



---

# Government Accountability Committee

February 1, 2018  
12:00 PM—2:00 PM  
Morris Hall (17 HOB)

## Meeting Packet

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Government Accountability Committee

**Start Date and Time:** Thursday, February 01, 2018 12:00 pm  
**End Date and Time:** Thursday, February 01, 2018 02:00 pm  
**Location:** Morris Hall (17 HOB)  
**Duration:** 2.00 hrs

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

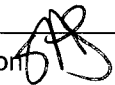
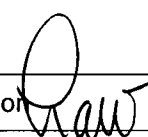
CS/HB 33 Texting While Driving by Judiciary Committee, Toledo, Slosberg  
HB 155 State Symbols by Magar  
CS/HM 381 Venezuela by Local, Federal & Veterans Affairs Subcommittee, Stark  
CS/CS/HB 725 Permit Fees by Careers & Competition Subcommittee, Local, Federal & Veterans Affairs Subcommittee, Williamson  
CS/HB 755 Pub. Rec./Nationwide Public Safety Broadband Network by Oversight, Transparency & Administration Subcommittee, Williamson  
HB 869 Ranger Drainage District, Orange County by Plasencia  
HB 1013 Daylight Saving Time by Nuñez, Fitzenhagen  
HB 1113 Palm Beach County Housing Authority by Silvers, Berman  
HB 1139 City Pension Fund for Firefighters and Police Officers in the City of Tampa, Hillsborough County by Cruz, Harrison  
CS/HB 1141 Firefighters' Relief and Pension Fund of the City of Pensacola, Escambia County by Local, Federal & Veterans Affairs Subcommittee, White  
HB 7053 Public Records/United States Census Bureau by Oversight, Transparency & Administration Subcommittee, McClure

**NOTICE FINALIZED on 01/30/2018 4:20PM by Larson.Lisa**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 33 Texting while Driving  
**SPONSOR(S):** Judiciary Committee, Toledo, Slosberg and others  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	14 Y, 0 N	Johnson	Vickers
2) Judiciary Committee	17 Y, 1 N, As CS	MacNamara	Poche
3) Government Accountability Committee		Johnson 	Williamson 

### SUMMARY ANALYSIS

The Florida Ban on Texting While Driving Law prohibits a person from texting, emailing, and instant messaging while driving for the purpose of nonvoice interpersonal communication. Enforcement is as a secondary action only. This means a law enforcement officer must detain a driver for another traffic offense in order to cite the driver for texting while driving. There are certain exceptions to the prohibition. For example, the prohibition does not apply to a motor vehicle operator using a navigation device or system. In addition, the ban does not apply to a stationary motor vehicle. A first violation of the ban is a nonmoving violation and carries a \$30 base fine plus court costs and fees. A second or subsequent violation committed within five years is a moving violation with three points added to the driver license record and carries a \$60 base fine plus court costs and fees.

The bill changes current enforcement of the ban from a secondary offense to a primary offense, which will allow a law enforcement officer to stop a vehicle solely for texting while driving. The bill does not change the existing penalties nor does it create new penalties. It also maintains the current exceptions to the texting ban and maintains that the texting ban does not apply to a stationary motor vehicle.

The bill requires a law enforcement officer who detains a motor vehicle operator for texting while driving to inform the operator that he or she has a right to decline a search of his or her wireless communications device. Additionally, the bill prohibits a law enforcement officer from accessing the wireless communications device without a warrant, confiscating the device while waiting for the issuance of a warrant, or using coercion or other improper method to convince the operator to provide access to such device without a warrant. The bill requires consent to be unequivocal and voluntary.

To the extent there is an increase in the number of traffic citations issued because of the change to primary enforcement of the texting while driving ban, state and local governments may realize a positive fiscal impact from these additional revenues. However, the fiscal impact of this change cannot be quantified and is indeterminate. The Department of Highway Safety and Motor Vehicles may incur expenses associated with public awareness and education efforts about the change in enforcement of the ban on texting while driving; however, it is likely these costs will be absorbed within the department's existing safety campaign budget.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

###### Texting While Driving

Studies show that texting, which simultaneously involves manual, visual, and cognitive distraction, is among the worst of all driver distractions. According to the National Highway Traffic Safety Administration, sending or reading a text message takes a person's eyes off the road for five seconds, which at 55 mph is the equivalent of driving the length of a football field with one's eyes closed.<sup>1</sup> A 2009 study by the Virginia Tech Transportation Institute of text messaging by long-haul truck drivers determined that text messaging while driving creates a crash risk 23 times greater than not texting while driving.<sup>2</sup>

As of July 2017, 47 states ban texting while driving for all drivers and of those states, 43 allow for primary enforcement of the texting prohibition. Two of the three states without all driver texting bans prohibit texting while driving by novice drivers.<sup>3</sup>

###### Florida's Ban on Texting While Driving

Enacted in 2013,<sup>4</sup> s. 316.305, F.S., is the "Florida Ban on Texting While Driving Law." The intent of the statute is to:

- Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.
- Prevent crashes related to the act of text messaging while driving a motor vehicle.
- Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.
- Authorize law enforcement officers to stop motor vehicles and issue citations as a **secondary** offense to persons who are texting while driving.<sup>5</sup>

A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on a wireless communications device for the purpose of nonvoice interpersonal communication. Nonvoice interpersonal communication includes, but is not limited to, texting, e-mailing, and instant messaging. For purposes of the ban on texting while driving, the term "wireless communications device" means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service and that allows text communications.<sup>6</sup>

---

<sup>1</sup> National Highway Traffic Safety Administration, available at <https://www.nhtsa.gov/risky-driving/distracted-driving> (last visited January 22, 2018).

<sup>2</sup> Richtel, Matt, "In Study, Testing Lifts Crash Risk by Large Margin," *New York Times*, July 27, 2009, available at <http://www.nytimes.com/2009/07/28/technology/28texting.html> (last visited January 22, 2018).

<sup>3</sup> Governors Highway Safety Association, available at <http://www.ghsa.org/state-laws/issues/distracted%20driving> (last visited January 22, 2018).

<sup>4</sup> Chapter 2013-58, L.O.F.

<sup>5</sup> Section 316.305(2), F.S.

<sup>6</sup> Section 316.305(3)(a), F.S.

A stationary motor vehicle is not subject to the statutory ban on texting while driving.<sup>7</sup> In addition, the ban does not apply to a motor vehicle operator who is:

- A first responder operating an emergency vehicle<sup>8</sup> while performing his or her official duties.
- Reporting an emergency, criminal activity, or suspicious activity to law enforcement authorities.
- Receiving messages that are related to the operation or navigation of the motor vehicle, safety-related, data used primarily by the motor vehicle, or radio broadcasts.
- Using a navigation device or system.
- Conducting wireless interpersonal communication that does not require manual entry of information or require reading text messages, except to activate, deactivate, or initiate a feature or function.
- Operating an autonomous vehicle<sup>9</sup> in autonomous mode.<sup>10</sup>

Only in the event of a crash resulting in death or personal injury may a user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages be admissible as evidence in any proceeding to determine whether the offense of texting while driving has been committed.<sup>11</sup>

A first violation of the ban on texting while driving is a nonmoving violation and carries a \$30 fine plus court costs,<sup>12</sup> which could result in a total fine up to \$108.<sup>13</sup> A second or subsequent violation of the ban committed within five years after the date of a prior conviction is a moving violation with three points added to the driver license record and carries a \$60 fine plus court costs,<sup>14</sup> which could result in a total fine up to \$158.<sup>15</sup> In addition to these penalties, any violation of the ban that causes a crash results in six points added to the offender's driver license record.<sup>16</sup> Any violation of the ban committed in conjunction with any moving violation for which points are assessed, when committed within a school safety zone, results in an additional two points added to the offender's driver license record.<sup>17</sup>

As previously noted, enforcement of the ban on texting while driving by state or local law enforcement agencies is as a secondary action only. A motor vehicle operator must be detained for a suspected violation of another traffic violation in order to be cited for texting while driving.<sup>18</sup>

---

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

<sup>8</sup> Section 322.01(4), F.S., defines "authorized emergency vehicle" as a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles. It does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

<sup>9</sup> Section 316.003(2), F.S., defines "autonomous vehicle" as any vehicle equipped with autonomous technology.

<sup>10</sup> Section 316.305(3)(b), F.S.

<sup>11</sup> Section 316.305(3)(c), F.S.

<sup>12</sup> Section 316.305(4)(a), F.S.; *see also* Ch. 318, F.S.

<sup>13</sup> Florida Court Clerks and Comptrollers 2017 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, p. 19, available at:

[http://c.ygcdn.com/sites/www.flclerks.com/resource/resmgr/public\\_documents/\\_/2017\\_Distribution\\_Schedule\\_7.pdf](http://c.ygcdn.com/sites/www.flclerks.com/resource/resmgr/public_documents/_/2017_Distribution_Schedule_7.pdf) (last visited January 22, 2018).

<sup>14</sup> Section 316.305(4)(b), F.S.; *see also* Ch. 318, F.S., and s. 322.27, F.S.

<sup>15</sup> Florida Court Clerks and Comptrollers 2017 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, p. 22.

<sup>16</sup> Section 322.27(3)(d), F.S.

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

<sup>18</sup> Section 316.305(5), F.S.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the following number of Uniform Traffic Citations have been issued for texting while driving:

Calendar Year	First Offense	School Zone, First Offense	Subsequent Offense	School Zone, Subsequent Offense
2014	1,596	20	18	11
2015	1,363	14	25	12
2016	1,388	16	11	18

### Law Enforcement Access to Cell Phones

#### *Court Decisions*

In 2013, the Florida Supreme Court found that while it is proper to separate a suspect from his or her cell phone incident to an arrest, a warrant is required before the information, data, and contents of the cell phone can be accessed by law enforcement.<sup>19</sup> In 2014, the United States Supreme Court unanimously held that, in general, law enforcement is not permitted to search a person's cell phone incident to an arrest without a warrant and that the search of a cell phone implicates privacy concerns far beyond those implicated by searching other objects.<sup>20</sup>

#### *Florida Law*

Section 316.646, F.S., authorizes digital proof of automobile insurance. The statute provides that the act of presenting to a law enforcement officer an electronic device displaying proof of insurance in an electronic format does not constitute consent for the officer to access any other information on the device other than the displayed proof of insurance.

### **Effect of Proposed Changes**

The bill amends the Florida Ban on Texting While Driving Law to change the current enforcement of the ban on texting while driving from secondary to primary. This change will allow a law enforcement officer to detain a motor vehicle operator solely for texting while driving.

The bill requires a law enforcement officer who detains a motor vehicle operator for a violation of the ban on texting while driving to inform the motor vehicle operator of his or her right to decline a search of his or her wireless communications device. The bill prohibits a law enforcement officer from:

- Accessing the wireless communications device without a warrant.
- Confiscating the wireless communications device while awaiting issuance of a warrant to access such device.
- Obtaining consent from the motor vehicle operator to search his or her wireless communications device through coercion or other improper method. Consent to search a motor vehicle operator's wireless communications device must be voluntary and unequivocal.

The bill maintains the current penalties for a violation of the Florida Ban on Texting While Driving Law. In addition, the bill maintains the current exceptions to the texting ban. For example, the ban will continue to allow the use of a navigation device or system. Finally, the bill maintains that the texting ban does not apply to a stationary motor vehicle.

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

Section 1 amends s. 316.305, F.S., relating to the prohibition of using wireless communications devices while driving.

Section 2 provides an effective date of July 1, 2018.

<sup>19</sup> *Smallwood v. State of Florida*, 113 So. 3d 724 (Fla. 2013).

<sup>20</sup> *Riley v. California*, 134 S.Ct. 2473 (2014).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

To the extent there is an increase in the number of traffic citations issued due to making the ban on texting while driving a primary offense, the state may realize additional revenues. However, the fiscal impact cannot be quantified and is indeterminate.

#### 2. Expenditures:

DHSMV may incur expenses related to public awareness and education efforts about the change in enforcement of the ban on texting while driving; however, it is likely these costs will be absorbed within the department's existing safety campaign budget.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

To the extent that there is an increase in the number of traffic citations issued due to making the ban on texting while driving a primary offense, local governments may realize additional revenues. However, the fiscal impact cannot be quantified and is indeterminate.

#### 2. Expenditures:

None.

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

The change in enforcement of the texting ban from secondary to primary may result in more motorists being assessed traffic fines.

### D. FISCAL COMMENTS:

The state may be eligible to receive additional federal highway safety grant funds because of changing enforcement of the ban from secondary to primary.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

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

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

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.



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

On January 25, 2018, the Judiciary Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Prohibited a law enforcement officer from obtaining consent to search a driver's wireless device through coercion or other improper method.
- Required a driver's consent to search his or her wireless communication device to be voluntary and unequivocal.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.

1 A bill to be entitled

2 An act relating to texting while driving; amending s.  
 3 316.305, F.S.; revising legislative intent; requiring  
 4 a law enforcement officer to inform a motor vehicle  
 5 operator of certain rights; prohibiting certain  
 6 actions by such officer; removing the requirement that  
 7 enforcement be accomplished as a secondary action;  
 8 providing an effective date.

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

11  
 12 Section 1. Paragraph (d) of subsection (2) and subsections  
 13 (3) and (5) of section 316.305, Florida Statutes, are amended to  
 14 read:

15 316.305 Wireless communications devices; prohibition.—

16 (2) It is the intent of the Legislature to:

17 (d) Authorize law enforcement officers to stop motor  
 18 vehicles and issue citations as ~~a secondary offense~~ to persons  
 19 who are texting while driving.

20 (3)(a) A person may not operate a motor vehicle while  
 21 manually typing or entering multiple letters, numbers, symbols,  
 22 or other characters into a wireless communications device or  
 23 while sending or reading data on such a device for the purpose  
 24 of nonvoice interpersonal communication, including, but not  
 25 limited to, communication methods known as texting, e-mailing,

26 and instant messaging. As used in this section, the term  
 27 "wireless communications device" means any handheld device used  
 28 or capable of being used in a handheld manner, that is designed  
 29 or intended to receive or transmit text or character-based  
 30 messages, access or store data, or connect to the Internet or  
 31 any communications service as defined in s. 812.15 and that  
 32 allows text communications. For the purposes of this paragraph,  
 33 a motor vehicle that is stationary is not being operated and is  
 34 not subject to the prohibition in this paragraph.

35 (b) Paragraph (a) does not apply to a motor vehicle  
 36 operator who is:

37 1. Performing official duties as an operator of an  
 38 authorized emergency vehicle as defined in s. 322.01, a law  
 39 enforcement or fire service professional, or an emergency  
 40 medical services professional.

41 2. Reporting an emergency or criminal or suspicious  
 42 activity to law enforcement authorities.

43 3. Receiving messages that are:

44 a. Related to the operation or navigation of the motor  
 45 vehicle;

46 b. Safety-related information, including emergency,  
 47 traffic, or weather alerts;

48 c. Data used primarily by the motor vehicle; or

49 d. Radio broadcasts.

50 4. Using a device or system for navigation purposes.

51           5. Conducting wireless interpersonal communication that  
 52 does not require manual entry of multiple letters, numbers, or  
 53 symbols, except to activate, deactivate, or initiate a feature  
 54 or function.

55           6. Conducting wireless interpersonal communication that  
 56 does not require reading text messages, except to activate,  
 57 deactivate, or initiate a feature or function.

58           7. Operating an autonomous vehicle, as defined in s.  
 59 316.003, in autonomous mode.

60           (c) A law enforcement officer who stops a motor vehicle  
 61 for a violation of paragraph (a) must inform the motor vehicle  
 62 operator of his or her right to decline a search of his or her  
 63 wireless communications device and may not:

64           1. Access the wireless communications device without a  
 65 warrant.

66           2. Confiscate the wireless communications device while  
 67 awaiting issuance of a warrant to access such device.

68           3. Obtain consent from the motor vehicle operator to  
 69 search his or her wireless communications device through  
 70 coercion or other improper method. Consent to search a motor  
 71 vehicle operator's wireless communications device must be  
 72 voluntary and unequivocal.

73           (d)~~(e)~~ Only in the event of a crash resulting in death or  
 74 personal injury, a user's billing records for a wireless  
 75 communications device or the testimony of or written statements

76 | from appropriate authorities receiving such messages may be  
 77 | admissible as evidence in any proceeding to determine whether a  
 78 | violation of paragraph (a) has been committed.


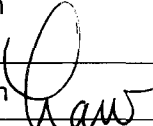
79 | ~~(5) Enforcement of this section by state or local law~~  
 80 | ~~enforcement agencies must be accomplished only as a secondary~~  
 81 | ~~action when an operator of a motor vehicle has been detained for~~  
 82 | ~~a suspected violation of another provision of this chapter,~~  
 83 | ~~chapter 320, or chapter 322.~~

84 | Section 2. This act shall take effect July 1, 2018.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 155 State Symbols  
**SPONSOR(S):** Magar  
**TIED BILLS:** IDEN./SIM. BILLS: SB 404

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N	Hoffman	Harrington
2) Government Accountability Committee		Hoffman 	Williamson 

### SUMMARY ANALYSIS

The Legislature has designated various state emblems, including designating a state seal, motto, fruit, beverage, saltwater reptile, and horse. In 2008, the Legislature designated the Loggerhead Turtle as the official state saltwater reptile and the Florida Cracker Horse as the official state horse. Each of these designations is scheduled to repeal on July 1, 2018, unless the Legislature reviews and reenacts the designations before that date. There is no animal designated as the official state heritage cattle breed.

This bill removes the scheduled repeal of the Loggerhead Turtle as the official state saltwater reptile and the scheduled repeal of the Florida Cracker Horse as the official state horse. As such, if the bill passes, these animals will remain designated state symbols. In addition, the bill designates the Florida Cracker Cattle as the official state heritage cattle breed.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Chapter 15, F.S., designates official state emblems. To date, there are designations for an official state seal, motto, tree, fruit, beverage, citrus archive, anthem, song, shell, stone, gem, wildflower, play, animal, freshwater fish, saltwater fish, marine mammal, saltwater mammal, butterfly, reptile, saltwater reptile, tortoise, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera, renaissance festival, railroad museums, transportation museum, flagship, soil, fiddle contest, band, sports hall of fame, pie, honey, and horse.<sup>1</sup>

In 2008, the Legislature designated the Loggerhead Turtle as the official state saltwater reptile and the Florida Cracker Horse as the official state horse.<sup>2</sup> Each of these designations is scheduled to repeal on July 1, 2018, unless the Legislature reviews and reenacts the designations before that date.<sup>3</sup> There is no animal designated as the official state heritage cattle breed.

##### Loggerhead Turtle

The Loggerhead sea turtle inhabits the temperate and tropical regions of the Atlantic, Pacific, and Indian Oceans.<sup>4</sup> Adults grow to an average weight of about 200 pounds.<sup>5</sup> The loggerhead is characterized by a large head with blunt jaws.<sup>6</sup> The top shell and flippers are a reddish-brown color; the underside is yellow.<sup>7</sup>

The loggerhead turtle feeds on mollusks, crustaceans, fish, and other marine animals.<sup>8</sup> The United States nesting season extends from about May through August with nesting occurring primarily at night.<sup>9</sup> The major nesting concentration in the United States is found in South Florida.<sup>10</sup> The species has been on the threatened species list since 1978.<sup>11</sup>

##### Cracker Horse

The Florida Cracker Horse's history in Florida can be traced back to the 1500s when its ancestors were left behind in Florida by Spanish explorers making room on their ships for treasure collected during their explorations.<sup>12</sup> The explorers brought horses derived from the Iberian Horse of Sixteenth Century Spain.<sup>13</sup> The horses carried the genes of the North African Barb, Spanish Sorraia, and Spanish Jennet (gaited).<sup>14</sup> The horses spread throughout the region and developed into the modern breed of the Florida Cracker Horse.<sup>15</sup> By the Eighteenth and Nineteenth centuries, cattle ranching had become big business

---

<sup>1</sup> Sections 15.03 through 15.0526, F.S.

<sup>2</sup> Sections 15.0386 and 15.0526, F.S.; ch. 2008-34, L.O.F.

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

<sup>4</sup> U.S. FISH & WILDLIFE SERVICE, *Loggerhead Sea Turtle*,

<http://www.fws.gov/northflorida/SeaTurtles/Turtle%20Factsheets/loggerhead-sea-turtle.htm> (last visited Jan. 17, 2018).

<sup>5</sup> *Id.*

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

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

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

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

<sup>10</sup> *Id.*

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

<sup>12</sup> THE FLORIDA CRACKER HORSE ASSOCIATION, *History of the Cracker Horse*, <http://floridacrackerhorses.com/history.htm> (last visited Jan. 17, 2018).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

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



in Florida, and the horse was a popular choice among farmers and cattlemen.<sup>16</sup> The Cracker Horse gained its name from the fact that the Florida cattlemen who used the horse were called “Cracker” after the sound their whips made.<sup>17</sup>

**Cracker Cattle**

The Florida Cracker Cattle is one of the oldest breeds of cattle in the United States, descending from Spanish cattle brought to the new World in the early 1500s.<sup>18</sup> This breed is unique, as it was shaped by the Florida climate and became “heat tolerant, long lived, resistant to parasites and diseases, and productive on the low quality forage found on the grasslands and in the swamps of the Deep South.”<sup>19</sup> While the Florida Cracker cattle breed is rare, it is considered a “living part of Florida history, and herds have been maintained at several state parks and forests.”<sup>20</sup>

**Effect of the Bill**

The bill removes the scheduled repeal date for the designation of both the Loggerhead Turtle as the official state saltwater reptile and the Florida Cracker Horse as the official state horse. As such, if the bill passes, these animals will remain designated state symbols.

The bill also designates the Florida Cracker Cattle as the official state heritage cattle breed.

**B. SECTION DIRECTORY:**

Section 1 amends s. 15.0386, F.S., deleting the scheduled repeal of the Loggerhead Turtle as the official state saltwater reptile.

Section 2 amends s. 15.0526, F.S., deleting the scheduled repeal of the Florida Cracker Horse as the official state horse.

Section 3 creates s. 15.0527, F.S., designating the Florida Cracker Cattle as the official Florida heritage cattle breed.

Section 4 provides an effective date of July 1, 2018.

**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.

---

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

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

<sup>18</sup> THE LIVESTOCK CONSERVANCY, *Florida Cracker Cattle*, <https://livestockconservancy.org/index.php/heritage/internal/florida-cracker-cattle> (last visited Jan. 17, 2018).

<sup>19</sup> *Id.*

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

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
2           An act relating to state symbols; amending s. 15.0386,  
3           F.S.; abrogating the scheduled repeal of the state  
4           saltwater reptile designation; amending s. 15.0526,  
5           F.S.; abrogating the scheduled repeal of the state  
6           horse designation; creating s. 15.0527, F.S.;  
7           designating the Florida Cracker Cattle as the official  
8           state heritage cattle breed; providing an effective  
9           date.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

Section 1. Section 15.0386, Florida Statutes, is amended to read:

15.0386 Official state saltwater reptile.—

~~(1)~~ The Loggerhead Turtle is designated as the official Florida state saltwater reptile.

~~(2) This section is repealed July 1, 2018, unless reviewed and reenacted by the Legislature before that date.~~

Section 2. Section 15.0526, Florida Statutes, is amended to read:

15.0526 Official state horse.—

~~(1)~~ The Florida Cracker Horse (Marshackie) is designated as the official Florida state horse.

~~(2) This section is repealed July 1, 2018, unless reviewed~~

HB 155

2018

26 ~~and reenacted by the Legislature before that date.~~

27       Section 3. Section 15.0527, Florida Statutes, is created  
28 to read:

29       15.0527 Official state heritage cattle breed.—The Florida  
30 Cracker Cattle is designated as the official Florida heritage  
31 cattle breed.

32       Section 4. This act shall take effect July 1, 2018.


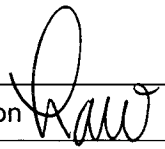


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HM 381 Venezuela

**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; Stark and others

**TIED BILLS:** IDEN./SIM. BILLS: SM 1382

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	11 Y, 0 N, As CS	Renner	Miller
2) Government Accountability Committee		Renner 	Williamson 

### SUMMARY ANALYSIS

After becoming president of Venezuela in 2013, Nicolás Maduro continues to suppress opposition protests and restricts freedom of speech and assembly. President Maduro imprisoned hundreds of political opponents. Many of those detained have been subject to torture and other human rights abuses.

Venezuela is also in the midst of a crippling economic crisis, resulting in food and medicine shortages, which has led to a humanitarian crisis. Despite the crisis, President Maduro has refused international aid. Consequently, the United States has criticized President Maduro and imposed numerous sanctions on Venezuela.

The memorial requests Congress to urge the regime of Nicolás Maduro to allow the delivery of humanitarian assistance, to continue to intensify financial sanctions against the regime of Nicolás Maduro and the Government of Venezuela, and to instruct appropriate Federal agencies to hold the regime of Nicolás Maduro and officials of the Government of Venezuela accountable for violations of law and abuses of internationally recognized human rights.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial does not have a fiscal impact on the state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

After President Hugo Chavez died in 2013, Venezuela held presidential elections and acting President Nicolás Maduro defeated Henrique Capriles by only 1.5 percent. Despite the thin margin of victory and rise of opposition, Maduro consolidated his authority, resulting in security forces and allied civilian groups violently suppressing protests and restricting freedom of speech and assembly. Consequently, many Venezuelan protestors died or were injured in the following years due to clashes with pro-government forces. Additionally, political opponents and opposition figures were imprisoned.<sup>1</sup>

In 2016, opposition efforts tried to recall President Maduro in a national referendum. However, the government delayed the process and Venezuela's National Electoral Council indefinitely suspended the recall effort after five state-level courts issued rulings alleging fraud in a signature collection drive that garnered millions of signatures.<sup>2</sup>

President Maduro's government has continued to harass and detain opponents. In addition, President Maduro has surrounded himself with hardline political allies, including appointing a vice president who was sanctioned by the United States as a drug kingpin in 2017. Among many of the powers under the vice president's vast authority is control over an "anti-coup" command.<sup>3</sup>

##### Economic Crisis

Venezuela's economy relies significantly on the extraction and export of oil and other petroleum products, which accounts for more than 90 percent of the country's exports. Under President Chavez, the government used the oil reserves to spend money on domestic social programs instead of building up fiscal reserves. The decline in oil prices over the years and the lack of reserves has led to an economic crisis for Venezuela. This has resulted in a shortage of consumer goods, including food, and has led to hyperinflation of Venezuela's currency. President Maduro continues to refuse any international assistance, including from the Vatican.<sup>4</sup>

##### Humanitarian Crisis

As of May 2017, the Venezuela human rights group *Foro Penal Venezolano* listed more than 140 political prisoners in Venezuela. The group reported more than 6,800 political arrests made from 2014 to 2016.<sup>5</sup> According to the United States Department of State, many of those detained have been subject to torture and other human rights abuses.<sup>6</sup>

Additionally, due to the lack of basic consumer goods, riots, protests and looting have broken out across the country resulting in many deaths. Venezuela's hospitals also have been affected by shortages of medicine and basic supplies. Many hospitals "face critical shortages of antibiotics,

---

<sup>1</sup> Congressional Research Service Report, *Venezuela: Background and U.S. Policy*, May 10, 2017, pg. 5, available at [https://www.everycrsreport.com/files/20170510\\_R44841\\_fa3ec514ed07bb711220465fb833d0432061f98a.pdf](https://www.everycrsreport.com/files/20170510_R44841_fa3ec514ed07bb711220465fb833d0432061f98a.pdf) (last accessed 1/21/2018).

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

<sup>3</sup> *Id.* at pg. 6.

<sup>4</sup> *Id.* at pg. 10.

<sup>5</sup> *Id.* at pg. 6.

<sup>6</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2016-2017*, available at <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dld=#wrapper> (last accessed 1/21/2018).

intravenous solutions, and even food, and 50 percent of operating rooms in public hospitals are not in use.”<sup>7</sup>

### Federal Venezuela Sanctions

In recent years, the federal government has imposed various sanctions on the government of Venezuela. In July 2014, President Obama imposed visa restrictions on some Venezuelan officials responsible for human rights violations. Also in 2014, Congress enacted the Venezuela Defense of Human Rights and Civil Society Act of 2014.<sup>8</sup> Among other matters, the law required the President to impose sanctions against those whom the President determined were responsible for significant acts of violence or serious human rights abuses associated with the 2014 protests.<sup>9</sup>

President Trump has favored multilateral approaches to resolving the crisis. Both the President and the State Department have called for the release of opposition leader Leopoldo Lopez and the rest of Venezuela’s political prisoners.<sup>10</sup> On August 24, 2017, President Trump signed Executive Order 13808 to restrict the Venezuelan government’s access to the United States financial system by prohibiting United States persons and entities from engaging in transactions involving the following:

- New debt with a maturity of greater than 90 days of Petroleos de Venezuela, S.A. (PdVSA), Venezuela’s state-owned oil company;
- New debt with a maturity of greater than 30 days, or new equity, of the government of Venezuela, other than debt of PdVSA;
- Bonds issued by the government of Venezuela prior to August 25, 2017;
- Dividend payments or other distributions of profits to the government of Venezuela from any entity owned or controlled, directly or indirectly, by the government of Venezuela; and
- The purchase, directly or indirectly, of securities from the government of Venezuela, other than security qualifying as new debt with a maturity of less than or equal to 90 days (for PdVSA) or 30 days (for the government of Venezuela).<sup>11</sup>

The executive order defined the term “government of Venezuela” to mean the government of Venezuela, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Venezuela and PdVSA, and any person or entity owned or controlled by, or acting for or on behalf of, the government of Venezuela.<sup>12</sup>

### **Effect of the Memorial**

The memorial requests Congress to urge the regime of Nicolás Maduro to allow the delivery of humanitarian assistance, to continue to intensify financial sanctions against the regime of Nicolás Maduro and the Government of Venezuela, and to instruct appropriate federal agencies to hold the regime of Nicolás Maduro and officials of the Government of Venezuela accountable for violations of law and abuses of internationally recognized human rights.

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

---

<sup>7</sup> *Supra* note 1 at pg. 12.

<sup>8</sup> Venezuela Defense of Human Rights and Civil Society Act of 2014, Pub. L. No. 113-278, S. 2142, 113<sup>th</sup> Cong. (Dec. 18, 2014). Available at <https://www.congress.gov/bill/113th-congress/senate-bill/2142> (last accessed 1/21/2018).

<sup>9</sup> *Supra* note 1 at pg. 18.

<sup>10</sup> *Id.* at pg. 17.

<sup>11</sup> Exec. Order No. 13808, 3 C.F.R. 41155 (2017).

<sup>12</sup> *Id.* at 41156.



Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

**B. SECTION DIRECTORY:**

Not applicable.

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The memorial neither authorizes nor requires administrative rulemaking by executive branch agencies.

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

None.

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

On January 24, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment revised language to emphasize the undemocratic nature of the regime in Venezuela.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.

House Memorial

A memorial to the Congress of the United States, requesting Congress to urge the regime of President Nicolás Maduro to allow the delivery of humanitarian assistance, to continue and intensify financial sanctions against the regime of President Nicolás Maduro and the Government of Venezuela, and to instruct appropriate Federal agencies to hold the regime of President Nicolás Maduro and officials of the Government of Venezuela accountable for violations of law and abuses of internationally recognized human rights.

WHEREAS, the hallmark of democracy is the free and peaceful exercise of rights guaranteed under the constitution of a democratically elected government, and

WHEREAS, in an effort to secure his personal rule and oppress Venezuelan freedoms, the regime of President Nicolás Maduro manipulated elections, established an illegitimate Constituent Assembly to undermine the will of the Venezuelan people, nationalized private industry, abandoned private property rights, and generally assumed control over Venezuela's government and its institutions, and

WHEREAS, the deterioration of basic governance and the economic crisis in Venezuela have led to an unprecedented

26 humanitarian situation in which people are suffering from severe  
 27 shortages of basic food products and essential medicines, and

28 WHEREAS, despite the massive shortages of basic food  
 29 products and essential medicines, the regime of President Maduro  
 30 has rejected repeated requests from civil society organizations  
 31 to bring humanitarian aid into the country, and

32 WHEREAS, over 8 million Venezuelans voted symbolically for  
 33 a free and democratic government, and

34 WHEREAS, the regime of President Nicolás Maduro has sought  
 35 to silence peaceful opposition to his government by killing  
 36 innocent citizens of Venezuela for their political views, and

37 WHEREAS, those who cherish democratic principles condemn  
 38 the perpetration of oppression and intimidation against the  
 39 Venezuelan people, and

40 WHEREAS, to ensure the demise of such oppression and  
 41 intimidation, it is imperative that the United States Government  
 42 remains committed to continuing and intensifying financial  
 43 sanctions against the regime of President Nicolás Maduro and the  
 44 Government of Venezuela, and

45 WHEREAS, the people of Florida stand proudly with the  
 46 people of Venezuela in the face of tyranny, NOW, THEREFORE,

47

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

49

50           That the Congress of the United States is requested to urge  
51 the regime of President Nicolás Maduro to allow the delivery of  
52 humanitarian assistance, to continue and intensify financial  
53 sanctions against the regime of President Nicolás Maduro and the  
54 Government of Venezuela, and to instruct appropriate Federal  
55 agencies to hold the regime of President Nicolás Maduro and  
56 officials of the Government of Venezuela accountable for  
57 violations of law and abuses of internationally recognized human  
58 rights.

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

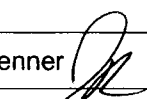



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/CS/HB 725 Permit Fees

**SPONSOR(S):** Careers & Competition Subcommittee; Local, Federal & Veterans Affairs Subcommittee; Williamson and others

**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 1144

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 1 N, As CS	Renner	Miller
2) Careers & Competition Subcommittee	13 Y, 0 N, As CS	Brackett	Anstead
3) Government Accountability Committee		Renner 	Williamson 

**SUMMARY ANALYSIS**

The Florida Building Codes Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare. Under current law, local governments must enforce the Florida Building Code, issue building permits, and post each type of building permit application on its website.

The bill requires counties and municipalities to post building permit and inspection fee schedules and building permit and inspection utilization reports on their websites by December 31, 2019. The bill also requires the governing body of a local government to amend its building permit and inspection utilization report before adjusting its fee schedule. Finally, the bill establishes reporting requirements.

The bill does not have a fiscal impact on the state. The bill has an indeterminate, but likely insignificant, fiscal impact on local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.<sup>1</sup>

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code, and that first edition replaced all local codes on March 1, 2002.<sup>2</sup> The current edition of the Florida Building Code is the sixth edition, which is referred to as the 2017 Florida Building Code.<sup>3</sup>

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.<sup>4</sup>

The Florida Building Commission was statutorily created to implement the Florida Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 27-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Florida Building Code.<sup>5</sup> The Commission reviews the International I-Codes and the National Electric Code every three years to determine if the Florida Building Code needs to be updated.<sup>6</sup>

##### Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.<sup>7</sup>

Every local government must enforce the Florida Building Code and issue building permits.<sup>8</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such

---

<sup>1</sup> The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at [http://www.floridabuilding.org/fbc/publications/2006\\_Legislature\\_Rpt\\_rev2.pdf](http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf) (last visited Jan. 20, 2018).

<sup>2</sup> *Id.* & DBPR, *Overview of the Florida Building Code*, <https://www.floridahousing.org/.../aboutflorida/.../overview-of-the-florida-building-commission-and-standard.pptx> (last visited on Jan. 20, 2018).

<sup>3</sup> Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan. 20, 2018).

<sup>4</sup> See s. 553.72(1), F.S.

<sup>5</sup> Section 553.74, F.S.

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

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

<sup>8</sup> Sections 125.56(1), 125.01(1)(bb), and 553.80(1), F.S.



persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.<sup>9</sup>

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.<sup>10</sup> A building official is a local government employee who supervises building code activities, including plan review, enforcement, and inspection.<sup>11</sup> Any construction work that requires a building permit also requires plans and inspections by the local building official to ensure the work complies with the Florida Building Code. The Florida Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections. In addition to required inspections, a local building official may require other inspections of any work to ensure it complies with the Florida Building Code.<sup>12</sup>

### Local Government Fees

Each local government entity may provide a schedule of reasonable inspection fees<sup>13</sup> in order to defer the costs of inspection and enforcement of the Florida Building Code.<sup>14</sup> A local government entity that issues building permits must post each type of building permit application on its website. Completed applications must be submitted electronically to the local enforcement agency building department, which must provide accepted methods of electronic submission. However, payments, attachments, or drawings required as part of the permit application may be submitted in person in a nonelectronic format, at the discretion of the building official.<sup>15</sup>

A local government entity's fees must be used solely for carrying out that local government entity's responsibilities in enforcing the Florida Building Code.<sup>16</sup> The basis for the fee structure must relate to the level of service provided by the local government.<sup>17</sup> Fees charged must be consistently applied.<sup>18</sup>

Local enforcement agencies, independent special districts,<sup>19</sup> or dependent special districts<sup>20</sup> may not require additional fees, charges, or expenses for:

- Providing proof of licensure pursuant to ch. 489, F.S.;
- Recording or filing a license issued pursuant to ch. 553, F.S.; or
- Providing, recording, or filing evidence of workers' compensation insurance coverage required by ch. 440, F.S.<sup>21</sup>

<sup>9</sup> See sections. 125.56(4)(a) and 553.79(1), F.S.

<sup>10</sup> Section 202 of the Sixth edition of the Florida Building Code (Building).

<sup>11</sup> Section 468.603(2), F.S.

<sup>12</sup> Sections 110.1, 107, and 110.3, Sixth edition of the Florida Building Code (Building).

<sup>13</sup> See, e.g., Broward County website on *Impact and Concurrency Fees*, available at

<http://www.broward.org/Planning/Development/FAQs/Pages/Impact-and-Concurrency-Fees.aspx> (accessed Dec. 27, 2017).

<sup>14</sup> Sections 125.56(2), 166.222, and 553.80(7), F.S.

<sup>15</sup> Sections 125.56(4)(b) and 553.79(1)(b), F.S.

<sup>16</sup> The phrase "enforcing the Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. See s. 553.80(7)(a), F.S.

<sup>17</sup> Section 553.80(7), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> Section 189.012(3), F.S., defines an "independent special district" as having a governing board comprised of members which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Additionally, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

<sup>20</sup> A dependent special district has a governing board comprised of members that are identical in membership to, or all appointed by or any removable at will by, the governing body of a single county or municipality, or the district budget may be affirmed or vetoed by the governing body of a single county or municipality. See s. 189.012(2), F.S. A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. See *2017-2018 Local Gov't Formation Manual* at pg. 64, available at <http://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911>.

<sup>21</sup> Section 553.80(7)(d), F.S.

A “local enforcement agency” means the agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes that establish standards for the design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.<sup>22</sup>

### **Effect of Proposed Changes**

The bill requires a county and the governing body of a municipality to post permit and inspection fee schedules and inspection utilization report on its website.

The governing body of a local government with a schedule of reasonable fees must post its building permit and inspection utilization report on its website by December 31, 2019. The report must be based on information available in the most recently completed financial audit. The governing body of a local government must amend its building permit and inspection utilization report before adjusting its fee schedule.

The report must include the following:

- Direct and indirect costs incurred by the local government to enforce the Florida Building Code, including costs related to the review of building plans, building inspections, building re-inspections, building permit processing, and building code enforcement.
- Number of building permits requested and the number of permits issued.
- Number of building inspections and re-inspections conducted.
- Number of personnel employed by the local government to enforce the Florida Building Code, issue building permits, and conduct inspections.
- Salary and related employee benefit costs incurred by the local government to enforce the Florida Building Code, issue building permits, and conduct inspections.
- Revenue derived from fees and revenue derived from fines pursuant to s. 553.80(7), F.S.
- Investment earnings derived from the local government’s investment of revenue derived from fees and fines pursuant to s. 553.80(7), F.S.
- Balances carried forward by the local government and balances refunded by the local government pursuant to s. 553.80(7), F.S.

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

Section 1. amends s. 125.56, F.S., requiring a county to post its permit and inspection fee schedules and inspection utilization report on its website.

Section 2. amends s. 166.222, F.S., requiring the governing body of a municipality to post its permit and inspection fee schedules and inspection utilization report on its website.

Section 3. amends s. 553.80, F.S., requiring a governing body of a local government to post its permit and inspection utilization reports on its website by a specified date; providing reporting requirements.

Section 4. provides an effective date of July 1, 2018.

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

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

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

None.

---

<sup>22</sup> Section 553.71(5), F.S.  
**STORAGE NAME:** h0725d.GAC.DOCX  
**DATE:** 1/30/2018

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate. Local governments that do not currently post permit information on their website may have to expend funds to revise their existing websites in order to meet the reporting requirements in the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Requiring a local government to post its permit and inspection fee schedules as well as a building permit and inspection utilization report on its website will help applicants for building permits assess the associated costs of the permit.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires local governments to post their permit and inspection fee schedules and building permit and inspection utilization reports on their websites. This may result in additional expenditures to comply with the statute. However, an exemption may apply because the fiscal impact is likely to be insignificant since local governments currently are required to post each type of building permit application on their websites.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment adds the permit and inspection fee schedule requirements in s. 125.56, F.S., which only applies to a board of commissioners of a county, to municipalities with authority under s. 166.222, F.S., to avoid confusion as to the applicability of the new requirements to non-county local governments.

On January 23, 2018, the Careers & Competition Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Provides that the governing body of a local government with a schedule of reasonable fees must post its building permit and inspection utilization report on its website instead of posting a link to the report on its website.
- Provides that the governing body of a local government must post its building permit and inspection utilization report on its website by December 31, 2019.
- Provides that a governing body of a local government must amend its building permit and inspection utilization report before adjusting its fee schedule.
- Removes the provision that a building permit and inspection utilization report must include the costs related to the review of building fire inspections.
- Replaces the term “implement” with “enforce.”

This analysis is drafted to the committee substitute as approved by the Careers & Competition Subcommittee.

1                   A bill to be entitled  
 2           An act relating to permit fees; amending ss. 125.56  
 3           and 166.222, F.S.; requiring certain counties and  
 4           governing bodies of municipalities to post their  
 5           permit and inspection fee schedules and inspection  
 6           utilization reports on their websites; amending s.  
 7           553.80, F.S.; requiring certain governing bodies of  
 8           local governments to post their building permit and  
 9           inspection utilization reports on their websites by a  
 10          specified date; providing reporting requirements;  
 11          providing an effective date.

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

14  
 15           Section 1. Paragraph (c) is added to subsection (4) of  
 16           section 125.56, Florida Statutes, to read:

17           125.56 Enforcement and amendment of the Florida Building  
 18           Code and the Florida Fire Prevention Code; inspection fees;  
 19           inspectors; etc.—

20           (4)

21           (c) A county authorized under this section or s. 553.80 to  
 22           issue fees shall post its permit and inspection fee schedules  
 23           and its inspection utilization report required under s.  
 24           553.80(7) on its website.

25           Section 2. Section 166.222, Florida Statutes, is amended

26 to read:

27 166.222 Building code inspection fees.—

28 (1) The governing body of a municipality may provide a  
 29 schedule of reasonable inspection fees in order to defer the  
 30 costs of inspection and enforcement of the provisions of its  
 31 building code.

32 (2) The governing body of a municipality authorized under  
 33 s. 553.80 to issue fees shall post its permit and inspection fee  
 34 schedules and its inspection utilization report required under  
 35 s. 553.80(7) on its website.

36 Section 3. Subsection (7) of section 553.80, Florida  
 37 Statutes, is amended to read:

38 553.80 Enforcement.—

39 (7) (a) The governing bodies of local governments may  
 40 provide a schedule of reasonable fees, as authorized by s.  
 41 125.56(2) or s. 166.222 and this section, for enforcing this  
 42 part. These fees, and any fines or investment earnings related  
 43 to the fees, shall be used solely for carrying out the local  
 44 government's responsibilities in enforcing the Florida Building  
 45 Code. When providing a schedule of reasonable fees, the total  
 46 estimated annual revenue derived from fees, and the fines and  
 47 investment earnings related to the fees, may not exceed the  
 48 total estimated annual costs of allowable activities. Any  
 49 unexpended balances shall be carried forward to future years for  
 50 allowable activities or shall be refunded at the discretion of

51 the local government. The basis for a fee structure for  
 52 allowable activities shall relate to the level of service  
 53 provided by the local government and shall include consideration  
 54 for refunding fees due to reduced services based on services  
 55 provided as prescribed by s. 553.791, but not provided by the  
 56 local government. Fees charged shall be consistently applied.

57 1.~~(a)~~ As used in this subsection, the phrase "enforcing  
 58 the Florida Building Code" includes the direct costs and  
 59 reasonable indirect costs associated with review of building  
 60 plans, building inspections, reinspections, and building permit  
 61 processing; building code enforcement; and fire inspections  
 62 associated with new construction. The phrase may also include  
 63 training costs associated with the enforcement of the Florida  
 64 Building Code and enforcement action pertaining to unlicensed  
 65 contractor activity to the extent not funded by other user fees.

66 2.~~(b)~~ The following activities may not be funded with fees  
 67 adopted for enforcing the Florida Building Code:

68 a.~~1.~~ Planning and zoning or other general government  
 69 activities.

70 b.~~2.~~ Inspections of public buildings for a reduced fee or  
 71 no fee.

72 c.~~3.~~ Public information requests, community functions,  
 73 boards, and any program not directly related to enforcement of  
 74 the Florida Building Code.

75 d.~~4.~~ Enforcement and implementation of any other local

76 ordinance, excluding validly adopted local amendments to the  
77 Florida Building Code and excluding any local ordinance directly  
78 related to enforcing the Florida Building Code as defined in  
79 subparagraph 1 paragraph (a).

80 3.(e) A local government shall use recognized management,  
81 accounting, and oversight practices to ensure that fees, fines,  
82 and investment earnings generated under this subsection are  
83 maintained and allocated or used solely for the purposes  
84 described in subparagraph 1 paragraph (a).

85 4.(d) The local enforcement agency, independent district,  
86 or special district may not require at any time, including at  
87 the time of application for a permit, the payment of any  
88 additional fees, charges, or expenses associated with:

89 a.1. Providing proof of licensure pursuant to chapter 489;

90 b.2. Recording or filing a license issued pursuant to this  
91 chapter; or

92 c.3. Providing, recording, or filing evidence of workers'  
93 compensation insurance coverage as required by chapter 440.

94 (b) By December 31, 2019, the governing body of a local  
95 government with a schedule of reasonable fees shall post its  
96 building permit and inspection utilization report on its  
97 website. The report shall be based on the information available  
98 in the most recently completed financial audit. Before making  
99 any adjustment to the fee schedule, the governing body of a  
100 local government shall amend its building permit and inspection



101 utilization report. The report shall include:  
 102 1. Direct and indirect costs incurred by the local  
 103 government to enforce the Florida Building Code, including costs  
 104 related to the review of:  
 105 a. Building plans.  
 106 b. Building inspections.  
 107 c. Building reinspections.  
 108 d. Building permit processing.  
 109 e. Building code enforcement.  
 110 2. Number of building permits requested.  
 111 3. Number of building permits issued.  
 112 4. Number of building inspections and reinspections  
 113 conducted.  
 114 5. Number of personnel employed by the local government to  
 115 enforce the Florida Building Code, issue building permits, and  
 116 conduct inspections.  
 117 6. Salary and related employee benefit costs incurred by  
 118 the local government to enforce the Florida Building Code, issue  
 119 building permits, and conduct inspections.  
 120 7. Revenue derived from fees pursuant to s. 553.80(7).  
 121 8. Revenue derived from fines pursuant to s. 553.80(7).  
 122 9. Investment earnings derived from the local government's  
 123 investment of revenue derived from fees and fines pursuant to s.  
 124 533.80(7).  
 125 10. Balances carried forward by the local government

126 pursuant to s. 553.80(7).

127 11. Balances refunded by the local government pursuant to

128 s. 553.80(7).

129 Section 4. This act shall take effect July 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

---

1 Committee/Subcommittee hearing bill: Government Accountability  
2 Committee

3 Representative Williamson offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (c) is added to subsection (4) of  
8 section 125.56, Florida Statutes, to read:

9 125.56 Enforcement and amendment of the Florida Building  
10 Code and the Florida Fire Prevention Code; inspection fees;  
11 inspectors; etc.—

12 (4)

13 (c) The governing body of a county authorized under this  
14 section or s. 553.80 to issue fees shall post its permit and  
15 inspection fee schedules and its building permit and inspection  
16 utilization report required under s. 553.80(7) on its website.



Amendment No.

17 Section 2. Section 166.222, Florida Statutes, is amended  
18 to read:

19 166.222 Building code inspection fees.—

20 (1) The governing body of a municipality may provide a  
21 schedule of reasonable inspection fees in order to defer the  
22 costs of inspection and enforcement of the provisions of its  
23 building code.

24 (2) The governing body of a municipality authorized under  
25 s. 553.80 to issue fees shall post its permit and inspection fee  
26 schedules and its building permit and inspection utilization  
27 report required under s. 553.80(7) on its website.

28 Section 3. Subsection (7) of section 553.80, Florida  
29 Statutes, is amended to read:

30 553.80 Enforcement.—

31 (7) (a) The governing bodies of local governments may  
32 provide a schedule of reasonable fees, as authorized by s.  
33 125.56(2) or s. 166.222 and this section, for enforcing this  
34 part. These fees, and any fines or investment earnings related  
35 to the fees, shall be used solely for carrying out the local  
36 government's responsibilities in enforcing the Florida Building  
37 Code. When providing a schedule of reasonable fees, the total  
38 estimated annual revenue derived from fees, and the fines and  
39 investment earnings related to the fees, may not exceed the  
40 total estimated annual costs of allowable activities. Any  
41 unexpended balances shall be carried forward to future years for



Amendment No.

42 allowable activities or shall be refunded at the discretion of  
43 the local government. The basis for a fee structure for  
44 allowable activities shall relate to the level of service  
45 provided by the local government and shall include consideration  
46 for refunding fees due to reduced services based on services  
47 provided as prescribed by s. 553.791, but not provided by the  
48 local government. Fees charged shall be consistently applied.

49 1.(a) As used in this subsection, the phrase "enforcing  
50 the Florida Building Code" includes the direct costs and  
51 reasonable indirect costs associated with review of building  
52 plans, building inspections, reinspections, and building permit  
53 processing; building code enforcement; and fire inspections  
54 associated with new construction. The phrase may also include  
55 training costs associated with the enforcement of the Florida  
56 Building Code and enforcement action pertaining to unlicensed  
57 contractor activity to the extent not funded by other user fees.

58 2.(b) The following activities may not be funded with fees  
59 adopted for enforcing the Florida Building Code:

60 a.1- Planning and zoning or other general government  
61 activities.

62 b.2- Inspections of public buildings for a reduced fee or  
63 no fee.

64 c.3- Public information requests, community functions,  
65 boards, and any program not directly related to enforcement of  
66 the Florida Building Code.



Amendment No.

67 ~~d.4.~~ Enforcement and implementation of any other local  
68 ordinance, excluding validly adopted local amendments to the  
69 Florida Building Code and excluding any local ordinance directly  
70 related to enforcing the Florida Building Code as defined in  
71 subparagraph 1 paragraph (a).

72 ~~3.(e)~~ A local government shall use recognized management,  
73 accounting, and oversight practices to ensure that fees, fines,  
74 and investment earnings generated under this subsection are  
75 maintained and allocated or used solely for the purposes  
76 described in subparagraph 1 paragraph (a).

77 ~~4.(d)~~ The local enforcement agency, independent district,  
78 or special district may not require at any time, including at  
79 the time of application for a permit, the payment of any  
80 additional fees, charges, or expenses associated with:

81 ~~a.1.~~ Providing proof of licensure pursuant to chapter 489;

82 ~~b.2.~~ Recording or filing a license issued pursuant to this  
83 chapter; or

84 ~~c.3.~~ Providing, recording, or filing evidence of workers'  
85 compensation insurance coverage as required by chapter 440.

86 (b) By December 31, 2019, the governing body of a local  
87 government that provides a schedule of fees shall post its  
88 building permit and inspection utilization report on its  
89 website. The report shall be based on the information available  
90 in the most recently completed financial audit. After December  
91 31, 2019, the governing body of a local government that provides



Amendment No.

92 a schedule of fees shall update its building permit and  
93 inspection utilization report on its website prior to making any  
94 adjustments to the fee schedule. The report shall include:

95 1. Direct and indirect costs incurred by the local  
96 government to enforce the Florida Building Code, including costs  
97 related to the review of:

98 a. Building plans.

99 b. Building inspections.

100 c. Building reinspections.

101 d. Building permit processing.

102 e. Building code enforcement.

103 2. Number of building permits requested.

104 3. Number of building permits issued.

105 4. Number of building inspections and reinspections  
106 conducted.

107 5. Number of personnel employed by the local government to  
108 enforce the Florida Building Code, issue building permits, and  
109 conduct inspections.

110 6. Salary and related employee benefit costs incurred by  
111 the local government to enforce the Florida Building Code, issue  
112 building permits, and conduct inspections.

113 7. Revenue derived from fees pursuant to s. 553.80(7).

114 8. Revenue derived from fines pursuant to s. 553.80(7).



Amendment No.

115        9. When applicable, investment earnings derived from the  
116 local government's investment of revenue derived from fees and  
117 finances pursuant to s. 533.80(7).

118        10. Balances carried forward by the local government  
119 pursuant to s. 553.80(7).

120        11. Balances refunded by the local government pursuant to  
121 s. 553.80(7).

122        Section 4. This act shall take effect July 1, 2018.

123

124

-----

125

**T I T L E   A M E N D M E N T**

126

Remove everything before the enacting clause and insert:

127

An act relating to permit fees; amending ss. 125.56 and 166.222,

128

F.S.; requiring the governing bodies of counties and

129

municipalities to post their permit and inspection fee schedules

130

and building permit and inspection utilization reports on their

131

websites; amending s. 553.80, F.S.; requiring certain governing

132

bodies of local governments to post their building permit and

133

inspection utilization reports on their websites by a specified

134

date; providing reporting requirements; providing an effective

135

date.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 755 Pub. Rec./Nationwide Public Safety Broadband Network  
**SPONSOR(S):** Oversight, Transparency & Administration Subcommittee, Williamson  
**TIED BILLS:** IDEN./SIM. BILLS: SB 988

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	14 Y, 0 N, As CS	Moore	Harrington
2) Energy & Utilities Subcommittee	12 Y, 0 N	Keating	Keating
3) Government Accountability Committee		Moore <i>AM</i>	Williamson <i>Raw</i>

### SUMMARY ANALYSIS

The First Responder Network Authority (FirstNet) is an independent authority established by Congress within the Department of Commerce to deliver a nationwide broadband network dedicated to public safety (Network). FirstNet is the last remaining recommendation of the National Commission on Terrorist Attacks upon the United States (also known as the 9/11 Commission) to be addressed. The goal of the Network is to strengthen public safety users' communications capabilities, enabling them to respond more quickly and effectively to accidents, disasters, and emergencies.

The bill creates a public record exemption for information relating to the Network that is held by an agency if release of such information would reveal:

- The design, development, construction, deployment, and operation of Network facilities;
- Network coverage, including geographical maps indicating actual or proposed locations of Network infrastructure or facilities;
- The features, functions, and capabilities of Network infrastructure and facilities;
- The features, functions, and capabilities of Network services provided to first responders and other Network users;
- The design, features, functions, and capabilities of Network devices provided to first responders and other Network users; and
- Security, including cybersecurity, of the design, construction, and operation of the Network and associated services and products.

The bill provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the State Constitution.

The bill may have a minimal fiscal impact on the state and local governments. See Fiscal Comments section.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Public Records

Article I, section 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, section 24(a) of the State Constitution.<sup>1</sup> The general law must state with specificity the public necessity justifying the exemption<sup>2</sup> and must be no more broad than necessary to accomplish its purpose.<sup>3</sup>

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>4</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no more broad than necessary to meet one of the following purposes:<sup>5</sup>

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.

The Act also requires the automatic repeal of a public record exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>6</sup> Specified questions must be considered by the Legislature during the review process.

##### First Responder Network Authority

The First Responder Network Authority (FirstNet) is an independent authority established by Congress within the Department of Commerce to deliver a nationwide broadband network dedicated to public safety (Network).<sup>7</sup> FirstNet is the last remaining recommendation of the National Commission on Terrorist Attacks upon the United States (also known as the 9/11 Commission) to be addressed. The goal of the Network is to strengthen public safety users' communications capabilities, enabling them to respond more quickly and effectively to accidents, disasters, and emergencies.<sup>8</sup>

In January 2016, FirstNet issued a request for proposals for deployment of the Network. After evaluating all proposals, FirstNet and the Department of Interior awarded the 25-year contract for building, deploying, and operating the Network to AT&T. All 50 states and Washington, D.C., have

---

<sup>1</sup> FLA. CONST. art. I, s. 24(c).

<sup>2</sup> This portion of a public record exemption is commonly referred to as a "public necessity statement."

<sup>3</sup> FLA. CONST. art. I, s. 24(c).

<sup>4</sup> s. 119.15, F.S.

<sup>5</sup> s. 119.15(6)(b), F.S.

<sup>6</sup> s. 119.15(3), F.S.

<sup>7</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. Law No. 112-96 (2012).

<sup>8</sup> FirstNet Top 10 Frequently Asked Questions, [https://www.firstnet.gov/sites/default/files/TopTenFAQs\\_180107.pdf](https://www.firstnet.gov/sites/default/files/TopTenFAQs_180107.pdf) (last visited Jan. 19, 2018).

“opted in,” to FirstNet, meaning each has accepted its individual State Plan detailing how the network will be deployed in their state/territory.<sup>9</sup>

### **Effect of the Bill**

The bill creates a public record exemption for information relating to the Network that is held by an agency if release of such information would reveal:

- The design, development, construction, deployment, and operation of Network facilities;
- Network coverage, including geographical maps indicating actual or proposed locations of Network infrastructure or facilities;
- The features, functions, and capabilities of Network infrastructure and facilities;
- The features, functions, and capabilities of Network services provided to first responders<sup>10</sup> and other Network users;
- The design, features, functions, and capabilities of Network devices provided to first responders and other Network users; and
- Security, including cybersecurity, of the design, construction, and operation of the Network and associated services and products.

The bill provides a public necessity statement as required by the State Constitution, specifying that disclosure of the above-described information would adversely affect the business interests of communications service providers and compromise the network security of such providers and their networks.

The bill provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

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

Section 1. amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

Section 2. provides a public necessity statement.

Section 3. provides an effective date of July 1, 2018.

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

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

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

The bill does not appear to impact state government revenues.

##### **2. Expenditures:**

See Fiscal Comments.

---

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

<sup>10</sup> The term “first responder” means a law enforcement officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., employed by state or local government. The term also includes a volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government. Section 112.1815(1), F.S.

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

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

See Fiscal Comments.

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

None.

**D. FISCAL COMMENTS:**

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

**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 take an 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:

Vote Requirement

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

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption and includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for information relating to the Network that is held by an agency if release of the information would reveal specified security or proprietary information. As such, the exemption does not appear to be in conflict with the constitutional requirement that it be no broader than necessary to accomplish its purpose.

**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**

On January 17, 2018, the Oversight, Transparency & Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarified that the bill applies to records held by an agency;
- Clarified that the bill applies to certain security and proprietary information relating to the Network, rather than “any” information relating to the Network; and
- Revised the public necessity statement to reflect the intent of the bill.

This analysis is drafted to the committee substitute as approved by the Oversight, Transparency & Administration Subcommittee

1                                   A bill to be entitled  
 2           An act relating to public records; amending s.  
 3           119.071, F.S.; providing an exemption from public  
 4           records requirements for certain information relating  
 5           to the Nationwide Public Safety Broadband Network held  
 6           by an agency; providing for future legislative review  
 7           and repeal of the exemption; providing a statement of  
 8           public necessity; providing an effective date.

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

11  
 12           Section 1. Paragraph (d) is added to subsection (3) of  
 13           section 119.071, Florida Statutes, to read:

14           119.071 General exemptions from inspection or copying of  
 15           public records.—

16           (3) SECURITY.—

17           (d)1. Information relating to the Nationwide Public Safety  
 18           Broadband Network established pursuant to 47 U.S.C s. 1401 et  
 19           seq. held by an agency is confidential and exempt from s.  
 20           119.07(1) and s. 24(a), Art. I of the State Constitution if  
 21           release of such information would reveal:

22           a. The design, development, construction, deployment, and  
 23           operation of network facilities;

24 b. Network coverage, including geographical maps  
 25 indicating actual or proposed locations of network  
 26 infrastructure or facilities;

27 c. The features, functions, and capabilities of network  
 28 infrastructure and facilities;

29 d. The features, functions, and capabilities of network  
 30 services provided to first responders, as defined in s.  
 31 112.1815, and other network users;

32 e. The design, features, functions, and capabilities of  
 33 network devices provided to first responders and other network  
 34 users; or

35 f. Security, including cybersecurity, of the design,  
 36 construction, and operation of the network and associated  
 37 services and products.

38 2. This paragraph is subject to the Open Government Sunset  
 39 Review Act in accordance with s. 119.15 and shall stand repealed  
 40 on October 2, 2023, unless reviewed and saved from repeal  
 41 through reenactment by the Legislature.

42 Section 2. The Legislature finds that it is a public  
 43 necessity that any information relating to the Nationwide Public  
 44 Safety Broadband Network established pursuant to 47 U.S.C s.  
 45 1401 et seq. held by an agency be made confidential and exempt  
 46 from public records requirements. Such information contains  
 47 security information and proprietary business information of  
 48 communications services providers. The disclosure of sensitive



49 information relating to the Nationwide Public Safety Broadband  
50 Network could result in identification of vulnerabilities in  
51 such network and allow a security breach that could damage the  
52 network or disrupt the network's safe and reliable operation,  
53 adversely impacting the public health and safety of the state.  
54 Disclosure of such information would adversely affect the  
55 business interests and compromise the network security of such  
56 providers and their networks. Further, disclosure of such  
57 information would impair competition in the communications  
58 services industry because competitors could use such information  
59 to impede full and fair competition in the communications  
60 services industry to the disadvantage of its consumers.  
61 Therefore, the Legislature finds that any information relating  
62 to the Nationwide Public Safety Broadband Network established  
63 pursuant to 47 U.S.C s. 1401 et seq. held by an agency must be  
64 held confidential and exempt from disclosure under s. 119.07(1),  
65 Florida Statutes, and s. 24(a), Art. I of the State  
66 Constitution.

67 Section 3. This act shall take effect July 1, 2018.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 869 Ranger Drainage District, Orange County  
**SPONSOR(S):** Plasencia  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Darden	Miller
2) Natural Resources & Public Lands Subcommittee	12 Y, 1 N	Gregory	Shugar
3) Government Accountability Committee		Darden <i>[Signature]</i>	Williamson <i>[Signature]</i>

**SUMMARY ANALYSIS**

The Ranger Drainage District (District) is an independent special district in eastern Orange County created by a decree of the Ninth Judicial Circuit in 1970. A three-member board elected on a one-acre, one-vote basis governs the District while exercising all powers set forth in Chapter 298, F.S.

The District is comprised of approximately 10,000 acres of land along the Econlockhatchee River. The lands east of the river comprise approximately 7,000 acres, primarily residential. In this area, the District provides all works and improvements necessary to execute the water control plan and levies assessments to provide services. The lands west of the river are generally for institutional and commercial uses, with site development controlled directly by the St. Johns River Water Management District. The lands west of the river currently are neither taxed nor serviced by the District.

The bill removes all lands west of the Econlockhatchee River from the District.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,<sup>1</sup> special act,<sup>2</sup> local ordinance,<sup>3</sup> or by rule of the Governor and Cabinet.<sup>4</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>5</sup>

A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of the governing body of a single county or municipality.<sup>6</sup> An "independent special district" is any district that is not a dependent special district.<sup>7</sup>

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.<sup>8</sup>

Chapter 298, F.S., governs the creation and operation of a water control district (WCD).<sup>9</sup> A WCD has the authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.<sup>10</sup> A WCD may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of the district. A WCD also may acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including pumping stations, pumping machinery, motive equipment, electric lines, and all appurtenant or auxiliary machines, devices, or equipment.<sup>11</sup> Any special or local law the Legislature enacts pertaining to a WCD prevails on the WCD and has the same force and effect as if it were part of ch. 298, F.S., at the time the WCD was created and organized.<sup>12</sup>

---

<sup>1</sup> Section 189.031(3), F.S.

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

<sup>3</sup> Section 189.02(1), F.S.

<sup>4</sup> Section 190.005(1), F.S. *See, generally,* s. 189.012(6), F.S.

<sup>5</sup> *2017 – 2018 Local Gov't Formation Manual*, p. 21, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911> (last accessed Dec. 18, 2017).

<sup>6</sup> Section 189.012(2), F.S.

<sup>7</sup> Section 189.012(3), F.S.

<sup>8</sup> Art. VII, s. 9(a), Fla. Const.

<sup>9</sup> All special districts operating under ch. 298, F.S., and formerly known as "drainage districts" or "water management districts" are now officially called water control districts. Section 298.001, F.S.

<sup>10</sup> Section 298.22, F.S.

<sup>11</sup> Section 298.22(3), F.S.

<sup>12</sup> Section 298.76(5), F.S.

## Ranger Drainage District

The Ranger Drainage District (District) is an independent special district in eastern Orange County, southeast of Orlando.<sup>13</sup> The District was created by a decree of the Ninth Judicial Circuit in 1970.<sup>14</sup> A three-member board elected on a one-acre, one-vote basis governs the District.<sup>15</sup> The board of the District is authorized to exercise all powers set forth in Chapter 298, F.S.<sup>16</sup> The board is also authorized to provide services to parcels adjoining the District with consent of the landowner, to allow fishing in District-owned canals, and to sponsor events "intended to foster community spirit," including a fishing tournament for children of the community.<sup>17</sup>

The District is comprised of approximately 10,000 acres of land along the Econlockhatchee River.<sup>18</sup> The lands to the east of the river, approximately 7,000 acres, are primarily zoned for residential use. Lands to the west of the river are generally zoned into large-scale institutional, utility, commercial, and conservation tracts. When the District was created in 1970, these lands were intended to be developed as residential and mixed-use development.<sup>19</sup> Developers continued to pay capital improvement taxes on these properties until the District's bonds were retired in 1994, but obtained authorization for site development directly from the St. Johns River Water Management District.<sup>20</sup> The lands west of the river currently are not taxed to fund District services since the District has no water control facilities in the area.<sup>21</sup>

### Effect of Proposed Changes

The bill revises the boundaries of the District to remove all lands west of the Econlockhatchee River. This will reduce the size of the District by approximately 3,000 acres.

#### B. SECTION DIRECTORY:

Section 1: Amends ch. 99-453, Laws of Fla., removing lands west of the Econlockhatchee River from the Ranger Drainage District.

Section 2: Provides that the bill takes effect upon becoming a law.

### II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 5, 2017

WHERE? *Orlando Sentinel*, a daily newspaper of general circulation published in Orange County, Florida.

---

<sup>13</sup> See Ranger Drainage District, *Third Amended Water Control Plan*, January 2008, at 67, available at [https://docs.wixstatic.com/ugd/f79a5a\\_90c3d17f56a24be9a9e4fe3846dd912c.pdf](https://docs.wixstatic.com/ugd/f79a5a_90c3d17f56a24be9a9e4fe3846dd912c.pdf) (map of the District in relation to city of Orlando).

<sup>14</sup> Ch. 99-453, s. 3, Laws of Fla. Prior to July 1, 1980, drainage districts could be created by order of the circuit court with jurisdiction over the majority of the land being made part of the district, on petition of the land owners. See s. 298.01, F.S.

<sup>15</sup> Ch. 99-453, s. 7(5), Laws of Fla. Landowners owning less than one acre are entitled one vote, while landowners owning more than one acre are entitled to one additional vote for each acre owned beyond the first.

<sup>16</sup> Ch. 99-453, s. 7(1), Laws of Fla.

<sup>17</sup> Ch. 99-453, s. 5, Laws of Fla.

<sup>18</sup> Ranger Drainage District, *Third Amended Water Control Plan*, *supra* note 13, at 7.

<sup>19</sup> *Id.*

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

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

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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

A bill to be entitled  
An act relating to Ranger Drainage District, Orange  
County; amending ch. 99-453, Laws of Florida, as  
amended; revising district boundaries; providing an  
effective date.

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

Section 1. Section 4 of chapter 99-453, Laws of Florida,  
as amended by chapter 2005-309, Laws of Florida, is amended to  
read:

Section 4. Status and boundaries of ranger drainage  
district.—The Ranger Drainage District is hereby declared to be  
an independent water control district and a public corporation  
of the State of Florida pursuant to chapter 298, Florida  
Statutes, as it may be amended from time to time, and the lands  
lying within the area described as follows in Orange County,  
Florida, shall hereby constitute the Ranger Drainage District:

The South one-half of Section 1, less that part lying  
East of the West right-of-way line of State Road No.  
520; The South one-half of Section 2; the East three-  
eighths of Section 10; all of Sections 11, 12, 13, 14,  
23, 24, 25, 26, together with portions of Sections 27  
and 28, in Township 23 South, Range 32 East in Orange

26 County, Florida, being more particularly described as  
 27 follows:  
 28  
 29 BEGINNING at the Southeast corner of Section 25, run  
 30 northerly along the easterly line of Sections 25, 24,  
 31 13, 12 and 1 to the westerly right-of-way line of  
 32 State Road No. 520; thence northwesterly along said  
 33 westerly right-of-way line of State Road No. 520 to a  
 34 point of intersection with the north line of the South  
 35 one-half of Section 1; thence westerly along the north  
 36 line of the South one-half of Sections 1 and 2 to the  
 37 westerly quarter corner of Section 2; thence southerly  
 38 along the West line of Section 2 to the Southwest  
 39 corner of Section 2; thence westerly along the North  
 40 line of Section 10 to the Northwest corner of the  
 41 easterly three-eighths of Section 10; thence southerly  
 42 along the west line of the easterly three-eighths of  
 43 Section 10 to the Southwest corner of the easterly  
 44 three-eighths of Section 10; thence easterly along the  
 45 south line of Section 10 to the Southeast corner of  
 46 Section 10; thence southerly along the west line of  
 47 Sections 14 and 23 to the Southwest corner of Section  
 48 23; thence westerly along the north line of Sections  
 49 27 and 28 to the Northeast corner of Tract A,  
 50 CAPE/ORLANDO ESTATES UNIT 11A, according to the plat



51 thereof, as recorded in Plat Book 3, at Pages 107  
 52 through 109, inclusive, of the Public Records of  
 53 Orange County, Florida; thence southerly along the  
 54 easterly boundary of said Tract A to the Southeast  
 55 corner of said Tract A; thence easterly along the  
 56 south line of Sections 27, 26 and 25 to the POINT OF  
 57 BEGINNING.

58  
 59 ~~The South one-half of Sections 1 and 2, the easterly~~  
 60 ~~three-eighths of Section 10, all of Sections, 11, 12,~~  
 61 ~~13, 14, 19, 23, 24, 25, 26, 27, 28, 29, 30, and 31 in~~  
 62 ~~Township 23 South, Range 32 East in Orange County,~~  
 63 ~~Florida, the boundary of which is more particularly~~  
 64 ~~described as follows:~~

65  
 66 ~~Commence at the Southeast corner of Section 25, run~~  
 67 ~~northerly along the easterly lines of Sections 25, 24,~~  
 68 ~~13, 12, and 1 to the westerly right-of-way of State~~  
 69 ~~Road 520; thence proceed northwesterly along said~~  
 70 ~~westerly right-of-way of State Road 520 to the~~  
 71 ~~intersection of State Road 520 and the north line of~~  
 72 ~~the South one-half of Section 1; thence westerly along~~  
 73 ~~the North line of the South one-half of Sections 1 and~~  
 74 ~~2 to the westerly quarter corner of Section 2; thence~~  
 75 ~~southerly along the West line of Section 2 to the~~

76 ~~Southwest corner of Section 2; thence westerly along~~  
 77 ~~the North line of Section 10 to the Northwest corner~~  
 78 ~~of the easterly three eighths of Section 10; thence~~  
 79 ~~southerly along the west line of the easterly three-~~  
 80 ~~eighths of Section 10 to the Southwest corner of the~~  
 81 ~~easterly three eighths of Section 10; thence easterly~~  
 82 ~~along the south line of Section 10 to the Southeast~~  
 83 ~~corner of Section 10; thence southerly along the west~~  
 84 ~~line of Section 14 and 23 to the Southwest corner of~~  
 85 ~~Section 23; thence westerly along the North line of~~  
 86 ~~Sections 27, 28, and 29 to the Northwest corner of~~  
 87 ~~Section 29; thence northerly along the east line of~~  
 88 ~~Section 19 to the Northeast corner of Section 19;~~  
 89 ~~thence westerly along the North line of Section 19 to~~  
 90 ~~the Northwest corner of Section 19; thence southerly~~  
 91 ~~along the west line of Sections 19, 30, and 31 to the~~  
 92 ~~Southwest corner of Section 31; thence easterly along~~  
 93 ~~the south line of Section 31 to the Southeast corner~~  
 94 ~~of Section 31; thence northerly along the east line of~~  
 95 ~~Section 31 to the Northeast corner of Section 31;~~  
 96 ~~thence easterly along the south lines of Sections 29,~~  
 97 ~~28, 27, 26, and 25 to the point of beginning.~~

98

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



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1013 Daylight Saving Time  
**SPONSOR(S):** Nuñez, Fitzenhagen and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 858

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	11 Y, 0 N	Rivera	Miller
2) Government Accountability Committee		Rivera <i>GR</i>	Williamson <i>RAW</i>

**SUMMARY ANALYSIS**

The United States Congress established a uniform standard of time, created standard time zones across the U.S., and adopted a national standard for Daylight Saving Time (DST) under the Uniform Time Act of 1966 (Act). The Act creates nine time zones and defines DST as the advancement of time by one hour from the second Sunday in March to the first Sunday in November. States may exempt themselves from observing DST and instead observe standard time year-round if certain conditions are met.

The bill declares the Legislature's intent to observe DST year-round throughout the entire state if federal law is amended to permit states to take such action.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### The Standard Time Act of 1918

In 1918, the United States enacted the Standard Time Act, which adopted a national standard measure of time, created five standard time zones across the continental U.S., and instituted Daylight Saving Time (DST) nationwide as a war effort during World War I.<sup>1</sup> DST advanced standard time by one hour from the last Sunday in March to the last Sunday in October.<sup>2</sup> DST was repealed after the war but the standard time provisions remained in place.<sup>3</sup> During World War II, a national DST standard was revived and extended year-round from 1942 to 1945.<sup>4</sup>

##### Uniform Time Act of 1966

Following World War II and the end of the national observance of DST, state and local governments individually determined whether and how to observe DST, which caused confusion in business and industry.<sup>5</sup> The Uniform Time Act of 1966 (Act) revised the measure of standard time established by the Standard Time Act of 1918, created additional time zones, and adopted a uniform DST standard nationwide.<sup>6</sup>

The Act defines DST as the advancement of time by one hour from the second Sunday of March to the first Sunday of November.<sup>7</sup> The Act preempts state and local law regulating the observance of DST in any manner inconsistent with federal law.<sup>8</sup> However, states may exempt themselves from observing DST and instead observe standard time year-round by passing a state law if:

- The entire state lies within a single time zone and the exemption applies statewide; or
- The state lies in more than one time zone and the exemption applies to the entire state or to the entire part of the state within one time zone.<sup>9</sup>

Currently, DST is not observed in Hawaii, American Samoa, Guam, Puerto Rico, the Virgin Islands, and most of Arizona.<sup>10</sup>

The Act creates nine standard time zones.<sup>11</sup> The nine standard time zones are the Atlantic standard time (zone 1), eastern standard time (zone 2), central standard time (zone 3), mountain standard time

---

<sup>1</sup> 40 Stat. 450 (1918). Germany was the first country to implement DST in 1916 to conserve fuel, take advantage of more usable daylight hours, and win the war. See Abigail Abrams, *Daylight Saving Time Is This Weekend. Here's What You Need to Know*, Time, Nov. 3, 2017, available at <http://time.com/5007531/when-is-daylight-saving-time-2017/> (accessed 1/19/18).

<sup>2</sup> 40 Stat. 451 (1918).

<sup>3</sup> See 56 Stat. 9 (1942).

<sup>4</sup> See Stephen Fidler, *Daylight-Saving Time*, Wall Street Journal, available at <http://online.wsj.com/ww1/daylight-saving-time> (accessed 1/19/18).

<sup>5</sup> Id.

<sup>6</sup> 15 U.S.C. ss. 260-267 (2017).

<sup>7</sup> 15 U.S.C. s. 260a(a) (2017). DST begins and ends at 2a.m. on each respective Sunday.

<sup>8</sup> 15 U.S.C. 260a(b) (2017).

<sup>9</sup> 15 U.S.C. s. 260a(a). The Act originally only allowed for the exemption of the entire state but the partial exemption was added in 1972. See 86 Stat. 116 (1972).

<sup>10</sup> See U.S. Department of Transportation, *Daylight Saving Time*, <https://www.transportation.gov/regulations/daylight-saving-time> (accessed 1/30/18).

<sup>11</sup> 15 U.S.C. s. 263 (2017).

(zone 4), Pacific standard time (zone 5), Alaska standard time (zone 6), Hawaii-Aleutian standard time (zone 7), Samoa standard time (zone 8), and Chamorro standard time (zone 9).<sup>12</sup>

### Florida Law

Current law provides that with regard to any act by an officer or department in Florida, it is understood and intended that the said time is the U.S. "standard time of the zone within which the act is to be performed."<sup>13</sup>

### Effect of Proposed Change

The bill creates the "Sunshine Protection Act." The bill states it is the intent of the Legislature that DST will be the year-round standard time of the entire state and all of its political subdivisions if the U.S. Congress amends the Uniform Time Act of 1966 to permit states to take such action.

#### B. SECTION DIRECTORY:

Section 1. Creates the "Sunshine Protection Act" and establishes Legislative intent regarding the observance of DST year-round under certain conditions.

Section 2. Provides that the act will take effect July 1, 2018.

## 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.

---

<sup>12</sup> Time in the zones is offset by a certain number of hours from Coordinated Universal Time (UTC), which is calculated by the number of zones it takes to reach UTC. UTC, formerly Greenwich Mean Time, is the time at the 0° longitude meridian in Greenwich, England. See 15 U.S.C. 261 and the National Oceanic and Atmospheric Administration (NOAA), What is UTC or GMT?, available at: <https://www.nhc.noaa.gov/about utc.shtml> (accessed 1/20/18). Some places that lie exactly on a meridian offset their standard time to the half-hour, such that St. John's, Newfoundland and Labrador, Canada, is 3 and 1/2 hours behind UTC. Time and Date AS, <https://www.timeanddate.com/information/> (accessed 1/20/18). The U.S. treats areas laying on meridians as if they rested within a time zone and does not observe half-hour offsets. See 49 C.F.R. s. 71.5 (2017).

<sup>13</sup> Section 1.02, F.S.

### **III. COMMENTS**

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

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

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

##### **2. Other:**

None.

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

The bill neither provides authority nor requires rulemaking by executive branch agencies.

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

None.

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

None.

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

A bill to be entitled  
An act relating to daylight saving time; providing a short title; providing legislative intent regarding the State of Florida and its political subdivisions observing daylight saving time year-round under certain conditions; providing an effective date.

WHEREAS, the State of Florida is known as the "Sunshine State," and

WHEREAS, as the "Sunshine State," Florida should be kept sunny year-round, NOW, THEREFORE,

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

Section 1. (1) This section may be cited as the "Sunshine Protection Act."

(2) If the United States Congress amends 15 U.S.C. s. 260a to authorize states to observe daylight saving time year-round, it is the intent of the Legislature that daylight saving time shall be the year-round standard time of the entire state and all of its political subdivisions.

Section 2. This act shall take effect July 1, 2018.





## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1113 Palm Beach County Housing Authority  
**SPONSOR(S):** Silvers and Berman  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	10 Y, 0 N	Darden	Miller
2) Public Integrity & Ethics Committee	18 Y, 0 N	Mitz	Kiner
3) Government Accountability Committee		Darden <i>JD</i>	Williamson <i>RAW</i>

### SUMMARY ANALYSIS

A municipality may create a housing authority to address either unsanitary or unsafe housing accommodations existing in the city or a shortage of safe and sanitary housing available to low income residents at an affordable rental rate. The governing body of the housing authority consists of five to seven persons appointed by the municipality's mayor and approved by its governing body. A county may create a housing authority subject to the same criteria, except the governing body of a county-created housing authority is appointed by the Governor.

The Palm Beach County Housing Authority (Authority) was created in 1969 to "provide affordable housing stock to low-income families through rental assistance programs." The Authority has a five-member board appointed by the Governor.

The bill expands the governing board of the Authority from five members to seven members. The governing body of Palm Beach County may appoint two members. The members appointed by the county must be qualified electors of the county and are subject to removal or suspension by the governing body of the county. The remaining five members continue to be appointed by the Governor as provided in s. 421.27(2), F.S.

The bill does not appear to have a fiscal impact.

**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

##### Housing Authorities

The governing body of each municipality containing more than 2,500 residents may create a housing authority by adopting a resolution.<sup>1</sup> The governing body of the municipality may determine a housing authority is needed by its own volition or upon receipt of a petition signed by 25 residents of the city declaring the need for an authority.<sup>2</sup> The resolution creating the housing authority must contain a finding that either unsanitary or unsafe housing accommodations exist in the city or that there is a shortage of safe and sanitary housing available to low income residents at an affordable rental rate.<sup>3</sup> The governing body of the municipality may consider overcrowding, percentage of land coverage, the availability of light, air, and space, the size and arrangement of rooms, sanitary facilities, and building conditions, which present a fire hazard or other danger to life or property.<sup>4</sup>

After adoption of a resolution creating the housing authority, the mayor of the municipality appoints five to seven commissioners<sup>5</sup> to the housing authority, subject to approval of the governing body of the municipality. The term of a commissioner is four years and no commissioner may be an officer or employee of the municipality creating the housing authority. Commissioners receive no compensation, but are entitled to necessary expenses, including travel expenses, incurred in the discharge of their official duties.<sup>6</sup>

At least one commissioner must be a current resident of a housing project or a person of low or very low income who lives in the housing authority's service area and receives a rent subsidy through the housing authority or a public housing agency with an overlapping service area.<sup>7</sup> If there are no completed housing projects in the authority's service area, the tenant-commissioner position must remain vacant until 10 percent of the housing units in the first housing project are occupied. If the tenant-commissioner ceases to be a tenant, the position becomes vacant and a replacement commissioner is appointed for the unexpired portion of the tenant-commissioner's term. If no current tenant is willing and able to serve as a tenant-commissioner, the mayor may appoint a commissioner using normal procedures, but must exercise due diligence in all succeeding vacancies to appoint a tenant-commissioner at the earliest date possible.

The commissioners of a housing authority may select their own officers, hire employees (including, but not limited to, an executive director and technical experts), and request legal assistance from the city attorney or employ their own legal staff.<sup>8</sup> Commissioners and housing authority employees are prohibited from acquiring any interest in a housing project or in a contract to provide services or materials to a housing project.<sup>9</sup> If a commissioner or housing authority employee holds an interest, that interest must be disclosed to the housing authority in writing and entered into the minutes.

---

<sup>1</sup> Section 421.04(1), F.S. Section 421.03(2), F.S., defines a city for the purposes of Housing Authorities Law as any city or town having a population of more than 2,500 as of the most recent state or federal census.

<sup>2</sup> Section 421.04(1)(a), F.S.

<sup>3</sup> Section 421.04(2), F.S.

<sup>4</sup> Section 421.04(2)(b), F.S.

<sup>5</sup> Some housing authorities created before March 28, 1991, have more than seven commissioners. Those authorities may keep the number of commissioners they had as of March 28, 1991. Section 421.05(3), F.S.

<sup>6</sup> Section 421.05(1), F.S.

<sup>7</sup> *Id.* This commissioner is referred to as a "tenant-commissioner."

<sup>8</sup> Section 421.05(2), F.S.

<sup>9</sup> Section 421.06, F.S.

A housing authority has the power to:<sup>10</sup>

- Prepare, carry out, acquire, lease, and operate housing projects;<sup>11</sup>
- Construct, reconstruct, improve, alter, or repair any housing project;
- Arrange or contract for the provision of services, works, and facilities in connection with a housing project;
- Lease or rent dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced by any housing project;
- Establish and revise rents or charges for housing project properties;
- Investigate housing conditions within its area of operation and determine the existence of slums;
- Organize a corporate entity to hold an ownership interest or participate in the governance of multifamily or single-family residential projects; and
- Execute contracts and other instruments necessary to exercise the powers of the authority.

Housing authorities can finance projects through the issuance of debentures.<sup>12</sup> The debentures may be paid from the income and revenues of housing projects operated by the authority, federal grant money used to aid in the housing project for which the debenture is issued, or from the authority's general revenue. The debentures are obligations of the authority and are not a debt of the city, county, state, or any other political subdivision.<sup>13</sup> Housing authorities may also receive aid from the federal government in the form of loans, grants, and the ability to take over, lease, or manage housing projects constructed by the federal government.<sup>14</sup>

The governing body of a county may also create a housing authority following the same procedure required for the creation of a municipal housing authority under s. 421.04, F.S.<sup>15</sup> A county housing authority may operate in any unincorporated area of the county.<sup>16</sup> The governing body of a county housing authority consists of five to seven qualified electors of the county appointed by the Governor, who may be removed or suspended in the same manner and for the same reasons as other officers appointed by the Governor.<sup>17</sup>

### Palm Beach County Housing Authority

The Palm Beach County Housing Authority (Authority) was created in 1969 to "provide affordable housing stock to low-income families through rental assistance programs."<sup>18</sup> The Authority acquired its first property in 1973, placed its first tenant in a public housing unit in 1975, and received its first application for a Section 8 voucher in 1976.<sup>19</sup> The Authority has a five-member board appointed by the Governor and meets on the fourth Monday of each month.<sup>20</sup> At the conclusion of the 2016 fiscal year, the Authority had \$18,675,065 in assets and \$16,253,007 in liabilities.<sup>21</sup>

---

<sup>10</sup> Section 421.08, F.S.

<sup>11</sup> A "housing project" is defined as any work or undertaking to remove building in a slum area, to provide decent, safe, and sanitary living accommodations, or a combination of the two. Section 421.03(9), F.S.

<sup>12</sup> Section 421.14, F.S. A debenture is a debt instrument secured by only the debtor's earning power, without a lien on any specific asset. Black's Law Dictionary (10th ed. 2014).

<sup>13</sup> Section 421.14(2), F.S.

<sup>14</sup> Section 421.21, F.S.

<sup>15</sup> Section 421.27(1), F.S.

<sup>16</sup> Section 421.27(3), F.S.

<sup>17</sup> Section 421.27(2), F.S.

<sup>18</sup> Palm Beach County Housing Authority, *About Us*, <http://www.pbchaf.org/about-us> (last accessed Jan. 9, 2018).

<sup>19</sup> Palm Beach County Housing Authority, *History*, <http://www.pbchaf.org/about-us/history> (last accessed Jan. 9, 2018).

<sup>20</sup> See Palm Beach County Housing Authority, *Board of Commissioners*, <http://www.pbchaf.org/about-us/pbcha-board-of-commissioners> (last accessed Jan. 9, 2018). See also s. 421.27(2), F.S. (providing for gubernatorial appointment of board members for county housing authorities). Palm Beach County Housing Authority, *Board Meetings*, <http://www.pbchaf.org/pbcha-board-of-commissioners/pbcha-board-of-commissioners/board-meetings> (last accessed Jan. 9, 2018).

<sup>21</sup> Palm Beach County Housing Authority, *Basic Financial Statements and Supplement Information (Year Ended September 30, 2016)*, at 9, available at <http://www.pbchaf.org/docs-handler.ashx?f=pbcha-audited-financials-fy2016.pdf> (last accessed Jan. 10, 2018)

**Effect of Proposed Changes**

The bill creates an exception to general law. The bill expands the governing board of the Authority from five members to seven members. The governing body of Palm Beach County may appoint two members. The members appointed by the county must be qualified electors of the county and are subject to removal or suspension by the governing body of the county. The remaining five members continue to be appointed by the Governor as provided in s. 421.27(2), F.S.

**B. SECTION DIRECTORY:**

Section 1: Authorizes the governing body of Palm Beach County to appoint two additional commissioners to the housing authority and remove or suspend such commissioners.

Section 2: Provides that the bill takes effect upon becoming a law.

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

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 10, 2017

WHERE? *The Palm Beach Post*, a daily newspaper of general circulation in Palm Beach County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor provides authority for executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

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

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to the Palm Beach County Housing  
 3           Authority; providing exceptions to general law;  
 4           authorizing the governing body of Palm Beach County to  
 5           appoint two additional commissioners to the housing  
 6           authority and remove or suspend such commissioners;  
 7           providing an effective date.

8

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

10


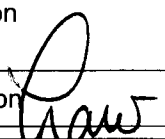
11           Section 1. Notwithstanding ss. 421.05(1) and 421.27(2),  
 12 Florida Statutes, the Palm Beach County Housing Authority may be  
 13 composed of seven commissioners, five of whom shall be appointed  
 14 by the Governor as provided in s. 421.27(2), Florida Statutes,  
 15 and two of whom may be appointed by the governing body of Palm  
 16 Beach County. The commissioners appointed by the governing body  
 17 of Palm Beach County must be qualified electors in the county  
 18 and may be removed or suspended as other officers appointed by  
 19 the governing body of Palm Beach County. Other than as provided  
 20 in this act, all requirements of s. 421.27(2), Florida Statutes,  
 21 apply to all commissioners of the Palm Beach County Housing  
 22 Authority.

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



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1139 City Pension Fund for Firefighters and Police Officers in the City of Tampa, Hillsborough County  
**SPONSOR(S):** Cruz and others  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	8 Y, 0 N	Darden	Miller
2) Oversight, Transparency & Administration Subcommittee	11 Y, 0 N	Harrington	Harrington
3) Government Accountability Committee		Darden 	Williamson 

### SUMMARY ANALYSIS

The Firefighters and Police Pension Fund (Fund) for the City of Tampa was created by special act in 1933. As of September 30, 2017, the Fund had 1,388 active members, 1,908 retired members, and 186 members in the Deferred Retirement Option Plan. As of October 1, 2016, the Fund had \$1,103,569,405 in total assets and \$17,056,352 in unfunded actuarial accrued liability.

The bill authorizes the City of Tampa to enter into a supplemental contract with every firefighter or police officer who is an active member of the Fund for the City of Tampa, or who enters into a pension contract with the city, on or after the date this act becomes a law. In addition, the bill provides for an increased benefit for the widows of firefighters and officers who die in the line of duty. The bill adjusts benefits for the children of firefighters and officers who died in the line of duty to reflect this increase. The changes to the pension contract in this act must be made available in a supplemental pension contract to every active firefighter and police officer. In addition, any person who becomes a member of the Fund on or after the date the bill becomes law must sign a pension contract that includes the provisions of this act as a condition of membership in the Fund. The bill also states that provisions of the bill are severable.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Florida Protection of Public Employee Retirement Benefits Act

Part VII of chapter 112, F.S., the Florida Protection of Public Employee Retirement Benefits Act (act), was adopted by the Legislature to implement the provisions of s. 14, Art. X of the Florida Constitution. The act establishes minimum standards for operating and funding public employee retirement systems and plans. It applies to all units of state, county, special district, and municipal governments participating in, operating, or administering a retirement system for public employees, which is funded in whole or in part by public funds.<sup>1</sup> Responsibility for administration of the act is assigned primarily to the Division of Retirement (division), Department of Management Services (DMS).

The Florida Constitution prohibits any increase in retirement or pension benefits for a publicly funded plan, unless the increase has made or concurrently makes provision for funding the increase on an actuarially sound basis.<sup>2</sup> Local governments are prohibited from agreeing to a proposed change in retirement benefits if the plan administrator did not issue a statement of actuarial impact of the proposed change before both the adoption of the change by the governing body of the local government and the last public hearing about the proposed change.<sup>3</sup> This statement also must be furnished to the division before the local government can agree to the change.<sup>4</sup> The statement must indicate whether the proposed change complies with s. 14, Art. X of the Florida Constitution and with s. 112.64, F.S. (concerning the administration of pension funds and the amortization of any unfunded actuarial liability).<sup>5</sup>

###### Municipal Firefighter and Police Pensions

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

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive (access to premium tax revenues) to encourage the establishment of firefighter retirement plans by Florida cities.<sup>6</sup> Fourteen years later, in 1953, the Legislature enacted ch. 185, F.S., which created a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.<sup>7</sup>

Funding for these pension plans comes from four sources:<sup>8</sup>

- Net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”);
- Employee contributions;

---

<sup>1</sup> Section 112.62, F.S.

<sup>2</sup> Art. X, s. 14, Fla. Const.

<sup>3</sup> Section 112.63(3), F.S.

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

<sup>5</sup> *Id.*

<sup>6</sup> See DMS, *Overview, Legislative History of Chapter 175/185 Program*, available at:

[http://www.dms.myflorida.com/workforce\\_operations/retirement/local\\_retirement\\_plans/municipal\\_police\\_and\\_fire\\_plans/overview](http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview) (last visited Jan. 8, 2018).

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

<sup>8</sup> Sections 175.091(1)(a)-(g) and 185.07(1)(a)-(g), F.S.

- Other revenue sources; and
- Mandatory payments by the city of any extra amount needed to keep the plan solvent.

### City of Tampa Firefighters and Police Pension Fund

The Firefighters and Police Pension Fund (Fund) for the City of Tampa originally was created through a special act in 1933<sup>9</sup> and amended through subsequent acts, most recently in 2017.<sup>10</sup> The provisions of these laws are incorporated into a pension contract and appropriate supplemental pension contracts, which are signed by each individual plan member.

The special act provides for pension plan administration, funding, membership and benefits. The general administration and responsibility for the proper operation of the pension system is vested in a board of trustees consisting of nine persons: three members of the city administration appointed by the mayor, three members of the fire department elected by active and retired firefighters, and three members of the police department elected by active and retired police officers.<sup>11</sup>

As of September 30, 2017, the Fund had 1,388 active members, 1,908 retired members, and 186 members in the Deferred Retirement Option Plan (DROP).<sup>12</sup> As of October 1, 2016, the Fund had \$1,103,569,405 in total assets and \$17,056,352 in unfunded actuarial accrued liability.<sup>13</sup> Normal retirement age is 46 years of age for those with at least 10 years of service and any age for those with at least 20 years of service.<sup>14</sup>

The Fund currently assumes 8.5 percent annual growth of its assets.<sup>15</sup> During the 2015-16 fiscal year, the Fund saw 13.08 percent growth in the actuarial value of its assets and 22.02 percent growth in the market value of its assets.

### *Survivor Pensions*

The widow or any children of a Fund member who dies in the line of duty may receive a pension if certain qualifications are met.<sup>16</sup>

A widow may receive monthly payments equal to 65 percent of the member's final yearly earnings from the date of the member's death. If the member died in the line of duty before October 1, 1969, the widow receives a minimum benefit of \$1,500 per month. If the member was also a member of the General Employees Pension Plan, the widow's benefit is reduced upon reaching Social Security normal retirement age by the amount of the actual Social Security benefit earned by the member during his employment as a firefighter or police officer for the City of Tampa, to the extent the Social Security benefit may be creditable service to the Fund.

The child of a member may receive, for the duration of childhood, monthly payments equal to 15 percent of the member's final yearly earnings. The child's benefit is subject to annual limitation on survivor payments to the member's widow and child(ren) of 95 percent of the member's final yearly earnings. A child of a member is not considered a child at the earliest of the date of the child's death, date of marriage, reaching age 18, or reaching age 23 (if a fulltime student). The Fund is authorized to make payments to adopted children; however, stepchildren are expressly excluded.

<sup>9</sup> Ch. 16721, Laws of Fla. (1933).

<sup>10</sup> Ch. 2017-197, Laws of Fla.

<sup>11</sup> Ch. 2011-240, Laws of Fla.

<sup>12</sup> Department of Management Services, *Florida Local Government Retirement Systems 2017 Annual Report*, p. 15 of Appendix F, available at:

[http://www.dms.myflorida.com/workforce\\_operations/retirement/local\\_retirement\\_plans/local\\_retirement\\_section/local\\_government\\_annual\\_reports](http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/local_retirement_section/local_government_annual_reports) (last accessed Jan. 8, 2018) (herein DMS Local Government Reports).

<sup>13</sup> DMS Local Government Reports, p. 18 of Appendix A.

<sup>14</sup> DMS Local Government Reports, p. 64 of Appendix B.

<sup>15</sup> DMS Local Government Reports, p. 20 of Appendix E.

<sup>16</sup> Ch. 16721, Laws of Fla. (1933), s. 8, as amended.

If the widow of a member dies while a child is collecting benefits, the child's allowance increases to 30 percent of the member's final yearly earnings for each child, but may not exceed 60 percent of the member's final yearly earnings.

If a member has no widow or children, the member's designated beneficiary may receive payments for 10 years equal to the amount the member would otherwise be entitled to at normal retirement age.

### **Effect of Proposed Changes**

Pursuant to the requirements of chapters 175 and 185, F.S., the bill authorizes the City of Tampa to enter into a supplemental contract with every firefighter or police officer who is an active member of the Fund, or who hereafter enters into a pension contract with the City of Tampa, on or after the date the bill becomes law.

The bill increases the monthly payment amount a surviving widow may receive upon a member's death from 65 percent of the member's final yearly earnings to 100 percent. The bill provides that this amount is reduced by any benefits received by a member's child(ren), such that the total annual benefits paid by the Fund do not exceed 100 percent of the member's final yearly earnings. The bill limits the total payments to children at 30 percent of the members' final yearly earning and provides that the Fund may adjust the percent paid to children if the member has more than two children.

The changes to the pension contract must be made available in a supplemental pension contract and an individual is not authorized to select some of said changes and reject other changes. Additionally, any actively employed firefighter or police officer who is entitled to benefits under the Fund will have the opportunity to sign a supplemental pension contract before October 1, 2017. However, any person who becomes a member of the Fund on or after the date the bill becomes law must, as a condition of membership into the Fund, sign a pension contract that includes the provisions of this act and must make contributions, if required, as a result of the benefits. Furthermore, the bill approves, ratifies, validates, and confirms the Fund.

Lastly, if the provisions of the act or its application are invalid, the invalidity will not affect other provisions or applications of the act, which can be given effect without the invalid provision, or application. Provisions of the act are severable.

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

- Section 1: Authorizes the City of Tampa to enter into a supplemental contract with certain firefighters and police officers.
- Section 2: Amends ch. 16721, Laws of Fla. (1933), as amended, to revise the formula for survivor benefits for Fund members who die in the line of duty.
- Section 3: Provides contract requirements.
- Section 4: Confirms the City of Tampa Firefighters and Police Officers Pension Contract.
- Section 5: Provides for severability.
- Section 6: Provides that the bill is effective upon becoming a law.

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

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 10, 2017

WHERE?                    The *Tampa Bay Times*, a daily newspaper of general circulation in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED?    Yes     No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED?    Yes, attached     No

D. ECONOMIC IMPACT STATEMENT FILED?    Yes, attached     No

### 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:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1                   A bill to be entitled  
 2           An act relating to the City Pension Fund for  
 3           Firefighters and Police Officers in the City of Tampa,  
 4           Hillsborough County; authorizing the City of Tampa to  
 5           enter into a supplemental contract with certain  
 6           firefighters and police officers to increase the  
 7           amount of pension received by a widow or widower  
 8           should a member lose his or her life or later die from  
 9           injuries or causes occurring while in the discharge of  
 10          duties; confirming in part the City of Tampa  
 11          Firefighters and Police Officers Pension Contract;  
 12          providing for severability; providing an effective  
 13          date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1. The City of Tampa is authorized and empowered  
 18 to enter into a supplemental contract with each and every  
 19 firefighter or police officer who is an active member of the  
 20 City Pension Fund for Firefighters and Police Officers in the  
 21 City of Tampa on or after the date this act becomes a law or who  
 22 hereafter enters into a pension contract with the city.

23           Section 2. Section 8 of the City of Tampa Firefighters and  
 24 Police Officers Pension Contract as prescribed by Section 28-17  
 25 of the City of Tampa Code [Ordinance No. 4746-A, enacted

26 September 30, 1969], as amended by Section 28-19 of the City of  
 27 Tampa Code [Ordinance No. 6038-A, enacted September 17, 1974],  
 28 pursuant to chapter 74-613, Laws of Florida, as further amended  
 29 by Ordinance No. 89-314, enacted December 21, 1989, and  
 30 approved, ratified, validated, and confirmed by chapter 90-391,  
 31 Laws of Florida, and as further amended by chapter 92-231, Laws  
 32 of Florida, chapter 94-463, Laws of Florida, chapter 98-515,  
 33 Laws of Florida, chapter 2000-485, Laws of Florida, Ordinance  
 34 No. 2001-133, enacted July 3, 2001, chapter 2001-288, Laws of  
 35 Florida, chapter 2002-369, Laws of Florida, Ordinance No. 2003-  
 36 22, enacted January 23, 2003, chapter 2004-427, Laws of Florida,  
 37 chapter 2007-304, Laws of Florida, chapter 2011-240, Laws of  
 38 Florida, chapter 2012-235, Laws of Florida, and chapter 2017-  
 39 197, Laws of Florida, is amended to read:

40 Section 8. If any member of either department shall lose  
 41 his life or later die from injuries or causes occurring while in  
 42 the discharge of his duties, and shall leave a widow or widower,  
 43 or child or children under the age of eighteen (18) years, or  
 44 age twenty-three (23) if a full-time student, the Board shall  
 45 authorize and direct payment of a pension to the widow or  
 46 widower and/or child or children, but only in the following  
 47 amounts and on the following conditions:

48 (A) To the widow or widower in equal monthly installments  
 49 an amount equal to one hundred per centum (100%) ~~sixty-five per~~  
 50 ~~centum (65%)~~ of the member's final year's earnings, computed

51 | from date of death, until death, less any benefits provided  
 52 | under paragraph (B) of this section, so that total benefits paid  
 53 | do not exceed one hundred per centum (100%) of the member's  
 54 | final year's earnings. For the widow or widower of a firefighter  
 55 | or police officer killed in the line of duty prior to October 1,  
 56 | 1969, the minimum benefit under this section shall be \$1,500 per  
 57 | month (Base plus PRAA). For the widow or widower of any member  
 58 | of this Pension Fund who prior to October 16, 1992, was a member  
 59 | of Division B of the General Employees Pension Plan as  
 60 | established by Chapter 81-497, Laws of Florida, as amended, upon  
 61 | the reaching social security normal retirement age, except as  
 62 | provided in Section 28(C) of this Contract, the benefit paid to  
 63 | the widow or widower shall be reduced by an amount equal to the  
 64 | actual social security benefit earned by the member for  
 65 | employment as a firefighter or police officer for the City to  
 66 | the extent that such employment is considered to be creditable  
 67 | service under this Fund; provided, however, that if the widow or  
 68 | widower does not receive the member's accrued social security  
 69 | benefit, there shall be no reduction in benefits paid to such  
 70 | widow or widower. The effect of such reduction shall be that the  
 71 | sum of the benefit paid herein and said social security benefit  
 72 | shall be equal to the amount of the benefit otherwise payable  
 73 | herein. The widow or widower of each such member shall, upon  
 74 | demand by the Board, authorize the Social Security  
 75 | Administration to release any information necessary to calculate

76 such reduction. The Board shall not make any payment for the  
 77 benefit payable herein for any period during which such widow or  
 78 widower willfully fails or refuses to authorize the release of  
 79 such information in the manner and within the time prescribed by  
 80 rules adopted by the Board.

81 (B) For each child until he or she shall have reached the  
 82 age of eighteen (18) years, or until such child or children  
 83 shall die or marry before reaching the age of eighteen (18)  
 84 years, or age twenty-three (23) if a full-time student, in equal  
 85 monthly installments an amount equal to fifteen per centum (15%)  
 86 of the final year's earnings, computed from date of death,  
 87 subject to a limitation of a total of one hundred per centum  
 88 (100%) ~~ninety-five per centum (95%)~~ of final yearly earnings for  
 89 widow or widower and children combined. Equal monthly  
 90 installments paid to the child or children in the aggregate  
 91 shall not exceed thirty percent per centum (30%) of the member's  
 92 final year's earnings, and the fifteen per centum (15%) per  
 93 child shall be adjusted in the event of more than two (2)  
 94 children. Monthly installment amounts paid to the child or  
 95 children shall reduce the widow or widower monthly installments  
 96 by the same amount paid to the child or children so that the  
 97 total combined annual benefits of the widow or widower and the  
 98 child or children do not exceed one hundred per centum (100%) of  
 99 the member's final year's earnings. Children's pensions shall  
 100 terminate at the earliest of death, ~~or marriage, as well as~~



101 reaching age eighteen (18), or reaching age twenty-three (23) if  
 102 a full-time student. Adopted children shall participate. Pension  
 103 payments no longer paid to the child or children shall continue  
 104 to be paid to the widow or widower.

105 (C) Upon death of the widow or widower, the fifteen per  
 106 centum (15%) child allowance shall be increased to thirty per  
 107 centum (30%) for each child, and shall be paid in trust to  
 108 eligible children, not to exceed a total of sixty per centum  
 109 (60%) of member's final earnings.

110 (D) The trusteeship and disbursement of the pension to any  
 111 child or children is to be determined by the Board of Trustees.

112 (E) No pension shall be allowed to any stepchild or  
 113 stepchildren of a deceased member.

114 (F) In the absence of an eligible surviving spouse or  
 115 minor children, to the extent required by the Florida Statutes,  
 116 in the event of the death of a member prior to retirement, the  
 117 member's designated beneficiary shall be entitled to the  
 118 benefits otherwise payable to the member at normal retirement  
 119 age for ten (10) years certain.

120 (G) In the case of a surviving widow or widower and a  
 121 surviving child as defined in this act, who is in pay status on  
 122 October 1, 2018 ~~2012~~, the benefit received shall be increased on  
 123 the first payment date after October 1, 2018 ~~2012~~.

124 Section 3. The changes to the pension contract in this act  
 125 for firefighters and police officers who are active members of

126 the City Pension Fund for Firefighters and Police Officers in  
 127 the City of Tampa on or after the date this act becomes a law  
 128 shall be made available in a supplemental pension contract, and  
 129 an individual shall not be permitted to select some of said  
 130 changes and reject other of said changes. Any firefighter or  
 131 police officer who is entitled to benefits under the City  
 132 Pension Fund for Firefighters and Police Officers in the City of  
 133 Tampa who is actively employed as a firefighter or police  
 134 officer in the City of Tampa on or after the date this act  
 135 becomes a law shall have the opportunity to sign such  
 136 supplemental pension contract before October 1, 2018. However,  
 137 any person who becomes a member of the City Pension Fund for  
 138 Firefighters and Police Officers in the City of Tampa on or  
 139 after the date this act becomes a law shall be required, as a  
 140 condition of membership into such pension fund, to sign a  
 141 pension contract which includes the provisions of this act, and  
 142 shall be required to make contributions if required as a result  
 143 of such benefits.

144 Section 4. The City of Tampa Firefighters and Police  
 145 Officers Pension Contract as prescribed by Section 28-17 of the  
 146 Tampa City Code [Ordinance No. 4746-A, enacted September 30,  
 147 1969], as amended by Section 28-19 of the City of Tampa Code  
 148 [Ordinance No. 6038-A, enacted September 17, 1974], pursuant to  
 149 chapter 74-613, Laws of Florida, as further amended by Ordinance  
 150 No. 89-314, enacted December 21, 1989, and approved, ratified,

151 validated, and confirmed by chapter 90-391, Laws of Florida, and  
 152 further amended by chapter 92-231, Laws of Florida, chapter 94-  
 153 463, Laws of Florida, chapter 98-515, Laws of Florida, chapter  
 154 2000-485, Laws of Florida, Ordinance No. 2001-133, enacted July  
 155 3, 2001, chapter 2001-288, Laws of Florida, chapter 2002-369,  
 156 Laws of Florida, Ordinance No. 2003-22, enacted January 23,  
 157 2003, chapter 2004-427, Laws of Florida, chapter 2007-304, Laws  
 158 of Florida, chapter 2011-240, Laws of Florida, chapter 2012-235,  
 159 Laws of Florida, and chapter 2017-197, Laws of Florida, is in  
 160 all other respects approved, ratified, validated, and confirmed.


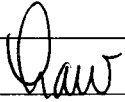
161 Section 5. If any provision of this act or its application  
 162 to any person or circumstance is held to be invalid, the  
 163 invalidity shall not affect other provisions or applications of  
 164 this act which can be given effect without the invalid provision  
 165 or application, and to this end the provisions of this act are  
 166 severable.

167 Section 6. This act shall take effect upon becoming a law.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** CS/HB 1141 Firefighters' Relief and Pension Fund of the City of Pensacola, Escambia County  
**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; White  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	8 Y, 0 N, As CS	Rivera	Miller
2) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N	Harrington	Harrington
3) Government Accountability Committee		Rivera 	Williamson 

**SUMMARY ANALYSIS**

The Firefighters' Relief and Pension Fund of the City of Pensacola (Pensacola Plan) is a local law pension plan established by the Legislature in 1941. As of September 30, 2017, the Pensacola Plan has 88 active members, 168 retired members, and 20 members in the Deferred Retirement Option Program. In 2015, the Legislature required certain local pension plan sponsors to create a defined contribution component within their plans to fund special benefits. Currently, the Pensacola Plan offers a defined benefits plan but does not offer a defined contribution plan.

The bill adds a defined contribution plan component to the Pensacola Plan. The bill does not fund the defined contribution component of the plan if the city and collective bargaining units mutually consent to use the funds for another purpose. The bill affirms that the new defined contribution component of the plan will be a benefit in addition to, and not affecting existing and future benefits offered. The bill provides that any benefits provided to or on behalf of participants in the Pensacola Plan defined contribution component of the plan must be provided through individual accounts in accordance with federal regulations.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Florida Protection of Public Employee Retirement Benefits Act

Florida constitutionally mandates all units of state, county, special district, and municipal governments participating in, operating, or administering a retirement system for public employees, funded in whole or in part by public funds, to provide a retirement or pension benefit increase only if that benefit also provides a funding scheme based on an actuarially sound basis.<sup>1</sup> The Florida Protection of Public Employee Retirement Benefits Act (Benefits Act), Part VII of ch. 112, F.S., implements this mandate and sets minimum standards for operating and funding public employee retirement systems.<sup>2</sup>

The Department of Management Services (DMS) reviews local government retirement systems for compliance with the Benefits Act, cooperates with local governments on matters of mutual concern, and provides technical assistance on the assessment and revision of local government retirement systems and plans.<sup>3</sup>

Before a unit of local government can agree to a proposed change in retirement benefits, a statement of actuarial impact of the proposed changes must be issued and provided to the Division of Retirement (Division) of DMS.<sup>4</sup> The statement must be issued before the adoption of the change by the governing body of the local government and before the last public hearing about the proposed change, and must indicate the proposed change complies with the constitutional mandate and the Benefits Act.<sup>5</sup>

###### Marvin B. Clayton Firefighters Pension Trust Fund Act

Chapter 175, F.S., provides the statutory authority for municipal and special fire control district firefighter pensions. These laws were enacted to provide a “uniform retirement system” providing defined benefit plans for firefighters and setting standards for operation and funding of these systems. Retirement systems or plans are to be managed, administered, operated, and funded in such a manner as to maximize the protection of the retirement trust funds.

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive (access to premium tax revenues) to encourage the establishment of firefighter retirement plans by Florida cities.<sup>6</sup> Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.<sup>7</sup>

Funding for these pension plans comes from four sources:<sup>8</sup>

- Net proceeds from an excise tax levied by a city upon property insurance companies (known as the “premium tax”);
- Employee contributions;

---

<sup>1</sup> See art. X, s. 14, Fla. Const. and s. 112.62, F.S.

<sup>2</sup> Section 112.61, F.S.; see also s. 112.62, F.S. and art. X, s. 14, Fla. Const. Provisions are supplemental to existing laws and local ordinances relating to covered retirement plans but prevail where there is a conflict of law.

<sup>3</sup> Section 112.665(1), F.S.

<sup>4</sup> Sections 112.63(3) and 121.021(4) and (7), F.S.

<sup>5</sup> Section 112.63(3), F.S.

<sup>6</sup> See DMS, *Overview, Legislative History of Chapter 175/185 Program*, available at:

[http://www.dms.myflorida.com/workforce\\_operations/retirement/local\\_retirement\\_plans/municipal\\_police\\_and\\_fire\\_plans/overview](http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview) (last visited Jan. 24, 2018).

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

<sup>8</sup> Section 175.091(1)(a)-(g), F.S.

- Other revenue sources; and
- Mandatory payments by the city of any extra amount needed to keep the plan solvent.

In 2015, the Legislature, among other matters, required plan sponsors to create a defined contribution component within their plans to fund special benefits.<sup>9</sup>

- By October 1, 2015, for non-collectively bargained service;
- Upon entering into a collective bargaining agreement on or after July 1, 2015; or
- Upon the creation date of a new participating plan.

Participating sponsors are not required to fund the defined contribution component.<sup>10</sup> Chapter 175, F.S., provides for how the insurance premium tax revenues must be used for funding firefighter pension benefits unless the participating sponsor and the majority of the firefighter members, or their collective bargaining representative, mutually consent to use the revenue differently.<sup>11</sup>

### Pensacola Firefighters' Relief and Pension Fund

The Firefighters' Relief and Pension Fund of the City of Pensacola (Pensacola Plan) is a local law pension plan established by the Legislature in 1941.<sup>12</sup> The act governing the Pensacola Plan was most recently amended in 2015.<sup>13</sup> As of September 30, 2017, the Pensacola Plan has 88 active members, 168 retired members, and 20 members in the Deferred Retirement Option Program.<sup>14</sup> The Pensacola Plan offers a defined benefits plan but does not offer a defined contribution plan.<sup>15</sup>

### **Effect of Proposed Changes**

The bill adds a defined contribution plan to the Pensacola Plan to comply with s. 175.351(6), F.S., and receive the premium tax revenue allocated to fund the defined contribution component of the plan. The bill provides the defined contribution plan will not be funded if the city and collective bargaining units mutually consent to use the funds for another purpose. The bill affirms that the defined contribution plan is in addition to, and does not affect existing and future benefits offered by the Pensacola Plan. The bill provides that any benefits provided to or on behalf of participants in the Pensacola Plan defined contribution component of the plan must be provided through individual accounts in accordance with federal regulations.

The bill provides an effective date of upon becoming a law.

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

Section 1. Amends Ch. 21483, Laws of Fla. (1941), as amended, creating a defined contribution plan as required by s. 175.351, F.S.

Section 2. Provides that the act takes effect upon becoming a law.

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

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? August 17, 2017

<sup>9</sup> Ch. 2015-39, Laws of Fla., amending s. 175.351(6), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> See s. 175.351(1)(b) and (1)(g), F.S.

<sup>12</sup> Ch. 21483, Laws of Fla. (1941).

<sup>13</sup> Ch. 2015-206, Laws of Fla.

<sup>14</sup> DMS, *2017 Local Government Annual Report*, Appendix F, p. 12, available at [https://www.dms.myflorida.com/workforce\\_operations/retirement/local\\_retirement\\_plans/local\\_retirement\\_section/local\\_government\\_annual\\_reports](https://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/local_retirement_section/local_government_annual_reports) (accessed on January 24, 2018) (hereinafter DMS Local Government Report).

<sup>15</sup> See Ch. 21483, Laws of Fla. (1941), as amended and DMS Local Government Report, p. J-8 of Appendix J.

WHERE? *Pensacola News Journal*, Escambia County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 16, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment deletes language in order to clarify the new plan supplements the city's defined benefit plan and removes unnecessary language.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.



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

A bill to be entitled  
 An act relating to the Firefighters' Relief and  
 Pension Fund of the City of Pensacola, Escambia  
 County; amending ch. 21483, Laws of Florida (1941), as  
 amended; creating a defined contribution plan as  
 required by general law; providing an effective date.

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

Section 1. Section 34 is added to chapter 21483, Laws of  
 Florida (1941), as amended, to read:

Section 34. Defined contribution plan.—

(a) Pursuant to s. 175.351, Florida Statutes, a defined  
 contribution plan is created, to be entitled the Firefighters'  
 Relief and Pension Fund Defined Contribution Plan. The purpose  
 of this plan is to receive fifty percent of the insurance  
 premium tax revenues in excess of the insurance premium tax  
 revenues received for calendar year 2012. The plan will not be  
 funded if the city and collective bargaining units come to  
 mutual consent on an alternative use of the funds. The separate  
 defined contribution plan shall be in addition to any other  
 benefits available to the members under the Firefighters' Relief  
 and Pension Fund, and nothing herein shall in any way affect any  
 other benefits that now or hereafter exist.

25        (b) Benefits to be provided to or on behalf of  
 26 participants in the Firefighters' Relief and Pension Fund  
 27 Defined Contribution Plan shall be provided through individual  
 28 accounts in accordance with section 401(a) of the Internal  
 29 Revenue Code and its related regulations.

30        (c) The city shall not be required to levy any additional  
 31 taxes on its residents or make any other contributions to the  
 32 Firefighters' Relief and Pension Fund Defined Contribution Plan.

33        (d) Notwithstanding anything herein to the contrary, the  
 34 Firefighters' Relief and Pension Fund Defined Contribution Plan  
 35 shall at all times and in all events be construed and  
 36 interpreted to be a qualified retirement plan within the meaning  
 37 of section 401(a) of the Internal Revenue Code and its related  
 38 regulations.

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



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7053      PCB OTA 18-07      Public Records/United States Census Bureau  
**SPONSOR(S):** Oversight, Transparency & Administration Subcommittee, McClure  
**TIED BILLS:**                      **IDEN./SIM. BILLS:** SB 1078

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee	12 Y, 0 N	Toliver	Harrington
1) Government Accountability Committee		Toliver <i>LT</i>	Williamson <i>AW</i>

**SUMMARY ANALYSIS**

The United States Constitution requires a census be taken every 10 years to determine the number of seats apportioned to each state in the U.S. House of Representatives. The United States Census Bureau (USCB) conducts the decennial census. The Local Update of Census Addresses Program (LUCA) is a program administered by the USCB offered once every 10 years to state and local governments in preparation for the census. Specifically, LUCA enables states and local entities to update address information on a master list maintained by LUCA to make the census as accurate as possible. Participants are required to maintain the confidentiality of the information and must sign a confidentiality agreement.

The bill creates a public records exemption for certain address information maintained by the USCB and held by an agency. Specifically, the bill makes confidential and exempt the following information held by an agency pursuant to LUCA:

- USCB address information, including maps showing structure location points;
- Agency records that verify addresses; and
- Agency records that identify address errors or omissions.

The bill authorizes release of the information to another agency or governmental entity in furtherance of its duties and responsibilities under the program. Additionally, the bill authorizes agencies operating at the direction of the program to access any other confidential or exempt information held by another agency if necessary for the agency to perform its program duties and responsibilities.

The public necessity statement provides that without the exemption agencies would be denied participation in the program, which could result in a negative fiscal impact for the state.

The bill provides that the exemption is subject to the Open Government Sunset Review Act and will repeal October 2, 2023, unless the Legislature reviews and reenacts the exemption by that date.

The bill may have a minimal fiscal impact on the state and local governments.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Public Records

The Florida Constitution guarantees every person the right to inspect or copy any public record made or received in connection with the official business of the legislative, executive, or judicial branches of government.<sup>1</sup> The Legislature, however, may provide by general law for the exemption of records from the constitutional requirement.<sup>2</sup> The general law must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the law.<sup>3</sup> A bill enacting an exemption must pass by a two-thirds vote of the members present and voting.<sup>4</sup>

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>5</sup> provides that a public record exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a government program, which administration would be significantly impaired without the exemption;
- Protect personal identifying information that, if released, would be defamatory or would jeopardize an individual's safety; or
- Protect trade or business secrets.<sup>6</sup>

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2 of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>7</sup>

##### United States Census Bureau

The U.S. Constitution requires a census be taken every 10 years to determine the number of seats apportioned to each state in the U.S. House of Representatives<sup>8</sup> and is relied upon in drawing congressional and state legislative districts. The United States Census Bureau (USCB), amongst other research duties, conducts the decennial census. The decennial census is the comprehensive population and housing count of all 50 states, the District of Columbia, Puerto Rico, and the U.S. islands. The census is critical to the annual distribution of more than \$675 billion in federal funds.<sup>9</sup> Moreover, information collected during the census is used not only by all levels of government, but also by businesses, non-profits, and policy makers.<sup>10</sup>

---

<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> FLA. CONST., art. I, s. 24(c).

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

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

<sup>5</sup> Section 119.15, F.S.

<sup>6</sup> Section 119.15(6)(b), F.S.

<sup>7</sup> Section 119.15(3), F.S.

<sup>8</sup> U.S. CONST., art. I, s. 2.

<sup>9</sup> U.S. Census Bureau, *About the Bureau, U.S. Census Bureau at a Glance*, available at: <https://www.census.gov/about/what/census-at-a-glance.html#censuses> (last visited Jan. 17, 2018).

<sup>10</sup> Patrick R. Potyondy, National Conference of State Legislatures, *LegisBrief: The 2020 Census, What You Need to Know About the 2020 Census* (Nov. 2017), available at: <http://www.ncsl.org/research/redistricting/what-you-need-to-know-about-the-2020-census.aspx> (last visited Jan. 17, 2018).

Federal law protects the confidentiality of all information collected during the census.<sup>11</sup>

#### Local Update of Census Addresses Program (LUCA)

LUCA is a program offered once every 10 years to state and local governments by the USCB in preparation for the decennial census.<sup>12</sup> Specifically, LUCA enables states and local entities to update address information on a master list maintained by LUCA to make the decennial census as accurate as possible. Participants are required to maintain the confidentiality of the information<sup>13</sup> and must sign a confidentiality agreement.<sup>14</sup>

Entities eligible to participate in LUCA are states, counties, cities, townships, and federally recognized tribes with a reservation or off-reservation trust lands.<sup>15</sup>

Census 2000 provided the first opportunity for tribal and local governments to access individual residential addresses, rather than block address lists, provided they signed the confidentiality agreement.<sup>16</sup>

On June 29, 2017, the USCB announced that starting in July 2017, governments across the country could initiate the process of sharing address information through the 2020 Census Local Update of Census Addresses operation.<sup>17</sup> All entities intending to participate must sign the Confidentiality Agreement Form provided by LUCA.<sup>18</sup>

#### Public Records Law on United States Census Bureau Address Information

The 2007 Legislature passed a public records exemption<sup>19</sup> for USCB address information.<sup>20</sup> The bill made confidential and exempt from disclosure USCB address information held by an agency pursuant to LUCA. Included in the bill was a provision that made the exemption subject to the Open Government Sunset Review Act. As such, the exemption was scheduled to repeal on October 2, 2012, unless the Legislature reviewed and reenacted the exemption by that date. In 2012, the Legislature voted to repeal the public records exemption. The bill analyses of the OGSR stated LUCA, upon which the exemption was based, expired March 31, 2010.<sup>21</sup> Staff recommended that the exemption be allowed to repeal as there was no longer a need for the exemption. Therefore, the public records exemption repealed on May 4, 2012.<sup>22</sup>

---

<sup>11</sup> U.S. Census Bureau, *supra* note 9.

<sup>12</sup> See Census Address List Improvement Act of 1994, Pub. L. No. 103-430 (1994).

<sup>13</sup> 13 U.S.C. s. 9.

<sup>14</sup> United States Census Bureau, *2020 Census Local Update of Census Addresses Operation (LUCA)*, Confidentiality and Security Guidelines, available at <https://www2.census.gov/geo/pdfs/partnerships/luca/D-2004.pdf> (last visited Jan. 17, 2018).

<sup>15</sup> United States Census Bureau, *2020 Census Local Update of Census Addresses Operation (LUCA)*, available at <https://www.census.gov/geo/partnerships/luca.html> (last visited Jan. 17, 2018); see also 13 U.S.C. s. 184.

<sup>16</sup> United States Census Bureau, *The Census Address List Improvement Act of 1994 (P.L. 103-430)(LUCA)*, available at: <https://www.census.gov/geo/partnerships/luca-pl-103-430.html> (last visited Jan. 17, 2018).

<sup>17</sup> United States Census Bureau, *2020 Census Local Update of Census Addresses Operation to Begin* (June 29, 2017), available at: <https://www.census.gov/newsroom/press-releases/2017/cb17-109-luca.html> (last visited Jan. 17, 2018).

<sup>18</sup> The Confidentiality Agreement Form requires signators to agree to keep confidential all information provided through LUCA, including maps that contain structure points showing the location of living quarters. A signature on the form acknowledges recognition that the penalty for a wrongful disclosure is punishable by up to five years in prison and a \$250,000 fine. Further, the signator must agree to destroy or return all materials received from the Census Bureau at the conclusion of LUCA. United States Census 2020, Form D-2005, *Confidentiality Agreement Form, 2020 Census Local Update of Census Addresses Operation (LUCA)* available at <https://www2.census.gov/geo/pdfs/partnerships/luca/D-2005.pdf> (last visited Jan. 17, 2018).

<sup>19</sup> House Bill 7193 (2007).

<sup>20</sup> Chapter 2007-250, L.O.F.

<sup>21</sup> Florida House of Representatives, *Staff Analysis for HB 7013* (2012); Florida Senate, *Staff Analysis for SB 2078* (2012).

<sup>22</sup> Chapter 2012-216, L.O.F.; House Bill 7013 (2012).

## Effect of the Bill

This bill creates a public records exemption for certain address information maintained by the USCB and held by an agency. Specifically, the bill makes confidential and exempt<sup>23</sup> the following information held by an agency pursuant to LUCA:

- USCB address information, including maps showing structure location points;
- Agency records that verify addresses; and
- Agency records that identify address errors or omissions.

The bill authorizes release of the information to another agency or governmental entity in furtherance of its duties and responsibilities under the program. Additionally, the bill authorizes agencies operating at the direction of the program to access any other confidential or exempt information held by another agency if necessary for the agency to perform its program duties and responsibilities.

The bill provides a public necessity statement as required by the Florida Constitution. The statement affirms that LUCA requires this address information to be kept confidential. As such, all individuals directly involved in reviewing the information or who otherwise have access to the information must sign a confidentiality agreement. Without the exemption, agencies would be denied participation in the program, which could result in a negative fiscal impact for the state.

The bill provides that the exemption is subject to the Open Government Sunset Review Act and will repeal October 2, 2023, unless the Legislature reviews and reenacts the exemption by that date.

### B. SECTION DIRECTORY:

Section 1 amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

Section 2 provides a public necessity statement as required by the Florida Constitution.

Section 3 provides an effective date of upon becoming a law.

## 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.

---

<sup>23</sup> There is a difference between records the Legislature designates exempt from public records requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991) *review denied*, 589 So. 2d 289 (Fla. 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See WFTV, Inc. v. Sch. Bd. of Seminole Cnty.*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So. 2d 1015 (Fla. 2004); Op. Att’y Gen. Fla. 85-692 (1985).

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have a minimal fiscal impact on agencies because agency staff responsible for complying with public records requests may require training related to the creation of the public records exemption. Agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed by existing resources, as they are part of the day-to-day responsibilities of agencies.

### 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 take an 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:

Vote Requirement

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

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record exemption. The bill creates a public record exemption; therefore, it includes a public necessity statement.

Breadth of Exemption

Article I, section 24(c) of the Florida Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. This bill creates a public record exemption for certain address information maintained by the USCB so that agencies may participate in LUCA to make the census as accurate as possible. As such the exemption is not broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.



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

A bill to be entitled  
 An act relating to public records; amending s.  
 119.071, F.S.; creating an exemption from public  
 records requirements for specified United States  
 Census Bureau address information held by an agency;  
 providing an exception to the exemption; authorizing  
 access to other related confidential or exempt  
 information; providing for future legislative review  
 and repeal of the exemption; providing a statement of  
 public necessity; providing an effective date.

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

Section 1. Paragraph (g) is added to subsection (1) of  
 section 119.071, Florida Statutes, to read:

119.071 General exemptions from inspection or copying of  
 public records.—

(1) AGENCY ADMINISTRATION.—

(g)1. United States Census Bureau address information,  
 including maps showing structure location points, agency records  
 that verify addresses, and agency records that identify address  
 errors or omissions, which is held by an agency pursuant to the  
 Local Update of Census Addresses Program authorized under 13  
 U.S.C. s. 16, is confidential and exempt from s. 119.07(1) and  
 s. 24(a), Art. I of the State Constitution.

26        2. Such information may be released to another agency or  
 27 governmental entity in the furtherance of its duties and  
 28 responsibilities under the Local Update of Census Addresses  
 29 Program.

30        3. An agency performing duties and responsibilities under  
 31 the Local Update of Census Addresses Program shall have access  
 32 to any other confidential or exempt information held by another  
 33 agency if such access is necessary in order to perform its  
 34 duties and responsibilities under the program.

35        4. This paragraph is subject to the Open Government Sunset  
 36 Review Act in accordance with s. 119.15 and shall stand repealed  
 37 October 2, 2023, unless reviewed and saved from repeal through  
 38 reenactment by the Legislature.

39        Section 2. The Legislature finds that it is a public  
 40 necessity that United States Census Bureau address information,  
 41 including maps showing structure location points, agency records  
 42 that verify addresses, and agency records that identify address  
 43 errors or omissions, which is held by an agency be made  
 44 confidential and exempt from public records requirements.  
 45 Pursuant to the Local Update of Census Addresses Program  
 46 authorized under 13 U.S.C. s. 16, United States Census Bureau  
 47 address information must be kept confidential. Further, all  
 48 individuals directly involved in reviewing such information and  
 49 any individuals with access to such information are required to  
 50 sign a confidentiality agreement to preserve the confidentiality

51 of the address information. Without this exemption, agencies  
52 would be prevented from participating in the program. As such,  
53 the effective and efficient administration of the Local Update  
54 of Census Addresses Program would be hindered at the federal  
55 level. Further, it could result in a negative fiscal impact on  
56 the state. For the foregoing reasons, the Legislature finds that  
57 such information must be made confidential and exempt from  
58 public records requirements.

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