



Ways and Means Committee

Tuesday, March 21, 2017

4:00 p.m. – 6:30 p.m.

Morris Hall

MEETING PACKET

Amended

The Florida House of Representatives

Ways and Means Committee



Richard Corcoran
Speaker

Jim Boyd
Chair

AGENDA

March 21, 2017
4:00 p.m. – 6:30 p.m.
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. *Consideration of the following bill(s):*
 - CS/HB 49 Ad Valorem Taxation by Local, Federal & Veterans Affairs Subcommittee, Eagle
 - HB 1311 Lehigh Acres Municipal Services Improvement District, Lee and Hendry Counties by Caldwell
 - HB 1401 East Mulloch Drainage District, Lee County by Rodrigues
 - HB 7037 Gaming by Tourism & Gaming Control Subcommittee, La Rosa
 - PCS for HB 455 -- Homestead Exemption for Totally and Permanently Disabled First Responders
- IV. *Consideration of the following proposed committee bill(s):*
 - PCB WMC 17-03 – Pro-growth Federal Tax Reform
- V. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 49 Ad Valorem Taxation
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee; Eagle
TIED BILLS: IDEN./SIM. BILLS: SB 272

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N	Darden	Miller
2) Ways & Means Committee		Dobson <i>MO</i>	Langston <i>RL</i>
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Florida Constitution authorizes local governments to levy ad valorem taxes and prohibits the state from levying ad valorem taxes on real and tangible personal property. All ad valorem taxation must be assessed based on the just value (i.e., market value) of the property. The taxable value on which actual tax levies are made reflects reductions to just value by applying any applicable assessment limitations, use classification modifications, and exemptions.

The bill provides a disaster relief tax credit to owners of residential properties rendered uninhabitable by natural disaster. The amount of the credit reflects the reduction in a property's just value as a result of natural disaster for the portion of a calendar year in which the property is uninhabitable. The amount of the credit is determined by applying this reduction to the taxes levied on a property in the year the damage occurs.

The bill defines "natural disaster" as an event for which the Governor declares a state of emergency or a sinkhole. In order to apply for the exemption, an owner of damaged property must submit an application to the property appraiser identifying the property damaged, the natural disaster that caused the damage, and the period of the time the property was uninhabitable. The property appraiser then verifies the information contained in the application, determines the value reduction attributable to the natural disaster, and submits the information to the tax collector. The tax collector uses the information submitted to calculate the value of the tax credit, and applies the credit to taxes due the year the exemption application is submitted. The bill allows any unused credits to be applied in subsequent tax years. The provisions of the bill apply retroactively to January 1, 2016.

The bill does not appear to have a fiscal impact on state government. The Revenue Estimating Conference estimated that the bill will impact local government property taxes by -\$0.8 million in FY 2019-20. Otherwise, the impact of the bill on local government revenues is either zero or negative indeterminate, depending on the occurrence of natural disasters.

The bill would take effect upon becoming a law.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and provides for specified assessment limitations, property classifications, and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Ad Valorem Process

Each property appraiser must complete an assessment of the value of all property⁶ within the appraiser's jurisdiction and certify to the taxing authorities the taxable value of such property no later than July 1 of each year, unless extended for good cause by the Department of Revenue (DOR).⁷ The taxable value of a residential parcel includes both the value of structures and other improvements on the parcel and the value of the land on which those structures and improvement sit.⁸ The property appraiser also ensures that all real property is listed on the real property assessment roll.⁹

Appraisers must submit their assessment rolls to DOR by July 1 of the assessment year to determine if the rolls meet all the appropriate requirements of law relating to form and just value.¹⁰ Assessment rolls include, in addition to taxable value, other information on the property located within the property appraiser's jurisdiction, such as just value, assessed value, and the amount of each exemption or discount.¹¹

Each taxing authority uses the taxable value provided by the property appraiser to prepare a proposed millage rate (i.e., tax rate) that is levied on each property's taxable value.¹² Within 35 days of certification of the taxable value by the property appraiser (typically by August 4 of the assessment

¹ Art. VII, s. 1(a), Fla. Const.

² Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Art. VII, s. 4, Fla. Const.

⁴ Art. VII, ss. 3, 4, and 6, Fla. Const.

⁵ Section 196.031, F.S.

⁶ For purposes of clarity and administration of the tax credit, the bill distinguishes between a "residential parcel" and "residential improvement," avoiding the broad term "property." For appraisal purposes, a "residential parcel" includes the land and improvements. For readability, this analysis will use the broader term "property" unless the context requires otherwise.

⁷ Section 193.023(1), F.S.

⁸ See *The Appraisal Process and Your Taxes*, Hillsborough County Property Appraiser, available at <http://www.hcpafl.org/Property-Info/The-Appraisal-Process-Your-Taxes> (last accessed Feb. 15, 2017) (process for calculating property tax values).

⁹ Section 193.085(1), F.S.

¹⁰ Section 193.1142(1)(a), F.S.

¹¹ Section 193.114, F.S.

¹² Section 200.065(2)(a)1., F.S.

year), the taxing authority must advise the property appraiser of its proposed millage rates.¹³ The property appraiser uses the proposed millage rates provided by the taxing authorities to prepare the notice of proposed property taxes, commonly referred to as the Truth in Millage (TRIM) notice.¹⁴

Any property owner who disagrees with the assessment in the TRIM notice or who was denied an exemption or property classification may request an informal meeting with the property appraiser,¹⁵ appeal to the county value adjustment board (VAB),¹⁶ or challenge the assessment in circuit court.¹⁷

After challenges to assessed value of the property have been concluded, the VAB submits the VAB-adjusted assessment roll to the property appraiser¹⁸ and to the DOR.¹⁹ After making any adjustments to the assessment rolls caused by the VAB hearings, the property appraiser will certify the tax roll to the tax collector (typically before November 1 of the assessment year or as soon thereafter as the certified tax roll is received by the tax collector).²⁰

The tax collector will then send tax bills within twenty working days to the owners of all properties owing tax within his or her jurisdiction.²¹ Property taxes are due once a year, and can be paid beginning November 1st of the assessment year.²² Generally, taxes become delinquent if not paid in full as of April 1st of the year after assessment.²³ Delinquent taxes will accrue interest until paid,²⁴ and may accrue penalties in certain circumstances.²⁵

The following chart summarizes key dates in this process.²⁶

Date	Entity	Action
January 1	Property Appraiser	Property value is determined as of this date ("assessment date")
July 1	Property Appraiser	Submit assessment roll to DOR
July 1	Property Appraiser	Certify taxable value to tax collector
August 24	Property Appraiser	Mail TRIM notice to property owners
October 10	Local Governments	Finalize millage rate
October 10	Property Appraiser	Certifies assessment roll to tax collector
November 1	Tax Collector	Sends notice of taxes
March 31 of following year	Property Owner	Pay tax bill

Tax Relief for Natural Disasters

The Legislature has provided tax relief for the victims of natural disasters on at least four occasions.²⁷

For example, chapter 88-101, Laws of Fla., created s. 196.295(3), F.S., providing an abatement of taxes for properties damaged by windstorms or tornadoes.²⁸ To receive the abatement, the property

¹³ Section 200.065(2)(b), F.S.

¹⁴ Section 200.069, F.S.

¹⁵ Section 194.011(2), F.S.

¹⁶ Section 194.011(3), F.S.

¹⁷ Section 194.171, F.S.

¹⁸ Section 193.122(2), F.S.

¹⁹ Section 193.122(1), F.S.

²⁰ Section 193.122(2), F.S.

²¹ Section 197.322(2), (3), F.S.

²² Section 197.333, F.S.

²³ *Id.*

²⁴ Section 197.152, F.S.

²⁵ See s. 196.161, F.S. (penalties for properties granted homestead exemption when homeowner was no a permanent resident).

²⁶ *Florida Property Tax Calendar*, Florida Department of Revenue, available at <http://floridarevenue.com/dor/property/cofficials/pdf/taxcalendar.pdf> (last assessed Feb. 6, 2017).

²⁷ Chapters 88-101, 98-185, 2004-474, and 2007-106 Laws of Fla.

owner was required to file an application with the property appraiser by March 1 of the year following the year in which the windstorm or tornado occurred.²⁹ After making a determination on the validity of the application, the property appraiser was directed to issue an official statement to the tax collector containing the number of the months the property was uninhabitable due to the damage or destruction, the value of the property prior to the damage or destruction, the total taxes due on the property as reduced by the number of months the property was uninhabitable, and the amount of the reduction in taxes.³⁰ Upon receipt of the official statement, the tax collector reduced the amount of taxes due on the property on the tax collection roll and informed the board of county commissioners and DOR of the total reduction in taxes for all property in the county receiving the abatement.³¹ The law was applied retroactively to January 1, 1988 and included a repeal effective of July 1, 1989.³² The language was removed from statute in 1992.³³

“Natural Disaster” Provisions

Current law provides that the Governor shall issue an executive order declaring a state of emergency if he finds an emergency has occurred or a threat is imminent.³⁴ Depending on the severity of the emergency, the declaration may result in a military mobilization or allow out-of-state healthcare professionals to provide services in the disaster area.³⁵ The term “sinkhole” is defined in current law as “a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater.”³⁶

Effect of Proposed Changes

The bill creates s. 196.2003, providing a disaster relief tax credit for residential parcels on which the defined residential improvements were damaged or destroyed by a natural disaster.³⁷ “The bill defines “natural disaster” as an event which results in the governor declaring a state of emergency or a sinkhole, as that term is defined in current law. If a residential improvement is rendered uninhabitable by a natural disaster, the property owner must submit an application to the property appraiser by March 1 of the year following the event to qualify for the disaster relief credit. Failing to file the application before March 1 constitutes a waiver of the credit.

The application must identify the residential parcel on which the residential improvement was damaged or destroyed by the natural disaster, the natural disaster that caused the damage, the date of the natural disaster, and the number of months the residential improvement was rendered uninhabitable during the year in which the damage occurred. The application must be verified under oath and is subject to the penalty of perjury.

Upon receipt of the application, the property appraiser investigates the statements contained therein and determines if the property owner qualifies for the disaster relief credit. If the property owner qualifies, the property appraiser shall issue an official written statement to the tax collector by April 1 containing:

²⁸ Section 196.295(3), F.S., *repealed* by ch. 92-173, s. 8, Laws of Fla.

²⁹ Section 196.295(3)(a), F.S., *repealed* by ch. 92-173, s. 8, Laws of Fla.

³⁰ Section 196.295(3)(d), F.S., *repealed* by ch. 92-173, s. 8, Laws of Fla.

³¹ Section 196.295(3)(e)-(f), F.S., *repealed* by ch. 92-173, s. 8, Laws of Fla.

³² Section 196.295(3)(h), F.S., *repealed* by ch. 92-173, s. 8, Laws of Fla.

³³ Chapter 92-173, s. 8, Laws of Fla.

³⁴ Section 252.36, F.S.

³⁵ *Id* at (3)(c)1., 2.

³⁶ Section 627.706(1)(h), F.S.

³⁷ The bill defines a “natural disaster” as an event for which the Governor has declared a state of emergency under s. 252.36, F.S. or a sinkhole as defined in s. 627.706(2)(h), F.S..

- The number of months during the calendar year the residential improvement was uninhabitable.³⁸
- The just value of the residential parcel on January 1 of the year in which the natural disaster occurred.
- The post-disaster just value of the residential parcel, reflecting the damage caused by a natural disaster.³⁹
- The percentage difference between the residential parcel's just value as of January 1 of the year in which the natural disaster occurred and the post-disaster just value of the parcel.

The tax collector uses the property appraiser's written statement to calculate the value of the disaster relief credit. For purposes of this calculation, uninhabitable residential improvements are assessed at no value. The amount of the disaster relief credit is determined in a couple of steps. First, a "damage differential" is calculated as the percentage reduction in a property's just value due to the natural disaster, multiplied by the proportion of the calendar year (measured in months) that the property was uninhabitable. Second, the "disaster relief credit" is calculated by multiplying damage differential by the amount of timely paid taxes that were initially levied in the year the natural disaster occurred.

Once the tax collector determines the value of the credit, he or she will apply it to the taxes due on the property during the year the exemption application is submitted. If the value of the disaster relief tax credit exceeds the amount of property taxes due, the difference can be carried over and used to reduce property tax liability in subsequent tax years.

By May 1, the tax collector must notify DOR and the governing board of each affected local government of the total reduction in taxes for all property receiving a credit pursuant to this section.

The bill also provides for retroactivity of this section for natural disasters that occurred in 2016. The deadline for applying for the disaster relief tax credit on properties damaged by natural disasters in 2016 is March 1, 2018. This subsection expires to January 1, 2020.

B. SECTION DIRECTORY:

Section 1: Creates s. 196.2003, F.S., providing a property tax credit for residential property rendered uninhabitable by a natural disaster.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated that the bill will impact local government property taxes by -\$0.8 million in FY 2019-20. Otherwise, the impact of the bill on local government

³⁸ Under the bill, periods of at least 16 days are considered a full month for the purpose of calculating the credit.

³⁹ For the purposes of calculating the post-disaster just value of the property, uninhabitable improvements are treated as having no value.

revenues is either zero or negative indeterminate, depending on the occurrence of natural disasters.

2. Expenditures:

The bill may impact local government expenditures to the extent the property appraiser will need to devote resources to calculating post-disaster just value.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill reduces local government's ability to collect ad valorem taxes. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to ad valorem taxation; creating s.
 196.2003, F.S.; providing definitions; authorizing
 certain property damaged or destroyed by a natural
 disaster to receive an abatement of certain property
 taxes; specifying procedures for a property owner to
 use in applying for an abatement of taxes; requiring a
 property appraiser to investigate the statements
 contained in applications that are submitted;
 specifying procedures for a property appraiser to use
 in notifying the tax collector when an applicant is
 entitled to an abatement; providing duties of the tax
 collector relating to determining the amount of the
 disaster relief credit; requiring the tax collector to
 reduce taxes in specified manner; requiring the tax
 collector to notify the Department of Revenue and the
 local governing boards of reduction in taxes;
 prohibiting uninhabitable residential improvements
 from having any value placed thereon; providing
 retroactive applicability; providing for expiration of
 abatement for property damaged in 2016; providing an
 effective date.

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

26 Section 1. Section 196.2003, Florida Statutes, is created
 27 to read:

28 196.2003 Abatement of taxes for residential improvements
 29 damaged or destroyed by a natural disaster.-

30 (1) As used in this section, the term:

31 (a) "Damage differential" means the product arrived at by
 32 multiplying the percent change in value by a ratio, the
 33 numerator of which is the number of months the residential
 34 improvement was rendered uninhabitable, the denominator of which
 35 is 12.

36 (b) "Disaster relief credit" means the product arrived at
 37 by multiplying the damage differential by the amount of timely
 38 paid taxes that were initially levied in the year the natural
 39 disaster occurred.

40 (c) "Natural disaster" means:

41 1. An event for which the Governor has declared a state of
 42 emergency under s. 252.36.

43 2. A sinkhole, as defined in s. 627.706(2).

44 (d) "Percent change in value" means the percentage
 45 difference between a residential parcel's just value as of
 46 January 1 of the year in which a natural disaster occurred and
 47 its postdisaster just value.

48 (e) "Postdisaster just value" means the just value of a
 49 residential parcel reflecting the destruction and damage caused
 50 by a natural disaster.

51 (f) "Residential improvement" or "improvement" means a
 52 residential dwelling or house but does not include a structure
 53 that is not essential to the use and occupancy of the
 54 residential dwelling or house, including, but not limited to, a
 55 detached utility building, detached carport, detached garage,
 56 bulkhead, fence, or swimming pool.

57 (g) "Uninhabitable" means the loss of use or occupancy of
 58 a residential improvement for the purpose for which it was
 59 constructed, as evidenced by documentation, including, but not
 60 limited to, utility bills, insurance information, contractors'
 61 statements, building permit applications, or building inspection
 62 certificates of occupancy.

63 (2) If a residential improvement is rendered uninhabitable
 64 due to damage or destruction to the property caused by a natural
 65 disaster, taxes due in the year following the disaster may be
 66 abated in the following manner:

67 (a) The property owner must file an application with the
 68 property appraiser as soon as practicable after the damage or
 69 destruction occurs but no later than March 1 of the year
 70 following the year of the natural disaster. A property owner who
 71 fails to file an application by March 1 waives a claim for
 72 abatement of taxes from that natural disaster.

73 (b) The application shall identify the residential parcel
 74 on which the residential improvement was damaged or destroyed by
 75 the natural disaster, the natural disaster that caused the

76 damage or destruction, the date the damage or destruction
 77 occurred, and the number of months the property was
 78 uninhabitable during the calendar year in which the damage or
 79 destruction occurred.

80 (c) The application shall be verified under oath and is
 81 subject to penalty of perjury.

82 (d) Upon receipt of the application, the property
 83 appraiser shall investigate the statements contained in the
 84 application to determine if the applicant is entitled to an
 85 abatement of taxes. If the property appraiser determines that
 86 the applicant is entitled to an abatement, the property
 87 appraiser shall issue an official written statement to the tax
 88 collector no later than April 1, which provides:

89 1. The number of months during the calendar year that the
 90 residential improvement was uninhabitable. In calculating the
 91 number of months, a period of at least 16 days is considered a
 92 full month.

93 2. The just value of the residential parcel, as determined
 94 by the property appraiser, on January 1 of the year in which the
 95 natural disaster occurred.

96 3. The postdisaster just value of the residential parcel,
 97 as determined by the property appraiser.

98 4. The percent change in value applicable to the
 99 residential parcel.

100 (3) Upon receipt of the written statement from the

101 property appraiser, the tax collector shall calculate the damage
 102 differential and disaster relief credit pursuant to this
 103 section. The tax collector shall reduce the taxes initially
 104 levied on the residential parcel in the year the application is
 105 due by an amount equal to the disaster relief credit. If the
 106 value of the credit exceeds the taxes levied during the year in
 107 which the application is due, the remaining value of the credit
 108 shall be applied to taxes due in subsequent years until the
 109 value of the credit is exhausted.

110 (4) No later than May 1, the tax collector shall notify:

111 (a) The Department of Revenue of the total reduction in
 112 taxes for all properties that received an abatement pursuant to
 113 this section.

114 (b) The governing board of each affected local government
 115 of the reduction in such local government's taxes that will
 116 occur pursuant to this section.

117 (5) For purposes of this section, residential improvements
 118 that are uninhabitable shall have no value placed thereon.

119 (6)(a) If a residential improvement is rendered
 120 uninhabitable due to damage or destruction by a natural disaster
 121 in 2016, the property owner must file an application with the
 122 property appraiser before March 1, 2018, and once approved by
 123 the property appraiser, the owner shall receive the appropriate
 124 abatement on taxes initially levied in 2019. No later than May
 125 1, 2018, tax collectors shall comply with the notification

126 procedures provided in subsection (4) when providing an
127 abatement of taxes pursuant to this subsection.

128 (b) This subsection applies retroactively to January 1,
129 2016, and expires January 1, 2020.

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

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Ways & Means Committee
 2 Representative Eagle offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 196.2003, Florida Statutes, is created
 7 to read:

8 196.2003 Abatement of taxes for residential improvements
 9 damaged or destroyed by a natural disaster.-

10 (1) As used in this section, the term:

11 (a) "Damage differential" means the product arrived at by
 12 multiplying the percent change in value by a ratio, the
 13 numerator of which is the number of months the residential
 14 improvement was rendered uninhabitable, the denominator of which
 15 is 12.

Amendment No. 1

16 (b) "Disaster relief credit" means the product arrived at
17 by multiplying the damage differential by the amount of timely
18 paid taxes that were initially levied in the year the natural
19 disaster occurred.

20 (c) "Natural disaster" means:

21 1. An event for which the Governor has declared a state of
22 emergency under s. 252.36.

23 2. A sinkhole, as defined in s. 627.706(2).

24 (d) "Percent change in value" means the percentage
25 difference between a residential parcel's just value as of
26 January 1, 2016 and its postdisaster just value.

27 (e) "Postdisaster just value" means the just value of a
28 residential parcel reflecting the destruction and damage caused
29 by a natural disaster.

30 (f) "Residential improvement" or "improvement" means a
31 residential dwelling or house but does not include a structure
32 that is not essential to the use and occupancy of the
33 residential dwelling or house, including, but not limited to, a
34 detached utility building, detached carport, detached garage,
35 bulkhead, fence, or swimming pool.

36 (g) "Uninhabitable" means the loss of use or occupancy of
37 a residential improvement for the purpose for which it was
38 constructed, as evidenced by documentation, including, but not
39 limited to, utility bills, insurance information, contractors'

Amendment No. 1

40 statements, building permit applications, or building inspection
41 certificates of occupancy.

42 (2) If a residential improvement is rendered uninhabitable
43 due to damage or destruction to the property caused by a natural
44 disaster during the 2016 calendar year, taxes initially levied
45 in 2018 may be abated in the following manner:

46 (a) The property owner must file an application with the
47 property appraiser as soon as practicable after the damage or
48 destruction occurs but no later than March 1, 2018. A property
49 owner who fails to file an application by March 1, 2018 waives a
50 claim for abatement of taxes from that natural disaster.

51 (b) The application shall identify the residential parcel
52 on which the residential improvement was damaged or destroyed by
53 the natural disaster, the natural disaster that caused the
54 damage or destruction, the date the damage or destruction
55 occurred, and the number of months the property was
56 uninhabitable during the 2016 calendar year.

57 (c) The application shall be verified under oath and is
58 subject to penalty of perjury.

59 (d) Upon receipt of the application, the property
60 appraiser shall investigate the statements contained in the
61 application to determine if the applicant is entitled to an
62 abatement of taxes. If the property appraiser determines that
63 the applicant is entitled to an abatement, the property

Amendment No. 1

64 appraiser shall issue an official written statement to the tax
65 collector no later than April 1, 2018 which provides:

66 1. The number of months during the calendar year that the
67 residential improvement was uninhabitable. In calculating the
68 number of months, a period of at least 16 days is considered a
69 full month.

70 2. The just value of the residential parcel, as determined
71 by the property appraiser, on January 1, 2016.

72 3. The postdisaster just value of the residential parcel,
73 as determined by the property appraiser.

74 4. The percent change in value applicable to the
75 residential parcel.

76 (3) Upon receipt of the written statement from the
77 property appraiser, the tax collector shall calculate the damage
78 differential and disaster relief credit pursuant to this
79 section. The tax collector shall reduce the taxes initially
80 levied on the residential parcel in 2018 by an amount equal to
81 the disaster relief credit. If the value of the credit exceeds
82 the taxes levied in 2018, the remaining value of the credit
83 shall be applied to taxes due in subsequent years until the
84 value of the credit is exhausted.

85 (4) No later than May 1, 2018 the tax collector shall
86 notify:

Amendment No. 1

87 (a) The Department of Revenue of the total reduction in
88 taxes for all properties that received an abatement pursuant to
89 this section.

90 (b) The governing board of each affected local government
91 of the reduction in such local government's taxes that will
92 occur pursuant to this section.

93 (5) For purposes of this section, residential improvements
94 that are uninhabitable shall have no value placed thereon.

95 (6) This section applies retroactively to January 1, 2016,
96 and expires January 1, 2020.

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

98
99 -----

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

101 Remove everything before the enacting clause and insert:

102 An act relating to ad valorem taxation; creating s.
103 196.2003, F.S.; providing definitions; authorizing certain
104 property damaged or destroyed by a natural disaster in 2016
105 to receive an abatement of certain property taxes;
106 specifying procedures for a property owner to use in
107 applying for an abatement of taxes; requiring a property
108 appraiser to investigate the statements contained in
109 applications that are submitted; specifying procedures for
110 a property appraiser to use in notifying the tax collector
111 when an applicant is entitled to an abatement; providing

Amendment No. 1

112 | duties of the tax collector relating to determining the
113 | amount of the disaster relief credit; requiring the tax
114 | collector to reduce taxes in specified manner; requiring
115 | the tax collector to notify the Department of Revenue and
116 | the local governing boards of reduction in taxes;
117 | prohibiting uninhabitable residential improvements from
118 | having any value placed thereon; providing retroactive
119 | applicability; providing for expiration; providing an
120 | effective date.

121

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1311 Lehigh Acres Municipal Services Improvement District, Lee and Hendry Counties
SPONSOR(S): Caldwell
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Banner	Miller
2) Ways & Means Committee		Aldridge <i>VA</i>	Langston <i>AS</i>
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Lehigh Acres Municipal Services Improvement District (District) is an independent special district formed under ch. 189, F.S., in 2015 to replace the East County Water Control District. The District preserves and protects water reserves in 70,000 acres of land in both Lehigh Acres and the western portion of Hendry County and is authorized to provide additional services.

HB 1311 amends the district boundaries to remove a tract of land in the northern portion of the District and clarify the inclusion of several parcels of land located within the interior of the current district boundaries. The bill also ratifies all taxes and assessments previously levied by or for the District notwithstanding any defects in such levy or assessment.

The Economic Impact Statement projects \$43,387 in new recurring revenue will be generated. This represents the net impact of the loss of the parcels being removed and the offset of the interior parcels being added into the current boundaries.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A “special district” is a “local unit of special purpose... government within a limited boundary, created by special law, special act, local ordinance, or by rule of the Governor and Cabinet.”¹ Special districts are created to provide a variety of services, such as mosquito control, beach facilities, children’s services,² fire control and rescue,³ or drainage control.⁴

An “independent special district” is characterized by 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.⁵ 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.

Lehigh Acres Municipal Services Improvement District

Lehigh Acres lies primarily in the unincorporated area of eastern Lee County. One of the largest platted subdivisions in the state, the area has undergone periods of growth and development since the 1950s. According to the U.S. Census, the population of Lehigh Acres in 2010 was 86,784.⁶ In contrast, the estimated population in 2016 for all of Lee County was 680,539, including municipalities such as Cape Coral (170,474) and Fort Myers (76,108).⁷

The Lehigh Acres Municipal Services Improvement District is a multi-county special district that was created in 2015 to replace the East County Water Control District and to provide:

- Drainage and water control;
- Public improvements and community facilities;
- Water and wastewater services;
- Local streets and sidewalks;
- Streetlights; and
- Certain authority over outdoor signage and monuments.⁸

The District preserves and protects water reserves through drainage, conservation, mitigation, navigational and water management practices in 70,000 acres of land in both Lehigh Acres and the western portion of Hendry County.⁹

¹ Section 189.012(6), F.S.

² Section 125.901, F.S.

³ Section 191.002, F.S.

⁴ Section 298.01, F.S.

⁵ Section 189.012(3), F.S.

⁶ At <https://www.census.gov/quickfacts/table/PST045215/1239925/accessible> (accessed 3/7/2017).

⁷ Office of Economic and Demographic Research, *Population and Demographic Data*, available at http://edr.state.fl.us/Content/population-demographics/data/2016_Pop_Estimates.pdf (accessed 3/7/2017).

⁸ Ch. 2015-202, Laws of Fla.

⁹ Lehigh Acres Municipal Services Improvement District, About, available at <http://www.myecwcd.net/> (accessed 3/16/2017).

The District maintains 311 miles of canals, 20 lakes, 3260 culvert crossings, 22 bridges, and 66 water control structures. Additionally, the district maintains 1,298 preserve acres as well as 578 acres of Harns Marsh, a major retention/detention area.¹⁰

The District replaced the East County Water Control District and assumed all rights, title, and possession of property, and all obligations and liabilities of the water control district. Additionally, the District is authorized to raise funds as provided in general law but is prohibited from imposing or collecting ad valorem taxes.¹¹

Effect of Proposed Changes

The bill removes 244.63 acres of land in the northern portion of the District. Additionally, the bill revises the legal description of the boundaries to include 657.25 acres of land located primarily in the interior of the current District boundaries. These tracts of land were inadvertently excluded from the legal boundary description, as crafted in 2015 when the District was created. These modifications result in a net addition of 412.62 acres of land and \$43,387 in additional recurring revenue.

The bill ratifies the taxes and assessments levied by or for the District on lands within the District and identified in the bill, notwithstanding any defects in such levy or assessment. The bill also clarifies that all taxes and assessments levied by and for the District will remain in effect for all areas within the District's boundaries.

B. SECTION DIRECTORY:

Section 1: Amends s. 2, ch. 2015-202, L.O.F., to revise the District boundaries.

Section 2: Ratifies taxes and assessments levied by or for the District in lands situated within the District, as identified in the bill, and clarifies that all taxes and assessments levied by and for the District remain in effect.

Section 3: Provides an effective date upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 3, 2017

WHERE? *News-Press*, a daily newspaper published in Lee, Charlotte, Collier, Glades and Hendry Counties.

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

¹⁰ Lehigh Acres Municipal Services Improvement District, About, available at <http://www.myecwcd.net/> (accessed 3/16/2017).

¹¹ *Id.*

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 Lehigh Acres Municipal Services
 3 Improvement District, Lee and Hendry Counties;
 4 amending chapter 2015-202, Laws of Florida; expanding
 5 the territorial boundaries of the district; ratifying
 6 and confirming as valid all taxes and assessments
 7 levied by or for the district notwithstanding any
 8 defects in the assessment or levy of such taxes and
 9 assessments; providing an effective date.

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

12
 13 Section 1. Section 2 of section 4 of chapter 2015-202,
 14 Laws of Florida, is amended to read:

15 Section 2. District boundaries.—The lands incorporated
 16 within the Lehigh Acres Municipal Services Improvement District
 17 consist of the following described lands in Hendry and Lee
 18 Counties:

19
 20 A. LANDS IN LEE COUNTY, FLORIDA:

21
 22 TOWNSHIP 43 SOUTH, RANGE 27 ~~26~~ EAST

23
 24 ~~SECTION 25: The following portions of Section 25;~~
 25

26 ~~The East 1/2 of the Northeast 1/4 of the Northeast~~
 27 ~~1/4, together with the Northeast 1/4 of the Southeast~~
 28 ~~1/4 of the Northeast 1/4.~~

30 ~~TOWNSHIP 43 SOUTH, RANGE 27 EAST~~

31
 32 ~~SECTION 19:~~

33
 34 ~~Commencing at the Southeast corner of Government Lot 5~~
 35 ~~of said Section 19, said point also being the~~
 36 ~~Southeast Corner of the Southwest 1/4 of said Section~~
 37 ~~19; thence North 89° 32' 09" West along the South line~~
 38 ~~of said Section 19, a distance of 941.17 feet to the~~
 39 ~~POINT OF BEGINNING thence continuing along the south~~
 40 ~~line of said Section 19 a distance of 623.70 feet;~~
 41 ~~thence North 00° 33' 48" West along the west line of~~
 42 ~~lands described in Book 4433, Page 952-953 of the~~
 43 ~~Official Records of Lee County, Florida a distance of~~
 44 ~~579.14 feet to a point on the southerly right of way~~
 45 ~~of the Caloosahatchee River Canal; thence North 72°~~
 46 ~~41' 35" East along said right of way a distance of~~
 47 ~~264.64 feet; thence North 50° 57' 38" East along said~~
 48 ~~right of way a distance of 399.11 feet; thence North~~
 49 ~~84° 04' 34" East along said right of way a distance of~~
 50 ~~57.98 feet to the northeast corner of lands described~~

51 ~~in Book 3558, Page 3183-3185 of the Official Records~~
 52 ~~of Lee County, Florida; thence South 00° 33' 49" East~~
 53 ~~along the east line of said lands a distance of 920.30~~
 54 ~~feet to the POINT OF BEGINNING and there terminate.~~

55
 56 SECTION 30: The following portions of Section 30;

57
 58 That portion of ~~the West 1/2 of said~~ Section 30 lying
 59 both North of State Road 80, LESS the West 118.40 feet
 60 ~~thereof.~~

61
 62 ~~That portion of the Northwest 1/4 of the Northeast 1/4~~
 63 ~~of Section 30 lying North of State Road 80.~~

64
 65 ~~That portion of Section 30 lying~~ South of the
 66 Southerly Right-of-Way line of State Road 80, ~~LESS the~~
 67 ~~West 200.00 feet of said Section 30 lying South of~~
 68 ~~Hickey's Creek,~~

69
 70 AND West of Bateman Road; LESS Lots 1 thru 4, Lots 18
 71 thru 28, Lots 31 and 32, Lots 37 and 38, Lots 41 thru
 72 44 all as shown on Pine Creek Acres, Unit No. 1 as
 73 recorded in Plat Book 10, Page 13 of the Public
 74 Records of Lee County, Florida;

75

76 AND LESS Lot 1, Lots ~~23 and 24 thru, Lots 27 and 28,~~
 77 Lots 40 thru 52, the North 35 feet of Lot 53, 50-foot
 78 ~~Right-of-Way for Dixie Lane and~~ that portion of the 50
 79 foot Right-of-Way for Pine Boulevard lying East
 80 ~~Easterly of a line connecting the~~ Southerly
 81 ~~prolongation Northeast corner of Lot 92 with the West~~
 82 line Southeast corner of Lot 28 to the South Right-of-
 83 Way line of said Pine Boulevard AND lying West of the
 84 Southerly prolongation of the East line of Lot 24 to
 85 the South Right-of-Way line of said Pine Boulevard,
 86 that portion of the 50 foot Right-of-Way for Dixie
 87 Lane lying North of the Westerly prolongation of the
 88 South line of Lot 1 to the West Right-of-Way line of
 89 said Dixie Lane, 35 all as shown on Pine Creek Acres,
 90 Unit No. 2 as recorded in Plat Book 10, Page 74 of the
 91 said Public Records;

92
 93 AND LESS the following described parcel;

94
 95 BEGINNING at the Northeast corner of Pine Creek Acres,
 96 Unit No. 1 as recorded in Plat Book 10, Page 13 of the
 97 said Public Records; thence South 00° 56' 00" East
 98 along the East line of said Pine Creek Acres, Unit No.
 99 1 and the Southerly projection thereof, a distance of
 100 225.19 ~~223.86~~ feet; thence North 89° 35' 20" East, a

101 distance of 166.20 feet; thence North 00° 24' 40"
 102 West, a distance of 203.00 feet to the said Southerly
 103 Right-of-Way line of State Road 80; thence North 82°
 104 54' 00" West along the said Southerly Right-of-Way
 105 line of State Road 80 to the POINT OF BEGINNING;

106
 107 AND LESS the following described parcel;

108
 109 Commencing at the said Northeast corner of Pine Creek
 110 Acres, Unit No. 1; thence South 82° 54' 00" East along
 111 the said Southerly Right-of-Way line of State Road 80,
 112 a distance of 308.57 ~~307.31~~ feet to the POINT OF
 113 BEGINNING of this description; thence South 00° 24'
 114 40" East, a distance of 225.19 ~~237.58~~ feet; thence
 115 North 89° 35' 20" East, a distance of 209.19 feet;
 116 thence North ~~South~~ 00° 24' 40" East, a distance of
 117 ~~918.16 feet; thence North 89° 35' 20" East, a distance~~
 118 ~~of 420.00 feet; thence North 00° 24' 40" West, a~~
 119 distance of 210.00 ~~1069.39~~ feet to the said Southerly
 120 Right-of-Way line of State Road 80; thence
 121 Northwesterly along the said Southerly Right-of-Way
 122 line of State Road 80 to the POINT OF BEGINNING;

123
 124 ~~AND LESS the following described parcel;~~

125

126 ~~BEGINNING at the intersection of the East line of the~~
 127 ~~Northwest 1/4 of the Northeast 1/4 of said Section 30~~
 128 ~~and the said Southerly Right of Way line of State Road~~
 129 ~~80, thence South 00° 24' 40" East along the East line~~
 130 ~~of the West 1/2 of the Northeast 1/4 of said Section~~
 131 ~~30, a distance of 129.00 feet from the Northwest~~
 132 ~~corner of the Southeast 1/4 of the Northeast 1/4 of~~
 133 ~~said Section 30, thence South 89° 41' 55" East along a~~
 134 ~~line parallel with the North line of the said~~
 135 ~~Southeast 1/4 of the Northeast 1/4, a distance of~~
 136 ~~337.00 feet, thence North 00° 24' 40" West to the said~~
 137 ~~Southerly Right of Way line of State Road 80, thence~~
 138 ~~North 81° 08' 00" West along the said Southerly Right-~~
 139 ~~of Way line of State Road 80 to the POINT OF~~
 140 ~~BEGINNING.~~

141
 142 SECTION 31: The following portions of Section 31;

143
 144 The West 1/2, together with the West 1/2 of the
 145 Southeast 1/4, together with the Southeast 1/4 of the
 146 Southeast 1/4, together with the Southwest 1/4 of the
 147 Northeast 1/4, together with the Southwest 1/4 of the
 148 Northwest 1/4 of the Northeast 1/4, ~~together with the~~
 149 ~~Northeast 1/4 of the Northeast 1/4 of the Northeast~~
 150 ~~1/4.~~

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SECTION 36: The East 1/2 of Section 36, LESS the Northwest 1/4 of the Northeast 1/4 thereof.

TOWNSHIP 44 SOUTH, RANGE 26 EAST

SECTION 1-3: All of Sections 1, 2 and 3.

SECTION 4: The East 1/2 of Section 4.

SECTION 10: The following portions of Section 10;

The East 1/2 of the Southeast 1/4, together with the Northwest 1/4 of the Southeast 1/4.

SECTIONS 11-14: All of Sections 11, 12, 13 and 14.

SECTION 15: The East 1/2 of the East 1/2 of Section 15.

SECTION 16: The following portions of Section 16;

All of Units 1 through 5 of "Lehigh Acres" as recorded in Plat Book 27, Page 186 of the Public Records of Lee County, Florida, together with Lot 16, Block 36 of

176 "Buckingham Park, Northwest Section" as recorded in
 177 Plat Book 9, Page 92 of the said Public Records.

178
 179 SECTION 19: The following portions of Section 19;

180
 181 The Southeast 1/4, together with that portion of the
 182 Northeast 1/4 of said Section 19 lying South of
 183 Buckingham Road.

184
 185 SECTION 20: The following portions of Section 20;

186
 187 The South 1/2, together with that portion of the North
 188 1/2 of said Section 20 lying South of Buckingham Road.

189
 190 SECTION 21: The following portions of "Buckingham
 191 Park, South Section" as recorded in Plat Book 9, Page
 192 99 of the said Public Records being in Section 21:

193
 194 Lots 3 through 10 of Block 40; Lots 1 and 3 of Block
 195 38,

196
 197 Lot 28 of Block 39 ~~29~~; the North 40 feet of Lot 29 of
 198 Block 39 ~~29~~; all of Tract "D", all of Block "E,"
 199 together with the Re-subdivision of that portion of
 200 Block "E" of said "Buckingham Park, South Section" as

201 replatted on "Plat of Unit 3 Lehigh Park, a
 202 Subdivision of Lehigh Acres" as recorded in Plat Book
 203 15, Page 66 of the said Public Records, together with
 204 that portion of said Section 21 lying Southwesterly of
 205 the centerline of a 60 foot easement as described in
 206 Miscellaneous Book 32, Page 335 of the said Public
 207 Records.

208
 209 SECTION 22: That portion of Section 22 lying South and
 210 Southwesterly of Homestead Road as shown on Plat of
 211 "Buckingham Park Entrance Roads" as recorded in Plat
 212 Book 9, Page 97 of the said Public Records.

213
 214 SECTIONS 23-29: All of Sections 23, 24, 25, 26, 27, 28
 215 and 29.

216
 217 SECTION 30: The following portions of Section 30;
 218
 219 The South 1/2, together with the South 100 feet of the
 220 North 1/2 together with the remainder of the Northeast
 221 1/4.

222
 223 SECTION 31: That portion of said Section 31 lying
 224 Northeasterly of State Road 82.

225

226 SECTIONS 32-36: All of Sections 32, 33, 34, 35 and 36.

227

228 TOWNSHIP 44 SOUTH, RANGE 27 EAST

229

230 SECTION 1: All of Section 1.

231

232 SECTION 2: All of Section 2, LESS the Northwest 1/4 of
233 the Northwest 1/4 thereof.

234

235 SECTION 3: All of Section 3, LESS the Northeast 1/4
236 thereof, AND LESS the East 1/2 of the Northwest 1/4
237 thereof.

238

239 SECTIONS 4-36: ~~4-6: All of Sections 4, 5 and 6.~~

240

241 ~~SECTION 7: The following portions of Section 7,~~

242

243 ~~The South 1/2, together with the Northwest 1/4,~~
244 ~~together with the Southwest 1/4 of the Northeast 1/4,~~
245 ~~together with the North 1/2 of the Northeast 1/4,~~
246 ~~together with the North 854 feet of the East 466 feet~~
247 ~~of the Southeast 1/4 of the Northeast 1/4.~~

248

249 ~~SECTION 8: The following portions of Section 8,~~

250

251 ~~The South 1/2, together with the Northwest 1/4 of the~~
 252 ~~Northeast 1/4, together with the West 1/2 of the~~
 253 ~~Northeast 1/4, together with the East 3/4 of the~~
 254 ~~Southeast 1/4 of the Northwest 1/4.~~

255
 256 ~~SECTION 9: All of said Section 9, LESS the Southwest~~
 257 ~~1/4 of the Northeast 1/4 thereof.~~

258
 259 ~~SECTIONS 10-36:~~ All of Sections 4, 5, 6, 7, 8, 9, 10,
 260 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,
 261 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and
 262 36.

263
 264 TOWNSHIP 45 SOUTH, RANGE 26 EAST

265
 266 SECTIONS 1-3: All of Section 1, 2 and 3.

267
 268 SECTION 4: All that portion of Section 4 lying North
 269 of State Road 82.

270
 271 SECTION 5: All that portion of Section 5 lying North
 272 of State Road 82.

273
 274 SECTION 6: All that portion of Section 6 lying North
 275 of State Road 82.

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SECTION 9: All that portion of Section 9 lying North
of State Road 82.

SECTION 10: All that portion of Section 10 lying North
of State Road 82.

SECTION 11: All that portion of Section 11 lying North
of State Road 82.

SECTION 12: All of Section 12.

SECTION 13: All that portion of Section 13 lying North
of State Road 82.

SECTION 14: All that portion of Section 14 lying North
of State Road 82.

TOWNSHIP 45 SOUTH, RANGE 27 EAST

SECTIONS 1-17: ~~1-3: All of Sections 1, 2 and 3.~~

~~SECTION 4: All of Section 4, LESS the Southeast 1/4 of
the Southeast 1/4 thereof, AND LESS the South 1/2 of~~

300 ~~the Northeast 1/4 of the Southeast 1/4 of said Section~~
 301 ~~4,~~

302
 303 ~~AND LESS the South 1/2 of the Northeast 1/4 of the~~
 304 ~~Northeast 1/4 of the Southeast 1/4 of said Section 4,~~
 305 ~~AND LESS the Northwest 1/4 of the Northeast 1/4 of the~~
 306 ~~Southeast 1/4 of said Section 4.~~

307
 308 ~~SECTION 5: The following portions of Section 5;~~

309
 310 ~~The Northwest 1/4, together with the East 3/4 of the~~
 311 ~~North 1/2 of the Southwest 1/4, together with The~~
 312 ~~South 1/2 of the Southwest 1/4, together with the~~
 313 ~~Southwest 1/4 of the Southeast 1/4 LESS the South 175~~
 314 ~~feet of the East 125 feet thereof, together with The~~
 315 ~~following described parcel being in the Northeast 1/4~~
 316 ~~of the Northeast 1/4 of said Section 5; Commencing at~~
 317 ~~the Northeast corner of said Section 5; thence~~
 318 ~~Westerly along the North line of said Section 5, said~~
 319 ~~North line of Section 5 being the South line of Units~~
 320 ~~7 and 18 of "Leeland Heights" as shown on plat~~
 321 ~~recorded in Plat Book 12, Page 53 of the said Public~~
 322 ~~Records, a distance of 116.51 feet to the Southwest~~
 323 ~~corner of Lot 10 of Block 87 of said "Leeland Heights"~~
 324 ~~and the POINT OF BEGINNING of this description; thence~~

325 ~~continuing Westerly along the said North line of~~
 326 ~~Section 5, a distance of 1208.55 feet to the Northwest~~
 327 ~~corner of the Northeast 1/4 of the Northeast 1/4 of~~
 328 ~~said Section 5; thence South 01° 35' 34" East along~~
 329 ~~the West line of the said Northeast 1/4 of the~~
 330 ~~Northeast 1/4 of Section 5, a distance of 1149.72~~
 331 ~~feet; thence Easterly along a line parallel with the~~
 332 ~~said North line of Section 5, a distance of 1268.07~~
 333 ~~feet to a point of intersection with a line parallel~~
 334 ~~with and 60 feet Westerly of (as measured at right~~
 335 ~~angles) the East line of said Section 5; thence North~~
 336 ~~01° 44' 40" West along said parallel line, a distance~~
 337 ~~of 1089.78 feet to a point of intersection with a line~~
 338 ~~parallel with and 60 feet Southerly of (as measured at~~
 339 ~~right angles) the said North line of Section 5; thence~~
 340 ~~Westerly along said line parallel with and 60 feet~~
 341 ~~Southerly of the North line of Section 5, a distance~~
 342 ~~of 58.31 feet to a point of intersection with the~~
 343 ~~Southerly prolongation of the West line of said Lot 10~~
 344 ~~of Block 87 of "Leeland Heights"; thence Northerly~~
 345 ~~along said Southerly prolongation, a distance of 60.00~~
 346 ~~feet to the POINT OF BEGINNING. Bearings in last~~
 347 ~~described parcel relative to said Plat of Units 7 and~~
 348 ~~18 of "Leeland Heights," together with the following~~
 349 ~~described parcel beginning at the Northwest corner of~~

350 ~~the Southeast 1/4 of said Section 5; thence~~
 351 ~~N02°13'08"W along the west line of the Northeast 1/4~~
 352 ~~of said Section 5 a distance of 1405.94 feet to a~~
 353 ~~point on the Southwesterly right-of-way line of~~
 354 ~~Homestead Road (80 feet wide); thence S45°12'26"E~~
 355 ~~along said Southwesterly right-of-way a distance of~~
 356 ~~3913.55 feet to the East line of the Southeast 1/4 of~~
 357 ~~said Section 5; thence S02°29'49"E along the East line~~
 358 ~~of the Southeast 1/4 of said Section 5 a distance of~~
 359 ~~1239.65 feet to the Southeast corner of the Southeast~~
 360 ~~1/4 of said Section 5; thence S89°08'31"W along the~~
 361 ~~South line of the Southeast 1/4 of said Section 5 a~~
 362 ~~distance of 1462.65 feet; thence N02°21'32"W a~~
 363 ~~distance of 175.06 feet; thence N89°08'31"E a distance~~
 364 ~~of 125.05 feet to a point on the East line of the~~
 365 ~~Southwest 1/4 of the Southeast 1/4 of said Section 5;~~
 366 ~~thence N02°21'29"W along the East line of the~~
 367 ~~Southwest 1/4 of the Southeast 1/4 of said Section 5 a~~
 368 ~~distance of 1141.39 feet to the Northeast corner of~~
 369 ~~the Southwest 1/4 of the Southeast 1/4 of said Section~~
 370 ~~5; thence S89°08'13" W along the North line of the~~
 371 ~~Southwest 1/4 of the Southeast 1/4 of said Section 5 a~~
 372 ~~distance of 1334.41 feet to the West line of the~~
 373 ~~Southeast 1/4 of said Section 5; thence N02°13'08"W~~
 374 ~~along the West line of the Southeast 1/4 of said~~

375 ~~Section 5 a distance of 1316.26 feet to the POINT OF~~
 376 ~~BEGINNING; with the exception of the following~~
 377 ~~described parcel recorded in Book 2383, Page 399 of~~
 378 ~~the Official Records of Lee County, Florida and~~
 379 ~~BEGINNING at the Northwest corner of the Southeast 1/4~~
 380 ~~of said Section 5; thence N89°07'57"E along the North~~
 381 ~~line of said Southeast 1/4 a distance of 1340.36 feet~~
 382 ~~to a point on the Southwesterly right of way line of~~
 383 ~~Homestead Road (80 feet wide); thence S45°12'26"E along~~
 384 ~~said right of way line a distance 530.85 feet to the~~
 385 ~~POINT OF BEGINNING of said parcel; thence continuing~~
 386 ~~S45°12'26"E along said right of way line a distance of~~
 387 ~~461.42 feet; thence S44°50'37"W a distance of 100.69~~
 388 ~~feet; thence S89°07'57"W along a line lying 780.00~~
 389 ~~feet South of (as measured per perpendicular) and~~
 390 ~~parallel to the aforementioned North line of said~~
 391 ~~Southeast 1/4 a distance of 687.60 feet; thence~~
 392 ~~N00°45'12"W a distance of 400.32 feet; thence~~
 393 ~~N89°07'57"E a distance of 436.39 feet to a point on~~
 394 ~~the Southwesterly right of way line of Homestead Road~~
 395 ~~and the POINT OF BEGINNING.~~

396
 397 ~~SECTION 6: All of Section 6, LESS the following~~
 398 ~~described parcel: BEGINNING at the Southwest corner of~~
 399 ~~Government Lot 5 of said Section 6; thence Northerly~~

400 ~~along the West line of said Government Lot 5, a~~
 401 ~~distance of 466.70 feet; thence Easterly along a line~~
 402 ~~parallel with the South line of said Government Lot 5,~~
 403 ~~a distance of 466.70 feet; thence Southerly along a~~
 404 ~~line parallel with the said West line of Government~~
 405 ~~Lot 5, a distance of 466.70 feet; thence Westerly~~
 406 ~~along the South line of said Government Lot 5, a~~
 407 ~~distance of 466.70 feet to the POINT OF BEGINNING.~~

408
 409 ~~SECTION 7: All of Section 7.~~

410
 411 ~~SECTION 8: All of Section 8, LESS the Southwest 1/4 of~~
 412 ~~the Southeast 1/4 thereof.~~

413
 414 ~~SECTION 9: The following portions of Section 9,~~

415
 416 ~~The West 1/2 of the Southwest 1/4, together with the~~
 417 ~~Southeast 1/4, together with the West 1/2 of the~~
 418 ~~Northeast 1/4, together with the Southeast 1/4 of the~~
 419 ~~Northeast 1/4.~~

420
 421 ~~SECTIONS 10-17: All of Sections 1, 2, 3, 4, 5, 6, 7,~~
 422 ~~8, 9, 10, 11, 12, 13, 14, 15, 16 and 17.~~

423

424 SECTION 18: All of Section 18, LESS the 200 foot
 425 Right-of-Way for State Road 82 thereof, AND LESS the
 426 Westerly 25 feet of that portion of said Section 18
 427 lying Northerly of said State Road 82, said 25 foot
 428 strip as conveyed to Lee County for roadway purposes
 429 by deed recorded in Official Record Book 147, Page 73
 430 of the said Public Records of Lee County.

431
 432 SECTION 19: All of Section 19, LESS the 200 foot
 433 Right-of-Way for State Road 82 thereof, ~~AND LESS the~~
 434 ~~following described parcel, BEGINNING at the Northeast~~
 435 ~~corner of said Section 19; thence South 89°55'00"W~~
 436 ~~along the North line of said Section 19 a distance of~~
 437 ~~1327.50 feet to the Northwest corner of the East 1/2~~
 438 ~~of the Northeast 1/4 of said Section 19; thence South~~
 439 ~~49°30'50"W a distance of 465.93 ft to a point on the~~
 440 ~~North right-of-way line of State Road 82; thence~~
 441 ~~Southeasterly with the North right-of-way line of~~
 442 ~~State Road 82 to a point on the East line of said~~
 443 ~~Section 19; thence North 00°34'00"W along the East~~
 444 ~~line of said Section 19 to the POINT OF BEGINNING.~~

445
 446 SECTION 20: All of Section 20, LESS the 200 foot
 447 Right-of-Way for State Road 82 thereof, AND LESS the
 448 following described parcel, BEGINNING at the ~~Northwest~~

449 ~~corner of said Section 20; thence North 89° 15' 50"~~
 450 ~~East along the North line of said Section 20, a~~
 451 ~~distance of 227.46 feet; thence South 00° 34' 00" East~~
 452 ~~along a line parallel with the West line of said~~
 453 ~~Section 20, a distance of 1516.82 feet to a point of~~
 454 ~~intersection with the Northerly Right-of-Way line of~~
 455 ~~State Road 82; thence North 49° 52' 20" West along the~~
 456 ~~said Northerly Right-of-Way line of State Road 82, a~~
 457 ~~distance of 300.00 feet to a point of intersection~~
 458 ~~with the West line of said Section 20; thence North~~
 459 ~~00° 34' 00" East along the said West line of Section~~
 460 ~~20 to the POINT OF BEGINNING; AND LESS the following~~
 461 ~~described parcel, BEGINNING at the intersection of the~~
 462 ~~Southwesterly Right-of-Way line of State Road 82 and~~
 463 ~~the South line of said Section 20; thence North 24°~~
 464 ~~51' 40" West along the said Southwesterly Right-of-Way~~
 465 ~~line of State Road 82, a distance of 1000.00 feet;~~
 466 ~~thence South 32° 24' 30" West, a distance of 1081.39~~
 467 ~~feet to a point of intersection with the said South~~
 468 ~~line of Section 20; thence North 89° 40' 40" East~~
 469 ~~along the said South line of Section 20, a distance of~~
 470 ~~1000.00 feet to the POINT OF BEGINNING. Last described~~
 471 ~~parcel being recorded in Deed Book 306, Page 153 of~~
 472 ~~the said Public Records of Lee County.~~
 473

474 SECTIONS 21-26: All of Sections 21, 22, 23, 24, 25 and
 475 26.

476
 477 SECTION 27: All of Section 27 lying NORTH of State
 478 Road 82.

479
 480 SECTION 28: All of Section 28 lying North of State
 481 Road 82.

482
 483 SECTION 29: All of Section 29 lying North of State
 484 Road 82.

485
 486 SECTION 34: All of Section 34 lying North of State
 487 Road 82.

488
 489 SECTION 35: All of Section 35 lying North of State
 490 Road 82.

491
 492 SECTION 36: All of Section 36 LESS the 200 foot Right-
 493 of-Way for State Road 82 thereof.

494
 495 B. LANDS IN HENDRY COUNTY, FLORIDA

496
 497 TOWNSHIP 43 SOUTH, RANGE 28 EAST

498

499 SECTION 30: The following portions of Section 30:
 500
 501 The West 400.00 feet of the Southwest 1/4 less the
 502 right-of-way for State Road 80, together with the
 503 parcel commencing at the West 1/4 corner of Section
 504 30; thence along the West Section line North 01° 01'
 505 11" West, a distance of 164.01 feet to the North
 506 right-of-way line of State Road 80 and the POINT OF
 507 BEGINNING; thence continuing North 01° 01' 11" West, a
 508 distance of 1156.17 feet to the South Right-of-Way
 509 line for the Caloosahatchee River (C-43 canal); thence
 510 along said South Right-of-Way line North 78° 07' 28"
 511 East, a distance of 162.92 feet; thence South 01° 01'
 512 11" East, a distance of 415.55 feet; thence South 45°
 513 02' 36" East, a distance of 345.35 feet; thence South
 514 01° 01' 11" East, a distance of 520.42 feet to the
 515 North Right-of-Way for State Road 80; thence along
 516 said right-of-way South 88° 36' 43" West, a distance
 517 of 400.00 feet to the POINT OF BEGINNING.

518
 519 SECTION 31: The following portions of Section 31;
 520
 521 The Southeast 1/4 of the Northwest 1/4, together with
 522 the East 1/2 of the Southwest 1/4, together with the
 523 South 185.00 feet of the North 1/2 of the Northwest

524 1/4 less the West 1189.24 feet of the East 1439.25
 525 feet of the South 25.00 feet thereof; together with
 526 the West 660.76 feet of the North 30.00 feet of the
 527 Southwest 1/4 of the Northwest 1/4; together with the
 528 West 400.00 feet of the Northwest 1/4 of the Northwest
 529 1/4.

530

531 TOWNSHIP 44 SOUTH, RANGE 28 EAST

532

533 SECTION 6: The West 1/2 of Section 6.

534

535 SECTION 7: The West 1/2 of Section 7.

536

537 SECTION 18: The West 1/2 of Section 18.

538

539 SECTION 19: The West 1/2 of Section 19.

540

541 SECTION 30: The West 1/2 of Section 30.

542

543 SECTION 31: The West 1/2 of Section 31.

544

545 Section 2. All taxes and assessments levied by or for
 546 Lehigh Acres Municipal Services Improvement District upon lands
 547 situated within the district, as defined in this act, be, and
 548 the same hereby are ratified, confirmed, and validated, and

549 declared to be legal and binding, notwithstanding any defects in
550 the proceedings pursuant to which such taxes and assessments
551 were levied or the failure upon the part of any officer or
552 person to comply with statutory provisions or requirements
553 relating to the assessment and levy of such taxes and
554 assessments or as may be levied and made subject to existing
555 assessments in accordance with the provisions of s. 298.225(8),
556 Florida Statutes.

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

B Rep Caldwell

0001904145 / FNP-271730

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

HB 1311

Attn:
LEHIGH ACRES MUNICIPAL
COUNTY LN E - ROUTER SENT 1205
LEHIGH ACRES, FL 33936

**NOTICE OF INTENTION
TO SEEK ENACTMENT OF
SPECIAL LEGISLATION**
Pursuant to Article III, Section 10 of the
Florida Constitution and Section 11.02,
Florida Statutes, the Board of Commis-
sioners of the Lehigh Acres Municipal
Services Improvement District does
hereby give notice of its intention to
seek the enactment of special legisla-
tion during the 2017 session of the
Florida Legislature. The special legisla-
tion will amend Chapter 2015-202,
Laws of Florida regarding the territorial
boundaries of the District and pro-
vide effective dates.
**THE BOARD OF COMMISSIONERS
LEHIGH ACRES MUNICIPAL SERVICES
IMPROVEMENT DISTRICT**
No. 1904145 Feb. 3, 2017

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

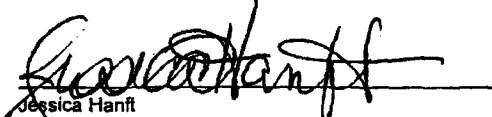
Notice of Meetings

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

02/03/17

Affiant further says that the said News-Press is a paper
of general circulation daily in Lee, Charlotte, Collier,
Glades and Hendry Counties and published at Fort
Myers, in said Lee County, Florida, and that the said
newspaper has heretofore been continuously published
in said Lee County, Florida each day and has been
entered as periodicals matter at the post office in Fort
Myers, in said Lee County, Florida, for a period of one
year next preceding the first publication of the attached
copy of advertisement; and affiant further says that he or
she has never paid nor promised any person, firm or
corporation any discount, rebate, commission or refund
for the purpose of securing this advertisement for
publication in the said newspaper.

Sworn to and Subscribed before me this 9th of February
2017, by Shari Terrell who is personally known to me.


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



**NOTICE OF INTENTION
TO SEEK ENACTMENT OF
SPECIAL LEGISLATION**
Pursuant to Article III, Section 10 of the
Florida Constitution and Section 11.02,
Florida Statutes, the Board of Commis-
sioners of the Lehigh Acres Municipal
Services Improvement District does
hereby give notice of its intention to
seek the enactment of special legisla-
tion during the 2017 session of the
Florida Legislature. The special legisla-
tion will amend Chapter 2015-202,
Laws of Florida; expanding the territo-
rial boundaries of the District; and pro-
vide effective dates.
**THE BOARD OF COMMISSIONERS
LEHIGH ACRES MUNICIPAL SERVICES
IMPROVEMENT DISTRICT**
No. 1904145 Feb. 3, 2017

RECEIVED

FEB 13 2017

LEHIGH ACRES
MUNICIPAL SERVICES
IMPROVEMENT DISTRICT

HOUSE OF REPRESENTATIVES

2017 - 2018 LOCAL BILL CERTIFICATION FORM

BILL #: 1311
 SPONSOR(S): Matt Caldwell (R - North Fort Myers) District 79
 RELATING TO: Lehigh Acres Municipal Services Improvement District
[Indicate Area Affected (City, County, or Special District) and Subject]
 NAME OF DELEGATION: Hendry County Legislative Delegation
 CONTACT PERSON: David E. Lindsay
 PHONE NO.: (239) 368-0044 E-Mail: dlindsay@la-msid

I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:

- (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
- (2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and
- (3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.
- (4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

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

YES [x] NO []

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level: Authority to change a special district boundary created by the legislature resides only with the state legislature.

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

YES [x] NO []

Date hearing held: 12/02/2016

Location: Labelle City Hall

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

YES [x] NO [] UNANIMOUSLY APPROVED [x]

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

YES [x] NO []

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or

the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO DATE 02-03-2017

Where? Fort Myers News-Press County Lee & Hendry

Referendum in lieu of publication: YES NO

Date of Referendum N/A

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

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

YES NO

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

YES NO

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

YES NO

Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee.


Delegation Chair (Original Signature)

2/2/17
Date

Byron Donalds
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES
2017 ECONOMIC IMPACT STATEMENT FORM**

Read all instructions carefully.

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: 1311
SPONSOR(S): Matt Caldwell, (R-North Fort Myers) District 79
RELATING TO: Lehigh Acres Municipal Services Improvement District Amendment to its Enabling Legislation.
(Indicate Area Affected (City, County or Special District) and Subject)

I. REVENUES:

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

	<u>FY 17-18</u>	<u>FY 18-19</u>
Revenue decrease due to bill:	\$ <u>none</u>	\$ <u>none</u>
Revenue increase due to bill:	\$ <u>43,387</u>	\$ <u>43,387</u>

II. COST:

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

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 17-18</u>	<u>FY 18-19</u>
	\$ <u>none</u>	\$ <u>none</u>

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

Strap numbers that will be eliminated or added to the assessment roll would be processed during the annual non-ad valorem certification process.

III. FUNDING SOURCE(S):

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

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

	<u>FY 17-18</u>	<u>FY 18-19</u>
Local:	\$ <u>43,387</u>	\$ <u>43,387</u>
State:	\$ <u>none</u>	\$ <u>none</u>
Federal:	\$ <u>none</u>	\$ <u>none</u>

IV. ECONOMIC IMPACT:

Potential Advantages:

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

Include specific figures for anticipated job growth.

1. Advantages to Individuals: The revision and expansion of the District's territorial boundaries will provide for more coordinated services & installation of public infrastructure for the subject parcels.
2. Advantages to Businesses: The revision and expansion of the District's territorial boundaries will provide for more coordinated services & installation of public infrastructure for the subject parcels.
3. Advantages to Government: The revision and expansion of the District's territorial boundaries will provide for more coordinated services & installation of public infrastructure for the subject parcels.

Potential Disadvantages:

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

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

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

1. Disadvantages to Individuals: none

2. Disadvantages to Businesses: none

3. Disadvantages to Government: none

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

The revision and expansion of the District's territorial boundaries will provide for more services & coordinated installation of public infrastructure for the subject parcels with ongoing or future District projects.

VI. SPECIFIC DATA USED IN REACHING ESTIMATES:

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

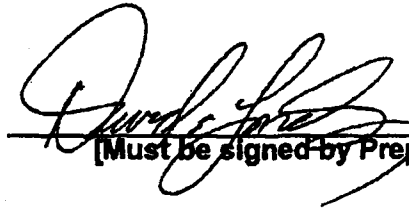
LA-MSID GIS and LEEPA GIS Data.

LA-MSID non-ad valorem assessment values. No other assumptions, history or audits.

VII. CERTIFICATION BY PREPARER

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

PREPARED BY:


[Must be signed by Preparer]

Print preparer's name:

David E. Lindsay

02/08/2017

Date

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

District Manager

REPRESENTING:

Lehigh Acres Municipal Services Improvement District

PHONE:

239-368-0044

E-MAIL ADDRESS:

dlindsay@la-msid.com

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1401 East Mulloch Drainage District, Lee County
SPONSOR(S): Rodrigues
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	11 Y, 0 N	Miller	Miller
2) Ways & Means Committee		Dugan <i>LD</i>	Langston <i>GL</i>
3) Government Accountability Committee			

SUMMARY ANALYSIS

The East Mulloch Drainage District is an independent special district in south central Lee County. Created in 1963 under chapter 298, F.S., this water control district is responsible for maintaining canals, water retention ponds, and drainage structures in an area of approximately 3,000 acres, primarily an area known as San Carlos Park. The Board of Supervisors is comprised of 3 members serving staggered 3 year terms. Annually, the land owners in the district are entitled to elect one board member on the basis of 1 vote per acre.

Under its charter, the district may impose an annual maintenance tax not exceeding \$30.10 per acre to fund the costs of maintenance, operation, and administration. The district must be divided into 4 roughly equal sections. The costs of maintenance and operation within each section are to be paid only from the assessments drawn from the land owners in that section.

In 2006, a non-binding referendum of the district electors disapproved of the Lee County Commissioners becoming the governing body of the district. In 2008, the Lee County Board of County Commissioners engaged an engineering firm to study and report on the condition of drainage structures in the district. The 2008 report estimated the cost at that time to return the district drainage structures to their original, "as built" condition would cost over \$5 million and the annual cost to maintain the refurbished structures would be approximately \$140,000.

The bill extensively revises the present charter of the district:

- Beginning with the general election in 2018, the board of supervisors would be increased to 5 members, with 2 new members elected to 4 year terms.
- The terms of the current 3 members are extended until 2020, at which time 3 supervisors would be elected to 4 year terms.
- All supervisors must be Florida residents owning real property within the district.
- All elections will be nonpartisan and held on the date of the general election.
- Instead of a cap of \$30.10 per acre on annual assessments, the district will be authorized to raise revenue as provided in ch. 298, F.S., and annually must raise funds sufficient to maintain the drainage structures in the district.
- The requirement to divide the district into 4 sections is deleted.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The East Mulloch Drainage District is an independent special district¹ comprised of approximately 3,046 acres located in south central Lee County, southwest of Lehigh Acres and west of the Village of Estero.² The district was created in 1963 by special act for “the purpose of draining and conserving the lands (described in the act)...for controlling and conserving water...and the water tables...for agricultural and sanitary purposes, and for the public health....”³ The boundaries of the district have been adjusted four times since its creation, resulting in its present configuration.⁴ As of July 2008, approximately 2,220 acres in the district were developed. The district is responsible for maintaining approximately 21 miles of canals, 20 retention ponds, and 9 developed drainage structures including swales and a number of culverts.⁵

The district is governed by a three member Board of Supervisors serving staggered three year terms, with one supervisor elected at each annual meeting of the district.⁶ The annual meeting of district landowners is to be held each February in a public location within Lee County pursuant to published notice. Each landowner in the district is entitled to cast a number of votes equal to the total acres in the district owned, on a one acre/one vote basis.⁷ Votes may be cast in person or by proxy. The elected board members choose the board president and appoint a district secretary and district engineer. A competent outside individual, bank, or trust company may be employed as treasurer.⁸

The board has extensive powers to develop, operate, and maintain drainage structures throughout the district, including the power to contract,⁹ to make necessary alterations to canals and other drainage structures,¹⁰ to move water onto or from district lands into drainage structures,¹¹ and to make other changes as necessary to maintain structures in the district.¹² In addition to these enumerated powers, the board may exercise all powers and authority provided to water control districts in ch. 298, F.S.¹³ The board may purchase tax certificates sold to the state, county, or other governmental agency which include taxes levied for the district.¹⁴ Other powers include the authority to pledge maintenance tax receipts as security for a loan not exceeding 5 years.¹⁵

¹ See s. 189.012, F.S.

² “East Mulloch Drainage District Facility Analysis Report, Volume 1,” prepared for the Lee County Board of County Commissioners by Boyle Engineering Corporation (July 1980), herein “2008 Report,” 1. According to the 2008 Report, the district lies within the natural basin of Mulloch Creek and the developed area is known generally as San Carlos Park. 2008 Report, 4. The 2008 Report is available at <https://www.leegov.com/naturalresources/Documents/East%20Mullock%20Report.pdf> (last accessed 2/15/2017).

³ Ch. 63-930, s. 1, Laws of Fla. Until 1980, drainage districts could be created either by special act or circuit court decree. See s. 298.01, F.S., and historical note. Since 1978, all existing drainage districts operating under the authority of ch. 298, F.S., are legally designated as water control districts. Section 298.001, F.S.

⁴ See chs. 83-443, 84-464, 86-425, 88-480, Laws of Fla.

⁵ 2008 Report, 2. At the time of the report, the Three Oaks and Caloosa Trace subdivisions, both located outside the district, were paying district assessments and the district maintained their drainage structures as well. 2008 Report, 10.

⁶ Ch. 63-930, s. 3(1), Laws of Fla.

⁷ Ch. 63-930, s. 3(3), Laws of Fla.

⁸ Ch. 63-930, s. 14, Laws of Fla.

⁹ Ch. 63-930, s. 4(1), Laws of Fla.

¹⁰ Ch. 63-930, s. 4(2), Laws of Fla.

¹¹ Ch. 63-930, s. 4(3), Laws of Fla.

¹² Ch. 63-930, s. 4(6), Laws of Fla.

¹³ Ch. 63-930, s. 4(5), Laws of Fla. The powers enumerated in ch. 63-930, s. 4, effectively are included within the statute and applicable to the district. See s. 298.22, F.S.

¹⁴ Ch. 63-930, s. 12, Laws of Fla.

¹⁵ Ch. 63-930, s. 13, Laws of Fla.

Under the present charter, the board must divide the district into four approximately equal sections designated A, B, C, D. District work benefitting only those lands in a particular section may not be assessed against any land in the three other sections. The cost of district work benefitting lands in more than one section is to be apportioned between those sections only.¹⁶ The district may impose an annual maintenance tax not to exceed \$30.10 per acre to pay the costs district administration, operations, and maintenance.¹⁷ As with other real property taxes, the maintenance tax creates a lien on the property assessed as of January 1.¹⁸

Maintenance taxes are deposited by the district in the maintenance fund and the money distributed only for district purposes.¹⁹ The board must prepare an annual budget and the district's fiscal year begins November 1 and ends the following October 31.²⁰ District assessments are collected through the Lee County Tax Collector.²¹

The charter makes willfully damaging a ditch, canal, or other structure constructed by the district punishable as a misdemeanor.²²

Charter Issues

The present charter of the district contains several archaic references to ch. 298, F.S., pertaining to drainage and water control. The charter excepts the district from the applicability of ss. 298.30, 298.31, 298.32, 298.33,²³ 298.42, 298.43, 298.44, 298.45, and 298.46,²⁴ all of which statutory sections have been repealed.²⁵ The charter also incorporates text subsequently added to ch. 298, F.S., making the charter now duplicative of the controlling law.²⁶

In 1997, the Legislature required each special district to draft a codified charter comprised of the special acts creating and empowering the district.²⁷ The district never submitted a codified charter for reenactment by the Legislature and its charter remains a collection of its special acts.²⁸

¹⁶ Ch. 63-930, s. 6(1), Laws of Fla.

¹⁷ Ch. 63-930, s. 6(2), Laws of Fla., imposing an original annual cap of \$15.00 per acre. Chapter 84-464, s. 2, Laws of Fla., increased the annual cap to \$29.29 per acre, subject to the approval of the district voters in a referendum. The present maximum assessment is \$30.10 per acre, as provided in ch. 86-425, s. 2, Laws of Fla., and approved by the district voters in a referendum. The charter still contains the provision authorizing the initial board to levy a tax of \$1.00 per acre for the initial expenses of starting up the district after its creation. Ch. 63-930, s. 15, Laws of Fla.

¹⁸ Ch. 63-930, s. 16, Laws of Fla.

¹⁹ Ch. 63-930, s. 7, Laws of Fla.

²⁰ Ch. 63-930, s. 8, Laws of Fla., as amended by ch. 65-912, s. 2, Laws of Fla. The original chapter law for the district inadvertently had two sections numbered 8. The second section 8 described procedures for the board to create a list of all assessable district lands to be transmitted to the county tax assessor. This process appeared duplicative of the statutory procedures and duties of county property appraisers and tax collectors and was repealed two years later. Ch. 65-912, s. 3, Laws of Fla.

²¹ Ch. 63-930, s. 9, Laws of Fla., as amended by ch. 65-912, s. 4, Laws of Fla. The charter later reiterates the responsibility of the tax collector, and anyone else responsible for the assessment and collection of taxes, to remit the taxes and assessments collected to the district treasurer. Ch. 63-930, s. 11, Laws of Fla. This general responsibility for all water control districts is now stated in s. 298.365, F.S.

²² Ch. 63-930, s. 17, Laws of Fla. These would be punishable as second degree misdemeanors under s. 775.081(2), F.S., with maximum imprisonment of 60 days and maximum fine of \$500. Sections 775.082(4)(b), 775.083(1)(e), F.S.

²³ Ch. 63-930, s. 18, Laws of Fla.

²⁴ Ch. 63-930, s. 9(1), and s. 10, as amended by ch. 65-912, s. 5, Laws of Fla. The charter also excepts the district from s. 298.73, F.S., which is still in effect.

²⁵ See ch. 72-291 & ch. 97-40, Laws of Fla.

²⁶ Ch. 63-930, s. 10, as amended by ch. 65-912, s. 5, Laws of Fla., pertains to the subject of collection and enforcement of taxes, within the scope of s. 298.465, F.S., which became statute in 1972. See ch. 72-291, s. 19, Laws of Fla. Ch. 63-930, s. 19, as amended by ch. 65-912, s. 6, Laws of Fla., is identical to s. 298.366, F.S., which also became statute in 1972. See ch. 72-291, s. 17, Laws of Fla.

²⁷ Ch. 97-255, s. 24, Laws of Fla. Under the original law the bill proposed to recodify a charter could not contain amendments, a provision subsequently removed. See ch. 98-320, s. 3, Laws of Fla.; s. 189.019, F.S.

²⁸ The original deadline to submit charters for recodification was December 1, 2001. The next year the deadline was changed to December 1, 2004. Ch. 98-320, s. 3, Laws of Fla.

Financial Issues

As early as 1983, the Legislature recognized problems within the district and provided for the automatic repeal of all acts enabling the district, and the dissolution of the district without further action, if Lee County by ordinance took responsibility for the drainage and maintaining the district structures.²⁹ Twenty five years later, the County explored this option by commissioning the 2008 report. According to the 2008 report, the cost at that time to return the drainage structures to “as built” condition was \$5,003,079, and the annual cost of maintenance and operation of the district was \$140,000.³⁰ In the general election held in 2006, the qualified voters in the District rejected having the County assume responsibility for the operations of the district.³¹

Despite maintaining a positive net assets balance, in recent years the district apparently has struggled to maintain the drainage structures and fulfill its responsibilities. In its 5 most recent annual financial reports filed with the Department of Financial Services (DFS)³² the district reported the following totals:

Year	Beginning Net Assets	Revenues	Expenses	Ending Net Assets
2011	\$172,790	\$66,028	\$66,902	\$171,916
2012	\$171,916	\$66,155	\$55,622	\$182,449
2013	\$182,449	\$66,213	\$62,730	\$185,932
2014	\$185,932	\$65,423	\$61,616	\$189,739
2015	\$189,739	\$65,423	\$53,532	\$201,802

The district maintained a growing fund reserve and expended less than annual revenues. However, the amount spent annually on maintenance is less than one-half the amount recommended for annual maintenance (if the drainage structures were returned to “as built” condition) in the 2008 report.

Effect of Bill

The bill substantially revises the district charter by requiring the members of the board of supervisors be popularly elected. With the general election of 2018, the board is expanded to 5 with the election of 2 new members. The 3 supervisors currently serving remain on the board until the general election of 2020, when 3 supervisors are elected, after which the supervisors will serve staggered 4 year terms. All elections will be held on the date of the statewide general election. Board members must be Florida residents and own real property in the district.

The bill eliminates the cap of \$30.10 per acre for annual assessments. The bill also eliminates the requirement to divide the district into 4 sections and restrict assessment and spending for a section's projects only to the land owners within that specific section. Instead, the charter is conformed to the provisions of the water control law authorizing the district to impose non-ad valorem assessments and maintenance taxes in the amount necessary for proper maintenance of the drainage structures and improvements within the entire district.³³ Finally, the bill deletes and repeals old, unnecessary and outdated charter sections.

B. SECTION DIRECTORY:

Section 1: Amends ch. 63-930, s. 3 and ss. 5-20, Laws of Fla.³⁴

²⁹ Ch. 83-455, Laws of Fla.

³⁰ 2008 Report, 53. However, even if repaired and maintained, the existing improvements would not solve the flooding issues in the district according to the authors of the report. *See* 2008 Report, 58.

³¹ Lee County Supervisor of Elections archive page, at <http://docs.lee.vote/history/elhis06/download/elhis06/061107/result2.html> (last accessed 2/19/2017).

³² *See* s. 218.32, F.S.

³³ Section 298.54, F.S.

³⁴ As amended by chs. 65-912, 84-464, 86-425, and 88-480, Laws of Fla.

- Expands to 5 the board of supervisors beginning with the 2018 general election and the election of 2 new supervisors to 4 year terms.
- Extends to 2020 the terms being served by the 3 present supervisors, at which time 3 supervisors will be elected to 4 year terms.
- Supervisors will be elected by popular vote of the qualified electors in the district in nonpartisan elections, beginning in 2018.
- Supervisors will serve staggered 4 year terms.
- Provides for the Governor to fill vacancies on the board, which appointments last until the next general election.
- Clarifies the statutory authority to reimburse board members for allowable expenses.
- Amends ch. 63-930, s. 6, Laws of Fla.,³⁵ deleting the requirement to divide the district into 4 sections, removing the cap on annual drainage taxes, authorizing the district to impose non-ad valorem assessments and maintenance taxes under ch. 298, F.S., and requiring the district to impose and collect amounts sufficient to pay the obligations of the district.
- Revises the requirements for the annual organizational meeting of the board of supervisors.
- Removes obsolete language and corrects cross references.

Section 2: Revises and renumbers ch. 63-930, ss. 20, 21, 22, 23, Laws of Fla., as amended, as a legislative finding and ch. 63-930, ss. 18, 19, 20, Laws of Fla., as amended, removing obsolete language.

Section 3: Repeals ch. 83-455, Laws of Fla.

Section 4: Provides the act is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

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:

The Florida Constitution prohibits special laws on any subject in turn prohibited by general law passed by three-fifths vote in each chamber of the Legislature.³⁶ In 1980, by three-fifths vote in each chamber the Legislature prohibited providing additional authority, powers, rights, or privileges to any water control district created under ch. 298, F.S.³⁷ However, the same section allows local legislation amending a special act providing for the levy of an annual maintenance tax,³⁸ changing the method of

³⁵ As amended by chs. 65-912, 84-464, and 86-425, Laws of Fla.

³⁶ Art. III, s. 11(a)(21), Fla. Const. The prohibiting law may be amended or repealed by three-fifths vote.

³⁷ Ch. 80-281, s. 5, Laws of Fla., creating s. 298.76(1), F.S.

³⁸ Section 298.76(1)(a), F.S.

voting for members of the board of supervisors,³⁹ changing the term of office or qualifications of the board of supervisors,⁴⁰ or changing the governing authority or board of a district.⁴¹ The changes to the membership and authority of the board of supervisors appear to fall within the statutory exemptions and the three-fifths vote provision does not appear to be implicated.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

³⁹ Section 298.76(2), F.S.

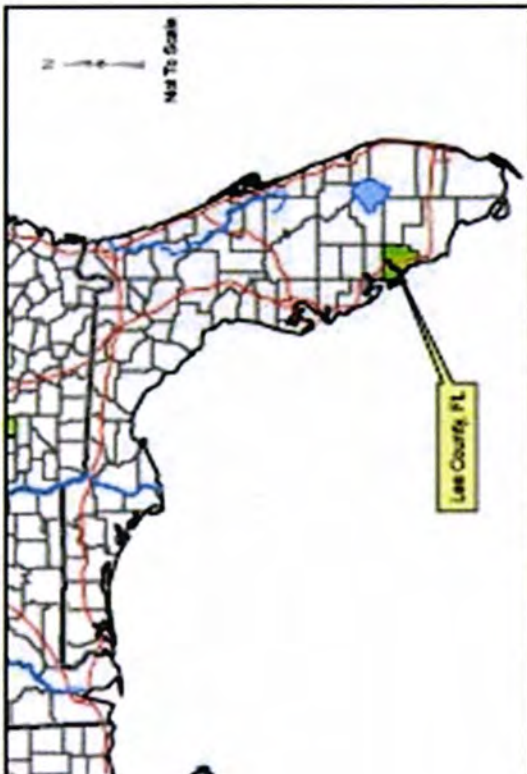
⁴⁰ Section 298.76(3), F.S.

⁴¹ Section 298.76(4), F.S.

APPENDIX A



East Mulloch Drainage District



State of Florida



Lee County, Florida

1 A bill to be entitled

2 An act relating to the East Mulloch Drainage District;
 3 amending ch. 63-930, Laws of Florida, as amended;
 4 increasing the membership of the board of supervisors
 5 on a specified date; revising the qualifications for
 6 supervisors; providing and revising requirements
 7 relating to terms of supervisors; requiring
 8 supervisors to be elected by registered voters
 9 residing in the district; authorizing the Governor to
 10 appoint supervisors in certain situations; authorizing
 11 reimbursement of supervisors for travel and other
 12 necessary expenses; authorizing the board to levy
 13 certain assessments and taxes; deleting a provision
 14 relating to a cap on maintenance taxes; repealing ch.
 15 83-455, Laws of Florida; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 3 and sections 5 through 23 of chapter
 20 63-930, Laws of Florida, as amended, are amended to read:

21 Section 3. (1) The governing board of said district shall
 22 be designated the "Board of Supervisors of East Mulloch Drainage
 23 District" which until November 6, 2018, shall be composed of
 24 three ~~(3)~~ persons but as of November 6, 2018, shall be composed
 25 of five persons, each of whom shall own real property located in

26 the district and who shall be ~~need not be district tax paying~~
 27 ~~freeholders nor~~ residents of the state ~~for the first~~
 28 ~~appointment, but must thereafter.~~

29 (2) The term of each supervisor serving on the board as of
 30 the effective date of this act shall be continued, extended, and
 31 shall terminate on November 3, 2020. Beginning with the general
 32 election in 2018, supervisors shall be elected to 4-year terms
 33 except as otherwise provided in this subsection.

34 (a) The five seats on the board shall be identified as
 35 Seat 1, Seat 2, Seat 3, Seat 4, and Seat 5. Seat 1, Seat 2, and
 36 Seat 3 shall be allocated to the three supervisors serving on
 37 the board as of the effective date of this act.

38 (b) The procedures for conducting district elections or
 39 referenda and for qualification of electors shall be pursuant to
 40 chapter 189, Florida Statutes. Unless otherwise provided in s.
 41 189.04, Florida Statutes, all elections for district supervisors
 42 shall be held on the first Tuesday after the first Monday in
 43 November of even-numbered years. The district supervisors shall
 44 be elected at large by nonpartisan plurality vote with the
 45 candidate who receives the highest number of votes for each seat
 46 winning the election. Only registered voters residing within the
 47 district shall be permitted to vote. The cost of any election
 48 shall be borne by the district. The term of each supervisor
 49 shall begin 10 days after that supervisor's election.

50 (c) Qualifying for the position of district supervisor
 51 shall be coordinated by the Supervisor of Elections of Lee
 52 County. Methods of qualifying shall be uniform pursuant to s.
 53 99.061, Florida Statutes. Candidates shall be required to open
 54 depositories and appoint treasurers before accepting any
 55 contributions or expending any funds.

56 (d) At the general election in 2018, Seat 4 and Seat 5
 57 shall be added to the board and the supervisors so elected shall
 58 each serve a 4-year term. At the general election in 2020, the
 59 supervisors elected to Seat 1, Seat 2, and Seat 3 shall each
 60 serve a 4-year term. All supervisors elected after 2020 shall
 61 serve 4-year terms.

62 ~~(2) That Jules Freeman, Charles I. McClelland and Warren~~
 63 ~~Pope are hereby appointed supervisors of said district and shall~~
 64 ~~hold office until the first meeting of the landowners of the~~
 65 ~~district, as hereinafter provided, and until their successors~~
 66 ~~are elected and shall have qualified.~~

67 ~~(3) A meeting of the landowners of said district shall be~~
 68 ~~held during the month of February, 1964, and during the same~~
 69 ~~month each year thereafter for the purpose of electing~~
 70 ~~supervisors of said district and transacting such other business~~
 71 ~~as may properly come before the meeting. Notice of a landowners'~~
 72 ~~meeting shall be given by causing publication thereof to be made~~
 73 ~~for two (2) successive weeks in some newspaper published in Lee~~
 74 ~~County, the first publication to be made at least fifteen (15)~~

75 | ~~days prior to the date of such meeting. The meeting shall be~~
 76 | ~~held at some public place in the county of Lee, and the time and~~
 77 | ~~place for the holding of such meeting shall be stated in the~~
 78 | ~~said notice. The landowners, when assembled, shall organize by~~
 79 | ~~the election of a chairman and secretary of said meeting, who~~
 80 | ~~shall conduct the election. At such election each and every acre~~
 81 | ~~of land in the district, except as hereinafter provided, shall~~
 82 | ~~represent one (1) share, and each owner shall be entitled to one~~
 83 | ~~(1) vote, in person or by proxy, in writing duly executed, for~~
 84 | ~~each acre of land or residential lot owned by him in said~~
 85 | ~~district. At the meeting of the owners of land in said district,~~
 86 | ~~to be held in the month of February, 1964, three (3) supervisors~~
 87 | ~~shall be elected for terms of one (1), two (2) and three (3)~~
 88 | ~~years, respectively, and until their successors are elected or~~
 89 | ~~appointed and have qualified, said three (3) members to be voted~~
 90 | ~~for separately and for the respective terms, aforesaid. At the~~
 91 | ~~meeting of the landowners of the district, to be held in the~~
 92 | ~~month of February, 1965, and at the meetings to be held in the~~
 93 | ~~month of February in each year thereafter, one (1) supervisor~~
 94 | ~~shall be elected for a period of three (3) years and until his~~
 95 | ~~successor shall be elected or appointed and shall have~~
 96 | ~~qualified, such supervisor shall fill the office of the member~~
 97 | ~~whose term shall expire on said date.~~

98 | ~~(4) More than fifty (50) per cent of the land owners in~~
 99 | ~~said district entitled to vote as herein set forth shall be~~

100 ~~necessary to constitute a quorum for the purpose of holding an~~
 101 ~~election and in case a majority of the owners are not present in~~
 102 ~~person or duly represented by proxy at the time and place stated~~
 103 ~~in the notice calling such a meeting of landowners, the~~
 104 ~~landowners present may adjourn the meeting for not to exceed one~~
 105 ~~(1) month until a quorum is present. If, because of lack of a~~
 106 ~~quorum, no election is held in any year, notice of such failure~~
 107 ~~to elect may be given in writing by any person interested to the~~
 108 ~~board of drainage commissioners of the state, which shall, as~~
 109 ~~soon as practicable, appoint a person as a member of the board~~
 110 ~~of supervisors of said district to fill the office of the member~~
 111 ~~whose terms shall have expired. Any such supervisor so appointed~~
 112 ~~by the said state board of drainage commissioners may be removed~~
 113 ~~by the said board of drainage commissioners for dishonesty,~~
 114 ~~incompetency or failure to perform the duties imposed upon him~~
 115 ~~by this act.~~

116 (3) ~~(5)~~ In case of a vacancy in any office of supervisor
 117 during the term for which such supervisor was elected or
 118 appointed, the Governor ~~remaining supervisors~~ may fill such
 119 vacancy by appointment until the next general election ~~annual~~
 120 ~~meeting of the landowners of the district as herein provided.~~
 121 Any supervisor appointed by the Governor ~~remaining supervisors~~
 122 shall have the same powers and duties as are hereby conferred
 123 upon the members of said board of supervisors so elected by the
 124 electors ~~landowners~~.

125 ~~(6) At any meeting of landowners, guardians may represent~~
 126 ~~their wards, executors and administrators may represent estates~~
 127 ~~of deceased persons, trustees and other fiduciaries may~~
 128 ~~represent their beneficiaries, and such representation may be by~~
 129 ~~proxy, and private corporations may be represented by their~~
 130 ~~officers or duly authorized agents; provided, however, lands~~
 131 ~~which are delinquent in the payment of East Mulloch drainage~~
 132 ~~district taxes for two (2) years or more after tax sale shall~~
 133 ~~not be considered as lands entitling anyone to vote in said~~
 134 ~~elections and meetings as owners thereof, and such lands shall~~
 135 ~~not be considered within the district for the purpose of~~
 136 ~~determining whether a quorum is present.~~

137 ~~(7) Each supervisor, before entering upon his official~~
 138 ~~duties, shall take and subscribe to an oath before some officer~~
 139 ~~authorized by law to administer oaths that he will honestly,~~
 140 ~~faithfully and impartially perform the duties devolving upon him~~
 141 ~~in office as supervisor of said district and that he will not~~
 142 ~~neglect any of the duties imposed upon him by this act.~~

143 (4)(8) Each supervisor shall be entitled to receive a per
 144 diem of five dollars (\$5.00) for attending meetings of the said
 145 board of supervisors, proved, however, the compensation of any
 146 supervisor shall not exceed the sum of twenty-five dollars
 147 (\$25.00) during any one (1) month. Members of the board of
 148 supervisors shall, in addition, be reimbursed for their expenses
 149 pursuant to s. 112.061, Florida Statutes, ~~from time to time~~ for

150 traveling and other necessary expenses incurred incident to the
 151 performance of their duties as such supervisors.

152 ~~Section 5. The board may, in its reasonable discretion,~~
 153 ~~let any part or all of the work to be performed within said~~
 154 ~~district by contract. The board shall have the right to require~~
 155 ~~a bond with a surety, to be approved by the board, in such~~
 156 ~~amount as the board may determine, conditioned that the~~
 157 ~~contractor will well and truly carry out the contract in~~
 158 ~~accordance with the terms thereof. Nothing in this section shall~~
 159 ~~prevent the board of supervisors from undertaking and performing~~
 160 ~~the work without a contract and by labor operating under the~~
 161 ~~direction of the board, its engineer or employees.~~

162 ~~Section 5. 6. (1) The board of supervisors shall divide the~~
 163 ~~drainage district into four (4) nearly equal sections,~~
 164 ~~designating which lands shall be in each section. Each section~~
 165 ~~shall be clearly designated as section A, section B, section C~~
 166 ~~or section D. Work performed in section A shall not be charged~~
 167 ~~or assessed against lands located in section B, C or D. Work~~
 168 ~~performed in section B shall not be charged or assessed against~~
 169 ~~lands located in section A, C or D. Work performed in section C~~
 170 ~~shall not be charged or assessed against lands located in~~
 171 ~~section A, B or D. Work performed in section D shall not be~~
 172 ~~charged or assessed against lands located in section A, B or C.~~
 173 ~~Where work is performed which directly or indirectly benefits~~
 174 ~~lands in more than one section, the cost of such work shall be~~

175 ~~apportioned to each section affected or benefited by such work~~
 176 ~~to the extent of such benefit.~~

177 (1)~~(2)~~ That for the purpose of paying the cost of
 178 administering the affairs of the district generally, and for the
 179 purpose of maintaining, operating, preserving, and rendering
 180 efficient the ditches, canals, drains, levees and other
 181 improvements in the district ~~therein~~, and to repair and to
 182 restore the same when needed, and for the purpose of defraying
 183 current expenses of the district, the board is hereby
 184 authorized, empowered, and directed to levy and impose upon all
 185 the lands lying and being situated within the boundaries of said
 186 district, non-ad valorem assessments and maintenance taxes
 187 pursuant to chapter 298, Florida Statutes, as subsequently
 188 amended. ~~, a tax not to exceed the sum of \$30.10 per acre, per~~
 189 ~~annum, for the year 1986, and for each year thereafter; and such~~
 190 ~~tax shall be known and designated as the "Maintenance Tax."~~

191 ~~(2)~~(3) ~~That notwithstanding the provisions contained in~~
 192 ~~this section of this act,~~ The board of supervisors of East
 193 Mulloch drainage district shall have the power and authority,
 194 until the need arises, to determine not to levy any taxes for
 195 any year or years; provided, however, said board shall levy and
 196 impose annually ~~(within the limits herein fixed)~~ a sufficient
 197 amount of maintenance taxes to pay promptly, when due, all
 198 obligations incurred or to be incurred by said district.

199 (3)~~(4)~~ The Legislature has ~~It is hereby~~ ascertained,
 200 determined, and declared that the East Mulloch Drainage District
 201 confers, ~~confer~~ benefits upon the lands within said district in
 202 an amount at least equal to the taxes authorized to be levied by
 203 ~~the provisions of~~ this act for the year 1963, and subsequent
 204 years, and that all lands within the district ~~each section~~ will
 205 be benefited equally by said drainage works although each parcel
 206 ~~section~~ may be benefited differently by such improvements.

207 Section 6.7. ~~(1)~~ There are hereby established for the East
 208 Mulloch Drainage District:

209 (1)~~(a)~~ A maintenance fund, into which shall be paid the
 210 proceeds of the maintenance taxes authorized to be levied upon
 211 the lands within said district for the year 1963, and subsequent
 212 years, by the provisions of this act.

213 (2)~~(b)~~ The board is hereby authorized and empowered to
 214 establish from time to time such other funds for the moneys of
 215 the district as it may determine to be necessary, advisable or
 216 expedient.

217 (3)~~(c)~~ Each of the funds created by or pursuant to the
 218 provisions of this act shall be held inviolate, and the moneys
 219 from time to time in each of such funds shall be used only for
 220 the purposes for which said funds, respectively, are required to
 221 be devoted in accordance with the provisions of this act.

222 ~~(4)(d)~~ The maintenance fund shall be used for the purposes
 223 for which the maintenance taxes are authorized by this act to be
 224 levied.

225 Section ~~7.8~~ (1) As soon as practicable after this act
 226 becomes effective and prior to July 1 in each year thereafter,
 227 beginning with the year 1964, the board shall cause to be
 228 prepared a budget of the maintenance requirements of the
 229 district for the year beginning on the first (1st) day of the
 230 next November and ending on the thirty-first (31st) day of the
 231 succeeding October. The budget shall show in detail the
 232 following:

233 (a) The amount of money which will be needed in such year
 234 for the purposes for which moneys in the maintenance fund may be
 235 expended, including an amount for emergencies and contingencies
 236 not to exceed twenty-one per cent (21%) of the estimated cost
 237 thereof.

238 (b) The amount of money, if any, in the maintenance fund
 239 of the district representing an unexpended balance in the budget
 240 for any previous year or years.

241 (c) Amount estimated to be collected during such year from
 242 delinquent maintenance taxes.

243 (d) Estimated percentage of delinquencies in maintenance
 244 tax collections for such year.

245 (e) The amount of maintenance tax per acre necessary to be
 246 levied upon the lands in said district for such year.

247 (2) Upon presentation of such budget to the board, the
 248 same shall be placed on file in the office of the secretary of
 249 the district, and the board shall cause the same to be published
 250 in a newspaper published in Lee County, once a week for two (2)
 251 consecutive weeks, the same may be examined at the office of the
 252 secretary; and a notice that the board will meet at a time and
 253 place to be designated in said notice, being not less than
 254 fifteen (15) days nor more than thirty-five (35) days from the
 255 date of the first publication thereof, for the purpose of
 256 hearing objections and complaints with respect to said budget.
 257 At the time and place specified in said notice, the board shall
 258 meet for the purpose of hearing objections and complaints
 259 concerning said budget, and for such purpose may adjourn from
 260 day to day, and said budget may be altered, changed or amended
 261 in any respect by said board during or at the hearing.

262 (3) After the hearing aforesaid, and when the board shall
 263 have made any alterations, changes or amendments in said budget
 264 which it shall have deemed necessary at said hearing, the board
 265 shall adopt the same and it shall be spread upon the minutes of
 266 the board; and the board shall also adopt and spread upon its
 267 minutes a resolution levying and imposing the amount of
 268 maintenance tax ~~for such year upon the lands within said~~
 269 ~~district.~~

270 Section 8.9. (1) It shall be the duty of the board of
 271 county commissioners of Lee County to order the assessor of the

272 county to assess, and the collector of the county to collect the
 273 taxes or assessments levied pursuant to this act and certified
 274 to the board of county commissioners as provided by this act.
 275 All of said taxes or assessments shall be included in the
 276 warrant of the tax assessor which is attached to the assessment
 277 roll of taxes in each year. The tax assessor shall make such
 278 assessment and the tax collector shall collect such taxes or
 279 assessments so levied in the same manner and at the same time as
 280 county taxes and other taxes which are assessed upon the general
 281 county tax roll, and with respect to which a separate tax
 282 receipt is not required to be issued, or a separate tax sale
 283 made, or a separate tax sale certificate issued, are assessed
 284 and collected; and no separate tax receipt shall be issued, or
 285 separate tax sale held, or separate tax sale certificate issued
 286 with respect to said taxes and assessments. The tax collector
 287 shall not accept payment of state and county taxes without also,
 288 at the same time, receiving payment of the East Mulloch Drainage
 289 District taxes. The provisions of s. sections 298.42, 298.43,
 290 ~~298.44 and 298.73~~, Florida Statutes, shall not be applicable to
 291 this district.

292 (2) The tax collector of Lee County shall pay all moneys
 293 collected from such taxes and assessments to the treasurer of
 294 the East Mulloch Drainage District, in the same manner and at
 295 the same time that he or she is required to pay county taxes
 296 collected by him or her. If any such taxes or assessments are

297 not paid within the time fixed by law for the payment of county
 298 taxes and other taxes which are assessed upon the general county
 299 tax roll, the property upon which the same shall have been
 300 levied shall be sold by the tax collector and certificates shall
 301 be issued in the same manner as is provided by law with respect
 302 to county taxes, and such taxes and assessments shall be
 303 included in tax sale certificates which shall be issued in
 304 pursuance of sales for the nonpayment of county taxes and other
 305 taxes which are assessed upon the general county tax roll.

306 (3) No act of omission or commission on the part of any
 307 person or board charged with any of the duties of determining,
 308 levying, assessing and collecting taxes of the East Mulloch
 309 Drainage District shall operate to defeat the payment of said
 310 taxes; but any such acts of omission or commission may be
 311 corrected at any time by the officer or board responsible for
 312 the same in like manner as is provided herein for performing
 313 such acts in the first instance, and when so corrected they
 314 shall be construed as valid ab initio, and shall in no way
 315 affect any proceedings provided by law for the enforcement of
 316 the collection of any such tax. A substantial compliance with
 317 the provisions of this act shall be required and no tax shall be
 318 held invalid; provided, at some time prior to the final
 319 determination thereof, reasonable notice is given and a hearing
 320 held substantially in accordance with the provisions hereof.

321 (4) The county tax assessor shall receive as compensation
 322 for the duties required of him or her by the provisions of this
 323 act a commission of three per cent (3%) upon the amount of taxes
 324 of the district by him or her assessed, except errors, and one
 325 per cent (1%) on delinquent taxes when redeemed, and the county
 326 tax collector shall receive as compensation for the duties
 327 required of him or her by the provisions of this act a
 328 commission of three per cent (3%) upon the amount of taxes of
 329 the district by him or her collected and one per cent (1%) upon
 330 delinquent taxes when collected.

331 ~~Section 10. The provisions of sections 298.43, 298.44,~~
 332 ~~298.45 and 298.46, Florida Statutes, shall not be applicable to~~
 333 ~~said district. In lieu thereof, the following shall apply to~~
 334 ~~said district: The collection and enforcement of all taxes~~
 335 ~~levied by the district shall be at the same time and in like~~
 336 ~~manner as county taxes and the provisions of the Florida~~
 337 ~~Statutes relating to the sale of lands for unpaid and delinquent~~
 338 ~~county taxes, the issuance, sale and delivery of tax~~
 339 ~~certificates for such unpaid and delinquent county taxes, the~~
 340 ~~redemption thereof, the issuance to individuals of tax deeds~~
 341 ~~based thereon, and all other procedures in connection therewith,~~
 342 ~~shall be applicable to the district and the delinquent and~~
 343 ~~unpaid taxes of the district to the same extent as if said~~
 344 ~~statutory provisions were expressly set forth in this act. All~~
 345 ~~taxes shall be subject to the same discounts as county taxes.~~

346 Section ~~9.11~~. It shall be the duty of the comptroller, the
 347 tax assessor, the tax collector and the clerk of the circuit
 348 court of Lee County, and any other person charged with the
 349 responsibility for the assessment and collection of the taxes or
 350 assessments levied pursuant to this act, to assess and collect
 351 such taxes or assessments and make remittances of the proceeds
 352 thereof to the treasurer of the East Mulloch Drainage District.

353 Section ~~10.12~~. The board of supervisors of the East
 354 Mulloch Drainage District shall have the power and authority to
 355 purchase, with moneys in the maintenance fund of the district,
 356 any tax sale certificates held by the state, a county or other
 357 governmental agency, which include therein taxes levied by or
 358 for the East Mulloch Drainage District. In purchasing such tax
 359 sale certificates the board shall not be required to pay for the
 360 part of the certificate representing taxes levied and assessed
 361 for the East Mulloch Drainage District, together with interest
 362 and costs thereon, but shall only be required to pay for such
 363 certificates the amount required to purchase such certificates,
 364 exclusive of the East Mulloch Drainage District taxes, interest
 365 and penalties included therein; provided, however, that in
 366 addition to the foregoing powers, the board is also authorized
 367 and empowered to acquire by partial assignment, without paying
 368 therefor, that part of any tax sale certificate representing the
 369 East Mulloch Drainage District taxes and interest and costs
 370 thereon, without having to purchase or acquire that part of said

371 certificate representing county taxes and other taxes assessed
 372 upon the general county tax roll, and upon the request of the
 373 board, the clerk of the circuit court of Lee County, may make
 374 partial assignments of any such tax sale certificates to said
 375 board. The board shall have all the rights and remedies with
 376 respect to tax sale certificates, or partial assignments
 377 thereof, so purchased or acquired by it as a county or any
 378 individual purchaser or holder would have, including, without
 379 limiting the generality of the foregoing, the right to sell such
 380 certificates or the part thereof acquired by the board,
 381 institute foreclosure proceedings thereon or proceedings to
 382 quiet title, or to apply for and obtain a tax deed to the lands
 383 covered thereby. In enforcing the lien of the district's taxes,
 384 the district may proceed under the general equity powers of the
 385 court or under and pursuant to the provisions of Chapter 173 or
 386 Chapter 298, Florida Statutes, as now or hereafter amended. The
 387 cost of enforcing the lien of taxes or of obtaining a deed for
 388 the nonpayment of taxes and all other expenses in connection
 389 therewith, shall be paid with any moneys in the maintenance fund
 390 of the district.

391 If the board acquires title to any land through tax deed,
 392 foreclosure or otherwise, as herein provided, said board may
 393 sell and dispose of the same in the same manner as provided by
 394 law for similar functions by boards of county commissioners.

395 All revenue or proceeds derived from the sale or leasing of
 396 any parcel of such lands shall be paid into the maintenance fund
 397 of the district.

398 The purpose of this section is to enable the board to
 399 better enforce the collection of the East Mulloch Drainage
 400 District taxes.

401 Section 11.13. The board of supervisors of the district
 402 shall have the power to borrow for the account of the
 403 maintenance fund and may issue the promissory note or other
 404 negotiable evidence of debt of said district bearing interest at
 405 a rate not to exceed eight per cent (8%) per annum for such
 406 loan. As security for said loan, the board may pledge the
 407 maintenance tax levied or to be levied for any year or years,
 408 but not to exceed five (5) years.

409 Section 12.14. (1) ~~As soon as convenient after this act~~
 410 ~~becomes law~~ The board ~~of supervisors of the district~~ shall
 411 assemble annually to ~~and~~ organize by choosing one of their
 412 number president of the board and selecting a ~~electing some~~
 413 ~~suitable person~~ secretary of the district who may or may not be
 414 a member of the board ~~of supervisors~~. The board may, in its
 415 discretion, require the secretary to execute a bond for the
 416 faithful performance of the secretary's ~~his~~ duties. The board
 417 shall adopt a seal with a suitable device and shall keep a
 418 record of its proceedings in a substantially bound book kept for
 419 that purpose.

420 (2) Two (2) members of the board of supervisors shall
 421 constitute a quorum. The board of supervisors shall, by
 422 resolution, fix the time and place for holding regular meetings
 423 but special meetings may be called at any time or place by the
 424 president or any two (2) members of the board of supervisors.
 425 The meeting place of said board may be either within or without
 426 the district.

427 (3) The board of supervisors may employ some competent
 428 person or some bank or trust company as treasurer of said
 429 district if the board shall deem it to be advisable. The
 430 treasurer shall execute a bond in such sum as shall be fixed by
 431 the board and with a surety approved by the board, conditioned
 432 that he will well and truly perform the duties imposed upon him
 433 or her by this act and that he or she will account for all
 434 moneys coming into his or her hands as treasurer of the
 435 district. The treasurer shall pay out funds of the district only
 436 upon checks, drafts or warrants issued by the district, which
 437 checks, drafts or warrants shall be signed by the treasurer and
 438 countersigned by at least one member of the board of
 439 supervisors, or signed by two (2) members of the board of
 440 supervisors.

441 (4) At the organization meeting of the board, or as soon
 442 thereafter as is practicable, the board may select and appoint
 443 some competent person as chief engineer of the district. The
 444 board may require the chief engineer to enter into a bond with

445 good and sufficient surety in a sum to be named by the board,
 446 conditioned that he or she will faithfully and honestly perform
 447 all of the duties required of him or her by the board of
 448 supervisors and deliver to his successor all instruments,
 449 papers, maps, documents and other articles which may come into
 450 his or her hands by virtue of his or her employment.

451 Section ~~13.15.~~ The board of supervisors of the East
 452 Mulloch Drainage District shall have the power and authority to
 453 levy and impose upon the lands within the boundaries of the
 454 district, as described in section 1 of this act, a uniform tax
 455 of not to exceed the sum of one dollar (\$1.00) per acre for the
 456 purpose of raising funds to pay the preliminary expenses of such
 457 district. If the board shall determine to levy such uniform tax
 458 it shall make up a budget of expenses to be paid from the
 459 proceeds thereof and shall give notice by publication of a
 460 hearing upon the question of whether the said uniform tax should
 461 be levied and the amount necessary to be levied for the purpose
 462 of paying the preliminary expenses of said district. Notice of
 463 such hearing shall be published once a week for two (2)
 464 consecutive weeks in a newspaper published in Lee County, the
 465 first publication to be not less than fifteen (15) days from the
 466 date of such hearing. The time and place of such hearing shall
 467 be stated in the notice. At such hearing all landowners within
 468 the district shall be entitled to be heard and at the conclusion
 469 of said hearing, the board shall adopt a resolution, if it shall

470 be determined to levy such uniform tax, fixing the rate per acre
 471 of such tax. The assessment and collection of such uniform tax
 472 shall conform, in all matters, to the assessment and collection
 473 of other taxes authorized to be levied by the provisions of this
 474 act. Immediately after the adoption of a resolution levying such
 475 uniform tax or at any time thereafter the board may pledge the
 476 receipts from such taxes for the repayment of money borrowed by
 477 the board.

478 Section ~~14.16~~. All taxes or assessments levied pursuant to
 479 the provisions of this act shall constitute a lien upon said
 480 lands as of January first of each year in which the assessments
 481 are made, which liens shall be superior in dignity to all other
 482 liens upon said lands, except liens for state and county taxes
 483 and shall be equal in dignity to the lien for said state and
 484 county taxes.

485 Section ~~15.17~~. Whoever shall willfully damage any ditch,
 486 canal, drain, levee, reservoir or other works established or
 487 constructed under this act or shall obstruct the flow of water
 488 in any canal, ditch, drain or waterway or shall remove any
 489 earth, rock or material from the banks of any canal, drain or
 490 ditch without having first obtained permission in writing from
 491 the board of supervisors so to do, shall be deemed guilty of a
 492 misdemeanor.

493 Section ~~16.18~~. The provisions of the general drainage and
 494 water control act (Chapter 298, Florida Statutes) as now or

495 hereafter amended, when not in conflict with the provisions of
 496 this act, shall be applicable to East Mulloch Drainage District.
 497 ~~The provisions set forth in chapter 298.30 through 298.33,~~
 498 ~~inclusive shall not apply to East Mulloch drainage district.~~

499 ~~Section 19. All taxes provided for in this act shall~~
 500 ~~become delinquent and bear penalties on the amount of said taxes~~
 501 ~~in the same manner as county taxes.~~

502 ~~Section 2.20.~~ It is hereby determined, declared and
 503 enacted that the lands in the district in their natural
 504 condition are wet and subject to overflow, and that the
 505 drainage, reclamation and protection of said lands from the
 506 effect of flood water and thereby the making of said lands
 507 available for agricultural, settlement, urban and subdivision
 508 purposes by drainage, reclamation and improvement, and the
 509 creation of the district with the powers vested in it by this
 510 act, are in the interest of and conducive to public welfare,
 511 health and convenience. It is further declared that in said
 512 district, surface waters, which shall include rainfall and the
 513 overflow of rivers and streams, are a common enemy, and the
 514 district and any individual or agency holding a permit to do so
 515 from the district, shall have the right to dike, dam and
 516 construct levees to protect the district or any part thereof, or
 517 the property of said individual or agency against the same, and
 518 thereby divert the course and flow of such surface waters or
 519 pump the water from within such dikes and levees.

520 Section ~~18.21~~. In case any one or more of the sections or
 521 provisions of this act or the application of such sections or
 522 provisions to any situation, circumstances or persons shall for
 523 any reason be held to be unconstitutional, such
 524 unconstitutionality shall not affect any of the sections or
 525 provisions of this act or the application of such sections or
 526 provisions to any other situation, circumstances or persons and
 527 it is intended that this law shall be construed and applied as
 528 if such section or provision had not been included herein for
 529 any unconstitutional application.

530 Section ~~19.22~~. In the event of a conflict between the
 531 provisions of this act and the provisions of any other act, the
 532 provisions of this act shall control to the extent of such
 533 conflict.

534 Section ~~20.23~~. It is found and determined that notice of
 535 intention to apply for this legislation was given in the time,
 536 form and manner require by the constitution and the laws. Said
 537 notice is found to be sufficient and is hereby validated and
 538 approved.

539 Section 3. Chapter 83-455, Laws of Florida, is repealed.

540 Section 4. This act shall take effect upon becoming a law.

The News-Press media group

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Classified Ad Receipt
(For Info Only - NOT A BILL)

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Address:

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No. of Affidavits: 1

Run Dates: 02/04/17

Text of Ad:

NOTICE OF INTENT TO FILE LEGISLATION:
The Lee County Legislative Delegation hereby gives notice of intent to apply to the 2017 Florida Legislature for passage of an act relating to the East Mulloch Drainage District, amending the charter of the district to increase the number on the Board of Supervisors from 3 to 5, provide 4 year staggered terms for board members, provide for the election of board members by all eligible voters within the district, removing the cap on the current assessment, revising the manner of collecting assessments, and making conforming changes.
Ad#1903729 2/4/2017

HOUSE OF REPRESENTATIVES

2017 - 2018 LOCAL BILL CERTIFICATION FORM

BILL #: 1401
SPONSOR(S): Representative Ray Rodrigues
RELATING TO: East Mulloch Drainage District
NAME OF DELEGATION: Lee County
CONTACT PERSON: Charlotte Codie
PHONE NO.: 850717-5079 E-Mail: Charlotte.Codie@myfloridahouse.gov

- I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:
(1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
(2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and
(3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.
(4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

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

YES [checked] NO []

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level: This was created by a special act and only the legislature can amend the charter.

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

YES [checked] NO []

Date hearing held: January 19, 2017

Location: Florida Southwestern College, Lee County Campus

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

YES [] NO [] UNANIMOUSLY APPROVED [checked]

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

YES [checked] NO []

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or

the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO DATE February 4, 2017

Where? Fort Myers County Lee

Referendum in lieu of publication: YES NO

Date of Referendum _____

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

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

YES NO

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

YES NO

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

YES NO

Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee.



Delegation Chair (Original Signature)

03/13/17
Date

Matt Caldwell

Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES
2017 ECONOMIC IMPACT STATEMENT FORM

****Read all instructions carefully.****

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: 1401
SPONSOR(S): Representative Ray Rodrigues
RELATING TO: East Mulloch Drainage District
[Indicate Area Affected (City, County or Special District) and Subject]

I. REVENUES:

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

	<u>FY 17-18</u>	<u>FY 18-19</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

II. COST:

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

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 17-18</u>	<u>FY 18-19</u>
	\$ <u>0</u>	\$ <u>0</u>

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

This bill restructures the board of directors, how they are selected and removes the artificial cap for the maintenance tax under chapter 298 F.S.

This bill allows for further assessment and charges as allowed under Chapter 298 F.S.

III. FUNDING SOURCE(S):

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

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

	<u>FY 17-18</u>	<u>FY 18-19</u>
Local:	\$ <u>68,000</u>	\$ <u>68,000</u>
State:	\$ _____	\$ _____
Federal:	\$ _____	\$ _____

IV. ECONOMIC IMPACT:

Potential Advantages:

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

Include specific figures for anticipated job growth.

1. Advantages to Individuals: This will allow the maintenance and repairs to the drainage district and reduce the possibility of flooding due to storms which will protect the property values.
2. Advantages to Businesses: By remediation of the flooding potential this will help keep cost to businesses down and avoid disruption due to storm related flooding
3. Advantages to Government: By averting flooding, it will maintain property values and avoid the county from using resources to fix damage from a post storm event.

Potential Disadvantages:

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

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

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

1. Disadvantages to Individuals: There is little disadvantage for the individual other than

the board will have the ability to raise the maintenance costs, but the people are able to change the board as needed.

2. Disadvantages to Businesses: The disadvantages would be the same for businesses as the individual.

3. Disadvantages to Government: There would be no disadvantage to the county government.

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

This will increase the oversight and maintenance of the water district and allow greater participation by the citizens who live in this area.

VI. SPECIFIC DATA USED IN REACHING ESTIMATES:

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

The assumptions for the financial data used was based on the reports submitted by the district to the Florida Audit General and what the current special act to create the water district allows the water district to do.

VII. CERTIFICATION BY PREPARER

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

PREPARED BY:



[Must be signed by Preparer]

Print preparer's name: James Mullen

03/13/2017

Date

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

Legislative Assistant

REPRESENTING: Representative Ray Rodrigues

PHONE: 850-717-5076

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7037 PCB TGC 17-01 Gaming
SPONSOR(S): Tourism & Gaming Control Subcommittee, La Rosa and others
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Tourism & Gaming Control Subcommittee	10 Y, 5 N	Sarsfield	Barry
1) Ways & Means Committee		Aldridge <i>A</i>	Langston <i>DL</i>
2) Commerce Committee			

SUMMARY ANALYSIS

The bill ratifies and approves a 2017 Gaming Compact between the Seminole Tribe of Florida (Tribe) and the State of Florida (State), and authorizes the Governor to execute the 2017 Compact. Under its terms, the 2017 Compact extends for 20 years both the Tribe's current exclusive authorization to conduct banked games statewide and the Tribe's current exclusive authorization to conduct slot machine gaming outside of Miami-Dade and Broward Counties. In exchange, the Tribe will make revenue sharing payments totaling at least \$3 billion to the State during the first seven years of the 2017 Compact. The Tribe may stop or reduce revenue sharing if the State authorizes specified gaming in violation of the exclusivity afforded by the 2017 Compact.

The 2017 Compact reincorporates many of the same provisions of the Gaming Compact between the Tribe and State executed on April 7, 2010 (2010 Compact), as well as providing for the following:

- Prospective ratification and approval by the Legislature;
- Fixed 20-year term with no scheduled changes, extensions or expirations during the term;
- Tribe receives exclusive authorization to conduct banked games at 5 facilities for full 20-year term;
- Tribe maintains exclusive authorization to conduct slot machine gaming outside Miami-Dade and Broward Counties for full 20-year term;
- Maintains current level of monthly revenue sharing until the 2017 Compact becomes effective;
- Once effective, increases revenue sharing, including a guaranteed \$3 billion in the first seven years;
- The State's portion of revenue share, after a 3 percent distribution to local governments, must be allocated to specified education programs to maintain the Tribe's revenue sharing obligations;
- Any new type or new location of class III games not in existence as of February 1, 2017, either reduces or ceases revenue sharing payments;
- Any reductions in the number of live performances at pari-mutuel facilities below current statutory requirements impacts revenue sharing payments;
- Improves the process for identifying, resolving and/or curing breaches of the Tribe's exclusivity.

In addition, the bill amends various substantive provisions in the chapters of the Florida Statutes governing pari-mutuel wagering, cardroom gaming, slot machine gaming, and general gambling. The bill:

- Clarifies slot machine gaming is not authorized outside of Miami-Dade and Broward Counties;
- Clarifies that only traditional, pari-mutuel-style poker games are authorized in cardrooms;
- Provides for the mandatory revocation of dormant and delinquent permits, under certain circumstances;
- Provides for the discretionary revocation of certain permits, under certain circumstances;
- Prohibits the issuance of new permits, and prohibits the conversion of permits;
- Prohibits the transfer or relocation of pari-mutuel permits or licenses.

The bill is expected to have a positive fiscal impact on state and local government funds; however, the Revenue Estimating Conference has not yet reviewed the bill.

The bill provides for an effective date of July 1, 2017.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7037.WMC

DATE: 3/19/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

General Overview of Gaming in Florida

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ Certain exceptions have been authorized, with restrictions on permitted locations, operators, and prizes, including penny-ante games,⁵ bingo,⁶ cardrooms,⁷ charitable drawings,⁸ game promotions (sweepstakes),⁹ and bowling tournaments.¹⁰

Pari-Mutuel Wagering

For many decades, pari-mutuel wagering has been authorized in Florida for jai alai, greyhound racing, and three specific forms of horseracing (thoroughbred horse racing, harness horse racing and quarter horse racing). These activities are overseen and regulated by the Division of Pari-Mutuel Wagering (Division) with the Department of Business and Professional Regulation (DBPR). The Division's purpose is to ensure the health, safety, and welfare of the public, racing animals, and licensees through efficient, and fair regulation of the pari-mutuel industry in Florida.¹¹

Pari-mutuel is defined as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes."¹²

Chapter 550, F.S., provides specific permitting and licensing requirements, taxation provisions, and regulations for the conduct of the pari-mutuel industry. Pari-mutuel wagering activities are limited to operators who have received a permit from the Division, which is then subject to ratification by county referendum.¹³ Permitholders apply for an operating license annually to conduct pari-mutuel wagering activities.¹⁴ Certain permitholders are also authorized to operate cardrooms¹⁵ and slot machines at their facility, as discussed further below.¹⁶

¹ s. 849.08, F.S.

² s. 849.01, F.S.

³ s. 849.09, F.S.

⁴ s. 849.16, F.S.

⁵ s. 849.085, F.S.

⁶ s. 849.0931, F.S.

⁷ s. 849.086, F.S.

⁸ s. 849.0935, F.S.

⁹ s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁰ s. 546.10, F.S.

¹¹ From 1932 to 1969, Florida's pari-mutuel industry was regulated by the State Racing Commission. In 1970, the commission became a division within the Department of Business Regulation. In 1993 the Department of Business Regulation and the Department of Professional Regulation were merged to become the DBPR.

¹² s. 550.002(22), F.S.

¹³ s. 550.0651, F.S.

¹⁴ s. 550.0115, F.S.

¹⁵ s. 849.086, F.S.

¹⁶ s. 551.104, F.S.

Currently in Florida there are 50 pari-mutuel wagering permits, and 5 non-wagering permits.¹⁷ There are 38 pari-mutuel permitholders licensed to operate during Fiscal Year 2016-2017, in addition to one thoroughbred sales facility that holds a limited license to conduct intertrack wagering. There are eight pari-mutuel facilities that have been licensed to operate slot machines. Several locations have multiple permits that operate at a single facility. Chapter 550, F.S., specifies circumstances under which certain pari-mutuel permits may be revoked, relocated, or converted.

The following types of permits are licensed to operate during Fiscal Year 2016-2017:

- 19 Greyhound permits
- 5 Thoroughbred permits
- 1 Harness permit
- 5 Quarter Horse permits
- 8 Jai-Alai permits

Patrons at a racetrack may also wager on races hosted at other tracks, which is called intertrack (when both tracks are in Florida) or simulcast (when one track is out of state) wagering. In-state 'host tracks' conduct live or receive broadcasts of simulcast races that are then broadcast to 'guest tracks,' which accept wagers on behalf of the host.¹⁸ To offer intertrack or simulcast wagering, permitholders must conduct a full schedule of live racing and meet other requirements.¹⁹

Lotteries

Section 7 of Article X of the 1968 State Constitution provides, "Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state."²⁰

To allow activities that would otherwise be illegal lotteries, the Legislature has carved out several narrow exceptions to the statutory lottery prohibition. Statutory exceptions are provided for charitable bingo²¹, charitable drawings²², and game promotions²³. Charities use drawings or raffles as a fundraising tool. Organizations suggest a donation, collect entries, and randomly select an entry to win a prize. Under s. 849.0935, F.S., qualified organizations may conduct drawings by chance, provided the organization has complied with all applicable provisions of Chapter 496, F.S. Game promotions, often called sweepstakes, are advertising tools by which businesses promote their goods or services. As they contain the three elements of a lottery: consideration, chance, and prize, they are generally prohibited by Florida law unless they meet a statutory exception.²⁴

In 1986, Florida voters approved an amendment to the Florida Constitution to allow the state to operate a lottery. The Florida Lottery—known formally as the Florida Education Lotteries—benefits education by funding the State Education Lotteries Trust Fund. Section 15 of Article X of the State Constitution provides as follows:

Lotteries may be operated by the state.... On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State

¹⁷ See <http://www.myfloridalicense.com/dbpr/pmw/documents/CurrentPermitholdersList.pdf> for a list of current permitholders.

¹⁸ See s. 550.002, F.S., for definitions of "intertrack wagering," "simulcasting," and "guest track."

¹⁹ See s. 550.615, F.S.

²⁰ The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The new state constitution was ratified by the electorate on November 5, 1968.

²¹ s. 849.0931, F.S.

²² s. 849.0935, F.S.

²³ s. 849.094, F.S.

²⁴ *Little River Theatre Corp v. State*, 185 So. 854, 868 (Fla. 1939).

Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.²⁵

Cardrooms

Cardrooms were authorized at pari-mutuel facilities in 1996.²⁶ Cardrooms can only be offered at a location where the permitholder is authorized to conduct pari-mutuel activities. To be eligible for a cardroom license, a permitholder must conduct at least 90% of the performances conducted the year they applied for the initial cardroom license or the prior year, if the permitholder ran a full schedule of live performances.²⁷

The cardrooms may operate 18 hours per day on Monday through Friday and for 24 hours per day on Saturday and Sunday. Currently, 24 pari-mutuel facilities are operating cardrooms. No-limit poker games are permitted. Cardrooms must be approved by an ordinance of the county commission where the pari-mutuel facility is located. Each cardroom operator must pay a tax of 10 percent of the cardroom operation's monthly gross receipts.

A pari-mutuel facility that operates a cardroom may only offer authorized games within the cardroom. An "authorized game" is defined as "a game or series of games of poker or dominos which are played in a nonbanking manner."²⁸ The licensed cardrooms are prohibited from offering "banked" card games.

In recent years, several cardrooms in the state have begun operating "designated player games." Designated player games (also known as player-banked games) are card games in which a designated player occupies the position of the dealer. Rather than competing against each other, players compete solely against the designated player to determine the game's winner. Instead of competing for a common pot of winnings, players wager against the designated player, who collects from losers and pays winners from their own bank.

In July 2014, the Division adopted rules establishing requirements for such games. Under the resulting rule, Chapter 61D-11.002(5), F.A.C. (DP Rule), cardroom operators are required to determine house rules for the operation of designated player games.²⁹ The house rules must establish uniform requirements to be a designated player, ensure that the opportunity to be the dealer rotates around the table, and not require the designated player to cover all wagers.³⁰

In October 2015, the Division proposed rule changes to effectively ban designated player games and delete the requirements for operation of designated player games.³¹ After a rule challenge was filed against the proposed rule changes, the Division issued a Notice of Change revising its proposed rules by removing the prohibition against designated player games. However, the revised proposed rule changes maintained the repeal of established criteria for designated player games.³² The revised proposed rule changes were challenged at the Division of Administrative Hearings (DOAH). After a hearing at DOAH, an Administrative Law Judge (ALJ) ruled that the Division lacked authority to repeal the DP Rule.³³ The DOAH ruling is currently under appeal.³⁴

²⁵ The Department of the Lottery is authorized by s. 15, Art. X, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., creates the Department of the Lottery and states the Legislature's intent that it be self-supporting and revenue-producing and function as an entrepreneurial business enterprise.

²⁶ s. 20, Ch. 96-364, Laws of Fla.

²⁷ s. 849.086(5)(b), F.S.

²⁸ s. 849.086, F.S.

²⁹ Rule 61D-11.002(5), F.A.C.

³⁰ *Id.*

³¹ Proposed Rule 61D-11.002, F.A.C. (Published in F.A.R. Oct. 19, 2015).

³² Proposed Rule 61D-11.002, F.A.C. (Notice of Change. Jan. 15, 2016).

³³ *Tampa Bay Downs, Inc. v. Dep't of Bus. & Prof. Reg.*, Case No. 15-7022RP (Fla. DOAH Aug. 26, 2016).

³⁴ *Department of Business and Professional etc. vs. Dania Entertainment Center, LLC; et al.*, Case Number 1D16-4275, Fla. 1st DCA

In January 2016, the Division issued administrative complaints against multiple pari-mutuel facilities, charging that the facilities were "operating a banking game or a game not specifically authorized" by state law.³⁵ After an evidentiary hearing at DOAH, an ALJ ruled that the designated player games, as conducted at a certain cardroom, violated the statutory prohibition of banking card games.³⁶ The DOAH ruling is currently under appeal.³⁷

Slot Machine Gaming

After a brief period of legalization in the 1930s, slot machines were again prohibited in Florida in 1937.³⁸ Slot machines remained illegal until 2004, when voters approved a state constitutional amendment authorizing slot machines at specified pari-mutuel facilities in two counties, subject to local approval.

Section 23 of Article X of the State Constitution (adopted by the electors in 2004) authorizes slot machines in Miami-Dade and Broward Counties, as follows:

After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed pari-mutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such pari-mutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

Pursuant to this constitutional authorization and the implementing statutes, slot machines are now authorized at eight pari-mutuel facilities in Broward and Miami-Dade Counties and are regulated under ch. 551, F.S.³⁹

Under s. 551.102(4), F.S., slot machine-eligible facilities are defined as follows:

- Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county;
- Any licensed pari-mutuel facility located within a county as defined in s. 125.011, F.S., provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or
- Any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter.

³⁵ See Kam, Dara, *State targets pari-mutuels over card games*, Tampa Bay Business Journal, <http://www.bizjournals.com/tampabay/news/2016/01/27/state-targets-pari-mutuels-over-card-games.html> (last visited Feb. 17, 2017) and Administrative Complaints filed by the Division (Jan. 25, 2016)(on file with the Commerce Committee).

³⁶ *Dep't of Bus. & Prof. Reg. v. Jacksonville Kennel Club, Inc.*, Case No. 16-1009 (Fla. DOAH Aug. 1, 2016).

³⁷ *Jacksonville Kennel Club, Inc. vs. Department of Business and Professional etc.*, Case Number 1D16-5265; Fla 1st DCA

³⁸ s. 849.15, F.S., originally enacted by s. 1, ch. 18143, L.O.F. (1937).

³⁹ See Article X, Section 23, Florida Constitution; ch. 2010-29, L.O.F. and chapter 551, F.S.

Slot machine licensees are required to pay a license fee of \$2 million per license year.⁴⁰ In addition to the license fees, the tax rate on slot machine revenues at each facility is 35 percent.⁴¹ In order to remain eligible for slot machines, permitholders must conduct a full schedule of live racing or games, among other requirements.⁴²

Seven pari-mutuel facilities obtained eligibility for slot machines through constitutional approval - the first clause above. An eighth pari-mutuel facility, Hialeah Park, was ineligible under the first clause because it had not operated live racing or games during 2002 and 2003. However, it obtained eligibility in 2010 with the enactment of Chapter 2009-170, L.O.F., which added the second and third clauses above to s. 551.102(4), F.S. Notably, the 2010 Compact was ratified by the same legislation that effectuated the second and third clauses.

To date, no facilities have obtained eligibility through the third clause. However, several pari-mutuels have relied upon that clause to claim entitlement to a slot machine license, which is currently the subject of a pending case before the Florida Supreme Court.⁴³ Certain permitholders seeking to add slot machines have argued that the phrase "after the effective date of this section" in the third clause applies to "a countywide referendum held." Based on this reading of the statute, many permitholders contend that any county can authorize slot machines under the statute above by virtue of its general authority to hold referenda. To date, Duval, St. Lucie, Brevard, Gadsden, Lee, Palm Beach, Hamilton and Washington counties have each held a countywide referendum. In each case, voters indicated their support for slot machines at the pari-mutuel facility in that county.

As the Division began receiving applications for slot machine licenses from pari-mutuel permitholders in these counties, DBPR requested a formal written opinion from Florida's Attorney General (AGO) regarding whether the Division was authorized by statute to issue slot machine licenses to facilities outside of Miami-Dade and Broward Counties.

In January 2012, the AGO stated that it was not, concluding that the phrase "after the effective date of this section" modified the phrase "a statutory or constitutional authorization" and not "countywide referendum."⁴⁴ The AGO determined that counties could not rely on their general authority to hold referenda but instead must have specific statutory authorization enacted after July 1, 2010, to hold referenda on the question of slot machines. Relying on the AGO, the Division has denied all new slot machine license applications since 2012.⁴⁵ Certain permitholders have disputed this interpretation and, after appealing one license denial to the 1st District Court of Appeal, cases are currently pending in the Florida Supreme Court and the 4th District Court of Appeal on the issue.⁴⁶

Live Performance Requirements

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.⁴⁷ Currently the State requires that:

⁴⁰ s. 551.106(1)(a), F.S.

⁴¹ s. 551.106(2)(a), F.S.

⁴² s. 551.104(1)(c), F.S.

⁴³ The first district court of appeal certified a question to the Florida Supreme Court and the Florida Supreme Court has accepted jurisdiction. *See Gretna Racing, LLC v. Dep't of Bus. & Prof. Reg.*, 178 So. 3d 15 (Fla. Dist. Ct. App. 2015) *review granted sub nom. Gretna Racing, LLC v. Fla. Dep't of Bus. & Prof. Reg.*, No. SC15-1929, 2015 WL 8212827 (Fla. Dec. 1, 2015).

⁴⁴ 2012-01 Fla. Op. Att'y Gen. (2012).

⁴⁵ *See* Mary Ellen Klas, *Attorney General Opinion Puts Reins on Slots at Gretna Barrel Racing Track*, Miami Herald (Jan. 12, 2012), <http://www.miamiherald.typepad.com/nakedpolitics/2012/01/attorney-general-opinion-puts-reins-on-gretna-barrel-racing-.html>.

⁴⁶ *See supra* note 34.

⁴⁷ *See* s. 550.1625(1), F.S., (legalized pari-mutuel betting at dog tracks "is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state").

- To offer intertrack or simulcast wagering, permitholders must conduct a full schedule of live racing as defined in ch. 550 and meet other requirements.⁴⁸
- To remain eligible for a cardroom license, permitholders must conduct at least 90% of the performances conducted the year they applied for the initial cardroom license or the prior year, if the permitholder ran a full schedule of live performances.⁴⁹
- To remain eligible for a slot machine license, permitholders must conduct a full schedule of live racing as defined in ch. 550.⁵⁰

Indian Gaming

Background on Indian Gaming Law

Gambling on Indian lands is subject to federal law, with limited state involvement. The Indian Gaming and Regulatory Act (IGRA), codified at 25 USC §§ 2701-2721, was enacted in 1988 in response to the United State Supreme Court decision in California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987). The act provides for “a system for joint regulation by tribes and the Federal Government of class II gaming on Indian lands and a system for compacts between tribes and States for regulation of class III gaming.”⁵¹ In so doing, IGRA seeks to balance the competing interests of two sovereigns: the interests of the Tribe in engaging in economic activities for the benefit of its members and the interest of the state in either prohibiting or regulating gaming activities within its borders.⁵²

IGRA separates gaming activities into three categories:

- Class I games are “social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.”⁵³ Class I games are within the exclusive jurisdiction of the Indian tribes.⁵⁴
- Class II games are bingo and card games that are explicitly authorized or are not explicitly prohibited by the laws of the State.⁵⁵ The tribes may offer Class II card games “only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.” Class II gaming does not include “any banking card games, including baccarat, chemin de fer, or blackjack (21), or electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.”⁵⁶ Class II games are also within the jurisdiction of the Indian tribes, but are also subject to the provisions of IGRA.⁵⁷
- Class III games are defined as any games that are not Class I or Class II. Class III games include slot machine and banked card games such as blackjack, baccarat and chemin de fir.⁵⁸

A tribe can qualify to offer Class III games in the following ways:

- If the state authorizes Class III games for any purpose to any person, organization, or entity, the tribe must:

⁴⁸ See s. 550.615, F.S.

⁴⁹ s. 849.086(5)(b), F.S.

⁵⁰ s. 551.104(4)(c), F.S.

⁵¹ United States Senate Report No. 100-446, Aug. 3, 1988.

⁵² *Id.*

⁵³ 25 U.S.C. 2703(6).

⁵⁴ 25 U.S.C. 2710(a)(1).

⁵⁵ 25 U.S.C. 2703(7)(A).

⁵⁶ 25 U.S.C. 2703(7)(B).

⁵⁷ 25 U.S.C. 2710(a)(2) and (b).

⁵⁸ 25 U.S.C. 2703; 25 C.F.R. § 502.4.

- Authorize the games by an ordinance or resolution adopted by the governing body of the Indian tribe, approved by the Chairman of the National Indian Gaming Commission, and in compliance with IGRA; and
 - Conduct the games in conformance with a Tribal-State compact entered into between the tribe and the State.⁵⁹
- If the state does NOT authorize Class III gaming for any purpose by any person, organization, or entity, the tribe must request negotiations for a tribal-state compact governing gaming activities on tribal lands. Upon receiving such a request, the state may be obligated to negotiate with the Indian tribe in good faith.⁶⁰ Under IGRA, a tribe is not entitled to a compact.

When the negotiations fail to produce a compact, a tribe may file suit against the state in federal court and seek a determination of whether the state negotiated in good faith. If the court finds the state negotiated in good faith, the tribe's proposal fails. On a finding of lack of good faith, however, the court may order negotiation, then mediation. If the state ultimately rejects a court-appointed mediator's proposal, the Secretary "shall prescribe, in consultation with the Indian tribe, procedures... under which class III gaming may be conducted."⁶¹

Generally, in accordance with IGRA, a compact may include the following provisions:

- The application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of gaming;
- The allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of laws and regulations;
- An assessment in an amount necessary to defray the costs of regulation;
- Revenue sharing by the Indian tribe for permitted activities;
- Remedies for breach of contract;
- Standards for the operation of gaming and gaming facilities, including licensing; and
- Any other subjects that are directly related to the operation of gaming activities.⁶²

Any compact that is entered into by a tribe and a state will take effect when approval by the Secretary of the Interior is published in the Federal Register.⁶³ Upon receipt of a proposed compact, the Secretary has 45 days to approve or disapprove the compact.⁶⁴ A compact will be considered approved if the Secretary fails to act within the 45-day period. A compact that has not been validly "entered into" by a state and a tribe, e.g. execution of a compact by a state officer who lacks the authority to bind the state, cannot be put "into effect", even if the Secretary of the Interior publishes the compact in the Federal Register.⁶⁵

There is no explicit provision under IGRA that requires Indian Gaming revenue sharing between a tribe and a state or any of its political subdivisions. IGRA specifically states:

[N]othing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe or upon any other person or entity authorized by an Indian tribe to engage

⁵⁹ 25 U.S.C. 2710(d)(1).

⁶⁰ 25 U.S.C. 2710 (d)(3)(A).

⁶¹ 25 U.S.C. 2710(d)(7). This option is addressed in *Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996), which brought into question whether a tribe has the ability to enforce the provisions of IGRA against a state. The Department of Interior adopted rules to provide a remedy for the tribes. The validity of the rules were also brought into question in *Texas v. United States*, 497 F.3d 491, (5th Cir. 2007).

⁶² 25 U.S.C. 2710 (d)(3)(C).

⁶³ 25 U.S.C. 2710(d)(3)(B).

⁶⁴ 25 U.S.C. 2710(d)(8)(C).

⁶⁵ See *Pueblo of Santa Ana v. Kelly*, 104 F.3d 1546 (10th Cir. 1997).

in a class III activity. No State may refuse to enter into the negotiations described in paragraph (3) (A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment.⁶⁶

Notwithstanding this restriction, revenue sharing is permissible so long as the tribe receives a valuable economic benefit in return. Typically, such benefit is in the form of substantial exclusivity in game offerings, geographic monopoly and/or a right to conduct such offerings on more favorable terms than non-Indians.⁶⁷

The 2010 Compact

The Tribe and the State executed the 2010 Compact on April 7, 2010, which was ratified through Chapter 285, F.S. The 2010 Compact took effect when published in the Federal Register on July 6, 2010 and all but the banked card game authorization has a term of 20 years, expiring July 31, 2030, unless renewed.

The 2010 Compact provides for revenue sharing from the Tribe to the State. For the exclusive authority to offer banked card games on tribal lands at five locations for five years and to offer slot machine gaming outside Miami-Dade and Broward Counties, the Tribe pays the State a share of “net win” (currently, revenue sharing payments equal approximately \$120 million per year). The 2010 Compact required the Tribe to share revenue with the State in the amount of \$1 billion over the first five years.

Section 285.710(1)(f), F.S., designates the Division within DBPR as the “state compliance agency” responsible for carrying out the state’s oversight responsibilities under the 2010 Compact.

The State of Florida retains the right to authorize or prohibit gaming in the state. However, the 2010 Compact provides consequences for the expansion of gaming:

- If new forms of Class III gaming and casino-style gaming are authorized for the eight licensed pari-mutuel facilities located in Miami-Dade and Broward counties (which may not relocate) and the net win from the Tribe’s Broward facilities drops for the year after the new gaming begins, then the Tribe may reduce the payments from its Broward facilities by 50 percent of the amount of the reduction in net win.
- If new forms of Class III gaming and other casino-style gaming are authorized for other locations in Miami-Dade and Broward counties, then the Tribe may exclude the net win from their Broward facilities from their net win calculations when the new games begin to be played.⁶⁸

Revenue sharing payments cease if:

- The state authorizes new forms of Class III gaming or other casino-style gaming after February 1, 2010, or authorizes Class III gaming or other casino-style gaming at any location outside of Miami-Dade and Broward counties that was not authorized for such games before February 1, 2010; and
- The new gaming begins to be offered for private or public use.

Compact Litigation

In 2015, when the Tribe’s authorization to conduct banked card games was scheduled to expire, the Tribe and DBPR filed lawsuits against each other. In its lawsuit, the Tribe asserted that the State allowed pari-mutuel facilities to conduct designated player games and, as a result, the Tribe is entitled

⁶⁶ 25 U.S.C. 2710(d)(4).

⁶⁷ See generally *In re Indian Gaming Related Cases*, 331 F.3d 1094 (9th Cir. 2003)(upholding revenue sharing where revenues were apportioned to non-gaming tribes); see also Letter From Gale A. Norton, Secretary of the Department of Interior, to Cyrus Schindler, President of the Seneca Nation of Indians, November 12, 2002.

⁶⁸ The Tribe would automatically be authorized to conduct the same games authorized for any other person at any location.

to conduct banked card games for the full 20-year term of the 2010 Compact. The Tribe also asserted that the State breached its duty to negotiate with the Tribe in good faith. In its lawsuit, DBPR asserted that the Tribe was improperly continuing banked card games beyond its 5-year authorization, and that the Tribe was violating IGRA by conducting gaming not otherwise authorized in the state.

In November 2016, a federal district court entered an order declaring that, due to DBPR's authorization of designated player games at pari-mutuel facilities, the Tribe has the right under the 2010 Compact to continue offering banked card games for the 2010 Compact's entire 20-year term and at all seven tribal facilities.⁶⁹ The ruling is currently under appeal.

2015 Proposed Compact

A new compact was executed by the Governor and the Tribe on December 7, 2015 (2015 Proposed Compact), but it has not been ratified by the Legislature and therefore is not in effect. Consequently, the 2010 Compact remains in effect.

Effect of the Bill: Seminole Gaming Compact

Indian Gaming in Florida

Ratification of the 2017 Compact

The bill ratifies and approves in advance a 2017 Compact between the Tribe and the State of Florida and authorizes the Governor to execute such a compact in the identical form set forth in the legislation. If ratified, the 2017 Compact will supersede the 2010 Compact; if not ratified, the 2010 Compact will remain in effect. As in previous compact legislation, the bill requires the Governor to cooperate with the Tribe in seeking approval of the 2017 Compact from the United States Secretary of the Interior.

Obligations under the 2017 Compact

The 2017 Compact authorizes the Tribe to conduct the same Class III games at the same locations originally authorized under the 2010 Compact.

It permits the Tribe to offer the following games, termed "covered games:"

- Slot machines at all 7 facilities;
- Banked card games (including blackjack, chemin de fer, and baccarat) at 5 of 7 facilities;
- Raffles and drawings;
- Any new game expressly authorized by the Legislature pursuant to legislation enacted subsequent to the effective date of the 2017 Compact game conducted by any authorized person for any authorized purpose, with an exception for certain banked card games.

It provides that "[a]ny of the facilities existing on Indian Lands... may be expanded or replaced by another facility on the same Indian Lands with at least 60 days advanced notice to the state."

The 2017 Compact has a term of 20 years.

Payments to the State under the 2017 Compact

Mirroring the 2015 Proposed Compact, the 2017 Compact establishes a guarantee minimum payment period that is defined as the seven-year period beginning July 1, 2017, and ending June 30, 2024. During the guarantee minimum payment period, the Tribe will make payments as specified, totaling \$3 billion over seven years. Payments will be paid by the Tribe to the State as follows:

⁶⁹ *Seminole Tribe of Florida v. State of Florida*, No. 4:15CV516-RH/CAS, 2016 WL 6637706 (N.D. Fla. Nov. 9, 2016).

- During the initial period (from the effective date to June 30, 2017), the Tribe makes payments based on a variable percentage of net win similar to the percentage payments in the 2010 Compact.
- During the guarantee minimum payment period from July 1, 2017 to June 30, 2024, the Tribe pays a minimum of \$3 billion over seven years.
- At the end of the guarantee minimum payment period, if the percentage payments (that range from 13 percent of net win up to \$2 billion, to 25 percent of net win greater than \$4.5 billion) would have amounted to more than the guaranteed minimum payments, the Tribe must pay the difference.
- The Tribe's guaranteed minimum revenue sharing payments are:
 - \$325 million – 1st year;
 - \$350 million – 2nd year;
 - \$375 million – 3rd year;
 - \$425 million – 4th year;
 - \$475 million – 5th year;
 - \$500 million – 6th year; and
 - \$550 million – 7th year.
- After the first seven years, the Tribe will continue to make percentage payments to the state without a guaranteed minimum payment.
- The percentage payments include 13 percent on amounts up to \$2 billion of net win⁷⁰, 17.5 percent on amounts greater than \$2 billion, up to and including \$3.5 billion of net win⁷¹, 20 percent of amounts greater than \$3.5 billion, up to and including \$4 billion of net win, 22.5 percent of amounts greater than \$4 billion, up to and including \$4.5 billion of net win, and 25 percent of amounts greater than \$4.5 billion of net win.

Revenue Sharing Consequences under the 2017 Compact

The 2017 Compact specifies that the monies paid by the Tribe to the State shall be allocated as follows:

- Three percent shall be distributed to local governments affected by the Tribe's operation of covered games;
- Of the remaining amounts:
 - One-third shall be allocated to K-12 teacher recruitment and retention bonuses;
 - One-third shall be allocated to schools that serve students from persistently failing schools; and
 - One-third shall be allocated to higher education institutions to recruit and retain distinguished faculty.

If such payments are not allocated to the specified educational purposes in the precise manner and amounts set forth above, then all further payments due to the State will cease until such time as such allocations are made, in which event the payments will resume.

As with the 2010 Compact, revenue sharing payments under the 2017 Compact may be affected if the State permits:

- New forms of Class III gaming or other casino-style gaming after February 1, 2017, or Class III gaming or other casino-style gaming at any location not authorized for such games as of February 1, 2017;
- Licensed pari-mutuel wagering entities to offer banked card games;

⁷⁰ One percentage point more than the 2010 Compact.

⁷¹ Two and a half percentage points more than the 2010 Compact for amounts between \$2 billion and \$3 billion of net win.

- Class III gaming at other locations in Miami-Dade or Broward counties;
- Class III gaming to be offered outside of Miami-Dade or Broward counties.

As with the 2010 Compact, revenue sharing under the 2017 Compact may also be affected if the State authorizes any new types of lottery games for the Florida Lottery that are not in operation as of February 1, 2017. Likewise, it recognizes that internet gaming is not currently permitted in Florida. If the Legislature authorizes internet gaming, the guaranteed minimum payments cease, but the percentage payments continue. If the Tribe offers internet gaming to patrons, then the guaranteed minimum payments continue.

In addition, the 2017 Compact:

- Specifies that revenue sharing payments may be affected if the State permits any pari-mutuel to reduce live races below levels required under current law for a pari-mutuel facility to maintain cardroom and slot machine licenses.
- Establishes a more detailed process for identifying and resolving any breaches of exclusivity under the Compact.

As the table below illustrates, the 2017 Compact adopts many of the key provisions of the 2010 Compact:

	2010 Compact	2017 Compact
Revenue Sharing	Revenue sharing, providing for minimum guaranteed payments of \$1 billion dollars over the first five years. (The minimum guaranteed payments ended on July 1, 2015)	Revenue sharing, providing for minimum guaranteed payments of \$3 billion dollars over the first seven years.
Compulsive Gambling Exclusivity Payment	Tribe will make annual \$250,000 donation per Facility (\$1,750,000 total) to the Florida Council on Compulsive Gambling and maintain a voluntary exclusion list, so long as exclusivity is maintained.	Same.
Class III Gaming Authorizations	All seven Seminole Casinos may offer slot machines, raffles and drawings, and any new game authorized in Florida. Banked card games may be offered at five of the Seminole Casinos (excluding the Brighton and Big Cypress facilities).	Same.
Banked Card Game Exclusivity	No facility in Florida, except for specifically authorized Tribal facilities, may offer banked card games.	Same.
Slot Machine Exclusivity	No facility except for currently authorized PMW facilities in Miami-Dade or Broward County may offer slot machines.	Same.
If Class III Gaming is authorized in non-specified facilities within	Guaranteed minimum payments cease and revenue sharing payments are calculated excluding Broward County facilities.	Same.

Miami-Dade or Broward County		
If Class III Gaming is authorized outside of Miami-Dade or Broward County	All payments under the Compact cease.	Same.
If internet or online gaming is authorized in Florida	If Tribe's revenues drop by more than 5%, guaranteed minimum payments stop but percentage revenue sharing continues. If Tribe decides to offer internet or online gaming, then guaranteed minimum payments continue.	Same.

Effect of the Bill: Pari-Mutuel Wagering

The bill specifies that the Division may not approve or issue any new permit authorizing pari-mutuel wagering. The bill also provides that any reduction in live performances by a pari-mutuel facility may affect revenue sharing payments under the Compact.

The bill provides additional authority for the Division to revoke a permit, including in the following circumstances:

- If a permit holder has failed to obtain an operating license to conduct live events for a period of more than 24 consecutive months after July 1, 2012.
- If a permit holder fails to make required payments for more than 24 consecutive months. This extends the existing requirement relative to thoroughbred and harness racing permits to all pari-mutuel wagering permits.

In addition, the bill:

- Specifies that pari-mutuel permits revoked under the situations identified above are void and may not be reissued.
- Repeals all relocation provisions relating to pari-mutuel permits.
- Repeals all conversion provisions relating to pari-mutuel permits.

Effect of the Bill: Cardrooms

Cardrooms in Florida

The bill revises provisions to clarify that only traditional, pari-mutuel style poker games are authorized in cardrooms in Florida. The bill also specifies that designated player games and any other form of card game involving a bank are prohibited in cardrooms.

The bill revises the statutory definition of "authorized game" as follows:

[A] game or series of games of traditional poker or dominoes which are played in a pari-mutuel, nonbanking manner, where all players at the table play against all other players at the table and contribute to a common pot of winnings collected by the winner, and which are played in a manner consistent with the rules and requirements set forth in the 1974 edition of Hoyle's Modern Encyclopedia of Card Games.

The bill revises the statutory definition of "banking game" to be "a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers, or a game in which any person or party serves as a bank against which participants play."

The bill prohibits any game not specifically authorized by the statute, including but not limited to games in which:

- The cardroom or any other person or party serves as a bank or banker against which players play;
- Players compete against a designated player instead of competing against all players at the table;
- The number of cards or ranking of hands does not conform to the rules and requirements for traditional poker as set forth in the 1974 edition of Hoyle's Modern Encyclopedia of Card Games; or
- Any other game conducted in a manner that is not consistent with the statutes.

Finally, the bill states that any action or inaction by the Division which is deemed to be permission to conduct banking games does not represent state action for purposes of the 2017 Compact.

Effect of the Bill: Slot Machines

Slot Machines in Florida

The bill clarifies that slot machines and slot machine licenses are not authorized in pari-mutuel facilities outside of Miami-Dade and Broward Counties, and further states that no new slot machine licenses may be issued after January 1, 2017. This clarification is accomplished in part by repealing the third clause of s. 551.102(4), which is the provision that caused litigation.

Under s. 551.102(4), F.S., slot machine-eligible facilities are defined to include:

- Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county;
- Any licensed pari-mutuel facility located within a county as defined in s. 125.011, F.S., provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter; or
- Any licensed pari-mutuel facility in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter.

To date, no facilities have obtained eligibility pursuant to the third clause. However, several pari-mutuels have relied upon that clause in requesting a slot machine license, which is currently the subject of pending litigation before the Florida Supreme Court and other courts.⁷²

B. SECTION DIRECTORY:

Section 1 amends s. 285.710, F.S., ratifying and approving a Model Gaming Compact between the Tribe and the State (2017 Compact); providing that the 2017 Compact, once in effect, will replace and supersede the prior compact in effect since 2010 (2010 Compact); authorizing the Governor to negotiate and execute a compact identical to the 2017 Compact, and thereafter to cooperate with the Tribe in seeking approval of such compact from the United States Secretary of the Interior; maintaining

⁷² See *supra* note 34.

exclusive authorization for the Tribe to conduct games but only to the extent previously authorized under the 2010 Compact and only at the specified facilities authorized to conduct such games as of July 1, 2015.

Section 2 amends s. 285.712, F.S., correcting a citation.

Section 3 amends s. 550.054, F.S., requiring the Division to revoke a pari-mutuel wagering operating permit under certain circumstances; prohibiting issuance or approval of new pari-mutuel permits after a specified date; providing exceptions; revising provisions that prohibit transfer or assignment of a pari-mutuel permit; prohibiting transfer or assignment of a pari-mutuel permit or license under certain conditions; prohibiting relocation of a pari-mutuel facility, cardroom, or slot machine facility or conversion of pari-mutuel permits to a different class; deleting provisions for certain converted permits.

Section 4 repeals s. 550.0555, F.S., relating to the relocation of greyhound racing permits.

Section 5 repeals s. 550.0745, F.S., relating to the issuance of pari-mutuel permits to summer jai alai permits under certain circumstances.

Section 6 amends s. 550.09512, F.S., providing for the revocation of certain harness horse racing permits; specifying that a revoked permit may not be reissued.

Section 7 amends s. 550.09515, F.S., providing for the revocation of certain thoroughbred racing permits; specifying that a revoked permit may not be reissued; removing an obsolete provision.

Section 8 amends s. 550.3345, F.S., revising provisions for a permit previously converted from a quarter horse racing permit to a limited thoroughbred racing permit.

Section 9 amends s. 551.102, F.S., revising the definition of the terms "eligible facility" for purposes of provisions relating to slot machines.

Section 10 amends s. 551.104, F.S., specifying that no new slot machine licenses may be issued by the Division after January 1, 2017; specifying that no slot machine gaming may be conducted at any location or facility not conducting slot machine gaming as of January 1, 2017.

Section 11 amends s. 849.086, F.S., revising definitions; clarifying that Division may not authorize designated player games or any game involving a bank in cardrooms; authorizing the Division to revoke the cardroom license of any permitholder which conducts games prohibited under s. 849.086(12), F.S.

Section 12 clarifies that all cardroom games involving designated players or a bank of any kind are illegal, prohibited, and contrary to the plain language and spirit of Florida law.

Section 13 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill is expected to have a positive recurring impact on state revenues. However, the Revenue Estimating Conference has not estimated the potential revenue impacts of the bill.

2. Expenditures:

Unknown. DBPR has not provided an estimate of any operational/fiscal impact that the bill may have on the Division or DBPR.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill is expected to have a positive recurring impact on local government revenues due to the 3 percent distribution from revenues shared with the state. However, the Revenue Estimating Conference has not estimated the potential revenue impacts of the bill.

2. Expenditures:

The bill does not appear to have an impact on expenditures.

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 governments.

2. Other:

The bill includes provisions that may result in the revocation or restriction of pari-mutuel permits and associated licenses. The bill may also result in the restriction of activities currently being conducted or requested to be conducted at one or more pari-mutuel facilities. Affected permitholders may claim that such provisions offend constitutional protections.

The Florida Supreme Court has found that "[a]uthorized gambling is a matter over which the state may exercise greater control and exercise its police power in a more arbitrary manner" ⁷³ Thus, the Court found that, unlike permits to construct a building, "[i]t is doubtful if we can agree with counsel in concluding that a racing permit is a vested interest or right and after once granted cannot be changed." ⁷⁴ Likewise, "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right." ⁷⁵

Furthermore, it is unclear what (if any) value can be attributed to a pari-mutuel permit. Pari-mutuel permits are merely a prerequisite to licensure for pari-mutuel wagering and, by themselves, do not appear to vest the holder with any constitutionally protected rights. There are no application fees to receive a permit for pari-mutuel wagering and no fees to retain such a permit. Permits may not be transferred without state approval. While a pari-mutuel permit is one prerequisite to licensure to conduct cardrooms and slot machines, it is not the only prerequisite. Not all permitholders may be able to obtain a license to conduct pari-mutuel wagering events or other gaming activities, which may

⁷³ *Hialeah Race Course v. Gulfstream Park Racing Ass'n*, 37 So.2d 692, 694 (Fla. 1948).

⁷⁴ *State ex rel. Biscayne Kennel Club v. Stein*, 130 Fla. 517, 520 (Fla. 1938).

⁷⁵ *Solimena v. State*, 402 So.2d 1240 (Fla. 3rd DCA 1981).

require local zoning and other approvals. In other words, a pari-mutuel permit alone has little (if any) value in the absence of the many other licenses and other governmental approvals that are required to conduct the activities associated with the pari-mutuel permit.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to gaming; amending s. 285.710, F.S.;
 3 authorizing and directing the Governor, in cooperation
 4 with the Seminole Tribe of Florida, to execute a new
 5 compact in the form provided; signifying the
 6 Legislature's approval and ratification of such
 7 compact that does not materially alter from the
 8 approved form; providing terms and conditions for the
 9 gaming compact; providing definitions; authorizing the
 10 Tribe to operate covered games on its lands in
 11 accordance with the compact and at specified
 12 facilities; prohibiting specified games; providing
 13 requirements for resolution of patron disputes
 14 involving gaming, tort claims, and employee disputes;
 15 providing requirements for regulation and enforcement
 16 of the compact; requiring the state to conduct random
 17 inspections of tribal facilities; authorizing the
 18 state to conduct an independent audit; requiring the
 19 Tribe and commission to comply with specified
 20 licensing and hearing requirements; requiring the
 21 Tribe to make specified revenue share payments to the
 22 state, with reductions authorized under certain
 23 circumstances; requiring the Tribe to pay an annual
 24 oversight assessment and annual donation to the
 25 Florida Council on Compulsive Gaming; providing for

26 | dispute resolution between the Tribe and the state;
 27 | providing an effective date and termination of the
 28 | compact; providing for execution of the compact;
 29 | amending s. 285.712, F.S.; requiring the Governor to
 30 | provide a copy of the executed compact to specified
 31 | parties and direct the Secretary of State to forward a
 32 | copy to the Secretary of the Interior; amending s.
 33 | 550.054, F.S.; requiring the Division of Pari-Mutuel
 34 | Wagering to revoke a permit to conduct pari-mutuel
 35 | wagering for a permitholder that fails to make
 36 | specified payments or obtain an operating license;
 37 | prohibiting the issuance of new permits; deleting
 38 | provisions related to the conversion of permits;
 39 | repealing s. 550.0555, F.S., relating to relocation of
 40 | a greyhound dogracing permit within the same county;
 41 | repealing s. 550.0745, F.S., relating to conversion of
 42 | a pari-mutuel permit to a summer jai alai permit;
 43 | amending ss. 550.09512 and 550.09515, F.S.; requiring
 44 | the division to revoke the permit of a harness horse
 45 | or thoroughbred racing permitholder, respectively, who
 46 | does not pay tax on handle for a specified period of
 47 | time; deleting provisions relating to the reissuance
 48 | of escheated permits; amending s. 550.3345, F.S.;
 49 | revising provisions relating to a limited thoroughbred
 50 | racing permit previously converted from a quarter

51 horse racing permit; amending s. 551.102, F.S.;
 52 revising the definition of the term "eligible
 53 facility"; amending s. 551.104, F.S.; prohibiting the
 54 division from issuing a license to conduct or
 55 authorizing slot machine gaming after a specified
 56 date; amending s. 849.086, F.S.; revising definitions;
 57 prohibiting specified cardroom games; authorizing the
 58 division to revoke a cardroom license after a certain
 59 date for specified actions; correcting a cross-
 60 reference; providing action by the division construed
 61 to constitute permission by the state to conduct
 62 certain cardroom games is not state action; providing
 63 an effective date.

64

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

66

67 Section 1. Paragraph (a) of subsection (1) and subsection
 68 (3) of section 285.710, Florida Statutes, are amended to read:
 69 285.710 Compact authorization.—

70

(1) As used in this section, the term:

71

(a) "Compact" means the Gaming Compact between the
 72 Seminole Tribe of Florida and the State of Florida, ~~executed on~~
 73 ~~April 7, 2010.~~

74

(3) (a) The Gaming Compact between the Seminole Tribe of
 75 Florida and the State of Florida, executed by the Governor and

76 the Tribe on April 7, 2010, was ~~is~~ ratified and approved by
 77 chapter 2010-29, Laws of Florida. ~~The Governor shall cooperate~~
 78 ~~with the Tribe in seeking approval of the compact from the~~
 79 ~~United States Secretary of the Interior.~~

80 (b) The Governor, on behalf of this state, is hereby
 81 authorized and directed to execute a new compact with the Tribe
 82 as set forth in paragraph (c), and the Legislature hereby
 83 signifies in advance its approval and ratification of such
 84 compact, provided that it is identical to the compact set forth
 85 in paragraph (c) and becomes effective on or before January 1,
 86 2018. The Governor shall cooperate with the Tribe in seeking
 87 approval of such compact ratified and approved under this
 88 paragraph from the Secretary of the Department of the Interior.
 89 Upon becoming effective, such compact supersedes the Gaming
 90 Compact ratified and approved under paragraph (a), which shall
 91 then become null and void.

92 (c) The Legislature hereby approves and ratifies the
 93 following Gaming Compact between the State of Florida and the
 94 Seminole Tribe of Florida, provided that such compact becomes
 95 effective on or before January 1, 2018:

97 Gaming Compact Between the Seminole Tribe of Florida
 98 and the State of Florida

99
 100 This compact is made and entered into by and between the

101 Seminole Tribe of Florida and the State of Florida, with respect
 102 to the operation of covered games, as defined herein, on the
 103 Tribe's Indian lands, as defined by the Indian Gaming Regulatory
 104 Act, 25 U.S.C. ss. 2701 et seq.

106 PART I

108 TITLE.—This document shall be referred to as the "Gaming
 109 Compact between the Seminole Tribe of Florida and the State of
 110 Florida."

112 PART II

114 LEGISLATIVE FINDINGS.—

115 (1) The Seminole Tribe of Florida is a federally
 116 recognized tribal government that possesses sovereign powers and
 117 rights of self-government.

118 (2) The State of Florida is a state of the United States
 119 of America that possesses the sovereign powers and rights of a
 120 state.

121 (3) The State of Florida and the Seminole Tribe of Florida
 122 maintain a government-to-government relationship.

123 (4) The United States Supreme Court has long recognized
 124 the right of an Indian Tribe to regulate activity on lands
 125 within its jurisdiction, but the United States Congress, through

126 | the Indian Gaming Regulatory Act, has given states a role in the
 127 | conduct of tribal gaming in accordance with negotiated tribal-
 128 | state compacts.

129 | (5) Pursuant to the Seminole Tribe Amended Gaming
 130 | Ordinance, adopted by Resolution No. C-195-06, and approved by
 131 | the Chairman of the National Indian Gaming Commission on July
 132 | 10, 2006, hereafter referred to as the "Seminole Tribal Gaming
 133 | Code," the Seminole Tribe of Florida desires to offer the play
 134 | of covered games, as defined in Part III, as a means of
 135 | generating revenues for purposes authorized by the Indian Gaming
 136 | Regulatory Act, including, without limitation, the support of
 137 | tribal governmental programs, such as health care, housing,
 138 | sewer and water projects, police, fire suppression, general
 139 | assistance for tribal elders, day care for children, economic
 140 | development, educational opportunities, per capita payments to
 141 | tribal members, and other typical and valuable governmental
 142 | services and programs for tribal members.

143 | (6) This compact is the only gaming compact between the
 144 | Tribe and the state. This compact supersedes the Gaming Compact
 145 | between the Tribe and the state executed on or about April 7,
 146 | 2010, which was subsequently ratified by the Legislature and
 147 | went into effect on or about July 6, 2010.

148 | (7) It is in the best interests of the Seminole Tribe of
 149 | Florida and the State of Florida for the state to enter into a
 150 | compact with the Tribe that recognizes the Tribe's right to

151 offer certain Class III gaming and provides substantial
 152 exclusivity of such activities in conjunction with a reasonable
 153 revenue sharing arrangement between the Tribe and the state that
 154 will entitle the state to significant revenue participation.

156 PART III

158 DEFINITIONS.—As used in this compact, the term:

159 (1) "Annual oversight assessment" means the amount owed by
 160 the Tribe to the state for reimbursement for the actual and
 161 reasonable costs incurred by the state compliance agency to
 162 perform the monitoring functions set forth under the compact.

163 (2) "Class II video bingo terminals" means any electronic
 164 aid to a Class II bingo game that includes a video spinning reel
 165 or mechanical spinning reel display.

166 (3) "Class III gaming" means the forms of Class III gaming
 167 defined in 25 U.S.C. s. 2703(8) and by the regulations of the
 168 National Indian Gaming Commission.

169 (4) "Commission" means the Seminole Tribal Gaming
 170 Commission, which is the tribal governmental agency that has the
 171 authority to carry out the Tribe's regulatory and oversight
 172 responsibilities under this compact.

173 (5) "Compact" means this Gaming Compact between the
 174 Seminole Tribe of Florida and the State of Florida.

175 (6) "Covered game" or "covered gaming activity" means the

176 | following Class III gaming activities:

177 | (a) Slot machines, which machines must meet all of the
 178 | following requirements:

179 | 1. Any mechanical or electrical contrivance, terminal that
 180 | may or may not be capable of downloading slot games from a
 181 | central server system, machine, or other device.

182 | 2. Require, for play or operation, the insertion of a
 183 | coin, bill, ticket, token, or similar object, or payment of any
 184 | consideration whatsoever, including the use of any electronic
 185 | payment system, except a credit card or debit card, unless state
 186 | law authorizes the use of an electronic payment system that uses
 187 | a credit or debit card payment, in which case the Tribe is
 188 | authorized to use such payment system.

189 | 3. Are available to play or operate, the play or operation
 190 | of which, whether by reason of skill or application of the
 191 | element of chance or both, may deliver or entitle the person or
 192 | persons playing or operating the contrivance, terminal, machine,
 193 | or other device to receive cash, billets, tickets, tokens, or
 194 | electronic credits to be exchanged for cash or to receive
 195 | merchandise or anything of value whatsoever, whether the payoff
 196 | is made automatically from the machine or manually.

197 | 4. Includes associated equipment necessary to conduct the
 198 | operation of the contrivance, terminal, machine, or other
 199 | device.

200 | 5. May use spinning reels, video displays, or both.

201 (b) Banking or banked card games, including any card games
 202 that are banked by the house, a player, other person or party,
 203 or any combination or variation thereof, such as baccarat,
 204 chemin de fer, and blackjack or 21; provided that the Tribe
 205 shall not offer such banked card games at its Brighton or Big
 206 Cypress facilities.

207 (c) Raffles and drawings.

208 (d) Any new game, if expressly authorized by the
 209 Legislature pursuant to legislation enacted subsequent to the
 210 effective date of this compact and lawfully conducted by any
 211 person for any purpose pursuant to such authorization, except
 212 for banked card games authorized for any other federally
 213 recognized tribe pursuant to Indian Gaming Regulatory Act,
 214 provided that the tribe has land in federal trust in the state
 215 as of February 1, 2017.

216 (7) "Covered game employee" or "covered employee" means an
 217 individual employed and licensed by the Tribe whose
 218 responsibilities include the rendering of services with respect
 219 to the operation, maintenance, or management of covered games,
 220 including, but not limited to, managers and assistant managers;
 221 accounting personnel; commission officers; surveillance and
 222 security personnel; cashiers, supervisors, and floor personnel;
 223 cage personnel; and any other employee whose employment duties
 224 require or authorize access to areas of the facility related to
 225 the conduct of covered games or the technical support or storage

226 of covered game components. The term does not include the
 227 Tribe's elected officials, provided that such individuals are
 228 not directly involved in the operation, maintenance, or
 229 management of covered games or covered games components.

230 (8) "Documents" means books, records, electronic,
 231 magnetic, and computer media documents, and other writings and
 232 materials, copies of such documents and writings, and
 233 information contained in such documents and writings.

234 (9) "Effective date" means the date on which the compact
 235 becomes effective pursuant to subsection (1) of Part XVI.

236 (10) "Electronic bingo machine" means a card minding
 237 device, which may only be used in connection with a bingo game
 238 as defined in s. 849.0931(1)(a), Florida Statutes, which is
 239 certified in advance by an independent testing laboratory
 240 approved by the Division of Pari-Mutuel Wagering as a bingo aid
 241 device that meets all of the following requirements:

242 (a) Aids a bingo game player by:

243 1. Storing in the memory of the device not more than three
 244 bingo faces of tangible bingo cards as defined by s.
 245 849.0931(1)(b), Florida Statutes, purchased by a player.

246 2. Comparing the numbers drawn and individually entered
 247 into the device by the player to the bingo faces previously
 248 stored in the memory of the device.

249 3. Identifying preannounced winning bingo patterns marked
 250 or covered on the stored bingo faces.

251 (b) Is not capable of accepting or dispensing any coins,
 252 currency, or tokens.

253 (c) Is not capable of monitoring any bingo card face other
 254 than the faces of the tangible bingo card or cards purchased by
 255 the player for that game.

256 (d) Is not capable of displaying or representing the game
 257 result through any means other than highlighting the winning
 258 numbers marked or covered on the bingo card face or giving an
 259 audio alert that the player's card has a prize-winning pattern.
 260 No casino game graphics, themes, or titles, including, but not
 261 limited to, depictions of slot machine-style symbols, cards,
 262 craps, roulette, or lottery may be used.

263 (e) Is not capable of determining the outcome of any game.

264 (f) Does not award progressive prizes of more than \$2,500.

265 (g) Does not award prizes exceeding \$1,000, other than
 266 progressive prizes not exceeding \$2,500.

267 (h) Does not contain more than one player position for
 268 playing bingo.

269 (i) Does not contain or does not link to more than one
 270 video display.

271 (j) Awards prizes based solely on the results of the bingo
 272 game, with no additional element of chance.

273 (11) "Facility" means a building or buildings of the Tribe
 274 in which the covered games authorized by this compact are
 275 conducted.

276 (12) "Guaranteed minimum compact term payment" means a
 277 minimum total payment for the guarantee payment period of \$3
 278 billion, which shall include all revenue share payments during
 279 the guarantee payment period.

280 (13) "Guarantee payment period" means the seven-year
 281 period beginning July 1, 2017, and ending June 30, 2024.

282 (14) "Guaranteed revenue sharing cycle payment" means the
 283 payments as provided in Part XI.

284 (15) "Historic racing machine" means an individual
 285 historic race terminal linked to a central server as part of a
 286 network-based video game, where the terminals allow pari-mutuel
 287 wagering by players on the results of previously conducted horse
 288 or greyhound races, but only if the game is certified in advance
 289 by an independent testing laboratory approved by the Division of
 290 Pari-Mutuel Wagering as complying with all of the following
 291 requirements:

292 (a) Stores all data on previously conducted horse or
 293 greyhound races in a secure format on the central server, which
 294 is located at the pari-mutuel facility.

295 (b) Uses only horse or greyhound races that were recorded
 296 at licensed pari-mutuel facilities in the United States after
 297 January 1, 2000.

298 (c) Offers one or more of the following three bet types on
 299 all historic racing machines: win-place-show, quinella, or tri-
 300 fecta.

301 (d) Offers one or more of the following racing types:
 302 thoroughbreds, harness, or greyhounds.

303 (e) Progressive prizes of more than of \$2,500 are
 304 prohibited.

305 (f) Does not award prizes exceeding \$1,000, other than
 306 progressive prizes not exceeding \$2,500.

307 (g) After each wager is placed, displays a video of at
 308 least the final eight seconds of the horse or greyhound race
 309 before any prize is awarded or indicated on the historic racing
 310 machine.

311 (h) The display of the video of the horse or greyhound
 312 race must occupy at least 70 percent of the historic racing
 313 machine's video screen and does not contain and is not linked to
 314 more than one video display.

315 (i) Does not use casino game graphics, themes, or titles,
 316 including but not limited to, depictions of slot machine-style
 317 symbols, cards, craps, roulette, lottery, or bingo.

318 (j) Does not use video or mechanical reel displays.

319 (k) Does not contain more than one player position for
 320 placing wagers.

321 (l) Does not dispense coins, currency, or tokens.

322 (m) Awards prizes solely on the results of a previously
 323 conducted horse or greyhound race with no additional element of
 324 chance.

325 (n) Uses a random number generator to select the race from

326 the central server to be displayed to the player and the numbers
 327 or other designations of race entrants that will be used in the
 328 various bet types for any "Quick Pick" bets. To prevent an
 329 astute player from recognizing the race based on the entrants
 330 and thus knowing the results before placing a wager, the
 331 entrants of the race may not be identified until after all
 332 wagers for that race have been placed.

333 (16) "Indian Gaming Regulatory Act" means the Indian
 334 Gaming Regulatory Act, Pub. L. 100-497, Oct. 17, 1988, 102 Stat.
 335 2467, codified at 25 U.S.C. ss. 2701 et seq. and 18 U.S.C. ss.
 336 1166 to 1168.

337 (17) "Indian lands" means the lands defined in 25 U.S.C.
 338 s. 2703(4).

339 (18) "Initial payment period" means the period beginning
 340 on the effective date of the compact and ending on June 30,
 341 2017.

342 (19) "Lottery vending machine" means any of the following
 343 three types of machines:

344 (a) A machine that dispenses pre-printed paper instant
 345 lottery tickets, but that does not read or reveal the results of
 346 the ticket or allow a player to redeem any ticket. The machine,
 347 or any machine or device linked to the machine, does not include
 348 or make use of video reels or mechanical reels or other video
 349 depictions of slot machine or casino game themes or titles for
 350 game play, but does not preclude the use of casino game themes

351 or titles on such tickets or signage or advertising displays on
 352 the machines;

353 (b) A machine that dispenses pre-determined electronic
 354 instant lottery tickets and displays an image of the ticket on a
 355 video screen on the machine, where the player touches the image
 356 of the ticket on the video screen to reveal the outcome of the
 357 ticket, provided the machine does not permit a player to redeem
 358 winnings, does not make use of video reels or mechanical reels,
 359 and does not simulate the play of any casino game, and the
 360 lottery retailer is paid the same amount as would be paid for
 361 the sale of paper instant lottery tickets; or

362 (c) A machine that dispenses a paper lottery ticket with
 363 numbers selected by the player or randomly by the machine, but
 364 does not reveal the winning numbers. Such winning numbers are
 365 selected at a subsequent time and different location through a
 366 drawing conducted by the state lottery. The machine, or any
 367 machine or device linked to the machine, does not include or
 368 make use of video reels or mechanical reels or other video
 369 depictions of slot machine or casino game themes or titles for
 370 game play. The machine is not used to redeem a winning ticket.
 371 This does not preclude the use of casino game themes, titles for
 372 signage, or advertising displays on the machine.

373 (20) "Monthly payment" means the monthly revenue share
 374 payment which the Tribe remits to the state on the 15th day of
 375 the month following each month of the revenue sharing cycle.

376 (21) "Net revenue base" means the net win for the 12 month
 377 period immediately preceding the offering of, for public or
 378 private use, Class III or other casino-style gaming at any of
 379 the licensed pari-mutuel facilities in Broward and Miami-Dade
 380 Counties, except that if the commencement of such new gaming is
 381 made during the initial payment period, "net revenue base" means
 382 net win for the 12-month period immediately preceding this
 383 compact.

384 (22) "Net win" means the total receipts from the play of
 385 all covered games less all prize payouts and free play or
 386 promotional credits issued by the Tribe.

387 (23) "Pari-mutuel wagering activities" means those
 388 activities presently authorized by chapter 550, which do not
 389 include any casino-style game or device that includes video
 390 reels or mechanical reels or other slot machine or casino game
 391 themes or titles.

392 (24) "Patron" means any person who is on the premises of a
 393 facility, or who enters the Tribe's Indian lands for the purpose
 394 of playing covered games authorized by this compact.

395 (25) "Regular payment period" means the period beginning
 396 on July 1, 2024, and terminating at the end of the term of this
 397 compact.

398 (26) "Revenue share payment" means the periodic payment by
 399 the Tribe to the state provided for in Part XI.

400 (27) "Revenue sharing cycle" means the annual 12-month

401 period of the Tribe's operation of covered games in its
 402 facilities beginning on July 1 of each fiscal year, except for
 403 during the initial payment period, when the first revenue
 404 sharing cycle begins on July 1 of the previous year, and the
 405 Tribe receives a credit for any amount paid to the state under
 406 the 2010 Compact for that revenue sharing cycle.

407 (28) "Rules and regulations" means the rules and
 408 regulations promulgated by the commission for implementation of
 409 this compact.

410 (29) "State" means the State of Florida.

411 (30) "State compliance agency" means the state agency
 412 designated by the Florida Legislature that has the authority to
 413 carry out the state's oversight responsibilities under this
 414 compact.

415 (31) "Tribe" means the Seminole Tribe of Florida or any
 416 affiliate thereof conducting activities pursuant to this compact
 417 under the authority of the Seminole Tribe of Florida.

418
 419 PART IV

420
 421 AUTHORIZATION AND LOCATION OF COVERED GAMES.—

422 (1) The Tribe and state agree that the Tribe is authorized
 423 to operate covered games on its Indian lands, as defined in the
 424 Indian Gaming Regulatory Act, in accordance with the provisions
 425 of this compact. Except as otherwise provided in this compact,

426 nothing gives the Tribe the right to conduct roulette, craps,
 427 roulette-style games, or craps-style games; however, nothing in
 428 the compact is intended to prohibit the Tribe from operating
 429 slot machines that employ video or mechanical displays of
 430 roulette, wheels, or other table game themes. Except for the
 431 provisions in subsection (1) of Part XI, nothing in this compact
 432 shall limit the Tribe's right to operate any Class II gaming
 433 under the Indian Gaming Regulatory Act.

434 (2) The Tribe is authorized to conduct covered games under
 435 this compact only at the following seven existing facilities,
 436 which may be expanded or replaced as provided in subsection (3)
 437 on Indian lands:

- 438 (a) Seminole Indian Casino-Brighton in Okeechobee, FL.
- 439 (b) Seminole Indian Casino-Coconut Creek in Coconut Creek,
 440 FL.
- 441 (c) Seminole Indian Casino-Hollywood in Hollywood, FL.
- 442 (d) Seminole Indian Casino-Immokalee in Immokalee, FL.
- 443 (e) Seminole Indian Casino-Big Cypress in Clewiston, FL.
- 444 (f) Seminole Hard Rock Hotel & Casino-Hollywood in
 445 Hollywood, FL.
- 446 (g) Seminole Hard Rock Hotel & Casino-Tampa in Tampa, FL.

447 (3) Any of the facilities existing on Indian lands
 448 identified in subsection (2) may be expanded or replaced by
 449 another facility on the same Indian lands with at least 60 days'
 450 advance notice to the state.

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PART V

RULES AND REGULATIONS; MINIMUM REQUIREMENTS FOR OPERATIONS.-

(1) At all times during the term of this compact, the Tribe shall be responsible for all duties that are assigned to it and the commission under this compact. The Tribe shall promulgate any rules necessary to implement this compact, which, at a minimum, shall expressly include or incorporate by reference all provisions of Parts V, VI, VII, and VIII. Nothing in this compact shall be construed to affect the Tribe's right to amend its rules, provided that any such amendment is in conformity with this compact. The state compliance agency may propose additional rules consistent with and related to the implementation of this compact to the commission at any time, and the commission shall give good faith consideration to such proposed rules and shall notify the state compliance agency of its response or action with respect to such rules.

(2) All facilities shall comply with, and all covered games approved under this compact shall be operated in accordance with, the requirements set forth in this compact, including, but not limited to, the requirements set forth in subsections (3) and (4) and the Tribe's Internal Control Policies and Procedures. In addition, all facilities and all

476 covered games shall be operated in strict compliance with tribal
 477 internal control standards that provide a level of control that
 478 equals or exceeds those set forth in the National Indian Gaming
 479 Commission's Minimum Internal Control Standards, 25 C.F.R. part
 480 542 (2015), even if the 2015 regulations are determined to be
 481 invalid or are subsequently withdrawn by the National Indian
 482 Gaming Commission. The Tribe may amend or supplement its
 483 internal control standards from time to time, provided that such
 484 changes continue to provide a level of control that equals or
 485 exceeds those set forth in 25 C.F.R. part 542 (2015).

486 (3) The Tribe and the commission shall retain all
 487 documents in compliance with the requirements set forth in the
 488 Tribe's Record Retention Policies and Procedures.

489 (4) The Tribe shall continue and maintain its program to
 490 combat problem gambling and curtail compulsive gambling and work
 491 with the Florida Council on Compulsive Gambling or other
 492 organizations dedicated to assisting problem gamblers. The Tribe
 493 shall continue to maintain the following safeguards against
 494 problem gambling:

495 (a) The Tribe shall provide to every new gaming employee a
 496 comprehensive training and education program designed in
 497 cooperation with the Florida Council on Compulsive Gambling or
 498 other organization dedicated to assisting problem gamblers.

499 (b) The Tribe shall make printed materials available to
 500 patrons, which include contact information for the Florida

501 Council on Compulsive Gambling 24-hour helpline or other hotline
 502 dedicated to assisting problem gamblers, and will work with the
 503 Florida Council on Compulsive Gambling or other organization
 504 dedicated to assisting problem gamblers to provide contact
 505 information for the Florida Council on Compulsive Gambling or
 506 other organization dedicated to assisting problem gamblers, and
 507 to provide such information on the facility's website. The Tribe
 508 shall continue to display within the facilities all literature
 509 from the Florida Council on Compulsive Gambling or other
 510 organization dedicated to assisting problem gamblers.

511 (c)1. The commission shall establish a list of patrons
 512 voluntarily excluded from the Tribe's facilities, pursuant to
 513 subparagraph 3.

514 2. The Tribe shall employ its best efforts to exclude
 515 patrons on such list from entry into its facilities; provided
 516 that nothing in this compact shall create for patrons who are
 517 excluded but gain access to the facilities, or any other person,
 518 a cause of action or claim against the state, the Tribe or the
 519 commission, or any other person, entity, or agency for failing
 520 to enforce such exclusion.

521 3. Patrons who believe they may be compulsively playing
 522 covered games may request that their names be placed on the list
 523 of patrons voluntarily excluded from the Tribe's facilities.

524 (d) All covered game employees shall receive training on
 525 identifying compulsive gamblers and shall be instructed to ask

526 such persons to leave. The facility shall make available signs
 527 bearing a toll-free help-line number and educational and
 528 informational materials at conspicuous locations and automated
 529 teller machines in each facility, which materials aim at the
 530 prevention of problem gaming and which specify where patrons may
 531 receive counseling or assistance for gambling problems. All
 532 covered games employees shall also be screened by the Tribe for
 533 compulsive gambling habits. Nothing in this subsection shall
 534 create for patrons, or any other person, a cause of action or
 535 claim against the state, the Tribe or the commission, or any
 536 other person, entity, or agency for failing to identify a patron
 537 or person who is a compulsive gambler or ask that person to
 538 leave.

539 (e) The Tribe shall follow the rules for exclusion of
 540 patrons set forth in the Seminole Tribal Gaming Code.

541 (f) The Tribe shall make diligent efforts to prevent
 542 underage individuals from loitering in the area of each facility
 543 where the covered games take place.

544 (g) The Tribe shall ensure that any advertising and
 545 marketing of covered games at the facilities contains a
 546 responsible gambling message and a toll-free help-line number
 547 for problem gamblers, where practical, and that such advertising
 548 and marketing make no false or misleading claims.

549 (5) The state may secure an annual independent audit of
 550 the conduct of covered games subject to this compact, as set

551 forth in Part VIII.

552 (6) The facility shall visibly display summaries of the
 553 rules for playing covered games and promotional contests and
 554 shall make available complete sets of rules upon request. The
 555 Tribe shall provide copies of all such rules to the state
 556 compliance agency within 30 calendar days after issuance or
 557 amendment.

558 (7) The Tribe shall provide the commission and state
 559 compliance agency with a chart of the supervisory lines of
 560 authority with respect to those directly responsible for the
 561 conduct of covered games, and shall promptly notify those
 562 agencies of any material changes to the chart.

563 (8) The Tribe shall continue to maintain proactive
 564 approaches to prevent improper alcohol sales, drunk driving,
 565 underage drinking, and underage gambling. These approaches shall
 566 involve intensive staff training, screening and certification,
 567 patron education, and the use of security personnel and
 568 surveillance equipment in order to enhance patrons' enjoyment of
 569 the facilities and provide for patron safety.

570 (a) Staff training includes specialized employee training
 571 in nonviolent crisis intervention, driver license verification,
 572 and detection of intoxication.

573 (b) Patron education shall be carried out through notices
 574 transmitted on valet parking stubs, posted signs in the
 575 facilities, and in brochures.

576 (c) Roving and fixed security officers, along with
 577 surveillance cameras, shall assist in the detection of
 578 intoxicated patrons, investigate problems, and engage with
 579 patrons to deescalate volatile situations.

580 (d) To help prevent alcohol-related crashes, the Tribe
 581 will continue to operate the "Safe Ride Home Program," a free
 582 taxi service.

583 (e) The Tribe shall maintain these programs and policies
 584 in its Alcohol Beverage Control Act for the duration of the
 585 compact but may replace such programs and policies with stricter
 586 or more extensive programs and policies. The Tribe shall provide
 587 the state with written notice of any changes to the Tribe's
 588 Alcohol Beverage Control Act, which notice shall include a copy
 589 of such changes and shall be sent on or before the effective
 590 date of the change. Nothing in this subsection shall create for
 591 patrons, or any other person, a cause of action or claim against
 592 the state, the Tribe or the commission, or any other person,
 593 entity, or agency for failing to fulfill the requirements of
 594 this subsection.

595 (9) A person under 21 years of age may not play covered
 596 games, unless otherwise permitted by state law.

597 (10) The Tribe may establish and operate facilities that
 598 operate covered games only on its Indian lands as defined by the
 599 Indian Gaming Regulatory Act and as specified in Part IV.

600 (11) The commission shall keep a record of, and shall

601 report at least quarterly to the state compliance agency, the
 602 number of covered games in each facility, by the name or type of
 603 each game and its identifying number.

604 (12) The Tribe and the commission shall make available, to
 605 any member of the public upon request, within 10 business days,
 606 a copy of the minimum internal control standards of the National
 607 Indian Gaming Commission (25 C.F.R. part 542 (2015)), the
 608 Seminole Tribal Gaming Code, this compact, the rules of each
 609 covered game operated by the Tribe, and the administrative
 610 procedures for addressing patron tort claims under Part VI.

611
 612 PART VI
 613

614 PATRON DISPUTES, WORKERS' COMPENSATION, TORT CLAIMS; PRIZE
 615 CLAIMS; LIMITED CONSENT TO SUIT.-

616 (1) All patron disputes involving gaming shall be resolved
 617 in accordance with the procedures established in the Seminole
 618 Tribal Gaming Code.

619 (2) Tort claims by employees of the Tribe's facilities
 620 will be handled pursuant to the provisions of the Tribe's
 621 Workers' Compensation Ordinance, which shall provide workers the
 622 same or better protections as provided in state workers'
 623 compensation laws.

624 (3) Disputes involving employees of the Tribe's facilities
 625 will be handled pursuant to the provisions of the Tribe's policy

626 for gaming employees, as set forth in the Employee Fair
627 Treatment and Dispute Resolution Policy.

628 (4) A patron who claims to have been injured after the
629 effective date of the compact at one of the Tribe's facilities
630 in which covered games are played is required to provide written
631 notice to the Tribe's Risk Management Department or the
632 facility, in a reasonable and timely manner, but no longer than
633 three years after the date of the incident giving rise to the
634 claimed injury, or the claim shall be forever barred.

635 (5) The Tribe shall have 30 days to respond to a claim
636 made by a patron. If the Tribe fails to respond within 30 days,
637 the patron may file suit against the Tribe. When the Tribe
638 responds to an incident alleged to have caused a patron's injury
639 or illness, the Tribe shall provide a claim form to the patron.
640 The form must include the address for the Tribe's Risk
641 Management Department and provide notice of the Tribe's
642 administrative procedures for addressing patron tort claims,
643 including notice of the relevant deadlines that may bar such
644 claims if the Tribe's administrative procedures are not
645 followed. It is the patron's responsibility to complete the form
646 and forward the form to the Tribe's Risk Management Department
647 within a reasonable period of time, and in a reasonable and
648 timely manner. Nothing herein shall interfere with any claim a
649 patron might have arising under the Federal Tort Claim Act.

650 (6) Upon receiving written notification of the claim, the

651 Tribe's Risk Management Department shall forward the
 652 notification to the Tribe's insurance carrier. The Tribe shall
 653 use its best efforts to ensure that the insurance carrier
 654 contacts the patron within a reasonable period of time after
 655 receipt of the claim.

656 (7) The insurance carrier shall handle the claim to
 657 conclusion. If the patron, Tribe, and insurance carrier are not
 658 able to resolve the claim in good faith within one year after
 659 the patron provided written notice to the Tribe's Risk
 660 Management Department or the facility, the patron may bring a
 661 tort claim against the Tribe in any court of competent
 662 jurisdiction in the county in which the incident alleged to have
 663 caused injury occurred, as provided in this compact, and subject
 664 to a four-year statute of limitations, which shall begin to run
 665 from the date of the incident of the injury alleged in the
 666 claim. A patron's notice of injury to the Tribe pursuant to
 667 subsection (4) and the fulfillment of the good faith attempt at
 668 resolution pursuant to this part are conditions precedent to
 669 filing suit.

670 (8) For tort claims of patrons made pursuant to subsection
 671 (4), the Tribe agrees to waive its tribal sovereign immunity to
 672 the same extent as the state waives its sovereign immunity, as
 673 specified in s. 768.28(1) and (5), Florida Statutes, as such
 674 provision may be amended from time to time by the Legislature.
 675 In no event shall the Tribe be deemed to have waived its tribal

676 immunity from suit beyond the limits set forth in s. 768.28(5),
 677 Florida Statutes. These limitations are intended to include
 678 liability for compensatory damages, costs, pre-judgment
 679 interest, and attorney fees if otherwise allowable under state
 680 law arising out of any claim brought or asserted against the
 681 Tribe, its subordinate governmental and economic units, any
 682 Tribal officials, employees, servants, or agents in their
 683 official capacities and any entity which is owned, directly or
 684 indirectly, by the Tribe. All patron tort claims brought
 685 pursuant to this provision shall be brought solely against the
 686 Tribe, as the sole party in interest.

687 (9) Notices explaining the procedures and time limitations
 688 with respect to making a tort claim shall be prominently
 689 displayed in the facilities, posted on the Tribe's website, and
 690 provided to any patron for whom the Tribe has notice of the
 691 injury or property damage giving rise to the tort claim. Such
 692 notices shall explain:

693 (a) The method and places for making a tort claim,
 694 including where the patron must submit the claim.

695 (b) That the process is the exclusive method for asserting
 696 a tort claim arising under this section against the Tribe.

697 (c) That the Tribe and its insurance carrier have one year
 698 from the date the patron gives notice of the claim to resolve
 699 the matter, and that after that time, the patron may file suit
 700 in a court of competent jurisdiction.

701 (d) That the exhaustion of the process is a prerequisite
 702 to filing a claim in state court.

703 (e) That claims that fail to follow this process shall be
 704 forever barred.

705 (10) The Tribe shall maintain an insurance policy that
 706 shall:

707 (a) Prohibit the insurer or the Tribe from invoking tribal
 708 sovereign immunity for claims up to the limits to which the
 709 state has waived sovereign immunity as set forth in s.
 710 768.28(5), Florida Statutes, or its successor statute.

711 (b) Include covered claims made by a patron or invitee for
 712 personal injury or property damage.

713 (c) Permit the insurer or the Tribe to assert any
 714 statutory or common law defense other than sovereign immunity.

715 (d) Provide that any award or judgment rendered in favor
 716 of a patron or invitee shall be satisfied solely from insurance
 717 proceeds.

718 (11) The Tribal Council of the Seminole Tribe of Florida
 719 may, in its discretion, consider claims for compensation in
 720 excess of the limits of the Tribe's waiver of its sovereign
 721 immunity.

722

723 PART VII

724

725 ENFORCEMENT OF COMPACT PROVISIONS.—

726 (1) The Tribe, the commission, and the state compliance
 727 agency, to the extent authorized by this compact, shall be
 728 responsible for regulating activities pursuant to this compact.
 729 As part of its responsibilities, the Tribe shall adopt or issue
 730 standards designed to ensure that the facilities are
 731 constructed, operated, and maintained in a manner that
 732 adequately protects the environment and public health and
 733 safety. Additionally, the Tribe and the commission shall ensure
 734 that:

735 (a) Operation of the conduct of covered games is in strict
 736 compliance with:

- 737 1. The Seminole Tribal Gaming Code.
- 738 2. All rules, regulations, procedures, specifications, and
 739 standards lawfully adopted by the National Indian Gaming
 740 Commission and the commission.
- 741 3. The provisions of this compact, including, but not
 742 limited to, the Tribe's standards and rules.

743 (b) Reasonable measures are taken to:

- 744 1. Ensure the physical safety of facility patrons,
 745 employees, and any other person while in the facility.
- 746 2. Prevent illegal activity at the facilities or with
 747 regard to the operation of covered games, including, but not
 748 limited to, the maintenance of employee procedures and a
 749 surveillance system.
- 750 3. Ensure prompt notification is given, in accordance with

751 applicable law, to appropriate law enforcement authorities of
 752 persons who may be involved in illegal acts.

753 4. Ensure that the construction and maintenance of the
 754 facilities complies with the standards of the Florida Building
 755 Code, the provisions of which the Tribe has adopted as the
 756 Seminole Tribal Building Code.

757 5. Ensure adequate emergency access plans have been
 758 prepared to ensure the health and safety of all covered game
 759 patrons.

760 (2) All licenses for members and employees of the
 761 commission shall be issued according to the same standards and
 762 terms applicable to facility employees. The commission's
 763 officers shall be independent of the Tribal gaming operations,
 764 and shall be supervised by and accountable only to the
 765 commission. A commission officer shall be available to the
 766 facility during all hours of operation upon reasonable notice,
 767 and shall have immediate access to any and all areas of the
 768 facility for the purpose of ensuring compliance with the
 769 provisions of this compact. The commission shall investigate any
 770 suspected or reported violation of this part and shall
 771 officially enter into its files timely written reports of
 772 investigations and any action taken thereon, and shall forward
 773 copies of such investigative reports to the state compliance
 774 agency within 30 calendar days after such filing. The scope of
 775 such reporting shall be determined by the commission and the

776 state compliance agency as soon as practicable after the
 777 effective date of this compact. Any such violations shall be
 778 reported immediately to the commission, and the commission shall
 779 immediately forward such reports to the state compliance agency.
 780 In addition, the commission shall promptly report to the state
 781 compliance agency any such violations which it independently
 782 discovers.

783 (3) In order to develop and foster a positive and
 784 effective relationship in the enforcement of the provisions of
 785 this compact, representatives of the commission and the state
 786 compliance agency shall meet at least annually to review past
 787 practices and examine methods to improve the regulatory scheme
 788 created by this compact. The meetings shall take place at a
 789 location mutually agreed upon by the commission and the state
 790 compliance agency. The state compliance agency, before or during
 791 such meetings, shall disclose to the commission any concerns,
 792 suspected activities, or pending matters reasonably believed to
 793 constitute violations of the compact by any person,
 794 organization, or entity, if such disclosure will not compromise
 795 the interest sought to be protected.

797 PART VIII

799 STATE MONITORING OF COMPACT.—

800 (1) It is the express intent of the Tribe and the state

801 for the Tribe to regulate its own gaming activities.
 802 Notwithstanding, the state shall conduct random inspections as
 803 provided for in this part to ensure that the Tribe is operating
 804 in accordance with the terms of the compact. The state may
 805 secure an annual independent audit of the conduct of covered
 806 games subject to this compact and the Tribe shall cooperate with
 807 such audit. The audit shall:
 808 (a) Examine the covered games operated by the Tribe to
 809 ensure compliance with the Tribe's Internal Control Policies and
 810 Procedures and any other standards, policies, or procedures
 811 adopted by the Tribe, the commission, or the National Indian
 812 Gaming Commission which govern the play of covered games.
 813 (b) Examine revenues in connection with the conduct of
 814 covered games and include only those matters necessary to verify
 815 the determination of net win and the basis and amount of the
 816 payments the Tribe is required to make to the state pursuant to
 817 Part XI and as defined by this compact.
 818 (2) A copy of the audit report for the conduct of covered
 819 games shall be submitted to the commission and the state
 820 compliance agency within 30 calendar days after completion.
 821 Representatives of the state compliance agency may, upon
 822 request, meet with the Tribe and its auditors to discuss the
 823 audit or any matters in connection therewith; provided that such
 824 discussions are limited to covered games information. The annual
 825 independent audit shall be performed by an independent firm

826 selected by the state which has experience in auditing casino
 827 operations, subject to the consent of the Tribe, which shall not
 828 be unreasonably withheld. The Tribe shall pay for the cost of
 829 the annual independent audit.

830 (3) As provided herein, the state compliance agency may
 831 monitor the conduct of covered games to ensure that the covered
 832 games are conducted in compliance with the provisions of this
 833 compact. In order to properly monitor the conduct of covered
 834 games, agents of the state compliance agency shall have
 835 reasonable access, without prior notice, to all public areas of
 836 the facilities related to the conduct of covered games.

837 (a) The state compliance agency may review whether the
 838 Tribe's facilities are in compliance with the provisions of this
 839 compact and the Tribe's rules and regulations applicable to
 840 covered games and may advise on such issues as it deems
 841 appropriate. In the event of a dispute or disagreement between
 842 Tribal and state compliance agency regulators, the dispute or
 843 disagreement shall be resolved in accordance with the dispute
 844 resolution provisions of Part XIII.

845 (b) In order to fulfill its oversight responsibilities,
 846 the state compliance agency may perform on a routine basis
 847 specific oversight testing procedures as set forth in paragraph

848 (c).

849 (c)1. The state compliance agency may inspect any covered
 850 games in operation at the facilities on a random basis, provided

851 that such inspections may not exceed one inspection per facility
 852 per calendar month and the inspection may not exceed ten hours
 853 spread over those two consecutive days, unless the state
 854 compliance agency determines that additional inspection hours
 855 are needed to address the issues of substantial noncompliance,
 856 provided that the state compliance agency provides the Tribe
 857 with written notification of the need for additional inspection
 858 hours and a written summary of the substantial noncompliance
 859 issues that need to be addressed during the additional
 860 inspection hours. The total number of hours of random
 861 inspections and audit reviews per year may not exceed 1,200
 862 hours. Inspection hours shall be calculated on the basis of the
 863 actual amount of time spent by the state compliance agency
 864 conducting the inspections at a facility, without accounting for
 865 a multiple for the number of state compliance agency inspectors
 866 or agents engaged in the inspection activities. The purpose of
 867 the random inspections is to confirm that the covered games
 868 function properly pursuant to the manufacturer's technical
 869 standards and are conducted in compliance with the Tribe's
 870 Internal Control Policies and Procedures and any other
 871 standards, policies, or procedures adopted by the Tribe, the
 872 commission, or the National Indian Gaming Commission which
 873 govern the play of covered games. The state compliance agency
 874 shall provide notice to the commission of such inspection at or
 875 before the commencement of a random inspection and a commission

876 agent may accompany the inspection.

877 2. For each facility, the state compliance agency may
 878 perform one annual review of the Tribe's slot machine compliance
 879 audit.

880 3. At least annually, the state compliance agency may meet
 881 with the Tribe's Internal Audit Department for Gaming to review
 882 internal controls and the record of violations for each
 883 facility.

884 (d) The state compliance agency shall cooperate with and
 885 obtain the assistance of the commission in the resolution of any
 886 conflicts in the management of the facilities, and the state and
 887 the Tribe shall make their best efforts to resolve disputes
 888 through negotiation whenever possible. Therefore, to foster a
 889 spirit of cooperation and efficiency, the state compliance
 890 agency and Tribe shall resolve disputes between the state
 891 compliance agency staff and commission regulators about the day-
 892 to-day regulation of the facilities through meeting and
 893 conferring in good faith. Notwithstanding, the parties may seek
 894 other relief that may be available when circumstances require
 895 such relief. In the event of a dispute or disagreement between
 896 tribal and state compliance agency regulators, the dispute or
 897 disagreement shall be resolved in accordance with the dispute
 898 resolution provisions of Part XIII.

899 (e) The state compliance agency shall have access to each
 900 facility during the facility's operating hours only. No advance

901 notice is required when the state compliance agency inspection
 902 is limited to public areas of the facility; however,
 903 representatives of the state compliance agency shall provide
 904 notice and photographic identification to the commission of
 905 their presence before beginning any such inspections.

906 (f) The state compliance agency agents, to ensure that a
 907 commission officer is available to accompany the state
 908 compliance agency agents at all times, shall provide one hour
 909 notice and photographic identification to the commission before
 910 entering any nonpublic area of a facility. Agents of the state
 911 compliance agency shall be accompanied in nonpublic areas of the
 912 facility by a commission officer.

913 (g) Any suspected or claimed violations of this compact or
 914 law shall be directed in writing to the commission. The state
 915 compliance agency, in conducting the functions assigned them
 916 under this compact, shall not unreasonably interfere with the
 917 functioning of any facility.

918 (4) Subject to the provisions herein, the state compliance
 919 agency may review and request copies of documents of the
 920 facility related to its conduct of covered games during normal
 921 business hours unless otherwise allowed by the Tribe. The Tribe
 922 may not refuse said inspection and copying of such documents,
 923 provided that the inspectors do not require copies of documents
 924 in such volume that it unreasonably interferes with the normal
 925 functioning of the facilities or covered games. To the extent

926 that the Tribe provides the state with information that the
 927 Tribe claims to be confidential and proprietary, or a trade
 928 secret, the Tribe shall clearly mark such information with the
 929 following designation: "Trade Secret, Confidential, and
 930 Proprietary." If the state receives a request under chapter 119
 931 that would include such designated information, the state shall
 932 promptly notify the Tribe of such a request and the Tribe shall
 933 promptly notify the state about its intent to seek judicial
 934 protection from disclosure. Upon such notice from the Tribe, the
 935 state may not release the requested information until a judicial
 936 determination is made. This designation and notification
 937 procedure does not excuse the state from complying with the
 938 requirements of the state's public records law, but is intended
 939 to provide the Tribe the opportunity to seek whatever judicial
 940 remedy it deems appropriate. Notwithstanding the foregoing
 941 procedure, the state compliance agency may provide copies of
 942 tribal documents to federal law enforcement and other state
 943 agencies or state consultants that the state deems reasonably
 944 necessary in order to conduct or complete any investigation of
 945 suspected criminal activity in connection with the Tribe's
 946 covered games or the operation of the facilities or in order to
 947 assure the Tribe's compliance with this compact.

948 (5) At the completion of any state compliance agency
 949 inspection or investigation, the state compliance agency shall
 950 forward any written report thereof to the commission, containing

951 all pertinent, nonconfidential, nonproprietary information
 952 regarding any violation of applicable laws or this compact which
 953 was discovered during the inspection or investigation unless
 954 disclosure thereof would adversely impact an investigation of
 955 suspected criminal activity. Nothing herein prevents the state
 956 compliance agency from contacting tribal or federal law
 957 enforcement authorities for suspected criminal wrongdoing
 958 involving the commission.

959 (6) Except as expressly provided in this compact, nothing
 960 in this compact shall be deemed to authorize the state to
 961 regulate the Tribe's government, including the commission, or to
 962 interfere in any way with the Tribe's selection of its
 963 governmental officers, including members of the commission.

964
 965 PART IX
 966

967 JURISDICTION.—The obligations and rights of the state and
 968 the Tribe under this compact are contractual in nature and are
 969 to be construed in accordance with the laws of the state. This
 970 compact does not alter tribal, federal, or state civil
 971 adjudicatory or criminal jurisdiction in any way.

972
 973 PART X
 974

975 LICENSING.—The Tribe and the commission shall comply with

976 the licensing and hearing requirements set forth in 25 C.F.R.
 977 parts 556 and 558, as well as the applicable licensing and
 978 hearing requirements set forth in Articles IV, V, and VI of the
 979 Seminole Tribal Gaming Code. The commission shall notify the
 980 state compliance agency of any disciplinary hearings or
 981 revocation or suspension of licenses.

982
 983 PART XI
 984

985 PAYMENTS TO THE STATE OF FLORIDA.—

986 (1) The parties acknowledge and recognize that this
 987 compact provides the Tribe with partial but substantial
 988 exclusivity and other valuable consideration consistent with the
 989 goals of the Indian Gaming Regulatory Act, including special
 990 opportunities for tribal economic development through gaming
 991 within the external boundaries of the state with respect to the
 992 play of covered games. In consideration thereof, the Tribe
 993 covenants and agrees, subject to the conditions agreed upon in
 994 Part XII, to make payments to the state derived from net win as
 995 set forth in subsections (2) and (7). The Tribe further agrees
 996 that it will not purchase or lease any new Class II video bingo
 997 terminals or their equivalents for use at its facilities after
 998 the effective date of this compact.

999 (2) The Tribe shall make periodic revenue share payments
 1000 to the state derived from net win as set forth in this

1001 subsection, and any such payments shall be made to the state via
 1002 electronic funds transfer. Of the amounts paid by the Tribe to
 1003 the state, three percent shall be distributed to local
 1004 governments, including both counties and municipalities, in the
 1005 state affected by the Tribe's operation of covered games. Of the
 1006 remaining amounts paid by the Tribe to the state, one-third
 1007 shall be allocated to K-12 teacher recruitment and retention
 1008 bonuses, one-third shall be allocated to schools that serve
 1009 students from persistently failing schools, and one-third shall
 1010 be allocated to higher education institutions to recruit and
 1011 retain distinguished faculty. If the Florida Legislature fails
 1012 to allocate the amounts to the specified educational purposes in
 1013 the precise manner and amounts set forth in this subsection, all
 1014 further payments due to the state pursuant to subsections (2)
 1015 and (7) shall cease, until such time as such allocations are
 1016 made, in which event the payments shall resume. Payments shall
 1017 be due in accordance with the payment schedule set forth in
 1018 paragraph (a).

1019 (a) Revenue share payments by the Tribe to the state shall
 1020 be calculated as follows:

1021 1. During the initial payment period, the Tribe agrees to
 1022 pay the state a revenue share payment in accordance with this
 1023 subparagraph.

1024 a. 13 percent of all amounts up to \$2 billion of net win
 1025 received by the Tribe from the operation and play of covered

1026 games during each revenue sharing cycle;
 1027 b. 17.5 percent of all amounts greater than \$2 billion up
 1028 to and including \$3.5 billion of net win received by the Tribe
 1029 from the operation and play of covered games during each revenue
 1030 sharing cycle;
 1031 c. 20 percent of all amounts greater than \$3.5 billion up
 1032 to and including \$4 billion of net win received by the Tribe
 1033 from the operation and play of covered games during each revenue
 1034 sharing cycle;
 1035 d. 22.5 percent of all amounts greater than \$4 billion up
 1036 to and including \$4.5 billion of net win received by the Tribe
 1037 from the operation and play of covered games during each revenue
 1038 sharing cycle; or
 1039 e. 25 percent of all amounts greater than \$4.5 billion of
 1040 net win received by the Tribe from the operation and play of
 1041 covered games during each revenue sharing cycle.
 1042 2. During the guarantee payment period, the Tribe agrees
 1043 to make fixed payments in accordance with this subparagraph. In
 1044 addition, within 90 days after the end of the guarantee payment
 1045 period, the Tribe shall make an additional payment to the state
 1046 equal to the amount above \$3 billion, if any, that would have
 1047 been owed by the Tribe to the state had the percentages set
 1048 forth in subparagraph 3. been applicable during the guarantee
 1049 payment period.
 1050 a. A payment of \$325 million during the first revenue

1051 sharing cycle;
 1052 b. A payment of \$350 million during the second revenue
 1053 sharing cycle;
 1054 c. A payment of \$375 million during the third revenue
 1055 sharing cycle;
 1056 d. A payment of \$425 million during the fourth revenue
 1057 sharing cycle;
 1058 e. A payment of \$475 million during the fifth revenue
 1059 sharing cycle;
 1060 f. A payment of \$500 million during the sixth revenue
 1061 sharing cycle; and
 1062 g. A payment of \$550 million during the seventh revenue
 1063 sharing cycle.
 1064 3. During the regular payment period, the Tribe agrees to
 1065 pay a revenue share payment, for each revenue sharing cycle, to
 1066 the state equal to the amount calculated in accordance with this
 1067 subparagraph.
 1068 a. 13 percent of all amounts up to \$2 billion of net win
 1069 received by the Tribe from the operation and play of covered
 1070 games during each revenue sharing cycle;
 1071 b. 17.5 percent of all amounts greater than \$2 billion up
 1072 to and including \$3.5 billion of net win received by the Tribe
 1073 from the operation and play of covered games during each revenue
 1074 sharing cycle;
 1075 c. 20 percent of all amounts greater than \$3.5 billion up

1076 to and including \$4 billion of net win received by the Tribe
 1077 from the operation and play of covered games during each revenue
 1078 sharing cycle;

1079 d. 22.5 percent of all amounts greater than \$4 billion up
 1080 to and including \$4.5 billion of net win received by the Tribe
 1081 from the operation and play of covered games during each revenue
 1082 sharing cycle; or

1083 e. 25 percent of all amounts greater than \$4.5 billion of
 1084 net win received by the Tribe from the operation and play of
 1085 covered games during each revenue sharing cycle.

1086 (3) The Tribe shall remit monthly payments as follows:

1087 (a) On or before the 15th day of the month following each
 1088 month of the revenue sharing cycle, the Tribe will remit to the
 1089 state or its assignee the monthly payment. For purposes of this
 1090 section, the monthly payment shall be 8.3 percent of the
 1091 estimated revenue share payment to be paid by the Tribe during
 1092 such revenue sharing cycle.

1093 (b) The Tribe shall make available to the state at the
 1094 time of the monthly payment the basis for the calculation of the
 1095 payment.

1096 (c) The Tribe shall, on a monthly basis, reconcile the
 1097 calculation of the estimated revenue share payment based on the
 1098 Tribe's unaudited financial statements related to covered games.

1099 (4) The Tribe shall have an audit conducted as follows:

1100 (a) On or before the 45th day after the third month, sixth

1101 month, ninth month, and twelfth month of each revenue sharing
 1102 cycle, provided that the 12-month period does not coincide with
 1103 the Tribe's fiscal year end date as indicated in paragraph (c),
 1104 the Tribe shall provide the state with an audit report by its
 1105 independent auditors as to the annual revenue share calculation.

1106 (b) For each quarter within revenue sharing cycle, the
 1107 Tribe shall engage its independent auditors to conduct a review
 1108 of the unaudited net revenue from covered games. On or before
 1109 the 120th day after the end of the Tribe's fiscal year, the
 1110 Tribe shall require its independent auditors to provide an audit
 1111 report with respect to net win for covered games and the related
 1112 payment of the annual revenue share.

1113 (c) If the twelfth month of the revenue sharing cycle does
 1114 not coincide with the Tribe's fiscal year, the Tribe shall
 1115 deduct net win from covered games for any of the months outside
 1116 of the revenue sharing cycle and include net win from covered
 1117 games for those months outside of the Tribe's audit period but
 1118 within the revenue sharing cycle, before issuing the audit
 1119 report.

1120 (d) No later than 30 calendar days after the day the audit
 1121 report is issued, the Tribe shall remit to the state any
 1122 underpayment of the annual revenue share, and the state shall
 1123 either reimburse to the Tribe any overpayment of the annual
 1124 revenue share or authorize the overpayment to be deducted from
 1125 the next successive monthly payment or payments.

1126 (5) If, after any change in state law to affirmatively
 1127 allow internet or online gaming, or any functionally equivalent
 1128 remote gaming system that permits a person to play from home or
 1129 any other location that is remote from a casino or other
 1130 commercial gaming facility, the Tribe's net win from the
 1131 operation of covered games at all of its facilities combined
 1132 drops more than five percent below its net win from the previous
 1133 12-month period, the Tribe shall no longer be required to make
 1134 payments to the state based on the guaranteed minimum compact
 1135 term payment and shall not be required to make the guaranteed
 1136 minimum compact term payment. However, the Tribe shall continue
 1137 to make payments based on the percentage revenue share amount.
 1138 The Tribe shall resume making the guaranteed minimum compact
 1139 term payment for any subsequent revenue sharing cycle in which
 1140 its net win rises above the level described in this subsection.

1141 This subsection does not apply if:

1142 (a) The decline in net win is due to acts of God, war,
 1143 terrorism, fires, floods, or accidents causing damage to or
 1144 destruction of one or more of its facilities or property
 1145 necessary to operate the facility of facilities; or

1146 (b) The Tribe offers internet or online gaming or any
 1147 functionally equivalent remote gaming system that permits a
 1148 person to game from home or any other location that is remote
 1149 from any of the Tribe's facilities, as authorized by law.

1150 (6) The annual oversight assessment, which shall not

1151 exceed \$250,000 per year, indexed for inflation as determined by
 1152 the Consumer Price Index, shall be determined and paid in
 1153 quarterly installments within 30 calendar days after receipt by
 1154 the Tribe of an invoice from the state compliance agency. The
 1155 Tribe reserves the right to audit the invoices on an annual
 1156 basis, a copy of which will be provided to the state compliance
 1157 agency, and any discrepancies found therein shall be reconciled
 1158 within 45 calendar days after receipt of the audit by the state
 1159 compliance agency.

1160 (7) The Tribe shall make an annual donation to the Florida
 1161 Council on Compulsive Gaming as an assignee of the state in an
 1162 amount not less than \$250,000 per facility.

1163 (8) In accordance with the Tribe's previous and continued
 1164 conduct of Class III gaming pursuant to the previously existing
 1165 compact, the Tribe shall continue to pay the state \$19.5 million
 1166 on or before the 15th day of the month following each month that
 1167 the Tribe conducts Class III gaming before the effective date of
 1168 this compact.

1169 (9) On the effective date of this compact, any moneys
 1170 remitted by the Tribe before the effective date of this compact
 1171 shall be released to the state without further obligation or
 1172 encumbrance.

1173 (10) Except as expressly provided in this part, nothing in
 1174 this compact shall be deemed to require the Tribe to make
 1175 payments of any kind to the state or any of its agencies.

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PART XII

REDUCTION OF TRIBAL PAYMENTS BECAUSE OF LOSS OF EXCLUSIVITY
OR OTHER CHANGES IN STATE LAW.—The intent of this compact is to
provide the Tribe with the right to operate covered games on an
exclusive basis throughout the state, subject to the exceptions
and provisions in this part.

(1) For purposes of this subsection, the terms "Class III
gaming" or "other casino-style gaming" include, but are not
limited to, slot machines, electronically assisted bingo or
electronically assisted pull-tab games, noncard table games,
video lottery terminals, or any similar games, whether or not
such games are determined through the use of a random number
generator.

(a) If, after February 1, 2017, state law is amended,
implemented, or interpreted to allow the operation of Class III
gaming or other casino-style gaming at any location under the
jurisdiction of the state that was not in operation as of
February 1, 2017, or a new form of Class III gaming or other
casino-style gaming that was not in operation as of February 1,
2017, and such gaming is offered to the public as a result of
the amendment, implementation, or interpretation, the Tribe, no
fewer than 30 days after the commencement of such new gaming or
90 days after the state's receipt of written notice from the

1201 Tribe pursuant to subsection (b), whichever occurs later, may
 1202 elect to begin making the affected portion of its payments due
 1203 to the state pursuant to subsections (2) and (7) of Part XI,
 1204 into an escrow account.

1205 (b) In order to exercise the provisions of paragraph (a),
 1206 the Tribe must first notify the state, within 90 days after such
 1207 amendment, implementation, or interpretation of state law, of
 1208 the Tribe's objections to such action or interpretation and
 1209 further specify the basis for the Tribe's contention that such
 1210 action or interpretation infringes upon the substantial
 1211 exclusivity afforded under this compact. As part of its written
 1212 notice, the Tribe must also indicate, if applicable, its
 1213 intention to begin making the affected portion of its payments
 1214 due to the state into an escrow account.

1215 (c) Upon receipt of written notice from the Tribe, the
 1216 state may elect to:

1217 1. Invoke the dispute resolution provisions of Part XIII
 1218 to determine whether the Tribe's contention is well-founded. In
 1219 such proceeding, the Tribe carries the burden of proof and
 1220 persuasion. The pendency of such proceeding tolls the time
 1221 periods set forth in paragraph (1)(a) of Part XI for the
 1222 duration of the dispute or litigation; or

1223 2. Seek through enforcement action, legislation, or other
 1224 means to stop the conduct of such new games.

1225 (d)1. If, within 15 months following the state's receipt

1226 of written notice from the Tribe, the Tribe's contention is
 1227 deemed not to be well-founded at the conclusion of dispute
 1228 resolution or new gaming is made illegal and is halted, then all
 1229 funds being held in the escrow account shall be released to the
 1230 state and all further payments due to the state pursuant to
 1231 subsections (2) and (7) of Part XI shall promptly resume.

1232 2. If, after 15 months following the state's receipt of
 1233 written notice from the Tribe, the Tribe's contention is deemed
 1234 to be well-founded at the conclusion of dispute resolution and
 1235 such gaming is not made illegal and halted, then all funds being
 1236 held in escrow shall be returned to the Tribe and all further
 1237 payments due to the state pursuant to subsections (2) and (7) of
 1238 Part XI shall cease or be reduced as provided in subsection (2)
 1239 until such gaming is no longer operated, in which event the
 1240 payments shall promptly resume.

1241 (2) The following are exceptions to the exclusivity
 1242 provisions of subsection (1):

1243 (a) Any Class III gaming authorized by a compact between
 1244 the state and any other federally recognized tribe pursuant to
 1245 Indian Gaming Regulatory Act, provided that the tribe has land
 1246 in federal trust in the state as of February 1, 2017.

1247 (b) The operation of slot machines, which does not include
 1248 any game played with tangible playing cards, at each of the four
 1249 currently operating licensed pari-mutuel facilities in Broward
 1250 County and the four currently operating licensed pari-mutuel

1251 facilities in Miami-Dade County, whether or not currently
 1252 operating slot machines, provided that such licenses are not
 1253 transferred or otherwise used to move or operate such slot
 1254 machines at any other location.

1255 (c)1. If state law is amended to allow for the play of any
 1256 additional type of Class III or other casino-style gaming at any
 1257 of the presently operating licensed pari-mutuel facilities in
 1258 Broward and Miami-Dade Counties, the Tribe may be entitled to a
 1259 reduction in the revenue sharing payment as described in
 1260 subparagraph 2.

1261 2. If the Tribe's annual net win from its facilities
 1262 located in Broward County for the 12 month period after the
 1263 gaming specified in subparagraph 1. begins to be offered for
 1264 public or private use is less than the net revenue base, the
 1265 revenue share payments due to the state, pursuant to
 1266 subparagraph (2)(a)2. of Part XI, for the next revenue sharing
 1267 cycle and future revenue sharing cycles shall be calculated by
 1268 reducing the Tribe's payment on revenue generated from its
 1269 facilities in Broward County by 50 percent of that reduction in
 1270 annual net win from its facilities in Broward County. This
 1271 paragraph does not apply if the decline in net win is due to
 1272 acts of God, war, terrorism, fires, floods, or accidents causing
 1273 damage to or destruction of one or more of its facilities or
 1274 property necessary to operate the facility or facilities.

1275 3. If the Tribe's annual net win from its facilities

1276 located in Broward County subsequently equals or exceeds the net
 1277 revenue base, then the Tribe's payments due to the state
 1278 pursuant to subparagraph (2)(a)2. of Part XI shall again be
 1279 calculated without any reduction, but may be reduced again under
 1280 the provisions set forth in subparagraph 2.

1281 (d) If state law is amended to allow the play of Class III
 1282 gaming or other casino-style gaming, as defined in this part, at
 1283 any location in Miami-Dade County or Broward County under the
 1284 jurisdiction of the state that is not presently licensed for the
 1285 play of such games at such locations, other than those
 1286 facilities set forth in paragraph (c) and this paragraph, and
 1287 such games were not in play as of February 1, 2017, and such
 1288 gaming begins to be offered for public or private use, the
 1289 payments due the state pursuant to subparagraph (c)2., shall be
 1290 calculated by excluding the net win from the Tribe's facilities
 1291 in Broward County.

1292 (e) The operation of a combined total of not more than 350
 1293 historic racing machines, connected to a central server at that
 1294 facility, and electronic bingo machines at each pari-mutuel
 1295 facility licensed as of February 1, 2017, and not located in
 1296 either Broward County or Miami-Dade County.

1297 (f) The operation of pari-mutuel wagering activities at
 1298 pari-mutuel facilities licensed by the state, provided such
 1299 facilities annually conduct a full schedule of live races or
 1300 games in a manner that would comply with the Florida Statutes in

1301 effect as of February 1, 2017.

1302 (g) The operation of poker, including no-limit poker but
 1303 excluding any game involving a bank, at card rooms licensed by
 1304 the state; provided all such card rooms are located at pari-
 1305 mutuel facilities that annually conduct a certain number of live
 1306 performances in a manner that would comply with cardroom license
 1307 renewal requirements set forth in the Florida Statutes in effect
 1308 as of February 1, 2017.

1309 (h) The operation by the Department of the Lottery of
 1310 those types of lottery games authorized under chapter 24 as of
 1311 February 1, 2017, but not including any player-activated or
 1312 operated machine or device other than a lottery vending machine
 1313 or any banked or banking card or table game. However, not more
 1314 than ten lottery vending machines may be installed at any
 1315 facility or location and no lottery vending machine that
 1316 dispenses electronic instant tickets may be installed at any
 1317 licensed pari-mutuel facility.

1318 (i) The operation of games authorized by chapter 849 as of
 1319 February 1, 2017, which does not authorize any card game in
 1320 which any person, operator, or other party serves as a bank,
 1321 paying all winners and collecting from all losers.

1322 (3) To the extent that the exclusivity provisions of this
 1323 part are breached or otherwise violated and the Tribe's ongoing
 1324 payment obligations to the state pursuant to subsections (2) and
 1325 (7) of Part XI cease, any outstanding payments that would have

1326 been due the state from the Tribe's facilities before the breach
 1327 or violation shall be made within 30 business days after the
 1328 breach or violation.

1329 (4) The breach of this part's exclusivity provisions and
 1330 the cessation of payments pursuant to subsections (2) and (7) of
 1331 Part XI shall not excuse the Tribe from continuing to comply
 1332 with all other provisions of this compact, including continuing
 1333 to pay the state the annual oversight assessment as set forth in
 1334 subsection (3) of Part XI.

1335

1336 PART XIII

1337

1338 DISPUTE RESOLUTION.—In the event that the Tribe or State
 1339 believes that the other party has failed to comply with any
 1340 requirements of this compact, or in the event of any dispute
 1341 hereunder, including, but not limited to, a dispute over the
 1342 proper interpretation of the terms and conditions of this
 1343 compact, the goal of the parties is to resolve all disputes
 1344 amicably and voluntarily whenever possible. In pursuit of this
 1345 goal, the following procedures may be invoked:

1346 (1) A party asserting noncompliance or seeking an
 1347 interpretation of this compact first shall serve written notice
 1348 on the other party. The notice shall identify the specific
 1349 compact provision alleged to have been violated or in dispute
 1350 and shall specify in detail the asserting party's contention and

1351 any factual basis for the claim. Representatives of the Tribe
 1352 and state shall meet within 30 calendar days after receipt of
 1353 notice in an effort to resolve the dispute, unless they mutually
 1354 agree to extend this period.

1355 (2) A party asserting noncompliance or seeking an
 1356 interpretation of this compact under this part shall be deemed
 1357 to have certified that to the best of the party's knowledge,
 1358 information, and belief formed after reasonable inquiry, the
 1359 claim of noncompliance or the request for interpretation of this
 1360 compact is warranted and made in good faith and not for any
 1361 improper purpose, such as to harass or to cause unnecessary
 1362 delay or the needless incurring of the cost of resolving the
 1363 dispute.

1364 (3) If the parties are unable to resolve a dispute through
 1365 the process specified in subsections (1) and (2), either party
 1366 may call for mediation under the Commercial Mediation Procedures
 1367 of the American Arbitration Association or any successor
 1368 procedures, provided that such mediation does not last more than
 1369 60 calendar days, unless an extension to this time limit is
 1370 negotiated by the parties. Only matters arising under the terms
 1371 of this compact may be available for resolution through
 1372 mediation. If the parties are unable to resolve a dispute
 1373 through the process specified in this part, notwithstanding any
 1374 other provision of law, either party may bring an action in a
 1375 United States District Court having venue regarding a dispute

1376 arising under this compact. If the court declines to exercise
 1377 jurisdiction, or federal precedent exists that holds that the
 1378 court would not have jurisdiction over such a dispute, either
 1379 party may bring the action in the appropriate court of the
 1380 Seventeenth Judicial Circuit in Broward County, Florida. The
 1381 parties are entitled to all rights of appeal permitted by law in
 1382 the court system in which the action is brought.

1383 (4) For purposes of actions based on disputes between the
 1384 state and the Tribe that arise under this compact and the
 1385 enforcement of any judgment resulting from such action, the
 1386 Tribe and the state each expressly waive the right to assert
 1387 sovereign immunity from suit and from enforcement of any ensuing
 1388 judgment, and further consent to be sued in federal or state
 1389 court, including the right of appeal specified above, as the
 1390 case may be, provided that:

1391 (a) The dispute is limited solely to issues arising under
 1392 this compact.

1393 (b) There is no claim for monetary damages, except that
 1394 payment of any money required by the terms of this compact, as
 1395 well as injunctive relief or specific performance enforcing a
 1396 provision of this compact requiring the payment of money to the
 1397 state may be sought.

1398 (c) Nothing herein shall be construed to constitute a
 1399 waiver of the sovereign immunity of the Tribe with respect to
 1400 any third party that is made a party or intervenes as a party to

1401 the action. In the event that intervention, joinder, or other
 1402 participation by any additional party in any action between the
 1403 state and the Tribe would result in the waiver of the Tribe's
 1404 sovereign immunity as to that additional party, the waiver of
 1405 the Tribe may be revoked.

1406 (5) The state may not be precluded from pursuing any
 1407 mediation or judicial remedy against the Tribe on the grounds
 1408 that the state has failed to exhaust its Tribal administrative
 1409 remedies.

1410 (6) Notwithstanding any other provision of this part, any
 1411 failure of the Tribe to remit the payments pursuant to the terms
 1412 of Part XI entitles the state to seek injunctive relief in
 1413 federal or state court, at the state's election, to compel the
 1414 payments after the dispute resolution process in subsections (1)
 1415 and (2) is exhausted.

1417 PART XIV

1419 CONSTRUCTION OF COMPACT; SEVERANCE; FEDERAL APPROVAL.—

1420 (1) Each provision of this compact shall stand separate
 1421 and independent of every other provision. In the event that a
 1422 federal district court in Florida or other court of competent
 1423 jurisdiction shall find any provision of this compact to be
 1424 invalid, the remaining provisions shall remain in full force and
 1425 effect, provided that severing the invalidated provision does

1426 not undermine the overall intent of the parties in entering into
 1427 this compact. However, if subsection (6) of Part III, Part XI,
 1428 or Part XII is held by a court of competent jurisdiction to be
 1429 invalid, this compact will become null and void.

1430 (2) It is understood that Part XII, which provides for a
 1431 cessation of the payments to the state under Part XI, does not
 1432 create any duty on the state but only a remedy for the Tribe if
 1433 gaming under state jurisdiction is expanded.

1434 (3) This compact is intended to meet the requirements of
 1435 the Indian Gaming Regulatory Act as it reads on the effective
 1436 date of this compact, and where reference is made to the Indian
 1437 Gaming Regulatory Act, or to an implementing regulation thereof,
 1438 the reference is deemed to have been incorporated into this
 1439 document. Subsequent changes to the Indian Gaming Regulatory Act
 1440 that diminish the rights of the state or Tribe may not be
 1441 applied retroactively to alter the terms of this compact, except
 1442 to the extent that federal law validly mandates that retroactive
 1443 application without the respective consent of the state or the
 1444 Tribe. In the event that a subsequent change in the Indian
 1445 Gaming Regulatory Act, or to an implementing regulation thereof,
 1446 mandates retroactive application without the respective consent
 1447 of the state or the Tribe, the parties agree that this compact
 1448 is voidable by either party if the subsequent change materially
 1449 alters the provisions in the compact relating to the play of
 1450 covered games, revenue sharing payments, suspension or reduction

1451 of payments, or exclusivity.

1452 (4) Neither the presence of language that is not included
 1453 in this compact, nor the absence in this compact of language
 1454 that is present in another state-tribal compact shall be a
 1455 factor in construing the terms of this compact.

1456 (5) The Tribe and the state shall defend the validity of
 1457 this compact.

1458 (6) The parties shall cooperate in seeking approval of
 1459 this compact from the Secretary of the Department of the
 1460 Interior.

1461

1462 PART XV

1463

1464 NOTICES.—All notices required under this compact shall be
 1465 given by certified mail, return receipt requested, commercial
 1466 overnight courier service, or personal delivery, to the
 1467 Governor, the President of the Senate, the Speaker of the House
 1468 of Representatives, and the Chairman and General Counsel of the
 1469 Seminole Tribe of Florida.

1470

1471 PART XVI

1472

1473 EFFECTIVE DATE AND TERM.—

1474 (1) This compact, if identical to the version ratified by
 1475 the Legislature in s. 285.710(3)(c), Florida Statutes, in 2017,

1476 shall become effective upon its approval as a tribal-state
 1477 compact within the meaning of the Indian Gaming Regulatory Act
 1478 either by action of the Secretary of the Department of the
 1479 Interior or by operation of law under 25 U.S.C. s. 2710(d)(8)
 1480 upon publication of a notice of approval in the Federal Register
 1481 under 25 U.S.C. s. 2710(d)(8)(D).

1482 (2) This compact shall have a term of twenty years
 1483 beginning on the first day of the month following the month in
 1484 which the compact becomes effective under subsection (1).

1485 (3) The Tribe's authorization to offer covered games under
 1486 this compact shall automatically terminate twenty years after
 1487 the effective date unless renewed by an affirmative act of the
 1488 Legislature.

1490 PART XVII

1492 AMENDMENT OF COMPACT AND REFERENCES.—

1493 (1) Amendment of this compact may only be made by written
 1494 agreement of the parties, subject to approval by the Secretary
 1495 of the Department of the Interior, either by publication of the
 1496 notice of approval in the Federal Register or by operation of
 1497 law under 25 U.S.C. s. 2710(d)(8).

1498 (2) Legislative ratification is required for any amendment
 1499 to the compact that alters the provisions relating to covered
 1500 games, the amount of revenue sharing payments, suspension or

1501 reduction in payments, or exclusivity.
 1502 (3) Changes in the provisions of tribal ordinances,
 1503 regulations, and procedures referenced in this compact may be
 1504 made by the Tribe with 30 days' advance notice to the state. If
 1505 the state has an objection to any change to the tribal
 1506 ordinance, regulation, or procedure which is the subject of the
 1507 notice on the ground that its adoption would be a violation of
 1508 the Tribe's obligations under this compact, the state may invoke
 1509 the dispute resolution provisions provided in Part XIII.

1511 PART XVIII

1513 MISCELLANEOUS.—

1514 (1) Except to the extent expressly provided in this
 1515 compact, this compact is not intended to, and shall not be
 1516 construed to, create any right on the part of a third party to
 1517 bring an action to enforce any of its terms.

1518 (2) If, after the effective date of this compact, the
 1519 state enters into a compact with any other Tribe that contains
 1520 more favorable terms with respect to the provisions of this
 1521 Compact and the Secretary of the Department of the Interior
 1522 approves such compact, either by publication of the notice of
 1523 approval in the Federal Register or by operation of law under 25
 1524 U.S.C. s. 2710(d)(8), upon tribal notice to the state and the
 1525 Secretary, this compact shall be deemed amended to contain the

1526 more favorable terms, unless the state objects to the change and
 1527 can demonstrate, in a proceeding commenced under Part XIII, that
 1528 the terms in question are not more favorable.

1529 (3) Upon the occurrence of certain events beyond the
 1530 Tribe's control, including acts of God, war, terrorism, fires,
 1531 floods, or accidents causing damage to or destruction of one or
 1532 more of its facilities or property necessary to operate the
 1533 facility or facilities, the Tribe's obligation to pay the
 1534 guaranteed minimum compact term payment described in Part XI
 1535 shall be reduced pro rata to reflect the percentage of the total
 1536 net win lost to the Tribe from the impacted facility or
 1537 facilities and the net win specified under subsection (2) of
 1538 Part XII for purposes of determining whether the Tribe's
 1539 payments described in Part XI shall cease, shall be reduced pro
 1540 rata to reflect the percentage of the total net win lost to the
 1541 Tribe from the impacted facility or facilities. The foregoing
 1542 shall not excuse any obligations of the Tribe to make payments
 1543 to the state as and when required hereunder or in any related
 1544 document or agreement.

1545 (4) The Tribe and the state recognize that opportunities
 1546 to engage in gaming in smoke-free or reduced-smoke environments
 1547 provides both health and other benefits to patrons, and the
 1548 Tribe has instituted a nonsmoking section at its Seminole Hard
 1549 Rock Hotel & Casino-Hollywood Facility. As part of its
 1550 continuing commitment to this issue, the Tribe shall:

1551 (a) Install and utilize a ventilation system at all new
 1552 construction at its facilities, which system exhausts tobacco
 1553 smoke to the extent reasonably feasible under existing state-of-
 1554 the-art technology.

1555 (b) Designate a smoke-free area for slot machines at all
 1556 new construction at its facilities.

1557 (c) Install nonsmoking, vented tables for table games
 1558 installed in its facilities sufficient to reasonably respond to
 1559 demand for such tables.

1560 (d) Designate a nonsmoking area for gaming within all of
 1561 its facilities within five years after the effective date of the
 1562 compact.

1563 (5) The annual average minimum pay-out of all slot
 1564 machines in each facility may not be less than 85 percent.

1565 (6) Nothing in this compact shall alter any of the
 1566 existing memoranda of understanding, contracts, or other
 1567 agreements entered into between the Tribe and any other federal,
 1568 state, or local governmental entity.

1569 (7) The Tribe currently has, as set forth in its Employee
 1570 Fair Treatment and Dispute Resolution Policy, and agrees to
 1571 maintain, standards that are comparable to the standards
 1572 provided in federal laws and state laws forbidding employers
 1573 from discrimination in connection with the employment of persons
 1574 working at the facilities on the basis of race, color, religion,
 1575 national origin, gender, age, disability, or marital status.

1576 Nothing herein shall preclude the Tribe from giving preference
 1577 in employment, promotion, seniority, lay-offs, or retention to
 1578 members of the Tribe and other federally recognized tribes.

1579 (8) The Tribe shall, with respect to any facility where
 1580 covered games are played, adopt and comply with tribal
 1581 requirements that meet the same minimum state requirements
 1582 applicable to businesses in the state with respect to
 1583 environmental and building standards.

1584
 1585 PART XIX
 1586

1587 EXECUTION.—The Governor of the State of Florida affirms
 1588 that he has authority to act for the state in this matter and
 1589 that, provided that this compact is identical to the compact
 1590 ratified by the Legislature pursuant to s. 285.710(3)(c),
 1591 Florida Statutes, no further action by the state or any state
 1592 official is necessary for this compact to take effect upon
 1593 federal approval by action of the Secretary of the Department of
 1594 the Interior or by operation of law under 25 U.S.C. s.
 1595 2710(d)(8) by publication of the notice of approval in the
 1596 Federal Register. The Governor affirms that he will proceed with
 1597 obtaining such federal approval and take all other appropriate
 1598 action to effectuate the purposes and intent of this Compact.
 1599 The undersigned Chairman of the Tribal Council of the Seminole
 1600 Tribe of Florida affirms that he is duly authorized and has the

1601 authority to execute this Compact on behalf of the Tribe. The
 1602 Chairman also affirms that he will assist in obtaining federal
 1603 approval and take all other appropriate action to effectuate the
 1604 purposes and intent of this Compact.

1605 Section 2. Subsection (4) of section 285.712, Florida
 1606 Statutes, is amended to read:

1607 285.712 Tribal-state gaming compacts.—

1608 (4) Upon execution ~~receipt~~ of ~~an act ratifying~~ a tribal-
 1609 state compact entered pursuant to s. 285.710(3)(b), the Governor
 1610 shall provide a copy to the Secretary of State who shall forward
 1611 a copy of the executed compact and the ratifying act to the
 1612 United States Secretary of the Interior for his or her review
 1613 and approval, in accordance with 25 U.S.C. s. 2710(d)(8)
 1614 ~~2710(8)(d)~~.

1615 Section 3. Subsections (9), (11), (13), and (14) of
 1616 section 550.054, Florida Statutes, are amended to read:

1617 550.054 Application for permit to conduct pari-mutuel
 1618 wagering.—

1619 (9)(a) After a permit has been granted by the division and
 1620 has been ratified and approved by the majority of the electors
 1621 participating in the election in the county designated in the
 1622 permit, the division shall grant to the lawful permitholder,
 1623 subject to the conditions of this chapter, a license to conduct
 1624 pari-mutuel operations under this chapter, and, except as
 1625 provided in s. 550.5251, the division shall fix annually the

1626 time, place, and number of days during which pari-mutuel
 1627 operations may be conducted by the permitholder at the location
 1628 fixed in the permit and ratified in the election. After the
 1629 first license has been issued to the holder of a ratified permit
 1630 for racing in any county, all subsequent annual applications for
 1631 a license by that permitholder must be accompanied by proof, in
 1632 such form as the division requires, that the ratified
 1633 permitholder still possesses all the qualifications prescribed
 1634 by this chapter and that the permit has not been recalled at a
 1635 later election held in the county.

1636 (b) The division may revoke or suspend any permit or
 1637 license issued under this chapter upon a ~~the~~ willful violation
 1638 by the permitholder or licensee ~~of any provision of chapter 551,~~
 1639 chapter 849, or this chapter or rules of any rule adopted
 1640 pursuant to those chapters under this chapter. With the
 1641 exception of the revocation of permits required in paragraphs
 1642 (c) and (f) In lieu of suspending or revoking a permit or
 1643 license, the division, in lieu of suspending or revoking a
 1644 permit or license, may impose a civil penalty against the
 1645 permitholder or licensee for a violation of this chapter or
 1646 rules adopted pursuant thereto any rule adopted by the division.
 1647 The penalty so imposed may not exceed \$1,000 for each count or
 1648 separate offense. All penalties imposed and collected must be
 1649 deposited with the Chief Financial Officer to the credit of the
 1650 General Revenue Fund.

1651 (c)1. The division shall revoke the permit of any
 1652 permitholder that fails to make payments due pursuant to chapter
 1653 550, chapter 551, or s. 849.086 for more than 24 consecutive
 1654 months unless such failure was the direct result of fire,
 1655 strike, war, or other disaster or event beyond the
 1656 permitholder's control. Financial hardship to the permitholder
 1657 does not, in and of itself, constitute just cause for failure to
 1658 make payments.

1659 2. The division shall revoke the permit of any
 1660 permitholder that has not obtained an operating license in
 1661 accordance with s. 550.01215 for a period of more than 24
 1662 consecutive months after June 30, 2012. The division shall
 1663 revoke the permit upon adequate notice to the permitholder.
 1664 Financial hardship to the permitholder does not, in and of
 1665 itself, constitute just cause for failure to operate.

1666 (d) A new permit to conduct pari-mutuel wagering may not
 1667 be approved or issued after January 1, 2017.

1668 (e) A permit revoked under this subsection is void and may
 1669 not be reissued.

1670 (11) (a) A permit granted under this chapter may not be
 1671 transferred or assigned except upon written approval by the
 1672 division pursuant to s. 550.1815, ~~except that the holder of any~~
 1673 ~~permit that has been converted to a jai alai permit may lease or~~
 1674 ~~build anywhere within the county in which its permit is located.~~

1675 (13) ~~(a)~~ Notwithstanding any provision ~~provisions~~ of this

1676 chapter or chapter 551, a pari-mutuel ~~no thoroughbred horse~~
 1677 ~~racetrack~~ permit or license issued under this chapter may not ~~shall~~
 1678 be transferred, ~~or reissued when such reissuance is in the~~
 1679 nature of a transfer so as to permit or authorize a licensee to
 1680 change the location of a thoroughbred horse racetrack except
 1681 upon proof in such form as the division may prescribe that a
 1682 referendum election has been held:

1683 1. ~~If the proposed new location is within the same county~~
 1684 ~~as the already licensed location, in the county where the~~
 1685 ~~licensee desires to conduct the race meeting and that a majority~~
 1686 ~~of the electors voting on that question in such election voted~~
 1687 ~~in favor of the transfer of such license.~~

1688 2. ~~If the proposed new location is not within the same~~
 1689 ~~county as the already licensed location, in the county where the~~
 1690 ~~licensee desires to conduct the race meeting and in the county~~
 1691 ~~where the licensee is already licensed to conduct the race~~
 1692 ~~meeting and that a majority of the electors voting on that~~
 1693 ~~question in each such election voted in favor of the transfer of~~
 1694 ~~such license.~~

1695 ~~(b) Each referendum held under the provisions of this~~
 1696 ~~subsection shall be held in accordance with the electoral~~
 1697 ~~procedures for ratification of permits, as provided in s.~~
 1698 ~~550.0651. The expense of each such referendum shall be borne by~~
 1699 ~~the licensee requesting the transfer.~~

1700 (14) ~~(a)~~ Notwithstanding any other provision of law, a

1701 pari-mutuel permit, cardroom, or slot machine facility may not
 1702 be relocated, and a pari-mutuel permit may not be converted to
 1703 another class of permit. ~~Any holder of a permit to conduct jai~~
 1704 ~~alai may apply to the division to convert such permit to a~~
 1705 ~~permit to conduct greyhound racing in lieu of jai alai if:~~

- 1706 ~~1. Such permit is located in a county in which the~~
 1707 ~~division has issued only two pari-mutuel permits pursuant to~~
 1708 ~~this section;~~
- 1709 ~~2. Such permit was not previously converted from any other~~
 1710 ~~class of permit; and~~
- 1711 ~~3. The holder of the permit has not conducted jai alai~~
 1712 ~~games during a period of 10 years immediately preceding his or~~
 1713 ~~her application for conversion under this subsection.~~

1714 ~~(b) The division, upon application from the holder of a~~
 1715 ~~jai alai permit meeting all conditions of this section, shall~~
 1716 ~~convert the permit and shall issue to the permitholder a permit~~
 1717 ~~to conduct greyhound racing. A permitholder of a permit~~
 1718 ~~converted under this section shall be required to apply for and~~
 1719 ~~conduct a full schedule of live racing each fiscal year to be~~
 1720 ~~eligible for any tax credit provided by this chapter. The holder~~
 1721 ~~of a permit converted pursuant to this subsection or any holder~~
 1722 ~~of a permit to conduct greyhound racing located in a county in~~
 1723 ~~which it is the only permit issued pursuant to this section who~~
 1724 ~~operates at a leased facility pursuant to s. 550.475 may move~~
 1725 ~~the location for which the permit has been issued to another~~

1726 ~~location within a 30 mile radius of the location fixed in the~~
 1727 ~~permit issued in that county, provided the move does not cross~~
 1728 ~~the county boundary and such location is approved under the~~
 1729 ~~zoning regulations of the county or municipality in which the~~
 1730 ~~permit is located, and upon such relocation may use the permit~~
 1731 ~~for the conduct of pari-mutuel wagering and the operation of a~~
 1732 ~~cardroom. The provisions of s. 550.6305(9)(d) and (f) shall~~
 1733 ~~apply to any permit converted under this subsection and shall~~
 1734 ~~continue to apply to any permit which was previously included~~
 1735 ~~under and subject to such provisions before a conversion~~
 1736 ~~pursuant to this section occurred.~~

1737 Section 4. Section 550.0555, Florida Statutes, is
 1738 repealed.

1739 Section 5. Section 550.0745, Florida Statutes, is
 1740 repealed.

1741 Section 6. Subsection (3) of section 550.09512, Florida
 1742 Statutes, is amended to read:

1743 550.09512 Harness horse taxes; abandoned interest in a
 1744 permit for nonpayment of taxes.—

1745 (3)~~(a)~~ The division shall revoke the permit of a harness
 1746 horse racing permitholder who does not pay tax on handle for
 1747 live harness horse performances for a full schedule of live
 1748 races for more than 24 consecutive months ~~during any 2~~
 1749 ~~consecutive state fiscal years shall be void and shall escheat~~
 1750 ~~to and become the property of the state unless such failure to~~

1751 operate and pay tax on handle was the direct result of fire,
 1752 strike, war, or other disaster or event beyond the ability of
 1753 the permitholder to control. Financial hardship to the
 1754 permitholder does ~~shall~~ not, in and of itself, constitute just
 1755 cause for failure to operate and pay tax on handle. A permit
 1756 revoked under this subsection is void and may not be reissued.

1757 ~~(b) In order to maximize the tax revenues to the state,~~
 1758 ~~the division shall reissue an escheated harness horse permit to~~
 1759 ~~a qualified applicant pursuant to the provisions of this chapter~~
 1760 ~~as for the issuance of an initial permit. However, the~~
 1761 ~~provisions of this chapter relating to referendum requirements~~
 1762 ~~for a pari-mutuel permit shall not apply to the reissuance of an~~
 1763 ~~escheated harness horse permit. As specified in the application~~
 1764 ~~and upon approval by the division of an application for the~~
 1765 ~~permit, the new permitholder shall be authorized to operate a~~
 1766 ~~harness horse facility anywhere in the same county in which the~~
 1767 ~~escheated permit was authorized to be operated, notwithstanding~~
 1768 ~~the provisions of s. 550.054(2) relating to mileage limitations.~~

1769 Section 7. Subsections (3) and (7) of section 550.09515,
 1770 Florida Statutes, are amended to read:

1771 550.09515 Thoroughbred horse taxes; abandoned interest in
 1772 a permit for nonpayment of taxes.—

1773 (3)~~(a)~~ The division shall revoke the permit of a
 1774 thoroughbred racing horse permitholder that ~~who~~ does not pay tax
 1775 on handle for live thoroughbred horse performances for a full

1776 | schedule of live races for more than 24 consecutive months
 1777 | ~~during any 2 consecutive state fiscal years shall be void and~~
 1778 | ~~shall escheat to and become the property of the state unless~~
 1779 | such failure to operate and pay tax on handle was the direct
 1780 | result of fire, strike, war, or other disaster or event beyond
 1781 | the ability of the permitholder to control. Financial hardship
 1782 | to the permitholder does ~~shall~~ not, in and of itself, constitute
 1783 | just cause for failure to operate and pay tax on handle. A
 1784 | permit revoked under this subsection is void and may not be
 1785 | reissued.

1786 | ~~(b) In order to maximize the tax revenues to the state,~~
 1787 | ~~the division shall reissue an escheated thoroughbred horse~~
 1788 | ~~permit to a qualified applicant pursuant to the provisions of~~
 1789 | ~~this chapter as for the issuance of an initial permit. However,~~
 1790 | ~~the provisions of this chapter relating to referendum~~
 1791 | ~~requirements for a pari-mutuel permit shall not apply to the~~
 1792 | ~~reissuance of an escheated thoroughbred horse permit. As~~
 1793 | ~~specified in the application and upon approval by the division~~
 1794 | ~~of an application for the permit, the new permitholder shall be~~
 1795 | ~~authorized to operate a thoroughbred horse facility anywhere in~~
 1796 | ~~the same county in which the escheated permit was authorized to~~
 1797 | ~~be operated, notwithstanding the provisions of s. 550.054(2)~~
 1798 | ~~relating to mileage limitations.~~

1799 | ~~(7) If a thoroughbred permitholder fails to operate all~~
 1800 | ~~performances on its 2001-2002 license, failure to pay tax on~~

1801 ~~handle for a full schedule of live races for those performances~~
 1802 ~~in the 2001-2002 fiscal year does not constitute failure to pay~~
 1803 ~~taxes on handle for a full schedule of live races in a fiscal~~
 1804 ~~year for the purposes of subsection (3). This subsection may not~~
 1805 ~~be construed as forgiving a thoroughbred permitholder from~~
 1806 ~~paying taxes on performances conducted at its facility pursuant~~
 1807 ~~to its 2001-2002 license other than for failure to operate all~~
 1808 ~~performances on its 2001-2002 license. This subsection expires~~
 1809 ~~July 1, 2003.~~

1810 Section 8. Section 550.3345, Florida Statutes, is amended
 1811 to read:

1812 550.3345 ~~Conversion of quarter horse permit to a~~ Limited
 1813 thoroughbred racing permit.-

1814 (1) In recognition of the important and long-standing
 1815 economic contribution of the thoroughbred horse breeding
 1816 industry to this state and the state's vested interest in
 1817 promoting the continued viability of this agricultural activity,
 1818 the state intends to provide a limited opportunity for the
 1819 conduct of live thoroughbred horse racing with the net revenues
 1820 from such racing dedicated to the enhancement of thoroughbred
 1821 purses and breeders', stallion, and special racing awards under
 1822 this chapter; the general promotion of the thoroughbred horse
 1823 breeding industry; and the care in this state of thoroughbred
 1824 horses retired from racing.

1825 (2) A limited thoroughbred racing permit previously

1826 converted from ~~Notwithstanding any other provision of law, the~~
 1827 ~~holder of~~ a quarter horse racing permit pursuant to chapter
 1828 2010-29, Laws of Florida, ~~issued under s. 550.334~~ may only be
 1829 ~~held by,~~ within 1 year after the effective date of this section,
 1830 ~~apply to the division for a transfer of the quarter horse racing~~
 1831 ~~permit to~~ a not-for-profit corporation formed under state law to
 1832 serve the purposes of the state as provided in subsection (1).
 1833 The board of directors of the not-for-profit corporation must be
 1834 composed ~~comprised~~ of 11 members, 4 of whom shall be designated
 1835 by the applicant, 4 of whom shall be designated by the Florida
 1836 Thoroughbred Breeders' Association, and 3 of whom shall be
 1837 designated by the other 8 directors, with at least 1 of these 3
 1838 members being an authorized representative of another
 1839 thoroughbred racing permitholder in this state. A limited
 1840 thoroughbred racing ~~The not-for-profit corporation shall submit~~
 1841 ~~an application to the division for review and approval of the~~
 1842 ~~transfer in accordance with s. 550.054. Upon approval of the~~
 1843 ~~transfer by the division, and notwithstanding any other~~
 1844 ~~provision of law to the contrary, the not-for-profit corporation~~
 1845 ~~may, within 1 year after its receipt of the permit, request that~~
 1846 ~~the division convert the quarter horse racing permit to a permit~~
 1847 ~~authorizing the holder to conduct pari-mutuel wagering meets of~~
 1848 ~~thoroughbred racing. Neither the transfer of the quarter horse~~
 1849 ~~racing permit nor its conversion to a limited thoroughbred~~
 1850 ~~permit shall be subject to the mileage limitation or the~~

1851 ~~ratification election as set forth under s. 550.054(2) or s.~~
 1852 ~~550.0651. Upon receipt of the request for such conversion, the~~
 1853 ~~division shall timely issue a converted permit. The converted~~
 1854 permit and the not-for-profit corporation are ~~shall be~~ subject
 1855 to the following requirements:

1856 (a) All net revenues derived by the not-for-profit
 1857 corporation under the thoroughbred ~~horse~~ racing permit, after
 1858 the funding of operating expenses and capital improvements,
 1859 shall be dedicated to the enhancement of thoroughbred purses and
 1860 breeders', stallion, and special racing awards under this
 1861 chapter; the general promotion of the thoroughbred horse
 1862 breeding industry; and the care in this state of thoroughbred
 1863 horses retired from racing.

1864 (b) From December 1 through April 30, ~~no~~ live thoroughbred
 1865 racing may not be conducted under the permit on any day during
 1866 which another thoroughbred racing permitholder is conducting
 1867 live thoroughbred racing within 125 air miles of the not-for-
 1868 profit corporation's pari-mutuel facility unless the other
 1869 thoroughbred racing permitholder gives its written consent.

1870 (c) After ~~the conversion of the quarter horse racing~~
 1871 ~~permit and the~~ issuance of its initial license to conduct pari-
 1872 mutuel wagering meets of thoroughbred racing, the not-for-profit
 1873 corporation shall annually apply to the division for a license
 1874 pursuant to s. 550.5251.

1875 (d) Racing under the permit may take place only at the

1876 location for which the original quarter horse racing permit was
 1877 issued, which may be leased by the not-for-profit corporation
 1878 for that purpose; ~~however, the not-for-profit corporation may,~~
 1879 ~~without the conduct of any ratification election pursuant to s.~~
 1880 ~~550.054(13) or s. 550.0651, move the location of the permit to~~
 1881 ~~another location in the same county provided that such~~
 1882 ~~relocation is approved under the zoning and land use regulations~~
 1883 ~~of the applicable county or municipality.~~

1884 (e) A limited thoroughbred racing ~~no~~ permit may not be
 1885 transferred ~~converted under this section is eligible for~~
 1886 ~~transfer~~ to another person or entity.

1887 (3) Unless otherwise provided in this section, ~~after~~
 1888 ~~conversion,~~ the permit and the not-for-profit corporation shall
 1889 be treated under the laws of this state as a thoroughbred racing
 1890 permit and as a thoroughbred racing permitholder, respectively,
 1891 with the exception of ss. 550.054(9)(c) and s. 550.09515(3).

1892 Section 9. Subsection (4) of section 551.102, Florida
 1893 Statutes, is amended to read:

1894 (4) "Eligible facility" means any licensed pari-mutuel
 1895 facility located in Miami-Dade County or Broward County existing
 1896 at the time of adoption of s. 23, Art. X of the State
 1897 Constitution that has conducted live racing or games during
 1898 calendar years 2002 and 2003 and has been approved by a majority
 1899 of voters in a countywide referendum to have slot machines at
 1900 such facility in the respective county; or any licensed pari-

1901 | mutuel facility located within a county as defined in s.
 1902 | 125.011, provided such facility has conducted live racing for 2
 1903 | consecutive calendar years immediately preceding its application
 1904 | for a slot machine license, pays the required license fee, and
 1905 | meets the other requirements of this chapter; ~~or any licensed~~
 1906 | ~~pari-mutuel facility in any other county in which a majority of~~
 1907 | ~~voters have approved slot machines at such facilities in a~~
 1908 | ~~countywide referendum held pursuant to a statutory or~~
 1909 | ~~constitutional authorization after the effective date of this~~
 1910 | ~~section in the respective county, provided such facility has~~
 1911 | ~~conducted a full schedule of live racing for 2 consecutive~~
 1912 | ~~calendar years immediately preceding its application for a slot~~
 1913 | ~~machine license, pays the required licensed fee, and meets the~~
 1914 | ~~other requirements of this chapter.~~

1915 | Section 10. Subsection (1) of section 551.104, Florida
 1916 | Statutes, is amended to read:

1917 | 551.104 License to conduct slot machine gaming.—

1918 | (1) Upon application and a finding by the division after
 1919 | investigation that the application is complete and the applicant
 1920 | is qualified and payment of the initial license fee, the
 1921 | division may issue a license to conduct slot machine gaming in
 1922 | the designated slot machine gaming area of the eligible
 1923 | facility. Once licensed, slot machine gaming may be conducted
 1924 | subject to the requirements of this chapter and rules adopted
 1925 | pursuant thereto. Notwithstanding any other provision of law,

1926 the division may not issue an initial license to conduct slot
 1927 machine gaming after January 1, 2017, or otherwise authorize the
 1928 conduct of slot machine gaming at any facility or location which
 1929 was not conducting slot machine gaming as of January 1, 2017.

1930 Section 11. Paragraphs (a) and (b) of subsection (2),
 1931 paragraph (d) of subsection (7), subsection (12), paragraph (c)
 1932 of subsection (14), and paragraph (a) of subsection (17) of
 1933 section 849.086, Florida Statutes, are amended to read:

1934 849.086 Cardrooms authorized.—

1935 (2) DEFINITIONS.—As used in this section:

1936 (a) "Authorized game" means a game or series of games of
 1937 traditional poker or dominoes which are played in a pari-mutuel,
 1938 nonbanking manner, where all players at the table play against
 1939 all other players at the table and contribute to a common pot of
 1940 winnings collected by the winner, and which are played in a
 1941 manner consistent with the rules and requirements set forth in
 1942 the 1974 edition of Hoyle's Modern Encyclopedia of Card Games.

1943 (b) "Banking game" means a game in which the house is a
 1944 participant in the game, taking on players, paying winners, and
 1945 collecting from losers, or a game in which any person or party
 1946 serves as the cardroom establishes a bank against which
 1947 participants play.

1948 (7) CONDITIONS FOR OPERATING A CARDROOM.—

1949 (d) A cardroom operator may award giveaways, jackpots, and
 1950 prizes to a player who holds certain combinations of cards

1951 specified by the cardroom operator, provided that the award of
 1952 such giveaway, jackpot, or prize does not constitute a
 1953 prohibited activity under subsection (12).

1954 (12) PROHIBITED ACTIVITIES.—

1955 (a) ~~No person licensed to operate a cardroom may conduct~~
 1956 ~~any banking game or~~ Any game not specifically authorized by this
 1957 section is prohibited. Prohibited games include, but are not
 1958 limited to:

1959 1. Any game in which the cardroom or any other person or
 1960 party serves as a bank or banker against which players play.

1961 2. Any game in which players compete against a designated
 1962 player instead of competing against all players at the table.

1963 3. Any game in which the number of cards or ranking of
 1964 hands does not conform to the rules and requirements for
 1965 traditional poker as set forth in the 1974 edition of Hoyle's
 1966 Modern Encyclopedia of Card Games.

1967 4. Any other game conducted in a manner that is not
 1968 consistent with the provisions of this section.

1969 (b) ~~No person~~ Persons under 18 years of age may not be
 1970 permitted to hold a cardroom or employee license, or engage in
 1971 any game conducted therein.

1972 (c) ~~No~~ Electronic or mechanical devices, except mechanical
 1973 card shufflers, may not be used to conduct any authorized game
 1974 in a cardroom.

1975 (d) ~~No~~ Cards, game components, or game implements may not

1976 be used in playing an authorized game unless such has been
 1977 furnished or provided to the players by the cardroom operator.

1978 (14) SUSPENSION, REVOCATION, OR DENIAL OF LICENSE; FINE.—

1979 (c) ~~Notwithstanding any other provision of this section,~~
 1980 The division may impose an administrative fine not to exceed
 1981 \$1,000 for each violation against any person who has violated or
 1982 failed to comply with the provisions of this section or any
 1983 rules adopted pursuant thereto. The division may revoke the
 1984 license of any person who violates the provisions of subsection
 1985 (12) on or after August 1, 2017.

1986 (17) CHANGE OF LOCATION; REFERENDUM.—

1987 (a) Notwithstanding any provisions of this section, no
 1988 cardroom gaming license issued under this section shall be
 1989 transferred, or reissued when such reissuance is in the nature
 1990 of a transfer, so as to permit or authorize a licensee to change
 1991 the location of the cardroom except upon proof in such form as
 1992 the division may prescribe that a referendum election has been
 1993 held:

1994 1. If the proposed new location is within the same county
 1995 as the already licensed location, in the county where the
 1996 licensee desires to conduct cardroom gaming and that a majority
 1997 of the electors voting on the question in such election voted in
 1998 favor of the transfer of such license. ~~However, the division~~
 1999 ~~shall transfer, without requirement of a referendum election,~~
 2000 ~~the cardroom license of any permitholder that relocated its~~

2001 ~~permit pursuant to s. 550.0555.~~

2002 2. If the proposed new location is not within the same
 2003 county as the already licensed location, in the county where the
 2004 licensee desires to conduct cardroom gaming and that a majority
 2005 of the electors voting on that question in each such election
 2006 voted in favor of the transfer of such license.

2007 Section 12. All cardroom games involving designated
 2008 players or a bank of any kind are illegal and prohibited under
 2009 s. 849.086, Florida Statutes. Any past or future action or
 2010 inaction by the Division of Pari-Mutuel Wagering considered by
 2011 any party or construed by a tribunal to constitute permission
 2012 from the state, either for a licensed cardroom to conduct a
 2013 banking game for purposes of s. 849.086 or for a licensed
 2014 cardroom to conduct a banking or banked card game for purposes
 2015 of the Gaming Compact between the Seminole Tribe of Florida and
 2016 the State of Florida executed pursuant to s. 285.710(3)(b),
 2017 Florida Statutes, exceeds the division's delegated legislative
 2018 authority, is contrary to will of the Legislature as expressed
 2019 in the plain words of the Florida Statutes, and does not
 2020 represent state action for purposes of the Gaming Compact
 2021 executed pursuant to s. 285.710(3)(b), Florida Statutes.

2022 Section 13. This act shall take effect July 1, 2017.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Ways & Means Committee
 2 Representative Abruzzo offered the following:

Amendment (with title amendment)

Between lines 2021 and 2022, insert:

6 Section 13. Section 551.1015, Florida Statutes, is created
7 to read:

8 551.1015 Class III games authorized.-

9 (1) LEGISLATIVE INTENT.-It is the intent of the Legislature
 10 to provide additional entertainment choices for the residents of
 11 and visitors to the state, to promote tourism, and to provide
 12 additional state revenues through the authorization of certain
 13 slot machine gaming and other class III games or gaming at
 14 licensed pari-mutuel facilities. To ensure the public confidence
 15 in the integrity of authorized slot machine gaming and other
 16 class III gaming operations, this section is designed to

Amendment No. 1

17 strictly regulate the facilities, persons, and procedures
18 related to cardroom operations. Furthermore, the Legislature
19 finds that games authorized under this section are considered to
20 be pari-mutuel style games and not casino gaming because the
21 participants play against each other instead of against the
22 house.

23 (2) DEFINITIONS.—For purposes of this section, the term
24 “class III games or gaming” means the operation of slot
25 machines, video race terminals, banked card games, raffles and
26 drawings, and live table games at a licensed pari-mutuel
27 facility pursuant to chapters 550 and 551, in conformity with
28 rules promulgated by the Division of Pari-Mutuel Wagering.

29 (3) AUTHORIZATION.—

30 (a) A licensed pari-mutuel facility located in the state
31 may possess slot machines and conduct slot machine gaming or
32 other class III games at the location where the pari-mutuel
33 permitholder is authorized to conduct pari-mutuel wagering
34 activities pursuant to such permitholder’s valid pari-mutuel
35 permit, if:

36 1. A majority of voters in a countywide referendum in the
37 county in which the facility is located have approved slot
38 machines at the facility;

39 2. A majority of voters in a countywide referendum in the
40 county in which the facility is located have approved the
41 operation of class III gaming or games within the county at the

Amendment No. 1

42 facility; and

43 3. The governing body of the municipality, or the governing
44 body of the county if the facility is not located in a
45 municipality, has provided its approval under s. 551.1041.

46 (b) A licensed pari-mutuel permitholder authorized to
47 conduct slot machine gaming on or before July 1, 2017, may
48 conduct class III gaming or games at the location where the
49 pari-mutuel permitholder is authorized to conduct pari-mutuel
50 wagering activities pursuant to such permitholder's valid pari-
51 mutuel permit.

52 (c) The expense of a referendum held under this subsection
53 shall be borne by the pari-mutuel permitholder or permitholders
54 who wish to conduct slot machine gaming or class III games or
55 gaming within a county. If a special election is not held, the
56 referendum shall be conducted at the next general election in
57 that county.

58 (d) 1. 35 percent of the net revenues from authorized class
59 III gaming operations at a licensed pari-mutuel facility shall
60 be designated as the local government share and shall be
61 distributed to the governing body of the municipality, or the
62 governing body of the county if the facility is not located in a
63 municipality, for reduction of property taxes in the respective
64 county or municipality.

65 2. The calculations necessary to determine the local
66 government share of distributions shall be made by the Division

Amendment No. 1

67 of Pari-mutuel Wagering. The method of payment of the local
68 government share attributable to each pari-mutuel facility shall
69 be as required by the governing body as a condition of local
70 government approval under subsection (4).

71 (4) LOCAL GOVERNMENT APPROVAL.-

72 (a) The Division of Pari-mutuel Wagering may not issue an
73 initial license under this section except upon proof, in such
74 form as the division may prescribe, that the local government
75 where the applicant desires to conduct slot machine gaming or
76 class III gaming or games has voted to approve such activity by
77 a majority vote of the governing body of the municipality, or
78 the governing body of the county if the facility is not located
79 in a municipality. If the local government considers approval of
80 such activity and a majority vote of the governing body of the
81 municipality, or the governing body of the county if the
82 facility is not located in a municipality, does not approve slot
83 machine gaming, other class III games or gaming, or both, the
84 matter may not be reconsidered for a period of 5 years after the
85 date of the vote of the governing body. The governing body of
86 the municipality, or the governing body of the county if the
87 facility is not located in a municipality, and the pari-mutuel
88 permitholder shall agree on the documentation required for
89 confirmation and transmittal of the local government share
90 payable by the permitholder.

91 (b) Notwithstanding any other law, it is not a crime for a

Amendment No. 1

92 person to participate in:

93 1. Slot machine gaming at a pari-mutuel facility licensed
94 to possess slot machines and conduct slot machine gaming or to
95 participate in slot machine gaming described in this section.

96 2. Class III gaming or games at a pari-mutuel facility
97 licensed to possess class III gaming or games and to conduct
98 class III gaming or games or to participate in class III gaming
99 or games described in this section.

100 (5) RULEMAKING.—The division may adopt rules necessary to
101 implement this section.

103 -----

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

105 Remove line 62 and insert:

106 certain cardroom games is not state action; creating s.
107 551.1015, F.S.; providing legislative intent; defining the term
108 "class III games or gaming"; authorizing certain licensed pari-
109 mutuel facilities to possess slot machines and conduct slot
110 machine gaming or other class III games at a specified location
111 under certain circumstances; providing that the expense of a
112 referendum shall be borne by the pari-mutuel permitholder or
113 permitholders who wish to conduct slot machine gaming or other
114 class III games; providing requirements for the referendum to
115 vote on the issue of slot machine gaming; requiring that a
116 specified percentage of revenues from authorized class III

Amendment No. 1

117 gaming be designated as the local government share; providing
118 distribution requirements for the local government share;
119 providing requirements for the division to approve an initial
120 license; providing that it is not a crime for a person to
121 participate in slot machine gaming or other class III gaming or
122 games under certain circumstances; authorizing rulemaking;
123 providing

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 455 Tax Exemptions for First Responders and Surviving Spouses
SPONSOR(S): Ways & Means Committee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Dobson <i>MO</i>	Langston <i>DL</i>

SUMMARY ANALYSIS

In November of 2016, Florida voters approved an amendment to the state constitution that allows the legislature to provide ad valorem tax relief to certain totally and permanently disabled first responders. This bill implements that amendment by providing a 100 percent homestead tax exemption to first responders who are totally and permanently disabled as a result of injury sustained in the line of duty. The bill also extends a 100 percent exemption to the surviving spouse of a totally and permanently disabled first responder, provided certain conditions are met.

The bill defines “first responder” as a law enforcement officer, correctional officer, firefighter, emergency medical technician or paramedic, who is employed full-time, part-time or serves on a volunteer basis.

The bill specifies that “disability” does not include chronic conditions unless the chronic condition was solely caused by injury in the line of duty.

The bill specifies that a first responder who provides the following documents to his or her local property appraiser is entitled to exemption:

- Certification of total and permanent disability from two Florida-licensed physicians;
- Certification from the first responder’s former employer that the injury giving rise to disability occurred in the line of duty; and
- Any existing documentation of the injury or incident that gave rise to the first responder’s total and permanent disability.

The deadline to apply for exemption from taxes levied in 2017 is August 1st, 2017. However, property appraisers may accept untimely filed applications if certain conditions are met. The deadline to apply for exemption from taxes levied in 2018 and beyond is March 1 of each year.

The Revenue Estimating Conference determined the bill will have a statewide, annual impact of -\$4.5 million on local government property tax revenues beginning in FY 2017-18, assuming current tax rates.

The bill takes effect upon becoming law.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. Present Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value (i.e., market value) for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ Property appraisers calculate assessed value by adjusting just value in accordance with any applicable assessment limitations or usage classifications. The assessed value is then reduced by any exemptions to produce the taxable value.⁵ Each year, local government governing boards levy millage rates (i.e. tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets. Property appraisers must notify property owners of the adopted millage rates by mailing out notices of proposed property taxes, commonly referred to as truth in millage (TRIM) notices.⁶

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁷

Homestead Exemption

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads on assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Exemptions Related to Disabled Persons or First Responders

Current law provides several exemptions related totally and permanently disability or first responders:

- Homestead exemption for certain totally and permanently disabled veterans or their surviving spouse;⁸
- Homestead exemption for surviving spouses of first responders who die in the line of duty;⁹
- Homestead exemption for disabled veterans confined to wheelchairs;¹⁰

¹ Fla. Const. art. VII, s. 1(a).

² Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Fla. Const., art. VII, s. 4.

⁴ Fla. Const. art. VII, ss. 3, 4, and 6.

⁵ s. 196.031, F.S.

⁶ s. 200.065(2)(b), F.S.

⁷ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

⁸ ss. 196.081(1) and (3), F.S.

⁹ s. 196.081(6), F.S.

¹⁰ s. 196.091, F.S.

- Homestead exemption for certain totally and permanently disabled persons;¹¹ and
- Property to the value of \$500 owned by widows, widowers, and blind or totally and permanently disabled persons.¹²

Section 196.101, F.S., relating to the annual application process for property tax exemptions, requires applications for several homestead-related exemptions to include the social security number of the applicant and the applicant's spouse, if any.

2016 Constitutional Amendment

In November 2016, Florida electors approved a constitutional amendment that allows the legislature to provide homestead tax relief to first responders who are totally and permanently disabled as a result of injury sustained in the line of duty.¹³ The amendment specifies that a causal connection between an injury and service in the line of duty may not be presumed, and that the term "disability" does not include chronic disease, unless injury in the line of duty was the sole cause of the disease.

Effect of Proposed Changes

Exemption for Totally and Permanently Disabled First Responders

The bill creates statute that completely exempts from all homestead taxes first responders who are totally and permanently disabled due to an injury sustained in the line of duty. The term "first responders" refers to full-time, part-time and volunteer law enforcement officers, firefighters, paramedics or emergency medical technicians as those terms are defined in statute.¹⁴

The bill defines "disabled" as a physical or cognitive impairment that constitutes or results in a substantial impediment to employment as a first responder. The term does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

The bill defines "In the line of duty" as:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing a rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in an authorized training exercise related to any of the events or activities enumerated above.

The constitutional language authorizing an exemption for first responders imposes two requirements that must be met in order to qualify for exemption. First, applicants must be totally and permanently disabled. Accordingly, the bill provides that first responders can prove their status as totally and permanently disabled by submitting certification letters from two professionally unrelated physicians. The second constitutional requirement is that causal connection between disability and service in the line of duty cannot be presumed but must be determined in accordance with general law. To that end, the bill permits first responders to prove causal connection between their disability and service in the line of duty by submitting a letter from a representative of the entity who employed the first responder when the injury occurred. Among other information, the employer letter must include a statement that

¹¹ s. 196.101, F.S.

¹² s. 196.202, F.S.

¹³ See Article VII, section 6(f)(3) of the Florida Constitution.

¹⁴ The terms are respectively defined in ss. 943.10, 633.102, 401.21, F.S.

the first responder's injury was directly and proximately caused by service in the line of duty, without willful negligence by the first responder, and that the injury is the sole cause of the first responder's total and permanent disability. The employer letter must be accompanied by any existing supporting documentation such as an incident report or insurance claim.

The exemption applies to taxes levied on or after January 1, 2017.

Spousal Exemption

The bill allows the spouse of a totally and permanently disabled first responder to maintain the exemption if the first responder predeceases the spouse. The bill also allows the surviving spouse of a totally and permanently disabled first responder to transfer the exemption to a different homestead property. The surviving spouse exemption remains in effect as long as the new residence is used as the surviving spouse's primary residence and he or she does not remarry.

Application Procedures

The deadline to apply for exemption from taxes levied in 2017 is August 1, 2017. For taxes levied in 2018 and beyond, the application deadline is March 1 of each year.¹⁵ The bill allows property appraisers to accept untimely filed applications if the applicant is otherwise qualified for exemption and the applicant produces evidence demonstrating that he or she was unable to apply for exemption in a timely manner. The bill also allows first responders to petition for appeal before value adjustment boards in the event the property appraiser denies an application for exemption. A petition for such an appeal must be filed no later than 25 days after the property appraiser mails TRIM notices.

The bill amends s. 196.011, F.S., to add the new exemption created by this bill to the current list of property tax exemptions, the applications for which must include the applicant's social security number.

The bill takes effect upon becoming a law.

B. SECTION DIRECTORY:

Section 1. Amends s. 196.011, F.S., adding the new exemption created by this bill to the current list of property tax exemptions, the applications for which must include the applicant's social security number.

Section 2. Creates 196.102, F.S. providing exemptions for totally and permanently disabled first responders and their surviving spouses; prescribes requirements for application; specifies that the deadline for submitting applications for exemption from taxes levied in 2017 is August 1, 2017, and authorizes the Department of Revenue (Department) to adopt emergency rules.

Section 3. Limits applicability to taxes levied on or after January 1, 2017.

Section 4. Provides that the bill shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

2. Expenditures:
None.

¹⁵ See s. 196.011(1)(a), F.S.
STORAGE NAME: pcs0455.WMC
DATE: 3/19/2017

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference determined the bill will have a statewide, annual impact of -\$4.5 million on local government property tax revenues beginning in FY 2017-18, assuming current tax rates.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida constitution may apply because this bill reduces local government's ability to raise ad valorem revenues. However, and exemption may apply if the fiscal impact is insignificant. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the Department of Revenue rulemaking authority to administer the provisions of the bill. The bill also grants emergency rulemaking authority to the Department to administer the application process for the 2017 calendar year. This emergency rulemaking authority expires on August 30, 2018.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to tax exemptions for first responders
 3 and surviving spouses; amending s. 196.011, F.S.;
 4 specifying the information to be included in an
 5 application for certain tax exemptions; creating s.
 6 196.102, F.S.; providing definitions; providing an
 7 exemption from ad valorem taxation for certain first
 8 responders under specified conditions; providing an
 9 exemption from ad valorem taxation for certain
 10 surviving spouses of first responders who have died;
 11 specifying the documentation required to receive the
 12 exemption; granting rulemaking authority; specifying
 13 procedures for receiving a tax exemption for 2017
 14 specifying procedures for denials of tax exemptions;
 15 providing applicability; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Paragraph (b) of subsection (1) of section
 20 196.011, Florida Statutes, is amended to read:

21 196.011 Annual application required for exemption.—

22 (1)

23 (b) The form to apply for an exemption under s. 196.031,
 24 s. 196.081, s. 196.091, s. 196.101, s. 196.102, s. 196.173, or
 25 s. 196.202 must include a space for the applicant to list the

26 social security number of the applicant and of the applicant's
 27 spouse, if any. If an applicant files a timely and otherwise
 28 complete application, and omits the required social security
 29 numbers, the application is incomplete. In that event, the
 30 property appraiser shall contact the applicant, who may refile a
 31 complete application by April 1. Failure to file a complete
 32 application by that date constitutes a waiver of the exemption
 33 privilege for that year, except as provided in subsection (7) or
 34 subsection (8).

35 Section 2. Section 196.102, Florida Statutes, is created
 36 to read:

37 196.102 Exemption for certain totally and permanently
 38 disabled first responders and their surviving spouses.-

39 (1) As used in this section, and not applicable to the
 40 payment of benefits under s. 112.19 or s. 112.191, the term:

41 (a) "Disabled" means a physical or cognitive impairment
 42 that constitutes or results in a substantial impediment to
 43 employment as a first responder. The term does not include a
 44 chronic condition or chronic disease, unless the injury
 45 sustained in the line of duty was the sole cause of the chronic
 46 condition or chronic disease.

47 (b) "First responder" means a law enforcement officer or
 48 correctional officer as defined in s. 943.10, a firefighter as
 49 defined in s. 633.102, or an emergency medical technician or
 50 paramedic as defined in s. 401.23, who is a full-time paid

51 employee, part-time paid employee, or unpaid volunteer.

52 (c) "Cardiac event" means a heart attack, stroke or
 53 vascular rupture.

54 (d) "In the line of duty" means:

55 1. While engaging in activities within the course and
 56 scope of employment as a first responder;

57 2. While performing an activity relating to fire
 58 suppression and prevention;

59 3. While responding to a hazardous material emergency;

60 4. While performing rescue activity;

61 5. While providing emergency medical services;

62 6. While performing disaster relief activity;

63 7. While otherwise engaging in emergency response
 64 activity; or

65 8. While engaging in a training exercise related to any of
 66 the events or activities enumerated in this paragraph if the
 67 training has been authorized by the employing entity.

68 (2) Any real estate that is owned and used as a homestead
 69 by a person who is totally and permanently disabled as a result
 70 of an injury or injuries sustained in the line of duty while
 71 serving as a first responder is exempt from taxation if the
 72 first responder is a permanent resident of this state on January
 73 1 of the tax year for which the exemption is being claimed.

74 (3) The following documents, if provided to the property
 75 appraiser of the county where the property is located, serve as

76 prima facie evidence that the first responder is entitled to the
 77 exemption:

78 (a) A certificate of total and permanent disability, in
 79 the form set forth in subsection (7), from two licensed
 80 physicians of this state who are professionally unrelated,
 81 attesting to the applicant's total and permanent disability.

82 (b) A certificate from the organization that employed the
 83 first responder at the time that the injury or injuries
 84 occurred. The employer certificate must contain, at a minimum,
 85 the information identified in subsection (8). The employer
 86 certificate shall be supplemented with extant documentation of
 87 the incident or event that caused the injury, such as an
 88 accident or incident report. The first responder may deliver the
 89 original employer certificate to the property appraiser's office
 90 or the first responder's employer may directly transmit the
 91 employer certificate to the applicable property appraiser.

92
 93 Total and permanent disability that results from a cardiac event
 94 does not qualify for the exemption provided in this section
 95 unless the cardiac event occurs no later than 24 hours after the
 96 first responder performed nonroutine stressful or strenuous
 97 physical activity in the line of duty and the first responder
 98 provides the employer with competent medical evidence showing
 99 that:

100 1. The nonroutine stressful or strenuous activity

101 directly and proximately caused the cardiac event that gave rise
 102 to the first responder's total and permanent disability; and

103 2. The cardiac event was not caused by preexisting vascular
 104 disease.

105 (4) (a) Any real estate owned and used as a homestead by
 106 the surviving spouse of a first responder who died but who had
 107 been receiving a tax exemption under subsection (2), is exempt
 108 from taxation.

109 (b) The tax exemption provided in paragraph (a) applies as
 110 long as the surviving spouse holds the legal or beneficial title
 111 to the homestead, permanently resides thereon as specified in s.
 112 196.031, and does not remarry. If the surviving spouse sells the
 113 property, an exemption not to exceed the amount granted under
 114 the most recent ad valorem tax roll may be transferred to the
 115 new residence if it is used as the surviving spouse's primary
 116 residence and he or she does not remarry.

117 (5) A first responder may apply for the exemption before
 118 producing the necessary documentation described in paragraphs
 119 (3) (a) or (b). Upon receipt of the documentation, the exemption
 120 shall be granted as of the date of the original application and
 121 the excess taxes paid shall be refunded. Any refund of excess
 122 taxes paid shall be limited to those paid during the 4-year
 123 period of limitation set forth in s. 197.182(1) (e).

124 (6) The provisions of s. 196.011(9) waiving the
 125 requirement that an annual application be submitted to the

126 property appraiser and providing lien authority are applicable
127 to applications submitted pursuant to this section.

128 (7) The physician's certification shall read as follows:

129

130 PHYSICIAN'S CERTIFICATION OF
131 TOTAL AND PERMANENT DISABILITY

132

133 I, ... (name of physician) ..., a physician licensed pursuant to
134 chapter 458 or chapter 459, Florida Statutes, hereby certify
135 that Mr....Mrs....Miss....Ms.....(applicant name and social
136 security number) ..., is totally and permanently disabled, due to
137 the following mental or physical condition(s):

138

139 It is my professional belief that the above-named condition(s)
140 render Mr....Mrs....Miss....Ms.....(applicant name)...totally
141 and permanently disabled, and that the foregoing statements are
142 true, correct, and complete to the best of my knowledge and
143 professional belief.

144

145 Signature...

146 Address...(print)...

147 Date....

148 Florida Board of Medicine or Osteopathic Medicine license number

149 Issued on....

150 (8) An employer for whom the first responder worked at the

151 time of the injury must provide a certificate that, at a
 152 minimum, attests and includes:

153 (a) The title of the person signing the certificate.

154 (b) The name and address of the employing entity.

155 (c) A description of the incident that caused the injury
 156 or injuries.

157 (d) A statement that the first responder's injury or
 158 injuries were:

159 1. Directly and proximately caused by service in the line
 160 of duty.

161 2. Without willful negligence on the part of the first
 162 responder.

163 3. The sole cause of the first responder's total and
 164 permanent disability.

165 (9) Any person who knowingly or willfully gives false
 166 information for the purpose of claiming homestead exemption as
 167 set forth in this section is guilty of a misdemeanor of the
 168 first degree, punishable as provided in s. 775.082 or by fine of
 169 not more than \$5,000, or both.

170 (10) The Department of Revenue may, and all conditions are
 171 deemed to be met to, adopt emergency rules pursuant to ss.
 172 120.536(1) and 120.54 to administer the application process for
 173 the 2017 calendar year. This subsection is repealed on August
 174 30, 2018.

175 (11) The Department of Revenue may adopt rules to

176 administer this section.

177 (12) Notwithstanding the provisions of ss. 196.011 and
 178 196.102, the deadline for a first responder to file an
 179 application with the property appraiser for an exemption under
 180 s. 196.102 for the 2017 tax year is August 1, 2017. The property
 181 appraiser may grant an application for an exemption that is
 182 filed untimely if:

183 (a) The applicant is qualified for the exemption; and

184 (b) The applicant produces sufficient evidence, as
 185 determined by the property appraiser, which demonstrates that
 186 the applicant was unable to apply for the exemption in a timely
 187 manner or otherwise demonstrates extenuating circumstances that
 188 warrant granting the exemption.

189 (13) If the property appraiser denies an application under
 190 subsection (12), the deadline to serve notice setting forth the
 191 grounds for denial as provided in s. 196.011(6)(a) is extended
 192 to 30 days after the date on which the application for exemption
 193 is submitted. A denied applicant may file a petition with the
 194 value adjustment board as set forth in s. 194.011(3). The
 195 petition must be filed on or before the 25th day after the
 196 mailing by the property appraiser during the 2017 calendar year
 197 of the notice required under s. 194.011(1). Notwithstanding s.
 198 194.013, the eligible first responder is not required to pay a
 199 filing fee for such petition. Upon review of the petition, the
 200 value adjustment board shall grant the exemption if it

201 determines the applicant is qualified and has demonstrated the
202 existence of extenuating circumstances warranting the exemption.

203 Section 3. This act operates prospectively to the 2017 tax
204 roll and does not provide a basis for relief from an assessment
205 of taxes not paid or create a right to a refund of taxes paid
206 before January 1, 2017.

207 Section 4. This act shall take effect upon becoming a law.

ΠΙΣΤΩΤΗΡΙΟ ΓΙΑ ΤΟΝ ΑΝΤΙΣΤΡΟΦΟ ΑΝΑΦΕΡΕΤΑΙ ΣΤΗΝ ΕΠΙΣΤΡΟΦΗ ΣΤΗΝ ΚΑΤΑΡΤΙΣΤΙΚΗ ΔΙΑΔΙΚΑΣΙΑ

Bill No. PCS for HB 455 (2017)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Metz offered the following:

3

4 **Amendment**

5 Remove lines 41-43 and insert:

6 (a) "Total and permanent disability" means a medically
7 determinable physical or cognitive impairment that permanently
8 prevents a person from rendering useful and efficient service as
9 a first responder. The term does not include a

PCS for HB 455 a1

Published On: 3/20/2017 6:20:22 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. PCS for HB 455 (2017)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Ways & Means Committee
 2 Representative Metz offered the following:

Amendment (with title amendment)

Remove lines 139-199 and insert:

...(Physical or cognitive impairment that permanently prevents the applicant from rendering useful and efficient service as a first responder)...

...(Chronic condition or chronic disease solely caused by an injury sustained in the line of duty as a first responder)...

It is my professional belief that the above-named condition(s) permanently prevent(s) Mr.....Mrs.....Miss.... Ms.....(applicant name)... from rendering useful and efficient service as a first responder, and that the foregoing statements are true, correct, and complete to the best of my

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. PCS for HB 455 (2017)

Amendment No. 2

17 knowledge and professional belief.

18

19 Signature....

20 Address...(print)...

21 Date....

22 Florida Board of Medicine or Osteopathic Medicine license number

23 Issued on.....

24

25 NOTICE TO TAXPAYER: Each Florida resident applying for an
26 exemption due to a disability that occurred in the line of duty
27 while serving as a first responder must present to the county
28 property appraiser a copy of this form and a letter from the
29 employer for whom the first responder worked at the time of the
30 injury, as required by section 196.102(8), Florida Statutes.
31 Each form is to be completed by a licensed Florida physician.

32

33 NOTICE TO TAXPAYER AND PHYSICIAN: Section 196.131(2), Florida
34 Statutes, provides that any person who knowingly and willingly
35 gives false information for the purpose of claiming homestead
36 exemption commits a misdemeanor of the first degree, punishable
37 by a term of imprisonment not exceeding 1 year or a fine not
38 exceeding \$5,000, or both.

39 (8) An employer for whom the first responder worked at the
40 time of the injury must provide a certificate that, at a
41 minimum, attests and includes:

PCS for HB 455 a2

Published On: 3/20/2017 6:20:42 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. PCS for HB 455 (2017)

Amendment No. 2

- 42 (a) The title of the person signing the certificate.
- 43 (b) The name and address of the employing entity.
- 44 (c) A description of the incident that caused the injury or
45 injuries.
- 46 (d) A statement that the first responder's injury or
47 injuries were:
- 48 1. Directly and proximately caused by service in the line
49 of duty.
- 50 2. Without willful negligence on the part of the first
51 responder.
- 52 3. The sole cause of the first responder's total and
53 permanent disability.
- 54 (9) Any person who knowingly or willfully gives false
55 information for the purpose of claiming homestead exemption as
56 set forth in this section commits a misdemeanor of the first
57 degree, punishable as provided in s. 775.082 or by fine of not
58 more than \$5,000, or both.
- 59 (10) The Department of Revenue may, and all conditions are
60 deemed to be met to, adopt emergency rules pursuant to ss.
61 120.536(1) and 120.54 to administer the application process for
62 the 2017 calendar year. This subsection is repealed on August
63 30, 2018.
- 64 (11) The Department of Revenue may adopt rules to
65 administer this section.
- 66 (12) Notwithstanding s. 196.011 and this section, the
67 deadline for a first responder to file an application with the

PCS for HB 455 a2

Published On: 3/20/2017 6:20:42 PM

Amendment No. 2

68 property appraiser for an exemption under this section for the
69 2017 tax year is August 1, 2017.

70 (13) If an application is not timely filed under subsection
71 (12), a property appraiser may grant the exemption if:

72 (a) The applicant files an application for the exemption on
73 or before the 25th day after the mailing of the notice required
74 under s. 194.011(1) by the property appraiser during the 2017
75 calendar year;

76 (b) The applicant is qualified for the exemption; and

77 (c) The applicant produces sufficient evidence, as
78 determined by the property appraiser, which demonstrates that
79 the applicant was unable to apply for the exemption in a timely
80 manner or otherwise demonstrates extenuating circumstances that
81 warrant granting the exemption.

82 (14) If the property appraiser denies an exemption under
83 subsection (12) or subsection (13), the applicant may file,
84 pursuant to s. 194.011(3), a petition with the value adjustment
85 board requesting the exemption be granted. Notwithstanding s.
86 194.013, the eligible first responder is not required to pay a
87 filing fee for such petition filed on or before December 31,
88 2017. Upon review of the petition, the

89

90

91

92

93

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. PCS for HB 455 (2017)

Amendment No. 2

94 Remove lines 12-15 and insert:
95 exemption; providing a criminal penalty for knowingly or
96 willingly giving false information for a certain purpose;
97 granting rulemaking authority; specifying a deadline for
98 applying for the exemption; authorizing property
99 appraisers, under certain circumstances, to grant
100 exemptions for untimely filed applications; providing
101 procedures and requirements for petitioning value
102 adjustment boards regarding denied exemptions; providing
103 applicability and construction; providing an effective
104 date.

PCS for HB 455 a2

Published On: 3/20/2017 6:20:42 PM

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 17-03 Pro-growth Federal Tax Reform
SPONSOR(S): Ways & Means Committee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Schmiege <i>SAS</i>	Langston <i>SL</i>

SUMMARY ANALYSIS

The federal tax code is complex and costly to comply with, has not been significantly updated in 30 years, imposes relatively high statutory tax rates and arbitrary depreciation rules on American businesses, and suppresses economic growth.

With this memorial, the Florida Legislature urges the United States Congress to support pro-growth federal tax reform to address the various problems with the federal tax code by permanently lowering tax rates, repealing the estate tax and the alternative minimum tax, moving to territorial taxation, and implementing full business expensing.

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

This memorial does not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Federal Tax Code:

Title 26 of the United States Code encapsulates the Federal Tax Code. This is the primary area in which federal tax laws are codified. The tax code is frequently updated and amended. Various authorities note how numerous these additions have been over the years.¹ Further, much of the tax code's growth has occurred in the last 30 years.² However, there has not been an overarching tax reform implementation in approximately 30 years.³ The United States Tax Code has been overhauled several times in its history.⁴ Title 26 was initially compiled in 1939.⁵ Since then, the tax code has been completely overhauled in 1954 and 1986.⁶ These overhauls have occurred at roughly 30 year intervals since Title 26's inception.

When considering the entirety of federal tax law in the United States, the tax code is an estimated 75,000 pages,⁷ of which Title 26 of the United State Tax Code, alone, is a fraction.⁸ The 75,000 page estimate includes statutes, regulations, case law, annotations, and other information deemed necessary for tax experts to thoroughly interpret the entire tax code.⁹

Compliance with the tax code involves making tax payments, along with producing and submitting information to the tax authorities on time and in the required formats. The tax code is long and variable. Many tax laws have exceptions. Many tax laws have exceptions to exceptions. In order to ensure compliance, many people and companies hire tax experts to help ensure they are not in violation of the tax code. Each year, Americans and businesses aggregately spend billions of hours complying with tax laws, and in doing so spend billions of dollars in compliance.¹⁰

Statutory Tax Rates:

The United States has some of the highest statutory income tax rates in the world.¹¹ The highest marginal corporate tax rate, found in Section 11 of the Tax code, is 38.9 percent, and corporations in

¹ <http://www.washingtonexaminer.com/look-at-how-many-pages-are-in-the-federal-tax-code/article/2563032>;
<https://taxfoundation.org/federal-tax-laws-and-regulations-are-now-over-10-million-words-long/>

² <http://www.washingtonexaminer.com/look-at-how-many-pages-are-in-the-federal-tax-code/article/2563032>

³ https://www.census.gov/history/www/reference/privacy_confidentiality/title_26_us_code_1.html

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ <http://www.washingtonexaminer.com/look-at-how-many-pages-are-in-the-federal-tax-code/article/2563032>;
<http://www.cch.com/wbot2013/factsheet.pdf>

⁸ <https://www.forbes.com/sites/peterjreilly/2015/09/21/tax-code-explained-why-it-matters-presidential-race/#4b2d69f123f8> ;
http://www.slate.com/articles/news_and_politics/politics/2014/04/how_long_is_the_tax_code_it_is_far_shorter_than_70_000_pages.html

⁹ <http://www.cch.com/wbot2013/factsheet.pdf>

¹⁰ <https://taxfoundation.org/federal-tax-laws-and-regulations-are-now-over-10-million-words-long/>;
https://www.irs.gov/pub/tas/08_tas_arc_msp_1.pdf

¹¹ 26 U.S.C.S. § 11

the highest income tax bracket are charged a statutory rate of 35 percent.¹² These corporate tax rates are among the top 10 worldwide corporate tax rates.¹³

The top 10 statutory tax rates are as follows:

- United Arab Emirates: 55 percent
- Puerto Rico: 39 percent
- United States: 38.9 percent
- Argentina: 35 percent
- Chad: 35 percent
- Congo, Democratic Republic Of The: 35 percent
- Equatorial Guinea: 35 percent
- Guinea: 35 percent
- Malta: 35 percent
- Virgin Islands: 35 percent

Repatriation:

When United States companies earn money overseas, they are taxed in the jurisdiction in which they earned the money. If the company repatriates those overseas earnings back to the United States, that corporation may also owe taxes to the United States. The United States operates under a worldwide tax regime, meaning that it taxes corporations based on their worldwide earnings. However, the United States offers a foreign tax credit to companies with foreign income. If a company pays tax to a foreign country, then they do not have to pay that percentage of taxes to the United States. Instead, the corporations pay the difference in the tax rates to the United States.

Depreciation:

Depreciation is an income tax deduction that allows a taxpayer to recover the cost or other basis of certain property. It is an annual allowance for the wear and tear, deterioration, or obsolescence of the property.¹⁴ If a taxpayer owns property, uses it for a business, and that property has a determinable useful life of more than one year, then the taxpayer can generally take depreciation deductions.¹⁵ Congress has established class lives and depreciation methods for various assets.¹⁶

U.S. Economic Growth:

The gross domestic product (GDP) is the total value of goods produced and services provided in a country during one year. The GDP is one of the primary indicators used to measure the health of a country's economy. The average annual growth in real (inflation adjusted) U.S. GDP was 2.1 percent over the past five years, and 2.6 percent over the past 30 years.¹⁷

Current Federal Tax Reform:

The U.S. House of Representatives is currently considering overarching tax reform of the federal tax code.¹⁸ Congress is meeting with the Trump administration to determine the best tax policies. One

¹² *Id.*

¹³ <https://taxfoundation.org/corporate-income-tax-rates-around-world-2015/>

¹⁴ 26 U.S.C.S. § 167

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ <https://bea.gov/national/index.htm#gdp>

¹⁸ <https://taxfoundation.org/details-and-analysis-2016-house-republican-tax-reform-plan/>

current proposed plan would reform the income tax code by lowering marginal tax rates on wages, investment, and business income. Further, it would lower the corporate income tax rate to 20 percent, and convert it into a destination-based cash-flow tax. Finally, the plan would eliminate federal estate and gift taxes.¹⁹ The eventual outcome of the legislation is unclear at present.

Effect of Proposed Changes

PCB WMC 17-03 petitions the United States Congress to support pro-growth federal tax reform to address the various problems with the federal tax code by permanently lowering tax rates, repealing the estate tax and the alternative minimum tax, moving to territorial taxation, and implementing full business expensing.

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

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.

¹⁹ *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Memorial

A memorial to the Congress of the United States,
 urging Congress to support pro-growth federal tax
 reform.

WHEREAS, the United States has the opportunity to enact
 once-in-a-generation tax reform at a time when the existing
 system is out of date and has not been significantly updated in
 30 years, and

WHEREAS, the United States imposes some of the highest
 income tax rates on small businesses and corporations in the
 world, which puts American employers and workers at a great
 disadvantage relative to foreign competitors, and

WHEREAS, the United States tax code and related laws exceed
 75,000 pages and impose hundreds of billions of dollars and
 billions of hours in compliance costs on taxpayers, and

WHEREAS, the United States is one of the only modern
 countries that double taxes American companies on income earned
 overseas and brought back to America to be reinvested in the
 economy, and

WHEREAS, American businesses are currently forced to
 depreciate the cost of purchasing new equipment in an arbitrary
 way, forcing business owners to make decisions based solely on
 the United States tax code, and

PCB WMC 17-03

2017

25 WHEREAS, the complex, out-of-date tax code suppresses
 26 economic growth at a time when our economy has grown at a
 27 historically slow 2-percent average rate, resulting in the
 28 creation of fewer jobs with lower wages, NOW, THEREFORE,

29

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

31

32 That the Congress of the United States is urged to support
 33 pro-growth tax reform that fixes the aforementioned problems by
 34 permanently lowering tax rates, repealing the estate tax and the
 35 alternative minimum tax, moving to territorial taxation, and
 36 implementing full business expensing.

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