driver's license.[23] The PTC may suspend or revoke the PVDL of a driver who has repeated violated motor vehicle laws, is convicted of reckless driving, fails to report an accident, drives a vehicle known to not be in good order and repair, or who knowing makes a false statement on the PVDL application.[24]

Applicants for a certificate or a PVDL are subject to a background check.[25]

The PTC is governed by a seven member board.[26] The board consists of two members of the Tampa City Council, one member of the City Commission for Plant City, and one member of the Temple Terrace City Council, each selected by their respective governing boards, and three members selected by the board.[27] Members serve two-year terms and receive no compensation.[28]

Proposed Changes

Definitions

The bill both adds and amends definitions in ch. 2001-299, Laws of Fla. These definitions include:

- "Transportation network company" (TNC) is a company which uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. Companies providing non-

[13] Hillsborough County, Public Transportation Commission, http://www.hillsboroughcounty.org/ptc (last visited Jan. 25, 2016).
[14] Ch. 2001-299, s. 5(1)-(2), Laws of Fla.
[15] Ch. 2001-299, s. 7(1), Laws of Fla.
[16] Ch. 2001-299, s. 7(2), Laws of Fla.
[17] Ch. 2001-299, s. 7(2)(c), Laws of Fla.
[18] Ch. 2001-299, s. 8, Laws of Fla.
[19] Ch. 2001-299, s. 8, Laws of Fla.
[20] Ch. 2001-299, s. 8(4), Laws of Fla.
[21] Ch. 2001-299, s. 8(3)(b), Laws of Fla.
[22] Ch. 2001-299, s. 8(5), Laws of Fla.
[23] Ch. 2001-299, s. 8(6)(b), Laws of Fla.
[24] Ch. 2001-299, s. 8(6)(a), Laws of Fla.
[25] Ch. 2008-290, s. 1, Laws of Fla.
[26] Ch. 2001-299, s. 4, Laws of Fla.
[27] *Id.*
[28] *Id.*

emergency medical transportation to individuals qualifying for Medicaid or Medicare pursuant to a contract with the state or an HMO are not included.

- "Transportation network company driver" is a person who receives connections to potential riders from a TNC in exchange for a fee to the TNC and who use a TNC driver vehicle to offer prearranged rides to riders.
- "Transportation network company driver vehicle" is a vehicle used by a TNC driver in connection with providing TNC service and that is owned, leased, or otherwise authorized for use by the TNC and is not a taxi, jitney, limousine, or any other type of public vehicle.
- "Digital network" is any online-enabled application, software, website or other digital system that enables or facilitates the prearrangement of rides with TNC drivers.
- "Prearranged ride" is any transportation arranged through a digital network controlled by a TNC starting from when a rider requests a ride through when the rider exits the vehicle. Prearranged rides do not include using a taxi, jitney, limousine, street hail service, carpool, or any other type of service in which the driver receives a fee that does not exceed the individual's costs associated with providing the ride.
- "Transportation network company rider" is a person who uses a TNC digital network to connect with a TNC driver to provide transportation services in a TNC driver vehicle.
- "Trip" is the duration of TNC service from the point where the passenger enters the TNC driver vehicle to the point the passenger exits the vehicle.
- "Certificate" now includes the written authority granted by the PTC to the operator of a TNC.
- "Type of service" now includes TNC services.
- "Certified automobile mechanic" is an automobile mechanic certified by the National Association of Certified Mechanics or the National Institute for Automotive Service Excellence.
- "Liability insurance" includes insurance against legal liability for bodily injury, instead of only those incidents which result in disability.
- "Taximeter" does not include a mobile phone mounted in TNC driver vehicle.
- "Limousine" and "taxicab" do not include TNC driver vehicles and low speed vehicles operating within the Downtown Tampa Special District.
- "Public vehicle" does not include TNC driver vehicles, low speed vehicles operating within the Downtown Tampa Special District, sightseeing cars/buses, streetcars, and motor buses.
- "For hire" includes TNC driver vehicles and low speed vehicles operating within the Downtown Tampa Special District.

TNC Regulation

The bill authorizes the PTC to regulate the operation of TNCs in Hillsborough County, in accordance with the section added to the PTC's charter by the bill.

The bill establishes a separate permitting system for TNCs. A TNC must apply to the PTC for a certificate, which the PTC must issue if the TNC pays an application fee of $5,000 and shows proof of:

- Insurance meeting the requirements of the bill;
- Maintenance of a resident agent for service of process in Florida; and
- Registration to do business in Florida.

The bill requires a TNC driver, or a TNC on the driver's behalf, to maintain primary automobile insurance recognizing that the driver is a TNC driver or uses a TNC driver vehicle to transport riders for compensation. The insurance must cover the driver at all times, including when the driver is engaged in a prearranged ride. The level of required coverage depends on the driver's network status, as follows:

	Available to receive TNC requests, but not engaged in prearranged ride	During prearranged ride
Death and bodily injury per person	$50,000	$1,000,000
Death and bodily injury per incident	$100,000	$1,000,000
Property damage	$25,000	$50,000

The insurance policy must meet the minimum requirements of ss. 627.730-627.7405, F.S. during either period. These requirements may be met by a policy held by the TNC driver, the TNC, or any combination of the two. If the driver's policy lapses or does not provide the required coverage, the TNC is required to maintain insurance covering the full amount and requiring the insurer to defend the claim. Coverage under a policy maintained by the TNC may not depend on a personal automobile liability insurance policy first denying the claim.

The automobile insurance required by this section, notwithstanding any other provisions of law, may be purchased from an insurer authorized to do business in the state or placed with a surplus lines insurer eligible under the Surplus Lines Law.[29] Insurance satisfying the requirements of the bill is deemed to also satisfy the financial responsibility requirements for motor vehicles under ch. 324, F.S.

Before a driver may accept requests for prearranged rides on a TNC's digital network, the TNC must disclose, in writing, the insurance coverage and limit for each coverage the TNC provides for the driver using a TNC vehicle in connection with the TNC's digital network. The TNC must also disclose in writing that the driver's personal automobile policy may not provide coverage while the driver is logged into the TNC's digital network and is available to receive transportation requests or is engaged in TNC service.

Insurers are authorized to exclude from coverage any loss or injury that occurs while a TNC driver is logged into a TNC's digital network or while the driver is engaged in a prearranged ride. A TNC driver may be excluded in these circumstances notwithstanding any financial responsibility requirement under ch. 324, F.S. Insurers who exclude TNC drivers during these periods do not have a duty to defend or indemnify an excluded claim and have a right of contribution against other insurers that provide automobile insurance to the same driver if the insurer defends or indemnifies an excluded claim.

This right to exclude applies to any coverage, including but not limited to:

- Liability coverage for bodily injury and property damage;
- Personal injury protection coverage under s. 627.736, F.S.;
- Uninsured and underinsured motorist coverage;
- Medical payments coverage;
- Comprehensive physical damage coverage; and
- Collision physical damage coverage.

A TNC driver is required to carry proof of insurance meeting the legal requirements at all times while use a TNC driver vehicle in connection with the TNC's digital network. The bill requires a TNC driver

[29] Sections 626.913-626.937, F.S.

involved in an accident to provide insurance information and, upon request, disclose if the driver was logged into a TNC's digital network, to the other parties in the accident, insurance carriers, and investigating police officers.

The bill requires a TNC to cooperate in the insurer's claims investigation, including providing information about:

- The precise times the driver logged on and off the TNC's digital network during the twelve-hour period immediately before and after the accident; and
- A clear description of the coverage, any exclusions, and limitations provided under any automobile insurance maintained under this section.

The bill requires a TNC, before allowing a driver on its digital platform and at least once a year thereafter, to:

- Require the driver to submit an application containing the driver's address, date of birth, driver license number, driving history, motor vehicle registration, automobile liability insurance, and other information required by the company;
- Conduct, or have a third party conduct, a background check on the driver, including a Multi-State/Multi-Jurisdiction Criminal Records Locator, or similar commercial database with validation, and the Dru Sjodin National Sex Offender Public Website; and
- Obtain and review a driving history research report for the applicant.

A TNC must prohibit a driver from its digital network if the above checks reveal:

- The driver has had more than three moving violations or has been convicted of fleeing or attempting to elude a law enforcement officer, reckless driving, or driving with a suspended or revoked license in the preceding three-year period;
- The driver has been convicted of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage or theft, acts of violence, or acts of terror in the preceding seven-year period;
- The driver is a match in the Dru Sjodin National Sex Offender Public Website;
- The driver does not possess a valid driver license;
- The driver does not provide proof of registration for the vehicle used to provide TNC service;
- The driver does not provide proof of automobile liability insurance for the vehicle used to provide TNC service; or
- The driver is less than 19 years of age.

The bill also requires a TNC driver vehicle, within sixty days after beginning service, to be inspected by a certified automobile mechanic operating in Florida. The inspection shall verify a checklist of items to ensure safe operating conditions and a copy of the inspection form must be provided to the TNC within the sixty day time frame.

The bill prohibits TNCs from discriminating against drivers and passengers on the basis of race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual orientation. The bill requires TNCs to adopt a policy to assist drivers who believe they have a negative rating from a passenger for one of these reasons. Drivers must comply with the non-discrimination policy and must comply with applicable laws relating to the accommodation of service animals. A TNC may not impose additional charges for providing service to persons with physical disabilities because of those disabilities.

The bill prohibits TNC drivers from accepting rides other than ones arranged through a digital network, soliciting or accepting street hails, or soliciting or accepting cash payments from passengers.

The bill requires payments for TNC service to be made electronically through the company's digital network. The TNC must disclose the fare calculation method on its website or software application and

given passengers the option to view an estimated fare before the passenger enters the driver's vehicle. The TNC must provide an electronic receipt within a reasonable time period. The receipt must include the origin and destination of the trip, the total time and distance of the trip, and an itemization of the total fare paid.

The bill requires the TNC service's website or software application to display a picture of the driver and the license plate number of the vehicle used to provide TNC service.

The bill requires TNCs to maintain records relating to TNC service as required by local, state, and federal laws.

The bill allows the PTC to request records necessary for investigating any violation of this section. The TNC is required to make the requested records available at a mutually agreeable location in the county. The PTC is also authorized to conduct an annual inspection of a TNCs records to ensure compliance with this section. The annual inspection shall be an audit, and not a comprehensive review.

The bill amends the requirement for safety and equipment marks and identifiers of public vehicles to exclude TNC driver vehicles.

The bill provides that the new section concerning TNCs shall be the exclusive expression of the PTC's authority over TNCs.

The bill provides that a TNC driver and vehicle authorized to operate in another jurisdiction of the state is authorized to operate in Hillsborough County.

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. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

B. SECTION DIRECTORY:

Section 1: Amends s. 3, ch. 2001-299, Laws of Fla., providing definitions for the PTC's charter.

Section 2: Amends s. 5, ch. 2001-299, Laws of Fla., authorizing the PTC to adopt rules concerning safety and equipment requirements for all public vehicles.

Section 3: Amends s. 7, ch. 2001-299, Laws of Fla., exempting transportation network companies and transportation network company drivers from the certificate requirements of the section.

Section 4: Amends s. 9, ch. 2001-299, Laws of Fla., concerning safety and equipment marks and identification for public vehicles

Section 5: Creates s. 10, ch. 2001-299, Laws of Fla., concerning transportation network companies.

Section 6: Provides that the act shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? December 24, 2015

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

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 339-341 of the bill require a TNC driver engaged in a prearranged ride to carry primary automobile liability insurance of at least $1 million for death and bodily injury, but does not specify if this amount is per person, per incident, or both. Lines 330-331, requiring a TNC driver to carry primary automobile liability insurance while connected to the TNC's digital network, but not engaged in a prearranged ride, provides separate levels of coverage for "per person" and "per incident."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HOUSE OF REPRESENTATIVES

2016 LOCAL BILL AMENDMENT FORM

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

BILL NUMBER: HB 1439

SPONSOR(S): Raulerson, Young

RELATING TO: Hillsborough County Public Transportation Commission
[Indicate Area Affected (City, County or Special District) and Subject]

SPONSOR OF AMENDMENT: Young

AMENDMENT FOR: (Check One) ☑ **Committee:** Local Government Affairs Subcommittee
(Name of Committee or Subcommittee)

☐ **Floor**

CONTACT PERSON: Sydney Ridley

PHONE NO: 813-407-0691 **E-MAIL:** sydney.ridley@myfloridahouse.gov

REVIEWED BY STAFF OF THE LOCAL GOVERNMENT AFFAIRS SUBCOMMITTEE ☑
Must Be Checked

I. **BRIEF DESCRIPTION OF AMENDMENT:**
(Attach additional page(s) if necessary)

removed the COPCN process for handicabs

II. **REASON/NEED FOR AMENDMENT:**
(Attach additional page(s) if necessary)

this amendment was adopted by the delegation but was not included in the filed bill

III. **NOTICE REQUIREMENTS**

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

YES ☑ NO ☐ NOT APPLICABLE ☐

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

YES ☐ NO ☐ NOT APPLICABLE ☑

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

YES ☐ NO ☑

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

If yes, was the Revised Economic Impact Statement submitted as follows?

☐ **Committee Amendment**: EIS filed with staff of committee/subcommittee hearing the bill.

☐ **Floor Amendment**: EIS filed with staff of Local Government Affairs Subcommittee.

YES ☐ NO ☐

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

YES ☑ NO ☐ UNANIMOUSLY APPROVED ☐

For substantive amendments considered in committee or subcommittee, the properly-executed original of this form must be filed with the committee or subcommittee staff prior to the amendment being heard. [Note to committee staff: after receiving this form the original must be filed with the House Clerk.]

For substantive floor amendments, the properly-executed original of this form must be filed with the House Clerk prior to the amendment being heard.

Delegation Chair *(Original Signature)*

1/28/16

Date

Rep. Ross Spano

Print Name of Delegation Chair

NOTICE OF INTENT TO SEEK LEGISLATION

TO WHOM IT MAY CONCERN:

Notice is hereby provided pursuant to Section 11.02, Fla. Stat. and Section 10, Art. III, Fla. Const. that the undersigned has requested the Florida Legislature enact legislation at its regular session held in the year 2016, or at a subsequent special session, amending Chapter 2001-299, Laws of Florida. The title of the proposed legislation reads substantially as follows:

An act relating to Hillsborough County Public Transportation Commission; amending chapter 2001-299, Laws of Florida; as amended; providing definitions; revising rulemaking authority for vehicle safety and equipment requirements; revising the types of vehicles subject to restrictions on marks or identification; providing certification, insurance, vehicle permitting, and recordkeeping requirements for transportation network companies; prohibiting certain acts by transportation network company drivers; providing and effective date.

Dated at Tampa, Florida, the 10th day of December, 2015.

Representative Dan Raulerson
Hillsborough County Legislative Delegation
110 West Reynolds St. Ste. 204
Plant City, FL 33563-3379

#5281 12/24/2015

The Tampa Tribune

Published Daily

Tampa, Hillsborough County, Florida

State of Florida }
County of Hillsborough } SS.

Before the undersigned authority personally appeared P. Chapman, who on oath says that she is the Advertiser Accounting Analyst of The Tampa Tribune, a daily newspaper published in Hillsborough County and distributed to Pinellas, Pasco, Polk, Hernando & Highlands Counties, Florida; that the attached copy of the advertising being a

Legal Ads IN THE Tampa Tribune

In the matter of Legal Notices

was published in said newspaper in the issues of

12/24/2015

Affiant further says that the said The Tampa Tribune is a newspaper published at Tampa in said Hillsborough County, Florida, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each day and has been entered as second class mail matter at the post office in Tampa, in said Hillsborough County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, this advertisement for publication in the said newspaper.

P Chapman

Sworn to and subscribed by me, this 24 day of DEC, A.D. 2015

Personally Known ✓ or Produced Identification ___
Type of Identification Produced _____

Kelly A. Cashman

Notary Public State of Florida
Kelly A Cashman
My Commission FF 212891
Expires 03/23/2019

Order # 0003560058

1398688 – CONVERSA

HOUSE OF REPRESENTATIVES

2016 LOCAL BILL CERTIFICATION FORM

BILL #: Local Bill 5 HB 1439

SPONSOR(S): Rep. Raulerson, Rep. Young

RELATING TO: Hillsborough County Public Transportation Commission

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

NAME OF DELEGATION: Hillsborough County

CONTACT PERSON: Sydney Ridley, Amber Smith

PHONE NO.: (813) 407-0691(Sydney) 813-767-5306 **E-Mail:** sydney.ridley@myfloridahouse.gov amber.smith@myfloridahouse.gov

I. ***House local bill policy requires the following steps must 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.
(4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify 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 8th, 2015

Location: Amalie Arena

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

YES ☑ NO ☐

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?

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** 12/24/15

Where? Tampa Tribune **County** Hillsborough

Referendum in lieu of publication: YES ☐ NO ☑

Date of Referendum _____

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

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

YES ☐ NO ☑

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

YES ☐ NO ☑

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 ☑

Please submit this completed, original form to the Local Government Affairs Subcommittee.

Delegation Chair (Original Signature)

1/4/16
Date

Rep. Ross Spano
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES

2016 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 Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 1439

SPONSOR(S): Representative Daniel D. Raulerson

RELATING TO: Hillsborough County Public Transportation Commission/Transportation Network Companies

[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.

	FY 16-17	FY 17-18
Revenue decrease due to bill:	$ None	$ None
Revenue increase due to bill:	$ None	$83,659.70*

*FY 17-18 anticipated revenues are based on an expected 10% increase in fees for certificates, permits, and public vehicle driver's licenses and enforcement revenue.

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:

FY 16-17	FY 17-18
$ None	$83,659.70**

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

**FY 17-18 estimates are based on a 10% increase from existing FY 16-17 expenditures to cover administrative processing and public safety enforcement.

III. FUNDING SOURCE(S):

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

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

	FY 16-17	FY 17-18
Local:	$ None	$ 83,659.70***
State:	$ None	$ None
Federal:	$ None	$ None

***FY 17-18 anticipated funding sources are based on an expected 10% increase in fees for certificates, permits, and public vehicle driver's licenses and enforcement revenue.

IV. 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: This bill would provide an economic advantage to the traveling public, to include persons with disabilities, by increased competition through the access of licensed Transportation Network Companies ("TNC"). This increased competition broadens consumer choice for transportation services, along with growth options for employment as TNC drivers. As costs go down, availability goes up. More of the public may choose to leave their personal vehicles for alternative modes of public transportation. This bill works to level the playing field and provide a free market driven process that opens the door to consumer choice; but, is based on a framework founded upon public safety and consumer protection.

   The bill also provides for standardized and adequate automobile liability coverage, decreasing the public's exposure to liability. It is anticipated that the required Level II background checks will result in a decrease in costs associated with a reduction in crimes against people. In its totality, the bill should also result in a decrease in both public and private litigation costs. Although it is hard to quantify, the cost savings could be in the millions.

2. Advantages to Businesses: Estimated economic impact advantages include greater accessibility of transportation services to local businesses, thereby increasing their revenues.

3. Advantages to Government: In its totality, this bill should result in a decrease in public litigation costs.

Potential Disadvantages:

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

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

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

1. Disadvantages to Individuals: None

2. Disadvantages to Businesses: Although TNC's would be required to pay fees for certificates and permits, such fees are minimal and should not pose an undue burden to their operations. It is unknown at this time whether TNC's would make the decision to pass such minimal costs through to consumers.

3. Disadvantages to Government: None

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

Although there will be an anticipated increase in administrative processing and public safety enforcement, the increase in revenues should cover these additional costs. This bill should also result in a decrease in public litigation costs.

VI. 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.

This data was derived from past and present budgets, information provided by the various affected industries, and working knowledge of current best practices.

VII. CERTIFICATION BY PREPARER

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY: Kyle Cockream
[Must be signed by Preparer]

Print preparer's name: Kyle Cockream

9/25/15
Date

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

Executive Director

REPRESENTING: Hillsborough County Public Transportation Commission

PHONE: (813) 350-6878

E-MAIL ADDRESS: cockreamk@hillsboroughcounty.org

A bill to be entitled

An act relating to the Hillsborough County Public Transportation Commission; amending chapter 2001-299, Laws of Florida, as amended; providing and revising definitions; revising rulemaking authority for vehicle safety and equipment requirements; revising the types of vehicles subject to restrictions on marks or identification; providing certain requirements for transportation network company services; providing applicability; prohibiting certain acts by transportation network company drivers; providing an effective date.

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

Section 1. Section 3 of chapter 2001-299, Laws of Florida, is amended to read:

Section 3. Definitions.—As used in this act, the term:

(1) "Basic life support ambulance" means any privately or publicly owned vehicle, except those operated by any municipality, that is designed, constructed, reconstructed, maintained, equipped, or operated for and is used for or intended to be used for transportation of a sick or injured person requiring or likely to require medical attention during transport by a qualified person through the use of techniques such as patient assessment, cardiopulmonary resuscitation,

splinting, obstetrical assistance, bandaging, administration of oxygen, application of medical anti-shock trousers, administration of a subcutaneous injection using a premeasured autoinjector of epinephrine to a person suffering an anaphylactic reaction, and other techniques described in the Emergency Medical Technician Basic Training Course Curriculum of the United States Department of Transportation or the Florida Department of Health and the requirements of chapter 401, Florida Statutes.

(2) "Benefits" means benefits offered by the commission, which include a retirement plan and life and health insurance plans and may include cafeteria-style options and making available to employees one or more deferred income plans.

(3) "Board" means the Hillsborough County Board of County Commissioners.

(4) "Capacity" means the maximum seating provided in a motor vehicle at the time of original manufacture.

(5) "Certificate" means the written authority granted by the commission by its order to operate one or more public vehicles or to operate a transportation network company in the county and its municipalities.

(6) "Certified automobile mechanic" means an automobile mechanic certified by the National Association of Certified Mechanics or the National Institute for Automotive Service Excellence.

(7) ~~(6)~~ "Citation" means a written notice, issued by the director, any interim director, or an inspector, that the director, any interim director, or inspector has reasonable cause to believe that the person has violated this act or the rules adopted in accordance with this act. The citation must contain:

(a) ~~1.~~ The date and time of issuance.

(b) ~~2.~~ The name and address of the person.

(c) ~~3.~~ The date and time the violation was committed.

(d) ~~4.~~ The facts constituting reasonable cause.

(e) ~~5.~~ The section of the act or rule violated.

(f) ~~6.~~ The name and authority of the director, any interim director, or inspector.

(g) ~~7.~~ The procedure and time limits for the person to observe to contest the citation or to appear before the commission.

(h) ~~8.~~ The applicable civil penalties that could be imposed if the person elects to contest the citation.

(i) ~~9.~~ The applicable civil penalty if the person elects not to contest the citation and the procedure for satisfying said civil penalty.

(j) ~~10.~~ A conspicuous statement that if the person fails to contest the citation within the time allowed, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, the applicable civil penalty indicated in paragraph (i) ~~9.~~ will apply.

(8)~~(7)~~ "Classifications" means arrangement into sub-groups or sub-categories within each type of service.

(9)~~(8)~~ "Commission" means the Hillsborough County Public Transportation Commission.

(10)~~(9)~~ "Contingency fund" means those moneys held by the district to pay a debt that is not currently fixed but may become so in the future with the occurrence of some uncertain event, which moneys may be carried forward from one year to the next.

(11)~~(10)~~ "County" means Hillsborough County, Florida.

(12) "Digital network" means any online-enabled application, software, website, or other digital system that enables or facilitates the prearrangement of rides with transportation network company drivers.

(13)~~(11)~~ "District" means the Hillsborough County Public Transportation Commission.

(14)~~(12)~~ "For hire" means use of any motor vehicle in the county to transport ~~transporting~~ persons for compensation, including:

(a) A transportation network company driver vehicle; or

(b) A low-speed vehicle, as defined in s. 320.01, Florida Statutes, operating within the Downtown Tampa Special District created pursuant to Tampa City Council Resolution No. 93-123, August 19, 1993.

(15)~~(13)~~ "Handicab" means a vehicle designed, constructed, reconstructed, or operated for the transportation of a person

with non-emergency conditions where no medical assistance is needed or anticipated; or for a person who is unable to comfortably use a standard means of conveyance; or a person who cannot enter, occupy or exit a vehicle without extensive assistance; or where specialized equipment is used for wheelchair or stretcher service; and where the chauffeur/driver serves as both a chauffeur/driver and attendant to assist in door-to-door or bed-to-bed service.

(16) ~~(14)~~ "Hearing officer" means a person designated by the commission to perform the duties prescribed by this act and any rules adopted in accordance with this act who is licensed and in good standing with The Florida Bar and who has demonstrated experience of at least 5 years in administrative law in this state.

(17) ~~(15)~~ "Inspector" means a person who is employed and trained by the commission and is supervised by its director or any interim director to provide day-to-day routine enforcement of this act and any rules adopted in accordance with this act.

(18) ~~(16)~~ "Liability insurance" means insurance against legal liability for the death of, or bodily~~,~~ injury to, a person~~, or disability of any human being,~~ or for damage to property~~, with provision for medical, hospital, and surgical benefits to the injured person~~.

(19) ~~(17)~~ "Limousine" means any motor vehicle for hire not equipped with a taximeter, with a capacity for 15 passengers or less, including the driver. The term does not include:

(a) A transportation network company driver vehicle; or

(b) A low-speed vehicle, as defined in s. 320.01, Florida Statutes, operating within the Downtown Tampa Special District created pursuant to Tampa City Council Resolution No. 93-123, August 19, 1993.

(20)~~(18)~~ "Municipality" means a municipality created pursuant to general or special law authorized or reorganized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

(21)~~(19)~~ "Parties" means the applicant and any person permitted to intervene during the application for certificate process in accordance with this act and any rules adopted in accordance with this act.

(22)~~(20)~~ "Permit" means a license issued by the commission to allow the operation of a particular public vehicle for which a certificate has been issued.

(23)~~(21)~~ "Person" means an individual, firm, public or private corporation, partnership or limited partnership company, or joint venture.

(24) "Prearranged ride" means the provision of transportation by a driver to or on behalf of a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports the rider, and ending when the last rider departs from the transportation network company driver vehicle. The term does not include transportation provided using a taxi; jitney; limousine; street hail service;

ridesharing, as defined in s. 341.031, Florida Statutes; carpool, as defined in s. 450.28, Florida Statutes; or any other type of service in which the driver receives a fee that does not exceed the individual's costs associated with providing the ride.

(25)~~(22)~~ "Public highway" means any of the public streets, boulevards, avenues, drives, or alleys within the county and its municipalities.

(26)~~(23)~~ "Public transportation" means any public vehicle under the jurisdiction of the commission.

(27)~~(24)~~ "Public vehicle" means a taxicab, van, limousine, handicab, basic life support ambulance, ~~and~~ wrecker. The term does not include sightseeing cars or buses, streetcars, motor buses operated pursuant to franchise, transportation network company driver vehicles, or low-speed vehicles as defined in s. 320.01, Florida Statutes, operating within the Downtown Tampa Special District created pursuant to Tampa City Council Resolution No. 93-123, August 19, 1993.

(28)~~(25)~~ "Public vehicle driver ~~driver's~~ license" means a written document issued by the commission for a driver of a public vehicle, which is the property of the commission and is non-transferable to any other driver.

(29)~~(26)~~ "Repeated violations" means two or more violations that present an imminent danger to the health, safety, and welfare of the traveling public.

(30)~~(27)~~ "Revenues" means moneys acquired through fees for services provided, any moneys that are appropriated to the district by the county and any of its municipalities as provided by this act, or moneys from any other source and interest income thereon.

(31)~~(28)~~ "Rule" means the same as the term when used in describing administrative procedures required of any agency within the executive branch of state government which has been granted statutory rulemaking authority.

(32)~~(29)~~ "Surplus funds" means revenues of the district, less the contingency funds, which funds may be carried forward from one fiscal year to the next.

(33)~~(30)~~ "Taxicab" means any motor-driven vehicle, equipped with a taximeter, with a capacity for 9 or less passengers, including the driver, for the transportation of for hire passengers, which operates within Hillsborough County, but does not include sight-seeing cars or buses, transportation network company vehicles, streetcars, ~~or~~ motor buses operated pursuant to franchise, or low-speed vehicles as defined in s. 320.01, Florida Statutes, operating within the Downtown Tampa Special District created pursuant to Tampa City Council Resolution No. 93-123, August 19, 1993.

(34)~~(31)~~ "Taximeter" means any internally mounted device that records and indicates a rate of fare measured by distance traveled, time traveled, waiting time, or extra passengers which has been inspected and sealed by the Florida Department of

Agriculture and Consumer Services and which has been calibrated to the approved rates promulgated by the commission. A mobile telephone mounted in a transportation network company driver vehicle is not a taximeter.

(35) "Transportation network company" or "company" means a corporation, partnership, sole proprietorship, or other entity operating in the county which uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. The term does not include an individual, corporation, partnership, sole proprietorship, or other entity arranging nonemergency medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the state or a managed care organization.

(36) "Transportation network company driver" or "driver" means an individual who:

(a) Receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(b) Uses a transportation network company driver vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation, including payment of a fee.

(37) "Transportation network company driver vehicle" means a vehicle, however titled, which is used by a transportation

network company driver in connection with providing transportation network company service and that:

(a) Is owned, leased, or otherwise authorized for use by the transportation network company driver; and

(b) Is not a taxi, jitney, limousine, or any other type of public vehicle.

(38) "Transportation network company rider" or "rider" means an individual who directly or indirectly uses a transportation network company digital network to connect with a transportation network company service that provides transportation services to such individual in a transportation network company driver vehicle.

(39) "Trip" means the duration of transportation network company service beginning at a point of origin where the passenger enters the driver's vehicle and ending at a point of destination where the passenger exits the vehicle.

(40)~~(32)~~ "Type of service" means a taxicab, transportation network company service, ~~or~~ van, ~~or~~ limousine, ~~or~~ handicab, ~~or~~ basic life support ambulance, or wrecker.

(41)~~(33)~~ "Van" means any motor-driven vehicle with a capacity of 10 to 15 passengers, including the driver, for the transportation of for hire passengers, which operates within the county but does not include sight-seeing cars and buses, streetcars, motor buses operated pursuant to franchise or courtesy vans, and limousines not for hire.

(42)~~(34)~~ "Wrecker" means any truck or other vehicle that is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and that is equipped for that purpose with a boom, winch, car carrier, or other similar equipment and is contracted for use by, through, or for any unit of local, county, or state government, and not authorized to transport passengers for hire or any person regularly engaged in towing or storing vehicles or vessels in Hillsborough County pursuant to section 715.07, Florida Statutes.

Section 2. Paragraph (m) of subsection (1) of section 5 of chapter 2001-299, Laws of Florida, is amended to read:

Section 5. Commission powers, mandatory and discretionary.—

(1) The commission shall:

(m) Adopt rules for safety and equipment requirements for ~~taxicabs, limousine, vans, handicabs, and basic life support ambulances and for voice communications equipment for~~ all public vehicles.

Section 3. Subsection (6) is added to section 7 of chapter 2001-299, Laws of Florida, to read:

Section 7. Application for certificate.—

(6) This section does not apply to a transportation network company or a transportation network company driver.

Section 4. Subsection (2) of section 9 of chapter 2001-299, Laws of Florida, is amended to read:

Section 9. Additional safety and equipment requirements and prohibitions.

(2) All marks or identification of each taxicab, wrecker, handicab, and basic life support ambulance ~~public vehicle~~ shall be permanent and clearly legible at all times.

Section 5. Sections 10 through 19 of chapter 2001-299, Laws of Florida, as amended by chapter 2010-272, Laws of Florida, are renumbered as sections 11 through 20, respectively, and a new section 10 is added to that chapter, to read:

Section 10. Transportation network company service.—

(1) The commission is authorized to regulate the operation of transportation network company vehicles on the public highways of Hillsborough County and its municipalities in accordance with this section. The commission has exclusive jurisdiction in the exercise of authority provided by this section, and no other public entity within the county may require a person to pay a fee to exercise authority provided by this section. A transportation network company that desires to operate in the county must first acquire a certificate from the commission. The commission shall issue a certificate if a transportation network company:

(a) Submits evidence to the commission demonstrating the following:

1. Proof of insurance meeting the requirements of subsection (2);

2. Proof that the company maintains a resident agent for service of process in the state; and

3. Proof that the company is registered to do business in the state.

(b) Pays to the commission an application fee of $5,000.

(2) A transportation network company driver, or a transportation network company on the driver's behalf, must comply with the following insurance requirements:

(a) A transportation network company driver, or a transportation network company on the driver's behalf, shall maintain primary automobile insurance that recognizes that the driver is a transportation network company driver or that the driver otherwise uses a transportation network company driver vehicle to transport riders for compensation. Such insurance must cover the driver as required under this section, including while the driver is logged onto the transportation network company's digital network and engaged in a prearranged ride.

(b) The following automobile insurance requirements apply while a participating transportation network company driver is logged onto the transportation network company's digital network and is available to receive transportation requests, but is not engaged in a prearranged ride:

1. Primary automobile insurance of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage; and

2. Primary automobile insurance that provides the minimum coverage requirements under ss. 627.730-627.7405, Florida Statutes.

(c) While a transportation network company driver is engaged in a prearranged ride, the following automobile insurance requirements apply:

1. Primary automobile liability insurance of at least $1 million for death and bodily injury and $50,000 for property damage.

2. Primary automobile liability insurance that provides the minimum coverage requirements for a limousine under ss. 627.730-627.7405, Florida Statutes.

(d) The coverage requirements of paragraphs (b) and (c) may be satisfied by any of the following:

1. Automobile insurance maintained by the transportation network company driver;

2. Automobile insurance maintained by the transportation network company; or

3. Any combination of subparagraphs 1. and 2.

(e) If automobile insurance maintained by a driver under paragraph (b) or paragraph (c) has lapsed or does not provide the required coverage, automobile insurance maintained by a transportation network company must provide the coverage required by this section beginning with the first dollar of a claim and must require that the insurer have the duty to defend such claim in the state.

(f) Coverage under an automobile insurance policy maintained by a transportation network company may not be dependent on a personal automobile liability insurance policy first denying a claim.

(g) Notwithstanding any other provision of law, automobile insurance required by this section may be placed with an insurer authorized to do business in the state or with a surplus lines insurer eligible under the Surplus Lines Law under ss. 626.913-626.937, Florida Statutes.

(h) Automobile insurance satisfying the requirements of this section is deemed to satisfy the financial responsibility requirements for a motor vehicle under chapter 324, Florida Statutes, and the security required under s. 627.733, Florida Statutes.

(i) A transportation network company driver shall carry proof of insurance coverage satisfying paragraphs (b) and (c) at all times during his or her use of a transportation network company driver vehicle in connection with a transportation network company's digital network. In the event of an accident:

1. The driver shall provide the insurance coverage information to the directly involved parties, automobile insurers, and investigating police officers. Proof of financial responsibility may be provided through a digital telephone application under s. 316.646, Florida Statutes, controlled by a transportation network company.

2. The driver, upon request, shall disclose to the directly involved parties, automobile insurers, and investigating police officers whether the driver, at the time of the accident, was logged onto the transportation network company's digital network or engaged in a prearranged ride.

(j) Before a driver may accept a request for a prearranged ride on the transportation network company's digital network, the transportation network company shall disclose in writing to each transportation network company driver each type of:

1. Insurance coverage and the limit for each coverage the transportation network company provides while the driver uses a transportation network company vehicle in connection with a transportation network company's digital network; and

2. That the driver's automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged onto the transportation network company's digital network and is available to receive transportation requests or is engaged in transportation network company service.

(k) An insurer that provided personal automobile insurance policies under part XI of chapter 627, Florida Statutes, may exclude from coverage under a policy issued to an owner or operator of a personal vehicle any loss or injury that occurs while a transportation network company driver is logged onto a transportation network company's digital network or while a driver is engaged in a prearranged ride. Such right to exclude

coverage applies to any coverage under an automobile insurance policy, including, but not limited to:

1. Liability coverage for bodily injury and property damage.

2. Personal injury protection coverage under s. 627.736, Florida Statutes.

3. Uninsured and underinsured motorist coverage.

4. Medical payments coverage.

5. Comprehensive physical damage coverage.

6. Collision physical damage coverage.

(l) The exclusions authorized under paragraph (k) apply notwithstanding any financial responsibility requirements under chapter 324, Florida Statutes. This section does not require or imply that a personal automobile insurance policy provide coverage while the driver is logged onto a transportation network company's digital network, while such driver is engaged in a prearranged ride, or while such driver uses a transportation network company vehicle to transport riders for compensation. This section does not preclude an insurer from providing coverage by contract or endorsement for such driver's vehicle.

(m) An insurer that excludes coverage, as authorized under paragraph (k):

1. Does not have a duty to defend or indemnify any claim excluded. This section does not invalidate or limit an exclusion

contained in a policy, including any policy in use or approved for use in the state before enactment of this section.

2. Has a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of coverage requirements of this section at the time of loss if the insurer defends or indemnifies a claim against a driver which is excluded under the terms of its policy.

(n) In a claims investigation, a transportation network company and any insurer potentially providing coverage for such claim under this section shall cooperate to facilitate the exchange of relevant information with directly involved parties and insurers of the transportation network company driver, if applicable. Such information must provide:

1. The precise times that such driver logged on and off the transportation network company's digital network during the 12-hour period immediately before and immediately after the accident.

2. A clear description of the coverage, any exclusions, and limits provided under any automobile insurance maintained under this section.

(3) Before allowing a person to act as a transportation network company driver on its digital platform, and at least once every year thereafter, a transportation network company shall:

(a) Require the person to submit an application to the company, including his or her address, date of birth, driver

license number, driving history, motor vehicle registration, automobile liability insurance, and other information required by the company.

(b) Conduct, or have a third party conduct, a criminal background check for the person, including:

1. A Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial national database with validation.

2. The Dru Sjodin National Sex Offender Public Website.

(c) Obtain and review a driving history research report for the person.

(4) A transportation network company shall prohibit a person from acting as a driver on its digital network if the background check conducted under subsection (3) reveals that the person:

(a) Has had more than three moving violations in the preceding 3-year period or one violation of the following in the preceding 3-year period:

1. Fleeing or attempting to elude a law enforcement officer;

2. Reckless driving; or

3. Driving with a suspended or revoked license;

(b) Has been convicted, within the previous 7 years, of driving under the influence of drugs or alcohol; fraud; a sexual offense; use of a motor vehicle to commit a felony; or a crime involving property damage or theft, an act of violence, or an

act of terror;

(c) Is a match in the Dru Sjodin National Sex Offender Public Website;

(d) Does not possess a valid driver license;

(e) Does not possess proof of registration for the motor vehicle used to provide transportation network company service;

(f) Does not possess proof of automobile liability insurance for the motor vehicle used to provide transportation network company service; or

(g) Has not attained the age of 19 years.

(5)(a) Within 60 days after beginning service as a transportation network company driver, a transportation network company driver vehicle shall be inspected by a certified automobile mechanic operating in the state. The inspection shall verify that the following components are in safe operating condition:

1. Foot brakes.

2. Emergency parking brake.

3. Suspension/steering mechanism.

4. Windshield.

5. Rear window and other glass.

6. Windshield wipers.

7. Headlights.

8. Taillights.

9. Turn indicator lights.

10. Brake lights.

11. Front seat adjustment mechanism.

12. Doors (open/close/lock).

13. Horn.

14. Speedometer.

15. Bumpers.

16. Muffler and exhaust system.

17. Condition of tires, including tread depth.

18. Interior and exterior rear view mirrors.

19. Safety belts for drivers and passengers.

(b) Within 60 days after beginning service, a transportation network driver must submit to a transportation network company with whom the driver is affiliated an inspection form completed within the previous year by a certified mechanic showing that the vehicle has passed the inspection required under paragraph (a).

(6)(a) A company may not discriminate against a driver on the basis of race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual orientation. A company shall adopt a policy to assist a driver who reasonably believes that he or she has received a negative rating from a passenger because of his or her race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual orientation.

(b) A company shall adopt a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual

orientation with respect to passengers and potential passengers and shall notify drivers of the policy.

(c) A driver shall comply with the nondiscrimination policy.

(d) A driver shall comply with all applicable laws relating to the accommodation of service animals.

(e) A company may not impose additional charges for providing transportation network company service to persons with physical disabilities because of those disabilities.

(7) A transportation network company driver may not:

(a) Accept a ride other than a ride arranged through a digital network.

(b) Solicit or accept street hails.

(c) Solicit or accept cash payments from passengers. A company shall adopt a policy prohibiting solicitation or acceptance of cash payments from passengers and notify drivers of such policy. Such policy must require a payment for transportation network company service to be made electronically using the company's digital network or software application service.

(8) A transportation network company may collect a fare on behalf of a driver for service provided to a passenger. However, if a fare is collected from a passenger, the company shall disclose to the passenger the fare calculation method on its website or within its software application. The company shall also provide the passenger with the applicable rates being

charged and the option to receive an estimated fare before the passenger enters the driver's vehicle.

(9) A transportation network company's software application service or website shall display a picture of the driver and the license plate number of the motor vehicle used to provide transportation network company service before the passenger enters the driver's vehicle.

(10) Within a reasonable period of time, the company shall provide an electronic receipt to the passenger which lists:

(a) The origin and destination of the trip.

(b) The total time and distance of the trip.

(c) An itemization of the total fare paid.

(11) A transportation network company shall maintain records relating to transportation network company services in compliance with applicable local, state, and federal laws.

(12)(a) If the commission has reasonable cause to believe that a transportation network company driver or transportation network company has violated the requirements of this section, the commission may request records necessary to investigate and resolve the inquiry. The company shall, in a reasonable timeframe, make such records available for inspection at a mutually agreeable location in the county.

(b) No more than once a year, the commission is authorized to inspect the records of a transportation network company to verify that the company is in compliance with this section. The inspection shall be on an audit, rather than a comprehensive,

basis. The inspection shall consist of an onsite review of the records maintained by the company which are necessary to evaluate the company's compliance with this section and shall take place at a mutually agreeable location in the county.

(13) Notwithstanding section 5 and any other provision of law, transportation network companies, transportation network company drivers, and transportation network company driver vehicles subject to the jurisdiction of this act shall be governed exclusively by this section. The commission may enforce this section within the county, but may not adopt any rules or regulations related to transportation network companies, transportation network company drivers, and transportation network company driver vehicles.

(14) Notwithstanding any other provision of law, a transportation network company driver and transportation network company driver vehicle authorized to operate in any other jurisdiction of the state is authorized to operate in the county, including picking up a rider, dropping off a rider, or conducting a trip between two points within the county.

Section 11.~~10.~~ Enforcement.—The commission and law enforcement agencies operating within the county are responsible for the enforcement of this act and any rules adopted in accordance with this act. Commission inspectors may call upon any law enforcement officer within an appropriate jurisdiction to assist in the enforcement of this act and any rules adopted in accordance with this act. The commission may, through any of

its inspectors obtain from the state attorney a warrant or capias for violation of this act or any rule adopted under this act.

Section 12.~~11.~~ Violation of act; penalty.—

(1) In addition to any other civil penalties contained elsewhere in this act, any person who violates or fails to comply with or who procures, aids, or abets in the violation of any provision of this act or any rules adopted in accordance with this act is guilty of a criminal offense and misdemeanor in accordance with section 775.08, Florida Statutes, and is punishable as provided by law.

(2) Any person who operates a public vehicle upon the public highways without a certificate, permit, or public vehicle driver ~~driver's~~ license as provided by this act and any rules adopted in accordance with this act, or who operates a public vehicle using a canceled certificate, or who violates any of the provisions of this act or any rules adopted in accordance with this act may be enjoined by the courts of this state from any such violation.

Section 13.~~12.~~ Citations; administrative hearings; persons aggrieved or substantially affected.

(1)(a) Whenever evidence has been obtained or received establishing reasonable cause that a violation of this act or rules adopted in accordance with this act is occurring or has occurred, the commission or director or any interim director may

issue a citation and serve the alleged violator by personal service or certified mail.

(b) The commission and, if authority has been delegated the director, interim director or hearing officer, may convene administrative hearings to abate, correct or assess civil penalties for a violation for which a citation has been served.

(c) Failure to request an administrative hearing by service of notice of appeal within 20 days after service of a citation shall constitute a waiver thereof, and any such unappealed citation shall become a final administrative decision of the commission by operation of law.

(2) Any person aggrieved by an action of commission staff, including the director, any interim director, an inspector, or a hearing officer may appeal to the commission for an administrative hearing by filing within 20 days after the date of the action, a written notice of appeal which shall concisely identify the matter contested and the reasons or grounds therefore. Any notice of appeal shall be filed at the business office of the commission, and an administrative hearing shall be held solely before the commission and in accordance with rules adopted by the commission for that purpose.

(3) Any person aggrieved by a final administrative decision of the commission or, when delegated, the director, interim director, or hearing officer, may seek judicial review in accordance with the Florida Administrative Procedure Act.

(4) Any person substantially affected by a rule or proposed rule of the commission may seek an administrative determination of the invalidity of the rule pursuant to section 120.56, Florida Statutes.

Section 14.~~13.~~ Variance and waiver.—

(1) A variance and waiver may only be granted at a public meeting upon affirmative vote of 5 members of the commission. Notice of the petition and notice of the disposition of the petition for variance or waiver need not be provided to the Department of State. A copy of the petition and the order granting or denying the petition for variance and waiver need not be filed with the Joint Administrative Procedures Committee. The commission need not file reports with the Governor, President of the Senate, and Speaker of the House of Representatives regarding the type and disposition of each petition for variance and waiver. The commission's decision to grant or deny the petition for variance and waiver is not subject to sections 120.569 and 120.57, Florida Statutes.

(2) Any person aggrieved by a commission decision to grant or deny a petition for a variance and waiver may seek judicial review in accordance with the Florida Administrative Procedure Act.

Section 15.~~14.~~ County responsibility.—The commission and the board shall execute an interlocal agreement that must include the appropriation of a sum of money to the commission to

be negotiated and paid by the board to the commission for a period of 3 years beginning October 1, 2000.

Section 16.~~15.~~ Recodification.—Prior to July 1, 2011, and prior to July 1 every 10 years thereafter or as may otherwise be required by the Legislature or the Hillsborough County Legislative Delegation, the Hillsborough Delegation shall review this act and all acts that amend this act for the purpose of determining whether there is a need for consolidating, compiling, revising, and recodifying such acts. If it is determined there is such a need, the delegation may require the commission to prepare such legislation as may be necessary for that purpose.

Section 17.~~16.~~ Savings clause for rules.—The rules of the commission in effect on the effective date of this act shall remain in effect for a period not to exceed one year from that date to permit the commission sufficient time to revise or repeal its rules in conformance with this act.

Section 18.~~17.~~ Dissolution.—The district may be dissolved in accordance with the provisions of section 189.4042, Florida Statutes.

Section 19.~~18.~~ Severance clause.—If any provision of this act or its application is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 20.~~19.~~ Chapters 83-423, 87-496, 88-493, 95-490, and 2000-441, Laws of Florida, are repealed. Such repeal does not affect the prosecution of any cause of action that accrued before the effective date of the repeal and does not affect actions of the Commission prior to the effective date of the repeal.

Section 6. This act shall take effect upon becoming a law.

Amendment No. 1

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

Committee/Subcommittee hearing bill: Local Government Affairs Subcommittee

Representative Young offered the following:

Amendment (with directory amendment)

Between lines 278 and 279, insert:

(2) Any person desiring to engage in the business of operating any public vehicle in the county must first acquire a certificate from the commission and must first make written application to the commission on a form pro- vided by the commission for that purpose. Upon receipt of such application, the commission shall investigate the facts stated in the application and fix a date, time, and place for a public hearing on the application. Wrecker and handicab applications are specifically excluded from the public hearing requirement of this section. Not less than 20 days before the public hearing, the commission shall provide notice of the date, time, and place

of such public hearing, to each current certificate holder and notice that the pending application is available for inspection and copying at the office of the commission. Any certificate holder possessing a certificate to operate the same type of service being applied for by the applicant and any certificate holder who can demonstrate financial interest may intervene in the public hearing process by filing a notice of intervention not later than five business days prior to the date of the public hearing and in such form and manner as required by the commission.

(a) Such public hearings may be held by the commission as a whole, by a committee made up of its members appointed by the commission for that purpose, or by a hearing officer as further provided by this act and any rules adopted in accordance with this act. The committee or hearing officer shall report findings and recommendations to the commission for approval, disapproval, or modification. The commission may conduct such further hearings and make such additional investigations as it deems necessary before taking final action. If the person applying for such certificate is not operating vehicles in the county at the time this act becomes law, or if such application is for a certificate to operate additional vehicles under a certificate previously issued, the commission shall determine, by the hearings and investigations whether or not public convenience and necessity will be promoted by the additional proposed service, and if the commission determines that public

convenience and necessity will not be promoted by such additional proposed service, then a certificate shall not be granted. If the commission finds that public convenience and necessity requires such additional pro- posed service, then the certificate shall be granted, subject to the limitations imposed in other sections of this act and any rules adopted in accordance with this act.

(b) The applicant has the burden of establishing whether public convenience and necessity require the operation of public vehicles proposed in the application. Handicab applications are specifically excluded from the public convenience and necessity requirements of this section. The Commission by rule will establish reasonable financial, equipment and safety requirements in order to grant a certificate of public need and necessity to operate in the County for handicabs.

D I R E C T O R Y A M E N D M E N T

Remove lines 276-277 and insert:

Section 3. Subsection (2) is amended and subsection (6) is added to section 7 of chapter 2001-299, Laws of Florida, to read: