CS/SB 1568 by **HR, Gaetz, Garcia**; (Compare to CS/CS/H 0711) Sale or Lease of a County, District, or Municipal Hospital

413528	D	S	RCS	CA, Storms	Delete everything after	01/30 03:04 PM
979770	AA	S	WD	CA, Bennett	Delete L.238 - 240:	01/30 03:04 PM
968298	AA	S	RCS	CA, Bennett	Delete L.238 - 240:	01/30 03:04 PM

SB 1868 by **Gardiner**; Federal Grants

958174	D	S	RCS	CA, Thrasher	Delete everything after	01/30 03:05 PM
452734	AA	S	RCS	CA, Thrasher	After L.81:	01/30 03:05 PM

SB 1724 by **Alexander**; (Identical to H 4029) Mosquito Control Districts

SB 480 by **Dean**; (Similar to H 0573) Mobile Home and Recreational Vehicle Parks

107908	A	S	RCS	CA, Storms	Delete L.168 - 172:	01/30 03:05 PM
570628	A	S	WD	CA, Storms	Delete L.310 - 311:	01/30 03:05 PM

SB 806 by **Dean**; (Identical to H 0371) Enterprise Zones

SB 760 by **Hays**; (Identical to H 4025) Local Business Taxes

271688	D	S		CA, Richter	Delete everything after	01/23 10:16 AM
314286	A	S	WD	CA, Richter	btw L.463 - 464:	01/30 03:05 PM

SJR 720 by **Garcia**; (Similar to H 0349) Miami-Dade County Home Rule Charter

SJR 1740 by **Garcia**; (Identical to H 0169) Additional Homestead Tax Exemption

SB 1738 by **Garcia**; (Identical to H 0357) Homestead Exemptions For Seniors

SJR 838 by **Diaz de la Portilla**; (Similar to CS/H 0055) Homestead Assessment Limitation/Low-income Senior Citizens

SB 1460 by **Simmons**; (Compare to CS/H 0673) Preference in Award of State Contracts

CS/SB 354 by **TR, Simmons**; (Similar to H 0219) Seminole County Expressway Authority

821942	A	S	RCS	CA, Bennett	btw L.144 - 145:	01/30 03:05 PM

SJR 1070 by **Ring**; (Similar to H 0785) Term Limits/Constitutional County Officers and County Commissioners

582594	A	S	RCS	CA, Ring	Delete L.37 - 38:	01/30 03:05 PM

CS/SB 670 by **JU, Ring**; (Identical to CS/H 0671) Liens on Real Property

SB 1322 by **Norman**; (Similar to H 0997) Local Requirements for Dangerous Dogs

SB 1182 by **Norman**; (Identical to H 0933) Public Housing

479964	A	S	RCS	CA, Norman	btw L.42 - 43:	01/30 03:05 PM
280978	A	S	WD	CA, Norman	btw L.42 - 43:	01/30 03:05 PM
933162	A	S	RCS	CA, Bennett	btw L.564 - 565:	01/30 03:05 PM

SB 294 by **Bennett**; (Identical to H 0201) Enterprise Zones/Charlotte County

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Bennett, Chair
Senator Norman, Vice Chair

MEETING DATE: Monday, January 30, 2012
TIME: 10:00 a.m.—12:00 noon
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Bennett, Chair; Senator Norman, Vice Chair; Senators Gibson, Richter, Ring, Storms, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 1568** Health Regulation / Gaetz / Garcia (Compare CS/CS/H 711, H 895, S 464)	Sale or Lease of a County, District, or Municipal Hospital; Requiring the governing board of a county, district, or municipal hospital to evaluate the possible benefits to an affected community from the sale or lease of a hospital facility owned by the board to a not-for-profit or for-profit entity within a specified time period; specifying the factors that must be considered by the governing board before accepting a proposal to sell or lease the hospital; providing that the purposes for which a special taxing district may appropriate funds from the sale or lease of a hospital include the promotion and support of economic growth in the district and county in which the taxing district is located and the furthering of the purposes of the taxing district, etc. HR 01/19/2012 Fav/CS CA 01/30/2012 Fav/CS BC	Fav/CS Yeas 8 Nays 0
2	**SB 1868** Gardiner	Federal Grants; Requiring a county, municipality, or special district to identify and disclose the unfunded, long-term costs of a project funded by a federal grant; authorizing a person to file a civil action to enforce the disclosure of unfunded, long-term costs of a county, municipality, or special district project funded by a federal grant; requiring the court to assess reasonable costs, including attorney fees, against the county, municipality, or special district if the court finds that the county, municipality, or special district did not disclose the unfunded costs of a project funded by a federal grant; providing an exception for federal grants associated with natural disasters, grants involving the Federal Emergency Management Agency, grants received from the Department of Homeland Security, or Medicaid funds, etc. CA 01/30/2012 Fav/CS JU BC	Fav/CS Yeas 6 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**SB 1724** Alexander (Identical H 4029)	Mosquito Control Districts; Repealing provisions relating to certain powers of the board of county commissioners to hold, control, acquire, or purchase real or personal property, condemn land or easements, exercise the right of eminent domain, and institute and maintain condemnation proceedings for a mosquito control district, etc. CA 01/30/2012 Favorable	Favorable Yeas 7 Nays 0
4	**SB 480** Dean (Similar H 573)	Mobile Home and Recreational Vehicle Parks; Specifying laws and rules to be enforced by the Department of Health; revising applicability of recreational vehicle park requirements to mobile home parks; providing for an annual operating permit fee to be charged to operators of certain parks or camps; providing that an operator of a mobile home park, lodging park, recreational vehicle park, or recreational camp who refuses to pay the operating permit fee required by law or who fails, neglects, or refuses to obtain an operating permit for the park commits a misdemeanor of the second degree; providing requirements for the establishment of separation and setback distances, etc. HR 01/12/2012 Favorable CA 01/30/2012 Fav/CS BC	Fav/CS Yeas 7 Nays 0
5	**SB 806** Dean (Identical H 371)	Enterprise Zones; Authorizing Citrus County to apply to the Department of Economic Opportunity for designation of an enterprise zone; providing an application deadline and requirements; authorizing the department to designate an enterprise zone in Citrus County; requiring the department to establish the effective date of the enterprise zone, etc. CM 01/19/2012 Favorable CA 01/30/2012 Favorable BC	Favorable Yeas 7 Nays 0
6	**SB 760** Hays (Similar H 1063, Identical H 4025)	Local Business Taxes; Repealing ch. 205, F.S., which established the Local Business Tax Act, etc. CA 01/23/2012 Temporarily Postponed CA 01/30/2012 Temporarily Postponed CU BC	Temporarily Postponed

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**SJR 720** Garcia (Similar HJR 349)	Miami-Dade County Home Rule Charter; Proposing an amendment to the State Constitution to authorize amendments or revisions to the home rule charter of Miami-Dade County by special law approved by a vote of the electors; providing requirements for a bill proposing such a special law; authorizing the Miami-Dade County charter to provide for fixed term limits of commissioners, etc. CA 01/30/2012 Favorable JU BC	Favorable Yeas 8 Nays 0
8	**SJR 1740** Garcia (Identical HJR 169, Compare H 357, Link S 1738)	Additional Homestead Tax Exemption; Proposing an amendment to the State Constitution to authorize the Legislature, by general law, to allow counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of the property to an owner who has maintained permanent residency on the property for a specified duration, who has attained age 65, and whose household income does not exceed a specified amount, etc. CA 01/30/2012 Favorable JU BC	Favorable Yeas 8 Nays 0
9	**SB 1738** Garcia (Identical H 357, Compare HJR 169, Link SJR 1740)	Homestead Exemptions For Seniors; Authorizing the board of county commissioners of any county or the governing authority of any municipality to adopt an ordinance granting an additional homestead tax exemption up to the assessed value of the property to an owner who has maintained permanent residency on the property for a specified duration, who has attained age 65, and whose household income does not exceed a specified amount; providing for annual cost-of-living adjustments of the household-income limitation relating to such additional homestead exemption, etc. CA 01/30/2012 Favorable JU BC	Favorable Yeas 8 Nays 0
10	**SJR 838** Diaz de la Portilla (Similar CS/HJR 55)	Homestead Assessment Limitation/Low-income Senior Citizens; Proposing an amendment to the State Constitution to authorize counties and municipalities to limit the assessed value of the homesteads of certain low-income senior citizens, etc. CA 01/30/2012 Favorable JU BC	Favorable Yeas 6 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SB 1460** Simmons (Compare CS/H 673)	Preference in Award of State Contracts; Expanding provisions that authorize an agency, county, municipality, school district, or other political subdivision of the state to provide preferential consideration to a Florida business in awarding competitively bid contracts to purchase personal property to include the purchase of construction services; providing that for specified competitive solicitations the authority to grant preference supersedes any local ordinance or regulation which grants preference to specified vendors; requiring a county, municipality, school district, or other political subdivision to make specified disclosures in competitive solicitation documents, etc. CA 01/30/2012 Favorable ED GO BC	Favorable Yeas 6 Nays 1
12	**CS/SB 354** Transportation / Simmons (Similar H 219)	Seminole County Expressway Authority; Citing this act as the Seminole County Expressway Authority Law; creating the Seminole County Expressway Authority; prohibiting an entity or body or another authority from exercising jurisdiction, control, authority, or power over an expressway system in Seminole County without the consent of the Seminole County Expressway Authority; requiring notice of public hearing and an opportunity for municipal officials and residents to discuss and advise the authority; providing for the issuance of bonds; providing for lease-purchase agreements between the Department of Transportation and the authority; authorizing the Department of Transportation to use funds for the operation of the authority and to generate preparatory information necessary for an expressway system; authorizing the authority to acquire land and properties, etc. TR 01/09/2012 Fav/CS CA 01/23/2012 Temporarily Postponed CA 01/30/2012 Fav/CS BC	Fav/CS Yeas 7 Nays 0
13	**SJR 1070** Ring (Similar HJR 785)	Term Limits/Constitutional County Officers and County Commissioners; Proposing an amendment to the State Constitution to authorize the imposition of term limits on constitutional county officers and county commissioners when provided by county charter, etc. CA 01/30/2012 Fav/CS JU	Fav/CS Yeas 7 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	**CS/SB 670** Judiciary / Ring (Identical CS/H 671)	Liens on Real Property; Providing that a lien imposed on real property by a governmental or quasi-governmental entity for certain purposes, other than a lien for taxes, non-ad valorem or special assessments, or utilities, is not valid against a creditor or subsequent purchasers unless the lien is recorded; specifying the required contents of the recorded notice of lien, etc. JU 01/19/2012 Fav/CS CA 01/30/2012 Favorable BC	Favorable Yeas 7 Nays 0
15	**SB 1322** Norman (Similar H 997)	Local Requirements for Dangerous Dogs; Removing the provision that exempts local ordinances adopted before a specified date from the prohibition on ordinances that are specific to breed or that lessen state restrictions governing dangerous dogs, etc. CA 01/30/2012 Favorable GO BC	Favorable Yeas 7 Nays 0
16	**SB 1182** Norman (Identical H 933)	Public Housing; Providing that access to essential commercial goods and services for persons of low income served by housing authorities is a public use; revising the definition of the term “housing project”; defining the term “essential commercial goods and services”; prohibiting the use of eminent domain for certain purposes; revising and providing findings and declarations of property of tax exemption for housing authorities relating to access to essential commercial goods and services necessary for daily living for persons of low income, etc. CA 01/30/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0
17	**SB 294** Bennett (Identical H 201)	Enterprise Zones/Charlotte County; Authorizing Charlotte County to apply to the Department of Economic Opportunity for designation of an enterprise zone; providing application requirements; authorizing the department to designate an enterprise zone in Charlotte County; requiring that the department establish the initial effective date for the enterprise zone, etc. CM 01/19/2012 Favorable CA 01/30/2012 Favorable BC	Favorable Yeas 6 Nays 0

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/CS/SB 1568

INTRODUCER: Community Affairs Committee; Health Regulation Committee; and Senators Gaetz and Garcia

SUBJECT: Sale or Lease of County, District, or Municipal Hospital

DATE: January 30, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	**Fav/CS**
2.	Toman	Yeatman	CA	**Fav/CS**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The committee substitute (CS/CS) requires any sale or lease of a public hospital that is owned by a county, district, or municipality to be approved by the Chief Financial Officer (CFO) of Florida, unless a majority vote of the registered voters within that county, district, or municipality, is required by law.

Unless exempted, the governing board of a public hospital must, within 60 calendar days after one of six triggering conditions, commence evaluation of the possible benefits to an affected community from the sale or lease of the hospital. Within 160 days of the initiation of an evaluation, the governing board must publish its findings related to the evaluation process.

The CS/CS also provides that prior to the sale or lease, the governing board of the public hospital must provide public notice of the proposed transaction, publish documents associated with the transaction, and publish the governing board's findings regarding the proposed sale or lease. A procedure for allocating the costs associated with an evaluation is outlined. The CS/CS also provides the process of review of the sale or lease to be conducted by the CFO prior to approval or rejection of the sale or lease.

The CS/CS provides for the appeal of the CFO's decision by the governing board or an interested party.

The CS/CS allocates net proceeds received from the sale or lease of a county, district, or municipal hospital and ad valorem tax revenue collected when a public hospital is sold or leased to a for-profit corporation or other business entity subject to local taxation.

The CS/CS exempts a lease modification, renewal, or extension relating to a hospital that was leased prior to the CS/CS becoming a law, from the evaluation, public disclosure, or approval processes, or net proceeds or tax revenue allocations provided for in the CS/CS. The CS/CS also exempts the sale or lease of any hospital property that generates less than a certain amount of revenue from these processes and allocations.

The CS/CS also provides that, despite any other provision of general or special law, the purposes for which a special taxing district may appropriate funds from the sale or lease of a hospital to an economic development fund include the promotion and support of health care business development or research in the district and in the county in which the district is located.

The CS/CS will take effect upon becoming a law.

This CS/CS amends sections 155.40 and 395.3036, Florida Statutes.

This CS/CS creates section 155.401, Florida Statutes.

The CS/CS creates an undesignated section of the Florida Statutes.

II. Present Situation:

Sale or Lease of Public Hospitals

County, district, and municipal hospitals may be created by special enabling acts, rather than by general acts under Florida law.1 The special act may specify the hospital's ability or inability to levy taxes to support the maintenance of the hospital, the framework for the governing board, and whether or not the governing board has the ability to issue bonds. There are currently 34 hospital districts in Florida under which public hospitals operate,2 and the Public Health Trust of Miami-Dade County, which is not a special hospital district but is a part of county government.3

[1] Section 155.04, F.S., allows a county, upon receipt of a petition signed by at least 5 percent of resident freeholders, to levy an ad valorem tax or issue bonds to pay for the establishment and maintenance of a hospital. Section 155.05, F.S., gives a county the ability to establish a hospital without raising bonds or an ad valorem tax, utilizing available discretionary funds. However, an ad valorem tax can be levied for the ongoing maintenance of the hospital.

[2] *See* Agency for Health Care Administration, Florida Commission on Review of Taxpayer Funded Hospital Districts, *Hospital Tax District Survey Data*, for a list of taxpayer funded hospital districts, available at: http://ahca.myflorida.com/mchq/FCTFH/hospitalNEW.shtml (Last visited on January 17, 2012).

[3] Commission on Review of Taxpayer Funded Hospital Districts, *Report of the Commission on Review of Taxpayer Funded Hospital Districts,* pg. 8, available at: http://ahca.myflorida.com/mchq/FCTFH/pdf/122911Meeting/FinalReportRF2.pdf (Last visited on January 17, 2012).

The process for the sale or lease of a public hospital is established by s. 155.40, F.S. Currently, the governing board of a public hospital has the authority to negotiate the sale or lease of the hospital. The hospital can be sold or leased to a for-profit or not-for-profit Florida corporation and such sale or lease must be in the best interest of the public. The board is required to publicly advertise the meeting at which the proposed sale or lease will be discussed in accordance with s. 286.0105, F.S., and the offer to accept proposals from all interested and qualified purchasers in accordance with s. 255.0525, F.S.

Section 155.40(2), F.S., requires any lease, contract, or agreement to:

- Provide that the articles of incorporation of the corporation are subject to approval of the board of directors or board of trustees of the hospital.
- Require that any not-for-profit corporation become qualified under s. 501(c)(3) of the U.S. Internal Revenue Code.
- Provide for the orderly transition of the operation and management of the facilities.
- Provide for the return of the facility to the county, municipality, or district upon the termination of the lease, contract, or agreement.
- Provide for the continued treatment of indigent patients pursuant to the Florida Health Care Responsibility Act4 and ch. 87-92, Laws of Florida.

For the sale or lease to be considered "a complete sale of the public agency's interest in the hospital" under s. 155.40(8)(a), F.S., the purchasing private entity must:

- Acquire 100 percent ownership of the hospital enterprise.
- Purchase the physical plant of the hospital facility and have complete responsibility for the operation and maintenance of the facility, regardless of the underlying ownership of the real property.
- Not allow the public agency to retain control over decision-making or policymaking for the hospital.
- Not receive public funding, other than by contract for services rendered to patients for whom the public agency seller has the responsibility to pay for hospital or medical care.
- Not receive substantial investment or loans from the seller.
- Not be created by the public agency seller.
- Primarily operate for its own financial interests and not those of the public agency seller.

A complete sale of the public agency's interest under s. 155.40(8)(b), F.S., shall not be construed as:

- A transfer of governmental function from the county, district, or municipality to the private corporation or entity.
- A financial interest of the public agency in the private corporation or other private entity purchaser.
- Making the private corporation or other private entity purchaser an "agency" as that term is used in statute.
- Making the private entity an integral part of the public agency's decision-making process.
- Indicating that the private entity is "acting on behalf of a public agency," as that term is used in statute.

[4] Sections 154.301-154.316, F.S.

If the corporation that operates a hospital receives more than $100,000 in revenues from the county, district, or municipality, it must account for the manner in which the funds are expended.5 The funds are to be expended by being subject to annual appropriations by the county, district, or municipality, or if there is a contract for 12 months or longer to provide revenues to the hospital, then the governing board of the county, district, or municipality must be able to modify the contract upon 12 months notice to the hospital.6

Recent Leases or Sales of Public Hospitals

The public hospital Bert Fish Medical Center entered into a controversial $80 million lease agreement with Adventist Health System, which was nullified by Circuit Court Judge Richard Graham because of 21 closed-door meetings that occurred during the negotiation process and violated Florida's Sunshine Law under s. 286.011, F.S.7

Other leases or sales or proposed leases or sales of public hospitals have been scrutinized, especially for the effect such sales or leases would have on taxpayers. For example, Helen Ellis Hospital was merged with Adventist Health in 2010, and there have been proposals to turn public hospital systems in Miami-Dade County and Broward County into private hospitals.8

Florida Commission on Review of Taxpayer Funded Hospital Districts

On March 23, 2011, Governor Rick Scott issued Executive Order Number 11-63, which created the Florida Commission on Review of Taxpayer Funded Hospital Districts (Commission). The Commission was created to assess and make recommendations on the role of hospital districts, whether it is in the public's best interest to have government entities operating hospitals, and what is the most effective model for enhancing health-care access for the poor.

The Commission held 14 public meetings between May 23 and December 29, 2011, at which stakeholders, government officials, and taxpayers gave testimony and made presentations. The Commission also surveyed all Florida hospital districts. Based on the presentations, testimony, and the survey responses, the Commission made several recommendations in the Report of the Commission on Review of Taxpayer Funded Hospital Districts.9

The Commission's general recommendations include the following:10

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[5] Section 155.40(5), F.S.
[6] *Id.*
[7] Linda Shrieves, *Judge rules Bert Fish must cut ties with Florida Hospital*, Orlando Sentinel, February 24, 2011, available at: http://articles.orlandosentinel.com/2011-02-24/health/os-bert-fish-decision-20110224_1_sunshine-laws-open-meetings-hospital-board (Last visited January 17, 2012).
[8] Anne Geggis, *Bills reflect problems at Bert Fish*, Daytona Beach News-Journal, March 8, 2011, available at: http://www.news-journalonline.com/news/local/southeast-volusia/2011/03/08/bills-reflect-problems-at-bert-fish.html (Last visited January 17, 2012).
[9] Commission on Review of Taxpayer Funded Hospital Districts, *Report of the Commission on Review of Taxpayer Funded Hospital Districts*, pg. 1, available at: http://ahca.myflorida.com/mchq/FCTFH/pdf/122911Meeting/FinalReportRF2.pdf (Last visited on January 17, 2012).
[10] *Id.* at 3.

- The Governor and other appointing authorities should appoint qualified individuals to district and hospital boards who do not have conflicts of interest.
- Board members should include health care stakeholders and members of the local community who have financial expertise and experience operating successful, larger enterprises.
- To ensure appropriate checks and balances, the membership of district and hospital boards should be separate and distinct.
- To ensure appropriate checks and balances the membership of hospital board members and hospital managers should be separate and distinct.
- Special hospital districts should become indigent health care districts, funding indigent health care based on local priorities and not limited to hospitals owned or operated by the districts. As a part of the transition to indigent health care districts, hospital districts that own hospitals should de-couple them from the districts.
- When considering changes to taxation rates, millage rates should be adjustable with a maximum allowable rate, but with the flexibility to lower the rate if circumstances change.
- Boards of directors of hospital districts should be subject to appropriate oversight.

Furthermore, to correspond with the directives in the Governor's executive order, the Commission made several comments and recommendations regarding quality of care, cost of care, access to care for the poor, oversight and accountability, physician employment, and changes of ownership and governance in taxpayer funded hospitals.11 Those comments and recommendations, pertaining to the sale or lease of taxpayer funded hospitals, are as follows:

- Using the available outcome data, the Commission could not establish that there is a pattern of higher or lower quality in Florida hospitals based on ownership. The Governor and Legislature should support the Agency for Health Care Administration (AHCA) in its effort to continue to refine and publish data on outcomes and quality by hospital and health care facility.
- An open, competitive public procurement process or negotiation should be ensured.
- A fair and independent asset valuation process should be ensured during a sale or lease.
- Guidelines should be established to ensure an ongoing community benefit from any proceeds generated by the sale of a hospital.
- Without inhibiting the functioning of a free market, independent oversight of a sale or lease process should be maintained with review by an appropriate authority.
- The maintenance and/or expansion of community health programs should be required if there is a sale or lease, with an emphasis on primary care and emergency room diversion.

Chief Financial Officer of Florida

Florida's Chief Financial Officer (CFO) oversees the state's accounting and auditing functions and unclaimed property, monitors the investment of state funds, and manages the deferred compensation program and risk management program for the state.12

Florida's CFO serves as one of three constitutionally elected state executives of the Florida Cabinet, which consists of the Chief Financial Officer, the Attorney General, and the

[11] *Id.* at 4-5.
[12] Florida Department of Financial Services, Jeff Atwater, Chief Financial Officer, *Meet the CFO*, available at: http://www.myfloridacfo.com/sitepages/agency/cfo.aspx (Last visited on January 17, 2012).

Commissioner of Agriculture and Consumer Services. The Governor and the Cabinet serve as a board of directors, or agency heads, governing such matters as the purchase of state lands; clemency matters; state bond, trust and fund management; veterans' affairs; state law enforcement administration; tax collection; power plant and transmission line sitings; and financial and insurance regulation for the state of Florida.13

Superseding or Prohibiting Local Law by General Law

The rule of statutory construction is that specific provisions prevail over general provisions.[14] Therefore, local laws prevail over inconsistent general laws. General laws may be drafted to supersede prior local laws by using the phrase "notwithstanding any provision of local law." This phrase applies only to local laws existing when the general law takes effect and does not prevent later inconsistent local laws from again superseding the general law.[15]

III. Effect of Proposed Changes:

Section 1 amends s. 155.40, F.S., to require the governing board of a county, district, or municipal hospital to find that a sale, lease, or contract is in the best interests of the "affected community," rather than the public and requires the board to state the basis of that finding notwithstanding any other provision of general or special law. "Affected community" is defined in this section to mean those persons residing within the geographic boundaries defined by the charter of the county, district, or municipal hospital, or if the boundaries are not specifically defined by charter of the hospital, by the geographic area from which 75 percent of the county, district, or municipal hospital's inpatient admissions are derived.

Subsection (3) of this section exempts any lease modification, renewal, or extension relating to a lease transaction that occurs before the CS/CS becomes a law from the provisions of the CS/CS if a governing board elects to consider a sale or lease of a hospital or health care system to a third party.

Subsection (4) of this section provides a number of definitions including:

- "Expression of interest" means a bona fide request from a for-profit or not-for-profit entity that is a qualified purchaser or lessee to the board of directors of a county, district, or municipal hospital to enter into negotiations to sell or lease the hospital or health care system on commercially reasonable terms.
- "Increase tax support" means a vote to increase ad valorem or other taxes that are used to support operations of the hospital or health care system or any vote to allow the ad valorem tax rate to remain the same in any year in which property values in the taxing district have increased on the average, resulting in an increase in ad valorem tax revenues to the hospital.
- "Net operating expenses" means the total operating expenses of the hospital, excluding depreciation, interest, taxes, amortization, and nonoperating expenses.
- "Net operating revenues" has the same meaning as provided in s. 395.701(1). The term does not include restricted donations and grants for indigent care or nonoperating revenues, including, but not limited to, local unrestricted tax revenues and appropriated funds from

[13] *Id.*
[14] Fla. Senate, *Manual for Drafting Legislation*, 130 (6th ed. 2009)
[15] *Id.*

state and local governments or any other type of tax support, gain or loss from the sale of assets, or unrestricted contributions.

- "Qualified purchaser or lessee" means an entity that demonstrates access to capital in an amount equal to or in excess of 25 percent of the net revenue generated in the immediately preceding fiscal year of the hospital or health care system that is the subject of the sale or lease. Such access to capital can be demonstrated by cash reserves, an existing line of credit, or a binding commitment to obtain a line of credit to finance the purchase in an amount that equals or exceeds 25 percent of the net revenue generated by the hospital or health care system.

Subsection (5) of this section requires the hospital governing board, within 60 calendar days after any of six possible triggering events, to commence an evaluation of the possible benefits to an affected community from the sale or lease of hospital facilities owned by the board to a nonprofit or for-profit entity. The six possible triggering events are:

1. The county, district, or municipal hospital or health care system receives a bona fide expression of interest by a qualified purchaser or lessee to buy or lease the county, district, or municipal hospital or health care system.
2. The governing board of a county, district, or municipal hospital votes to increase the amount of tax support for the hospital or health care system.
3. The county, district, or municipal hospital or health care system experiences operating deficits that result in net operating expenses that exceed net operating revenues by 10 percent or more for 3 consecutive years.
4. The county, district, or municipal hospital or health care system has had administrative complaint proceedings initiated against it by the Agency for Health Care Administration for licensure violations under chapter 395 in 3 consecutive years.
5. The county, district, or municipal hospital or health care system has been declared ineligible to participate in the Medicare or Medicaid program.
6. The county, district, or municipal hospital or health care system fails to achieve or loses accreditation by the Joint Commission on Accreditation of Healthcare Organizations.

During the evaluation the board must:

- Conduct a public hearing to provide interested persons the opportunity to be heard on the matter.
- Publish notice of the public hearing in one or more newspapers of general circulation in the county in which the majority of the physical assets of the hospital are located and in the Florida Administrative Weekly at least 15 days before the hearing is scheduled to occur.
- Contract with a certified public accounting firm or other firm that has substantial expertise in the valuation of hospitals to render an independent valuation of the hospital's "fair market value," which is defined in this section as the price that a seller or lessee is willing to accept and a buyer or lessee is willing to pay on the open market and in an arms-length transaction, or what an independent expert in hospital valuation determines the fair market value to be. The fair market valuation shall be valid for a period of 12 months, unless there are material financial changes in the hospital's financial condition as determined by the certified public accounting firm, the Agency for Health Care Administration, or the Auditor General. The firm chosen by the board must be agreeable to the qualified purchaser or lessee and the hospital or health care system. The firm's valuation must be available to the public seven working days before the scheduled public hearing.

- Consider an objective operating comparison between a hospital or hospital system operated by the district, county, or municipality and other similarly situated hospitals, both nonprofit and for-profit, which have a similar service mix, in order to determine whether there is a difference in the cost of operation using publicly available data provided by the AHCA and the quality metrics identified by the Centers for Medicare and Medicaid Services (CMS) Core Measures. The comparison must determine whether it is more beneficial to taxpayers and the affected community for the hospital to be operated by a governmental entity, or whether the hospital can be operated by a nonprofit or for-profit entity with similar or better cost efficiencies or measurable outcomes identified by the CMS Core Measures. The comparison must also determine whether there is a net benefit to the community to operate the hospital as a nonprofit or for-profit entity and use the proceeds of the sale or lease for specified purposes.
- Make publicly available all documents considered by the board in the course of the evaluation.

The governing board must publish notice of the board's findings, within 160 days after the initiation of the evaluation process, in one or more newspapers of general circulation in the county in which the majority of the physical assets of the hospital are located and in the Florida Administrative Weekly.

This section includes a provision to grandfather-in, and exempt from the evaluation process any district, county, or municipal hospital that has issued a public request for proposals for the sale or lease of a hospital on or before February 1, 2012, for the purpose of receiving proposals from qualified purchasers or lessees, regardless if the buyer or lessee is nonprofit or for-profit.

The evaluation process does not apply to any county, district or municipal hospital, or health care system that is under lease as of February 1, 2012, as long as that lease remains in effect in accordance with the terms of the lease or such lease is extended or renewed. However, any such hospital or health care system becomes subject to the evaluation process upon:

- Termination of the lease.
- Notification provided to the lessee of a planned termination of the lease in accordance with the lease terms.
- Notification to the lessee that the lessor plans to seek potential new lessees or buyers. or
- Notification to the lessee that the lessor plans to resume operation of the hospital or health care system at the termination of the lease.

Subsection (6) requires the governing board of the hospital, when it has determined that it is no longer in the interest of the affected community to own or operate the hospital or health care system, to first determine whether there are any qualified purchasers or lessees, prior to the sale or lease of the county, district, or municipal hospital. The authority of the board to negotiate the terms of a sale or lease with a for-profit or nonprofit Florida corporation, to determine if there is a potential purchaser or lessee, is removed.

A sale or lease of the hospital is required to be for fair market value, or if less than fair market value, the lease must be in the best interest of the affected community.

Subsection (7) provides that if upon completion of the evaluation of the benefits of the sale or lease, the governing board determines that it is in the best interest of the affected community to maintain ownership or operation of the hospital or health care system and elects not to consider a sale or lease of the hospital or health care system, the qualified purchaser or lessee shall pay the final cost of the evaluation. If, however, the governing board and the qualified purchaser do not agree upon the firm chosen to evaluate the hospital or health care system, the governing board is responsible for the full cost of the evaluation.

Subsection (8) requires the governing board's determination to accept a proposal for sale or lease to be made after consideration of all proposals received and negotiations with a qualified purchaser or lessee. The governing board's determination must include detailed written findings of all reasons for accepting the proposal. Furthermore, the governing board's acceptance of a proposal for sale or lease must include a description of how the sale or lease satisfies each of the following requirements:

- The sale or lease represents fair market value, as determined by a certified public accounting firm or other qualified firm. If leased at less than fair market value, the governing board must provide a detailed explanation of how the best interests of the affected community are served by the acceptance of less than fair market value for the lease of the hospital.
- Acceptance of the proposal will result in a reduction or elimination of ad valorem or other taxes for taxpayers in the district if applicable.
- The proposal includes an enforceable commitment that programs and services and quality health care will continue to be provided to all residents of the affected community, particularly to the indigent, the uninsured, and the underinsured.
- Disclosure has been made of all conflicts of interest, including whether the sale or lease of the hospital would result in a special private gain or loss to members of the governing board, to key management employees, or to members of the medical staff of the county, district, or municipal hospital, or if governing board members will be serving on the board of any successor private corporation. Conflicts of interest, if any, with respect to experts retained by the governing board must also be disclosed.
- Disclosure has been made by the seller or lessor of all contracts with physicians or other entities to provide health care services, including all agreements or contracts that would be void or voidable upon the consummation of the sale or lease.
- The proposal is in compliance with legal requirements to make the board's findings and documents publicly available, to publish a notice of the proposed transaction, and to allow any person to submit written comments to the board regarding the proposed transaction.

The board's findings must be accompanied by all information and documents relevant to the governing board's determination, including:

- The names and addresses of all parties to the transaction.
- The location of the hospital and all related facilities.
- A description of the terms of all proposed agreements.
- A copy of the proposed sale or lease agreement and any related agreements, including leases, management contracts, service contracts, and memoranda of understanding.
- The estimated total value associated with the proposed agreement and the proposed acquisition price.

- Any valuations of the hospital's assets prepared during the 3 years immediately preceding the proposed transaction date.
- The fair market value analysis or any other valuation prepared at the request of the board, owner of the hospital or health care system, or managing entity of the hospital or health care system.
- Copies of all other proposals and bids the governing board may have received or considered.

Subsection (9) requires, within 120 days before the anticipated closing date of the proposed transaction, the governing board to make publicly available all findings and documents associated with the transaction or relevant to the board's determination, including copies of all other proposals and bids, and publish a notice of the proposed transaction in one or more newspapers of general circulation in the county in which the majority of the physical assets of the hospital are located. The notice must include the names of the parties involved and the means by which a person may submit written comments about the proposed transaction to the governing board and obtain copies of the findings and documents.

Subsection (10) provides that, within 20 days after the date of publication of the public notice provided by the governing board, any person may submit to the governing board written comments regarding the proposed transaction.

Subsection (11) provides that the sale or lease of the hospital is subject to approval by the state CFO or his or her designee, unless a law (most likely a local charter) requires approval of the sale or lease exclusively by majority vote of the registered voters in the county, district, or municipality in which the hospital is located.

To obtain approval from the CFO, the governing board must file a petition with the CFO seeking approval of the proposed transaction at least 30 days after publication of the notice of the proposed transaction. The petition for approval filed by the governing board must include all findings and related documents and certification by the governing board of compliance with all requirements under s. 155.40, F.S. The chair of the governing board must certify under oath and subject to the penalty of perjury on a form accompanying the petition that the contents of the petition and representations therein are true and correct.

Subsection (12) requires the CFO or his or her designee, within 30 days of receiving the petition, to issue a final order approving or denying the proposed transaction based solely upon consideration of whether the procedures required under s. 155, 40, F.S., have been followed by the governing board of the county, district, or municipal hospital. The CFO's order must require the governing board to accept or reject the proposal for the sale or lease of the county, district, or municipal hospital based upon a determination that:

- The proposed transaction is permitted by law.
- The proposed transaction does not unreasonably exclude a potential purchaser or lessee on the basis of being a for-profit or a not-for-profit Florida corporation or other form of business organization, such as a partnership or limited liability company.
- The governing board of the hospital publicly advertised the meeting at which the proposed transaction was considered by the board in compliance with s. 286.0105, F.S., which requires notice to be provided to the public that a record of a meeting must be made in order to appeal any decision made by the board with respect to any matter considered at the meeting.

- The governing board of the hospital publicly advertised the offer to accept proposals in compliance with s. 255.0525, F.S., which requires the solicitation of competitive bids or proposals for any county, municipality, or other political subdivision construction project that is projected to cost more than $200,000 to be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 21 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. The solicitation of competitive bids or proposals for any county, municipality, or other political subdivision construction project that is projected to cost more than $500,000 must be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference.
- Any conflict of interest was disclosed, including how the proposed transaction could result in a special private gain or loss to members of the governing board or key management employees of the county, district, or municipal hospital, or if governing board members will be serving on the board of any successor private corporation. Conflicts of interest, if any, with respect to experts retained by the governing board must also be disclosed.
- The seller or lessor documented that it will receive fair market value for the sale or lease of the assets or, if leased at less than fair market value, the governing board provided a detailed explanation of how the best interests of the affected community are served by the acceptance of less than fair market value for the lease of the hospital.
- The acquiring entity has made an enforceable commitment that programs and services and quality health care will continue to be provided to all residents of the affected community, particularly to the indigent, the uninsured, and the underinsured.
- The governing board disclosed whether the sale or lease will result in a reduction or elimination of ad valorem or other taxes used to support the hospital.

Subsection (13) provides that any interested party to the action has the right to seek judicial review of the CFO's decision in the appellate district where the hospital is located or in the First District Court of Appeal pursuant to s. 120.68, F.S. "Interested party" is defined in the CS/CS to include any person submitting a proposal for sale or lease of the county, district, or municipal hospital, as well as the governing board. All appellate proceedings must be initiated by filing a notice of appeal in accordance with the Florida Rules of Appellate Procedure within 30 days after the date of the final order.

In judicial review of the appeal, the appellate court must affirm the decision of the CFO, unless the decision by the CFO is shown to be clearly erroneous.[16]

Subsection (14) requires all costs to be paid by the governing board, unless an interested party contests the action, in which case the court may assign costs equitably to the parties.

Subsection (15) requires that if any provision of subsection (5), subsection (6), or subsection (8) is not followed, the contract for sale or lease is voidable by any party to the contract. If any member of the governing board negligently or willfully violates subsection (5), subsection (6), or

[16] "Clearly erroneous" is the standard of review that an appellate court usually applies in judging a trial court's treatment of factual issues. Under this standard, a judgment will be upheld unless the appellate court is left with the firm conviction that an error has been committed. Black's Law Dictionary, 9th ed., 2009.

subsection (7), as determined by the Commission on Ethics after receipt of a sworn complaint, the member is subject to a penalty, as determined by the Commission on Ethics.

Subsection (16) requires, when a county, district, or municipal hospital is sold or leased, the governing board to:

- Deposit 50 percent of the "net proceeds," which means the sale price after payment of all district debts and obligations, of the sale or lease into a health care economic development trust fund, which must be under the control of the county commission of the county in which the property is located. The use and distribution of the funds must be at the discretion of a majority of the county commission, the members of which must serve as trustees of the trust fund. The net proceeds in the health care economic development trust fund must be distributed, in consultation with the Department of Economic Opportunity, to promote job creation in the health care sector of the economy through new or expanded health care business development, new or expanded health care services, or new or expanded health care education programs or commercialization of health care research within the affected community; and
- Appropriate 50 percent of the net proceeds of the sale or lease for funding the delivery of indigent and uncompensated care on an equitable basis, based on the amount of indigent and uncompensated care provided, to all hospitals within the boundaries of the district.

Subsection (17) provides that if a county, district, or municipal hospital is sold or leased to a for-profit corporation or other business entity subject to local taxation, in addition to the distribution of net proceeds as directed in subsection (16):

- Fifty percent of the resulting county and municipal ad valorem tax revenue from the formerly tax-exempt property must be distributed by the county commission of the county in which the property is located, in consultation with the Department of Economic Opportunity, for purposes set forth in subsection (16); and
- Fifty percent of the resulting county and municipal ad valorem tax revenue from the formerly tax-exempt property must be appropriated by the county commission for the sole purpose of enhancing education and law enforcement programs within the county.

Subsection (22) exempts, from the public disclosure, and approval of sale or lease processes provided for in the CS/CS, the sale or lease of any hospital or health care system property if such property generated less than 20 percent of the hospital or health care system's total revenue within the most recent fiscal year. However, the governing board must publicly advertise the meeting at which the proposed sale or lease of such property will be considered by the governing board of the hospital in accordance with s. 286.0105, F.S., or publicly advertise the offer to accept proposals in accordance with s. 255.0525, F.S., and receive proposals from all qualified purchasers and lessees. Additionally, the sale or lease of the property must be for fair market value, or if the lease is for less than fair market value, the lease must be in the best interest of the affected community.

Subsection (23) provides that a county, district, or municipal hospital that has executed a letter of intent to sell or lease the hospital or health care system accepted at a properly noticed public meeting, and whose governing board has voted to approve the letter of intent before December 31, 2011, is not subject to the public disclosure, and approval of sale or lease processes provided

for in the CS/CS, as long as the final closing of the sale or lease transaction pursuant to the letter of intent occurs before December 31, 2012.

Section 2 creates s. 155.401, F.S., to provide that, despite any other provision of general or special law, the purposes for which a special taxing district may appropriate funds from the sale or lease of a hospital to an economic development fund include the promotion and support of economic growth in such district and in the county in which such district is located and the furthering of the purposes of such district, as provided by law.

Section 3 creates an undesignated section of law providing that to the extent that any general or special law is inconsistent with or otherwise in conflict with this act, such conflicting provisions are specifically superseded by this act. A special tax district, public hospital, or municipal hospital is not exempt from this act.

Section 4 amends s. 395.3036, F.S., to change a cross-reference and make other clarifying updates to conform to changes made by the CS/CS.

Section 5 provides that the CS/CS will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, subsection 18(a) of the Florida Constitution, provides that a county or municipality may not be bound by any general law requiring the county or municipality to spend funds or to take an action requiring the expenditure of funds, unless the legislature has determined that such law fulfills an important state interest and unless:

- Funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure;
- The legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality;
- The law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature;
- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or
- The law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

Subsection 18(d) provides an exemption from this prohibition. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times 10 cents (which is $1.88 million for FY 2009/10), are exempt.

The extent of this CS/CS's fiscal impact has not yet been determined; however, if the costs incurred are greater than $1.88 million, the law may be unenforceable unless passed by two-thirds in each house of the Legislature.

B. Public Records/Open Meetings Issues:

This CS/CS will provide more disclosure of the sale or lease process of a public hospital by requiring the governing board of the hospital to make available to the public its facts and findings that support its decision to sell or lease the hospital. Additionally, the CS/CS ensures more oversight of the sale or lease process by requiring the CFO to determine whether the public has been put on notice as to any meetings at which the proposed sale or lease is to be considered or as to any offer to accept the proposal for sale or lease prior to the CFO's approval of the sale.

C. Trust Funds Restrictions:

The provisions of this CS/CS have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This CS/CS will allow interested parties to provide written statements of opposition to a governing board's determination to accept a proposal for the sale or lease of a public hospital and requires the governing board to conduct a public hearing to provide interested persons the opportunity to be heard regarding the proposed sale or lease.

In the event that an interested party challenges the CFO's decision to approve or reject the sale or lease, the interested party may incur costs associated with appealing the decision.

The net proceeds of a hospital sale or lease will generate funds for the establishment of a county economic development trust fund to promote job creation in the health care sector through new or expanded health care business development as well as monies for the delivery of indigent care at all hospitals within the district. Private entities may benefit from these opportunities.

C. Government Sector Impact:

This CS/CS will require a governing board to make publicly available and publish certain findings and documents that support a board's decision to accept a proposal for the sale or lease of a public hospital. Therefore, there may be costs associated with gathering and publishing such information.

The governing board will also likely incur costs associated with contracting with a certified public accounting firm or other firm to provide a valuation of the hospital's fair market value. These costs could be recouped if a sale or lease does not occur.

In the event that a governing board challenges the CFO's decision to reject the sale or lease, the governing board may incur costs associated with appealing the decision.

The state CFO is likely to incur costs associated with reviewing and approving or rejecting proposed sales or leases of public hospitals.

The CS/CS allocates the net proceeds of the sale or lease of a public hospital.

VI. Technical Deficiencies:

In line 441 of the CS/CS, the word "instituted" should be replaced by the word "initiated."

VII. Related Issues:

The CS/CS requires notice of public hearings and notice of the board's findings and documents to be published in the county in which the "majority of the physical assets of the hospital are located." It is unclear whether the "majority of the physical assets" means the place where multiple facilities associated with the hospital are located or whether it is the location of the largest physical building associated with the hospital.

Use of any new ad valorem tax revenue resulting from a hospital sale or lease may need to be limited to municipal and county taxes. School millage is to be used for school purposes pursuant to Art. VII, sec. 9(b) of the State Constitution. In addition, there may be issues related to sales or leases of hospital facilities within existing community redevelopment areas where tax increment financing is in place. Finally, the status of a hospital district following a sale or lease may need to be clarified.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Community Affairs on January 30, 2012

Provides additional definitions.

- Provides conditions that trigger the evaluation of a possible sale or lease of hospital facilities.
- Establishes new time frames for the initiation and the completion of an evaluation.
- Specifies the length of time a fair market valuation shall remain valid.
- Outlines how the CS/CS applies to specified hospitals that are under lease as of February 1, 2012
- Provides a means for evaluation costs to be borne by a potential purchaser if a sale or lease does not occur.

- Specifies time length within which the CFO must approve or deny a proposed hospital transaction.
- Establishes that proceeds from a hospital sale shall be used to promote health care business development or research.
- Provides that specified hospital sales that close prior to December 31, 2012 are exempted from certain provisions of the CS/CS.
- Provides that the provisions of the CS/CS supersede other general or special law.
- Makes technical and clarifying changes.

CS by Health Regulation on January 19, 2012:
The CS is different from the bill in that it:

- Makes several technical changes;
- Exempts an existing lease that is modified, renewed, or extended from the requirements of s. 155.40, F.S.;
- Adds the term "hospital system" to clarify that multiple hospitals may be considered in a cost of operation comparison;
- Requires the governing board to demonstrate that disclosure was made by the seller or lessor of all contracts with physicians or other entities to provide health care services, including agreements or contracts that would be void or voidable upon the consummation of the sale or lease;
- Exempts the sale or lease of any hospital property that generates less than 20 percent of the hospital's total revenue in the most recent fiscal year from certain requirements relating to public disclosure, approval of a sale or lease, or allocations of the net proceeds or taxes stemming from a lease or sale, while maintaining other requirements that exist under current law; and
- Revises the effective date to provide that the CS takes effect upon becoming a law.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
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The Committee on Community Affairs (Storms) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 155.40, Florida Statutes, is amended to read:

155.40 Sale or lease of county, district, or municipal hospital; effect of sale.—

(1) In the interest of providing quality health care services to the ~~order that~~ citizens and residents of this ~~the~~ state ~~may receive quality health care~~, and notwithstanding any

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other provision of general or special law, a ~~any~~ county, district, or municipal hospital organized and existing under the laws of this state, acting by and through its governing board, may ~~shall have the authority to~~ sell or lease the ~~such~~ hospital to a for-profit or not-for-profit Florida entity ~~corporation~~, and enter into leases or other contracts with a for-profit or not-for-profit Florida entity ~~corporation~~ for the purpose of operating the ~~and managing such~~ hospital and ~~any or all of~~ its facilities ~~of whatsoever kind and nature~~. The term of any such lease, contract, or agreement and the conditions, covenants, and agreements to be contained therein shall be determined by the governing board of the ~~such county, district, or municipal~~ hospital. The governing board of the hospital must find that the sale, lease, or contract is in the best interests of the affected community ~~public~~ and must state the basis of that ~~such~~ finding. ~~If the governing board of a county, district, or municipal hospital decides to lease the hospital, it must give notice in accordance with paragraph (4)(a) or paragraph (4)(b).~~

(2) A ~~Any such~~ lease, contract, or agreement made pursuant hereto shall:

(a) Provide that the articles of incorporation of the ~~such~~ for-profit or not-for-profit corporation be subject to the approval of the board of directors or board of trustees of the ~~such~~ hospital;

(b) Require that any not-for-profit corporation become qualified under s. 501(c)(3) of the United States Internal Revenue Code;

(c) Provide for the orderly transition of the operation and management of the ~~such~~ facilities;

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42 (d) Provide for the return of the ~~such~~ facility to the
43 county, municipality, or district upon the termination of the
44 ~~such~~ lease, contract, or agreement; and
45 (e) Provide for the continued treatment of indigent
46 patients pursuant to the Florida Health Care Responsibility Act
47 and pursuant to chapter 87-92, Laws of Florida.
48 (3) Any sale, lease, or contract entered into pursuant to
49 this section before ~~prior to~~ the effective date of this act must
50 have complied with the requirements of subsection (2) in effect
51 at the time of the sale, lease, or contract. Any lease
52 modification, renewal, or extension relating to a lease
53 transaction that occurred before the effective date of this act
54 is not subject to subsections (6)-(17). It is the intent of the
55 Legislature that this section does not impose any further
56 requirements with respect to the formation of any for-profit or
57 not-for-profit Florida entity ~~corporation~~, the composition of
58 the board of directors of any Florida entity ~~corporation~~, or the
59 manner in which control of the hospital is transferred to the
60 Florida entity ~~corporation~~.
61 (4) As used in this section, the term:
62 (a) "Affected community" means those persons residing
63 within the geographic boundaries defined by the charter of the
64 county, district, or municipal hospital, or if the boundaries
65 are not specifically defined by charter of the hospital, by the
66 geographic area from which 75 percent of the county, district,
67 or municipal hospital's inpatient admissions are derived.
68 (b) "Expression of interest" means a bona fide request from
69 a for-profit or not-for-profit entity that is a qualified
70 purchaser or lessee to the board of directors of a county,

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71 district, or municipal hospital to enter into negotiations to
72 sell or lease the hospital or health care system on commercially
73 reasonable terms.
74 (c) "Fair market value" means the price that a seller or
75 lessor is willing to accept and a buyer or lessee is willing to
76 pay on the open market and in an arms-length transaction, or
77 what an independent expert in hospital valuation determines the
78 fair market value to be.
79 (d) "Increase tax support" means a vote to increase ad
80 valorem or other taxes that are used to support operations of
81 the hospital or health care system or any vote to allow the ad
82 valorem tax rate to remain the same in any year in which
83 property values in the taxing district have increased on the
84 average, resulting in an increase in ad valorem tax revenues to
85 the hospital.
86 (e) "Interested party" includes a person submitting a
87 proposal for sale or lease of the county, district, or municipal
88 hospital, as well as the governing board.
89 (f) "Net operating expenses" means the total operating
90 expenses of the hospital, excluding depreciation, interest,
91 taxes, amortization, and nonoperating expenses.
92 (g) "Net operating revenues" has the same meaning as
93 provided in s. 395.701(1). The term does not include restricted
94 donations and grants for indigent care or nonoperating revenues,
95 including, but not limited to, local unrestricted tax revenues
96 and appropriated funds from state and local governments or any
97 other type of tax support, gain or loss from the sale of assets,
98 or unrestricted contributions.
99 (h) "Qualified purchaser or lessee" means an entity that

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100 demonstrates access to capital in an amount equal to or in
101 excess of 25 percent of the net revenue generated in the
102 immediately preceding fiscal year of the hospital or health care
103 system that is the subject of the sale or lease. Such access to
104 capital can be demonstrated by cash reserves, an existing line
105 of credit, or a binding commitment to obtain a line of credit to
106 finance the purchase in an amount that equals or exceeds 25
107 percent of the net revenue generated by the hospital or health
108 care system.
109 (5)(a) The governing board of a county, district, or
110 municipal hospital shall commence an evaluation of the possible
111 benefits to an affected community from the sale or lease of
112 hospital facilities owned by the board to a not-for-profit or
113 for-profit entity within 60 calendar days after:
114 1. The county, district, or municipal hospital or health
115 care system receives a bona fide expression of interest by a
116 qualified purchaser or lessee to buy or lease the county,
117 district, or municipal hospital or health care system;
118 2. The governing board of a county, district, or municipal
119 hospital votes to increase the amount of tax support for the
120 hospital or health care system;
121 3. The county, district, or municipal hospital or health
122 care system experiences operating deficits that result in net
123 operating expenses that exceed net operating revenues by 10
124 percent or more for 3 consecutive years;
125 4. The county, district, or municipal hospital or health
126 care system has had administrative complaint proceedings
127 initiated against it by the Agency for Health Care
128 Administration for licensure violations under chapter 395 in 3

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129 consecutive years;
130 5. The county, district, or municipal hospital or health
131 care system has been declared ineligible to participate in the
132 Medicare or Medicaid program; or
133 6. The county, district, or municipal hospital or health
134 care system fails to achieve or loses accreditation by the Joint
135 Commission on Accreditation of Healthcare Organizations.
136 (b) In the course of evaluating the benefits of the sale or
137 lease, the board shall:
138 1. Conduct a public hearing to provide interested persons
139 the opportunity to be heard on the matter.
140 2. Publish notice of the public hearing in one or more
141 newspapers of general circulation in the county in which the
142 majority of the physical assets of the hospital are located and
143 in the Florida Administrative Weekly at least 15 days before the
144 hearing is scheduled to occur.
145 3. Contract with a certified public accounting firm or
146 other firm that has substantial expertise in the valuation of
147 hospitals to render an independent valuation of the hospital's
148 fair market value. The firm chosen by the board must be
149 agreeable to the qualified purchaser or lessee and the hospital
150 or health care system. The firm's valuation report shall be made
151 available to the public 7 working days before the scheduled
152 public hearing.
153 4. Consider an objective operating comparison between a
154 hospital or health care system operated by the district, county,
155 or municipality and other similarly situated hospitals, both
156 not-for-profit and for-profit, which have a similar service mix,
157 in order to determine whether there is a difference in the cost

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158 of operation using publicly available data provided by the
159 Agency for Health Care Administration and the quality metrics
160 identified by the Centers for Medicare and Medicaid Services
161 Core Measures. The comparison must determine whether it is more
162 beneficial to taxpayers and the affected community for the
163 hospital to be operated by a governmental entity, or whether the
164 hospital can be operated by a not-for-profit or for-profit
165 entity with similar or better cost-efficiencies or measurable
166 outcomes identified by the Centers for Medicare and Medicaid
167 Services Core Measures. The comparison must also determine
168 whether there is a net benefit to the community to operate the
169 hospital as a not-for-profit or for-profit entity and use the
170 proceeds of the sale or lease for the purposes described in this
171 section.
172 5. Make publicly available all documents considered by the
173 board in the course of such evaluation.
174 (c)1. Within 160 days after the initiation of the process
175 established in paragraphs (a) and (b), the governing board shall
176 publish notice of the board's findings in one or more newspapers
177 of general circulation in the county in which the majority of
178 the physical assets of the hospital are located and in the
179 Florida Administrative Weekly.
180 2. This evaluation is not required if a district, county,
181 or municipal hospital has issued a public request for proposals
182 for the sale or lease of a hospital on or before February 1,
183 2012, for the purpose of receiving proposals from qualified
184 purchasers or lessees, either not-for-profit or for-profit.
185 3. The fair market valuation established in paragraph (b)
186 shall be valid for a period of 12 months following the date of

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187 its issuance, unless there are material financial changes in the
188 hospitals financial condition as determined by the outside
189 independent certified public accounting firm for the hospital or
190 health care system, the Agency for Health Care Administration,
191 or the Auditor General.
192 4. This subsection does not apply to any county, district
193 or municipal hospital, or health care system that is under lease
194 as of February 1, 2012, as long as that lease remains in effect
195 in accordance with the terms of the lease or such lease is
196 extended or renewed. Any such hospital or health care system,
197 however, becomes subject to this subsection upon:
198 a. Termination of the lease;
199 b. Notification provided to the lessee of a planned
200 termination of the lease in accordance with the lease terms;
201 c. Notification to the lessee that the lessor plans to seek
202 potential new lessees or buyers; or
203 d. Notification to the lessee that the lessor plans to
204 resume operation of the hospital or health care system at the
205 termination of the lease.
206
207 Any such hospital or health care system may not thereafter be
208 sold, leased to another lessee, or operated by the owner without
209 first complying with the provisions of subsections (5)-(16).
210 (6) ~~(4)~~ If, upon completion of the evaluation of the
211 benefits of the sale or lease, ~~In the event~~ the governing board
212 of a county, district, or municipal hospital determines that it
213 is no longer in the best interest of the affected community to
214 own or operate a hospital or health care system and elects to
215 consider a sale or lease of the hospital or health care system

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216 to a third party, the governing board must first determine
217 whether there are any qualified purchasers or lessees. In the
218 process of evaluating any qualified purchaser or lessee ~~elects~~
219 ~~to sell or lease the hospital~~, the board shall:
220 (a) ~~Negotiate the terms of the sale or lease with a for-~~
221 ~~profit or not-for-profit Florida corporation and~~ Publicly
222 advertise the meeting at which the proposed sale or lease will
223 be considered by the governing board of the hospital in
224 accordance with s. 286.0105; or
225 (b) Publicly advertise the offer to accept proposals in
226 accordance with s. 255.0525 and receive proposals from all
227 ~~interested and~~ qualified purchasers and lessees.
228
229 Any sale or lease must be for fair market value, or, if not for
230 fair market value, the lease must be in the best interest of the
231 affected community. A ~~and any~~ sale or lease must comply with all
232 applicable state and federal antitrust laws.
233 (7) If, upon completion of the evaluation of the benefits
234 of the sale or lease, the governing board determines that it is
235 in the best interest of the affected community to maintain
236 ownership or operation of the hospital or health care system and
237 elects not to consider a sale or lease of the hospital or health
238 care system, the qualified purchaser or lessee shall pay 50
239 percent of the final cost of the evaluation but not more than
240 $100,000. If, however, the governing board and the qualified
241 purchaser do not agree upon the firm chosen to evaluate the
242 hospital or health care system, the governing board is
243 responsible for the full cost of the evaluation.
244 (8) A determination by the governing board to accept a

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245 proposal for sale or lease shall be made after consideration of
246 all proposals received and negotiations with a qualified
247 purchaser or lessee. The governing board's determination must
248 include, in writing, detailed findings of all reasons for
249 accepting the proposal.
250 (a) The governing board's acceptance of a proposal for sale
251 or lease must include a description of how the sale or lease
252 satisfies each of the following requirements:
253 1. The sale or lease represents fair market value, as
254 determined by a certified public accounting firm or other
255 qualified firm pursuant to paragraph (5)(b). If leased at less
256 than fair market value, the governing board shall provide a
257 detailed explanation of how the best interests of the affected
258 community are served by the acceptance of less than fair market
259 value for the lease of the hospital.
260 2. Acceptance of the proposal will result in a reduction or
261 elimination of ad valorem or other taxes for taxpayers in the
262 district, if applicable.
263 3. The proposal includes an enforceable commitment that
264 programs and services and quality health care will continue to
265 be provided to all residents of the affected community,
266 particularly to the indigent, the uninsured, and the
267 underinsured.
268 4. Disclosure has been made of all conflicts of interest,
269 including, but not limited to, whether the sale or lease of the
270 hospital would result in a special private gain or loss to
271 members of the governing board or key management employees or
272 members of the medical staff of the county, district, or
273 municipal hospital, or if governing board members will be

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274 serving on the board of any successor private corporation.
275 Conflicts of interest, if any, with respect to experts retained
276 by the governing board shall also be disclosed.
277 5. Disclosure has been made by the seller or lessor of all
278 contracts with physicians or other entities providing health
279 care services through a contract with the seller or lessor,
280 including all agreements or contracts that would be void or
281 voidable upon the consummation of the sale or lease.
282 6. The proposal is in compliance with subsections (9) and
283 (10).
284 (b) The findings must be accompanied by all information and
285 documents relevant to the governing board's determination,
286 including, but not limited to:
287 1. The names and addresses of all parties to the
288 transaction.
289 2. The location of the hospital and all related facilities.
290 3. A description of the terms of all proposed agreements.
291 4. A copy of the proposed sale or lease agreement and any
292 related agreements, including, but not limited to, leases,
293 management contracts, service contracts, and memoranda of
294 understanding.
295 5. The estimated total value associated with the proposed
296 agreement and the proposed acquisition price.
297 6. Any valuations of the hospital's assets prepared during
298 the 3 years immediately preceding the proposed transaction date.
299 7. The fair market value analysis required by paragraph
300 (5)(b), or any other valuation prepared at the request of the
301 board, owner of the hospital or health care system, or managing
302 entity of the hospital or health care system.

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303 8. Copies of all other proposals and bids that the
304 governing board may have received or considered in compliance
305 with subsection (6).
306 (9) Within 120 days before the anticipated closing date of
307 the proposed transaction, the governing board shall make
308 publicly available all findings and documents required under
309 subsection (8) and publish a notice of the proposed transaction
310 in one or more newspapers of general circulation in the county
311 in which the majority of the physical assets of the hospital are
312 located. The notice must include the names of the parties
313 involved and the means by which a person may submit written
314 comments about the proposed transaction to the governing board
315 and obtain copies of the findings and documents required under
316 subsection (8).
317 (10) Within 20 days after the date of publication of the
318 public notice, any person may submit to the governing board
319 written comments regarding the proposed transaction.
320 (11) The sale or lease of the hospital is subject to
321 approval by the Chief Financial Officer or his or her designee,
322 except, if otherwise required by law, approval of the sale or
323 lease shall exclusively be by majority vote of the registered
324 voters in the county, district, or municipality in which the
325 hospital is located.
326 (a) The governing board shall file a petition with the
327 state Chief Financial Officer seeking approval of the proposed
328 transaction at least 30 days after publication of the notice of
329 the proposed transaction.
330 (b) The petition for approval filed by the governing board
331 must include all findings and documents required under

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332 subsection (8) and certification by the governing board of
333 compliance with all requirements of this section. The chair of
334 the governing board must certify under oath and subject to the
335 penalty of perjury on a form accompanying the petition that the
336 contents of the petition and representations therein are true
337 and correct.
338 (12) Within 30 days of receiving the petition, the Chief
339 Financial Officer or his or her designee shall issue a final
340 order approving or denying the proposed transaction based solely
341 upon consideration of whether the procedures contained within
342 this section have been followed by the governing board of the
343 county, district, or municipal hospital. The order shall require
344 the governing board to accept or reject the proposal for the
345 sale or lease of the county, district, or municipal hospital
346 based upon a determination that:
347 (a) The proposed transaction is permitted by law.
348 (b) The proposed transaction does not unreasonably exclude
349 a potential purchaser or lessee on the basis of being a for-
350 profit or a not-for-profit Florida corporation or other form of
351 business organization, such as a partnership or limited
352 liability company.
353 (c) The governing board of the hospital publicly advertised
354 the meeting at which the proposed transaction was considered by
355 the board in compliance with s. 286.0105.
356 (d) The governing board of the hospital publicly advertised
357 the offer to accept proposals in compliance with s. 255.0525.
358 (e) Any conflict of interest was disclosed, including, but
359 not limited to, how the proposed transaction could result in a
360 special private gain or loss to members of the governing board

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361 or key management employees of the county, district, or
362 municipal hospital, or if governing board members will be
363 serving on the board of any successor private corporation.
364 Conflicts of interest, if any, with respect to experts retained
365 by the governing board shall also be disclosed.
366 (f) The seller or lessor documented that it will receive
367 fair market value for the sale or lease of the assets as
368 indicated in paragraph (5)(b) or, if leased at less than fair
369 market value, the governing board provided a detailed
370 explanation of how the best interests of the affected community
371 are served by the acceptance of less than fair market value for
372 the lease of the hospital.
373 (g) The acquiring entity has made an enforceable commitment
374 that programs and services and quality health care will continue
375 to be provided to all residents of the affected community,
376 particularly to the indigent, the uninsured, and the
377 underinsured.
378 (h) The governing board disclosed whether the sale or lease
379 will result in a reduction or elimination of ad valorem or other
380 taxes used to support the hospital.
381 (13) Any interested party to the action has the right to
382 seek judicial review of the decision in the appellate district
383 where the hospital is located or in the First District Court of
384 Appeal pursuant to s. 120.68.
385 (a) All proceedings shall be instituted by filing a notice
386 of appeal in accordance with the Florida Rules of Appellate
387 Procedure within 30 days after the date of the final order.
388 (b) In such judicial review, the appellate court shall
389 affirm the decision of the Chief Financial Officer, unless the

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390 decision by the Chief Financial Officer is shown to be clearly
391 erroneous.
392 (14) All costs shall be paid by the governing board, unless
393 an interested party contests the action, in which case the court
394 may assign costs equitably to the parties.
395 (15) If any provision of subsection (5), subsection (6), or
396 subsection (8) is not followed, the contract for sale or lease
397 is voidable by any party to the contract. If any member of the
398 governing board negligently or willfully violates subsection
399 (5), subsection (6), or subsection (7), as determined by the
400 Commission on Ethics after receipt of a sworn complaint pursuant
401 to s. 112.322, the member is subject to a penalty, as determined
402 by the Commission on Ethics pursuant to s. 112.317.
403 (16) If a county, district, or municipal hospital is sold
404 or leased, the governing board shall:
405 (a) Deposit 50 percent of the net proceeds of the sale or
406 lease into a health care economic development trust fund, which
407 shall be under the control of the county commission of the
408 county in which the property is located. The use and
409 distribution of the funds shall be at the discretion of a
410 majority of the county commission, the members of which shall
411 serve as trustees of the trust fund. The net proceeds in the
412 health care economic development trust fund shall be
413 distributed, in consultation with the Department of Economic
414 Opportunity, to promote job creation in the health care sector
415 of the economy through new or expanded health care business
416 development, new or expanded health care services, or new or
417 expanded health care education programs or commercialization of
418 health care research within the affected community; and

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419 (b) Appropriate 50 percent of the net proceeds of the sale
420 or lease for funding the delivery of indigent and uncompensated
421 care on an equitable basis, based on the amount of indigent and
422 uncompensated care provided, to all hospitals within the
423 boundaries of the district.
424
425 For the purposes of this subsection, the term "net proceeds"
426 means the sale price after payment of all district debts and
427 obligations.
428 (17) If a county, district, or municipal hospital is sold
429 or leased to a for-profit corporation or other business entity
430 subject to local taxation, in addition to the distribution of
431 funds as directed in subsection (16):
432 (a) Fifty percent of the resulting county and municipal ad
433 valorem tax revenue from the formerly tax-exempt property shall
434 be distributed by the county commission of the county in which
435 the property is located, in consultation with the Department of
436 Economic Opportunity, for purposes set forth in subsection (16);
437 and
438 (b) Fifty percent of the resulting county and municipal ad
439 valorem tax revenue from the formerly tax-exempt property shall
440 be appropriated by the county commission for the sole purpose of
441 enhancing education and law enforcement programs within the
442 county.
443 (18) ~~(5)~~ If ~~In the event~~ a hospital operated by a for-profit
444 or not-for-profit Florida entity ~~corporation~~ receives annually
445 more than $100,000 in revenues from the county, district, or
446 municipality that owns the hospital, the Florida entity
447 ~~corporation~~ must be accountable to the county, district, or

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448 municipality with respect to the manner in which the funds are
449 expended by either:
450 (a) Having the revenues subject to annual appropriations by
451 the county, district, or municipality; or
452 (b) Where there is a contract to provide revenues to the
453 hospital, the term of which is longer than 12 months, the
454 governing board of the county, district, or municipality must be
455 able to modify the contract upon 12 months notice to the
456 hospital.
457
458 A not-for-profit entity ~~corporation~~ that is subject to this
459 subsection and that does not currently comply with the
460 accountability requirements in this subsection shall have 12
461 months after the effective date of this act to modify any
462 contracts with the county, district, or municipality in a manner
463 that is consistent with this subsection.
464 (19) ~~(6)~~ Unless otherwise expressly stated in the lease
465 documents, the transaction involving the sale or lease of a
466 hospital may ~~shall~~ not be construed as:
467 (a) A transfer of a governmental function from the county,
468 district, or municipality to the private purchaser or lessee;
469 (b) Constituting a financial interest of the public lessor
470 in the private lessee; or
471 (c) Making a private lessee an integral part of the public
472 lessor's decisionmaking process.
473 (20) ~~(7)~~ The lessee of a hospital, under this section or any
474 special act of the Legislature, operating under a lease may
475 ~~shall~~ not be construed to be "acting on behalf of" the lessor as
476 that term is used in statute, unless the lease document

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477 expressly provides to the contrary.
478 (21) ~~(8)~~ (a) If, whenever the sale of a public hospital by a
479 public agency to a private ~~corporation or other private~~ entity
480 pursuant to this section or pursuant to a special act of the
481 Legislature reflects that:
482 1. The private ~~corporation or other private~~ entity
483 purchaser acquires 100 percent ownership in the hospital
484 enterprise;
485 2. The private ~~corporation or other private~~ entity
486 purchases the physical plant of the hospital facility and has
487 complete responsibility for the operation and maintenance of the
488 facility, regardless of ownership of the underlying real
489 property;
490 3. The public agency seller retains no control over
491 decisionmaking or policymaking for the hospital;
492 4. The private ~~corporation or other private~~ entity
493 purchaser receives no funding from the public agency seller
494 other than by contract for services rendered to patients for
495 whom the public agency seller has the responsibility to pay for
496 hospital or medical care;
497 5. The public agency seller makes no substantial investment
498 in or loans to the private entity;
499 6. The private ~~corporation or other private~~ entity
500 purchaser was not created by the public entity seller; and
501 7. The private ~~corporation or other private~~ entity
502 purchaser operates primarily for its own financial interests and
503 not primarily for the interests of the public agency,
504
505 such a sale shall be considered a complete sale of the public

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506 agency's interest in the hospital or health care system.
507 (b) A complete sale of a hospital or health care system as
508 described in this subsection may ~~shall~~ not be construed as:
509 1. A transfer of a governmental function from the county,
510 district, or municipality to the private ~~corporation or other~~
511 ~~private~~ entity purchaser;
512 2. Constituting a financial interest of the public agency
513 in the private ~~corporation or other private~~ entity purchaser;
514 3. Making the private ~~corporation or other private~~ entity
515 purchaser an "agency" as that term is used in statutes;
516 4. Making the private ~~corporation or other private~~ entity
517 purchaser an integral part of the public agency's decisionmaking
518 process; or
519 5. Indicating that the private ~~corporation or other private~~
520 entity purchaser is "acting on behalf of a public agency" as
521 that term is used in statute.
522 (22) If the governing board elects to sell or lease any
523 physical property of a county, district, or municipal hospital
524 or health care system and such property generated less than 20
525 percent of the hospital's net revenue within the hospital's or
526 health care system's most recent fiscal year, the sale or lease
527 of such property is exempt from the requirements under
528 subsections (6)-(17). However, the governing board shall
529 publicly advertise the meeting at which the proposed sale or
530 lease of such property will be considered by the governing board
531 of the hospital in accordance with s. 286.0105 or publicly
532 advertise the offer to accept proposals in accordance with s.
533 255.0525 and receive proposals from all qualified purchasers and
534 lessees. The sale or lease of the property must be for fair

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535 market value or, if a lease is for less than fair market value,
536 the lease must be in the best interest of the affected
537 community.
538 (23) A county, district, or municipal hospital that has
539 executed a letter of intent to sell or lease the hospital or
540 health care system accepted at a properly noticed public
541 meeting, and whose governing board has voted to approve the
542 letter of intent before December 31, 2011, is not subject to
543 subsections (6)-(17) as long as the final closing of the sale or
544 lease transaction pursuant to the letter of intent occurs before
545 December 31, 2012.
546 Section 2. Section 155.401, Florida Statutes, is created to
547 read:
548 155.401 Power of special taxing district to appropriate
549 proceeds from sale or lease of hospital to economic development
550 trust fund.—Notwithstanding any other general or special law,
551 the purposes for which a special taxing district may appropriate
552 funds from the sale or lease of a hospital to an economic
553 development fund include the promotion and support of economic
554 growth in such district and in the county in which such district
555 is located and the furthering of the purposes of such district,
556 as provided by law.
557 Section 3. To the extent that any general or special law is
558 inconsistent with or otherwise in conflict with this act, such
559 conflicting provisions are specifically superseded by this act.
560 A special tax district, public hospital, or municipal hospital
561 is not exempt from this act.
562 Section 4. Section 395.3036, Florida Statutes, is amended
563 to read:

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564 395.3036 Confidentiality of records and meetings of
565 entities ~~corporations~~ that lease public hospitals or other
566 public health care facilities.—The records of a private entity
567 ~~corporation~~ that leases a public hospital or other public health
568 care facility are confidential and exempt from ~~the provisions of~~
569 s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and
570 the meetings of the governing board of a private entity
571 ~~corporation~~ are exempt from s. 286.011 and s. 24(b), Art. I of
572 the State Constitution if ~~when~~ the public lessor complies with
573 the public finance accountability provisions of s. 155.40(18)
574 ~~155.40(5)~~ with respect to the transfer of any public funds to
575 the private lessee and if ~~when~~ the private lessee meets at least
576 three of the five following criteria:
577 (1) The public lessor that owns the public hospital or
578 other public health care facility was not the incorporator or
579 initial member of the private entity ~~corporation~~ that leases the
580 public hospital or other health care facility.
581 (2) The public lessor and the private lessee do not
582 commingle any of their funds in any account maintained by either
583 of them, other than the payment of the rent and administrative
584 fees or the transfer of funds pursuant to subsection (5) ~~(2)~~.
585 (3) Except as otherwise provided by law, the private lessee
586 is not allowed to participate, except as a member of the public,
587 in the decisionmaking process of the public lessor.
588 (4) The lease agreement does not expressly require the
589 lessee to comply with ~~the requirements of~~ ss. 119.07(1) and
590 286.011.
591 (5) The public lessor is not entitled to receive any
592 revenues from the lessee, except for rental or administrative

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593 fees due under the lease, and the lessor is not responsible for
594 the debts or other obligations of the lessee.
595 Section 5. This act shall take effect upon becoming a law.
596
597 ========== T I T L E A M E N D M E N T ==========
598 And the title is amended as follows:
599 Delete everything before the enacting clause
600 and insert:
601 A bill to be entitled
602 An act relating to the sale or lease of a county,
603 district, or municipal hospital; amending s. 155.40,
604 F.S.; defining the terms; requiring the governing
605 board of a county, district, or municipal hospital to
606 evaluate the possible benefits to an affected
607 community from the sale or lease of a hospital
608 facility owned by the board to a not-for-profit or
609 for-profit entity within a specified time period;
610 specifying the actions the board must take in
611 evaluating whether to sell or lease the public
612 hospital; requiring the board to determine whether
613 qualified purchasers or lessees exist; specifying the
614 factors that must be considered by the governing board
615 before accepting a proposal to sell or lease the
616 hospital; requiring the board to state in writing its
617 detailed findings related to its decision to accept or
618 reject the proposal; requiring the governing board to
619 make public the required findings and documents and to
620 publish a notice of the proposed transaction in one or
621 more newspapers of general circulation in the county

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622 in which the majority of the physical assets of the
623 hospital are located; allowing persons to submit
624 written comments regarding the proposed transaction;
625 providing that the sale or lease is subject to the
626 approval of the Chief Financial Officer; requiring the
627 governing board to file a petition with the Chief
628 Financial Officer seeking approval of the proposed
629 transaction within a specified time period; requiring
630 the Chief Financial Officer or his or her designee to
631 issue a final order approving or denying the proposed
632 transaction; specifying the criteria upon which the
633 Chief Financial Officer must base his or her decision;
634 authorizing an interested party to appeal the decision
635 of the Chief Financial Officer; providing that all
636 costs be paid by the governing board unless an
637 interested party contests the action, in which case
638 the court may assign costs equitably to the parties;
639 providing for the distribution of proceeds from the
640 transaction; exempting the sale or lease of specified
641 physical property of a county, district, or municipal
642 hospital from processes required for the approval of a
643 sale or lease of county, district, or municipal
644 hospital property; providing an exemption from
645 complying with the requirements of the act under
646 certain circumstances; exempting application of the
647 act to hospitals or health care systems for which a
648 letter of intent to sell or lease is executed before a
649 specified date; creating s. 155.401, F.S.; providing
650 that the purposes for which a special taxing district

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651 may appropriate funds from the sale or lease of a
652 hospital include the promotion and support of economic
653 growth in the district and county in which the taxing
654 district is located and the furthering of the purposes
655 of the taxing district; providing that any general or
656 special law that is inconsistent with or otherwise in
657 conflict with the act is specifically superseded by
658 the act; amending s. 395.3036, F.S.; conforming cross-
659 references; providing an effective date.

979770

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/30/2012	.	
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	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment to Amendment (413528)**
2
3 Delete lines 238 - 240
4 and insert:
5 care system, the qualified purchaser or lessee shall pay the
6 final cost of the evaluation. If, however, the governing board
7 and the qualified

968298

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment to Amendment (413528)**
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3 Delete lines 238 - 240
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5 care system, the qualified purchaser or lessee shall pay the
6 final cost of the evaluation. If, however, the governing board
7 and the qualified

By the Committee on Health Regulation; and Senators Gaetz and Garcia

588-02067-12 20121568c1

A bill to be entitled

An act relating to the sale or lease of a county, district, or municipal hospital; amending s. 155.40, F.S.; defining the terms "affected community," "fair market value," and "interested party"; requiring the governing board of a county, district, or municipal hospital to evaluate the possible benefits to an affected community from the sale or lease of a hospital facility owned by the board to a not-for-profit or for-profit entity within a specified time period; specifying the actions the board must take in evaluating whether to sell or lease the public hospital; requiring the board to determine whether qualified purchasers or lessees exist; specifying the factors that must be considered by the governing board before accepting a proposal to sell or lease the hospital; requiring the board to state in writing its detailed findings related to its decision to accept or reject the proposal; requiring the governing board to make public the required findings and documents and to publish a notice of the proposed transaction in one or more newspapers of general circulation in the county in which the majority of the physical assets of the hospital are located; allowing persons to submit written comments regarding the proposed transaction; providing that the sale or lease is subject to the approval of the Chief Financial Officer; requiring the governing board to file a petition with the Chief Financial Officer seeking approval of the proposed

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

588-02067-12 20121568c1

transaction within a specified time period; requiring the Chief Financial Officer or his or her designee to issue a final order approving or denying the proposed transaction; specifying the criteria upon which the Chief Financial Officer must base his or her decision; authorizing an interested party to appeal the decision of the Chief Financial Officer; providing that all costs be paid by the governing board, unless an interested party contests the action, in which case the court may assign costs equitably to the parties; providing for the distribution of proceeds from the transaction; exempting the sale or lease of specified physical property of a county, district, or municipal hospital from processes required for the approval of a sale or lease of county, district, or municipal hospital property; creating s. 155.401, F.S.; providing that the purposes for which a special taxing district may appropriate funds from the sale or lease of a hospital include the promotion and support of economic growth in the district and county in which the taxing district is located and the furthering of the purposes of the taxing district; amending s. 395.3036, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 155.40, Florida Statutes, is amended to read:

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

59 155.40 Sale or lease of county, district, or municipal
60 hospital; effect of sale.—
61 (1) In the interest of providing quality health care
62 services to the ~~order that~~ citizens and residents of this ~~the~~
63 state ~~may receive quality health care~~, a ~~any~~ county, district,
64 or municipal hospital organized and existing under the laws of
65 this state, acting by and through its governing board, may ~~shall~~
66 ~~have the authority to~~ sell or lease the ~~such~~ hospital to a for-
67 profit or not-for-profit Florida corporation, and enter into
68 leases or other contracts with a for-profit or not-for-profit
69 Florida corporation for the purpose of operating the ~~and~~
70 ~~managing such~~ hospital and ~~any or all of~~ its facilities ~~of~~
71 ~~whatsoever kind and nature~~. The term of any such lease,
72 contract, or agreement and the conditions, covenants, and
73 agreements to be contained therein shall be determined by the
74 governing board of the ~~such county, district, or municipal~~
75 hospital. The governing board of the hospital must find that the
76 sale, lease, or contract is in the best interests of the
77 affected community ~~public~~ and must state the basis of that ~~such~~
78 finding. ~~If the governing board of a county, district, or~~
79 ~~municipal hospital decides to lease the hospital, it must give~~
80 ~~notice in accordance with paragraph (4)(a) or paragraph (4)(b).~~
81 (2) A ~~Any such~~ lease, contract, or agreement made pursuant
82 hereto shall:
83 (a) Provide that the articles of incorporation of the ~~such~~
84 for-profit or not-for-profit corporation be subject to the
85 approval of the board of directors or board of trustees of the
86 ~~such~~ hospital;
87 (b) Require that any not-for-profit corporation become

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

88 qualified under s. 501(c)(3) of the United States Internal
89 Revenue Code;
90 (c) Provide for the orderly transition of the operation and
91 management of the ~~such~~ facilities;
92 (d) Provide for the return of the ~~such~~ facility to the
93 county, municipality, or district upon the termination of the
94 ~~such~~ lease, contract, or agreement; and
95 (e) Provide for the continued treatment of indigent
96 patients pursuant to the Florida Health Care Responsibility Act
97 and pursuant to chapter 87-92, Laws of Florida.
98 (3) Any sale, lease, or contract entered into pursuant to
99 this section prior to the effective date of this act must have
100 complied with the requirements of subsection (2) in effect at
101 the time of the sale, lease, or contract. Any lease
102 modification, renewal, or extension relating to a hospital that
103 was leased before the effective date of this act is not subject
104 to this section. It is the intent of the Legislature that this
105 section does not impose any further requirements with respect to
106 the formation of any for-profit or not-for-profit Florida
107 corporation, the composition of the board of directors of any
108 Florida corporation, or the manner in which control of the
109 hospital is transferred to the Florida corporation.
110 (4) As used in this section, the term:
111 (a) "Affected community" means those persons residing
112 within the geographic boundaries defined by the charter of the
113 county, district, or municipal hospital, or if the boundaries
114 are not specifically defined by charter of the hospital, by the
115 geographic area from which 75 percent of the county, district,
116 or municipal hospital's inpatient admissions are derived.

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117 (b) "Fair market value" means the price that a seller or
118 lessor is willing to accept and a buyer or lessee is willing to
119 pay on the open market and in an arms-length transaction, or
120 what an independent expert in hospital valuation determines the
121 fair market value to be.
122 (c) "Interested party" includes any person submitting a
123 proposal for sale or lease of the county, district, or municipal
124 hospital, as well as the governing board.
125 (5) Within 45 calendar days after July 1, 2012, the
126 governing board of a county, district, or municipal hospital
127 shall commence an evaluation of the possible benefits to an
128 affected community from the sale or lease of hospital facilities
129 owned by the board to a not-for-profit or for-profit entity. In
130 the course of such evaluation, the board shall:
131 (a) Conduct a public hearing to provide interested persons
132 the opportunity to be heard on the matter.
133 (b) Publish notice of the public hearing in one or more
134 newspapers of general circulation in the county in which the
135 majority of the physical assets of the hospital are located and
136 in the Florida Administrative Weekly at least 15 days before the
137 hearing is scheduled to take place.
138 (c) Contract with a certified public accounting firm or
139 other firm having substantial expertise in the valuation of
140 hospitals for an independent valuation of the hospital's fair
141 market value, with such valuation being available to the public
142 before the scheduled public hearing.
143 (d) Consider an objective operating comparison between a
144 hospital or hospital system operated by the district, county, or
145 municipality and other similarly situated hospitals, both not-

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146 for-profit and for-profit, which have a similar service mix, in
147 order to determine whether there is a difference in the cost of
148 operation using publicly available data provided by the Agency
149 for Health Care Administration and the quality metrics
150 identified by the Centers for Medicare and Medicaid Services
151 Core Measures. The comparison must determine whether it is more
152 beneficial to taxpayers and the affected community for the
153 hospital to be operated by a governmental entity, or whether the
154 hospital can be operated by a not-for-profit or for-profit
155 corporation with similar or better cost efficiencies or
156 measurable outcomes identified by the Centers for Medicare and
157 Medicaid Services Core Measures. The comparison must also
158 determine whether there is a net benefit to the community to
159 operate the hospital as a not-for-profit or for-profit entity
160 and use the proceeds of the sale or lease for the purposes
161 described in this section.
162 (e) Make publicly available all documents considered by the
163 board in the course of such evaluation.
164 1. Within 160 days after July 1, 2012, the governing board
165 shall publish notice of the board's findings in one or more
166 newspapers of general circulation in the county in which the
167 majority of the physical assets of the hospital are located and
168 in the Florida Administrative Weekly.
169 2. This evaluation is not required if a district, county,
170 or municipal hospital has issued a public request for proposals
171 for the sale or lease of a hospital on or before February 1,
172 2012, for the purpose of receiving proposals from interested and
173 qualified prospective buyers or lessees, either not-for-profit
174 or for-profit.

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175 (6) ~~(4)~~ If ~~In the event~~ the governing board of a county,
176 district, or municipal hospital determines that it is no longer
177 in the public interest to own or operate such hospital and
178 elects to consider a sale or lease of the hospital to a third
179 party, the governing board must first determine whether there
180 are any qualified purchasers or lessees. In the process of
181 evaluating any potential purchasers or lessees ~~elects to sell or~~
182 ~~lease the hospital~~, the board shall:
183 (a) ~~Negotiate the terms of the sale or lease with a for-~~
184 ~~profit or not-for-profit Florida corporation and~~ Publicly
185 advertise the meeting at which the proposed sale or lease will
186 be considered by the governing board of the hospital in
187 accordance with s. 286.0105; or
188 (b) Publicly advertise the offer to accept proposals in
189 accordance with s. 255.0525 and receive proposals from all
190 interested and qualified purchasers and lessees.
191
192 Any sale or lease must be for fair market value, or, if not for
193 fair market value, the lease must be in the best interest of the
194 affected community. A ~~and any~~ sale or lease must comply with all
195 applicable state and federal antitrust laws.
196 (7) A determination by a governing board to accept a
197 proposal for sale or lease shall be made after consideration of
198 all proposals received and negotiations with a for-profit or
199 not-for-profit business entity organized under the laws of this
200 state. The governing board's determination must include, in
201 writing, detailed findings of all reasons for accepting the
202 proposal.
203 (a) The governing board's acceptance of a proposal for sale

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204 or lease must include a description of how the sale or lease
205 satisfies each of the following requirements:
206 1. The sale or lease represents fair market value, as
207 determined by a certified public accounting firm or other
208 qualified firm pursuant to paragraph (5)(c). If leased at less
209 than fair market value, the governing board shall provide a
210 detailed explanation of how the best interests of the affected
211 community are served by the acceptance of less than fair market
212 value for the lease of the hospital.
213 2. Acceptance of the proposal will result in a reduction or
214 elimination of ad valorem or other taxes for taxpayers in the
215 district.
216 3. The proposal includes an enforceable commitment that
217 programs and services and quality health care will continue to
218 be provided to all residents of the affected community,
219 particularly to the indigent, the uninsured, and the
220 underinsured.
221 4. Disclosure has been made of all conflicts of interest,
222 including, but not limited to, whether the sale or lease of the
223 hospital would result in a special private gain or loss to
224 members of the governing board or key management employees of
225 the county, district, or municipal hospital, or if governing
226 board members will be serving on the board of any successor
227 private corporation. Conflicts of interest, if any, with respect
228 to experts retained by the governing board shall also be
229 disclosed.
230 5. Disclosure has been made by the seller or lessor of all
231 contracts with physicians or other entities providing health
232 care services through a contract with the seller or lessor,

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233 including all agreements or contracts that would be void or
234 voidable upon the consummation of the sale or lease.
235 6. The proposal is in compliance with subsections (8) and
236 (9).
237 (b) The findings must be accompanied by all information and
238 documents relevant to the governing board's determination,
239 including, but not limited to:
240 1. The names and addresses of all parties to the
241 transaction.
242 2. The location of the hospital and all related facilities.
243 3. A description of the terms of all proposed agreements.
244 4. A copy of the proposed sale or lease agreement and any
245 related agreements, including, but not limited to, leases,
246 management contracts, service contracts, and memoranda of
247 understanding.
248 5. The estimated total value associated with the proposed
249 agreement and the proposed acquisition price.
250 6. Any valuations of the hospital's assets prepared during
251 the 3 years immediately preceding the proposed transaction date.
252 7. The fair market value analysis required by paragraph
253 (5)(c).
254 8. Copies of all other proposals and bids the governing
255 board may have received or considered in compliance with
256 subsection (6).
257 (8) Within 120 days before the anticipated closing date of
258 the proposed transaction, the governing board shall make
259 publicly available all findings and documents required under
260 subsection (7) and publish a notice of the proposed transaction
261 in one or more newspapers of general circulation in the county

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262 in which the majority of the physical assets of the hospital are
263 located. The notice must include the names of the parties
264 involved and the means by which a person may submit written
265 comments about the proposed transaction to the governing board
266 and obtain copies of the findings and documents required under
267 subsection (7).
268 (9) Within 20 days after the date of publication of the
269 public notice, any person may submit to the governing board
270 written comments regarding the proposed transaction.
271 (10) The sale or lease of the hospital is subject to
272 approval by the Chief Financial Officer or his or her designee,
273 except, if otherwise required by law, approval of the sale or
274 lease shall exclusively be by majority vote of the registered
275 voters in the county, district, or municipality in which the
276 hospital is located.
277 (a) The governing board shall file a petition with the
278 state Chief Financial Officer seeking approval of the proposed
279 transaction at least 30 days after publication of the notice of
280 the proposed transaction.
281 (b) The petition for approval filed by the governing board
282 must include all findings and documents required under
283 subsection (7) and certification by the governing board of
284 compliance with all requirements of this section. The chair of
285 the governing board must certify under oath and subject to the
286 penalty of perjury on a form accompanying the petition that the
287 contents of the petition and representations therein are true
288 and correct.
289 (11) The Chief Financial Officer or his or her designee
290 shall issue a final order approving or denying the proposed

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291 transaction based solely upon consideration of whether the
292 procedures contained within this section have been followed by
293 the governing board of the county, district, or municipal
294 hospital. The order shall require the governing board to accept
295 or reject the proposal for the sale or lease of the county,
296 district, or municipal hospital based upon a determination that:
297 (a) The proposed transaction is permitted by law.
298 (b) The proposed transaction does not unreasonably exclude
299 a potential purchaser or lessee on the basis of being a for-
300 profit or a not-for-profit Florida corporation or other form of
301 business organization, such as a partnership or limited
302 liability company.
303 (c) The governing board of the hospital publicly advertised
304 the meeting at which the proposed transaction was considered by
305 the board in compliance with s. 286.0105.
306 (d) The governing board of the hospital publicly advertised
307 the offer to accept proposals in compliance with s. 255.0525.
308 (e) Any conflict of interest was disclosed, including, but
309 not limited to, how the proposed transaction could result in a
310 special private gain or loss to members of the governing board
311 or key management employees of the county, district, or
312 municipal hospital, or if governing board members will be
313 serving on the board of any successor private corporation.
314 Conflicts of interest, if any, with respect to experts retained
315 by the governing board shall also be disclosed.
316 (f) The seller or lessor will receive fair market value for
317 the sale or lease of the assets as indicated in paragraph (5)(c)
318 or, if leased at less than fair market value, the governing
319 board provided a detailed explanation of how the best interests

320 of the affected community are served by the acceptance of less
321 than fair market value for the lease of the hospital.
322 (g) The acquiring entity has made an enforceable commitment
323 that programs and services and quality health care will continue
324 to be provided to all residents of the affected community,
325 particularly to the indigent, the uninsured, and the
326 underinsured.
327 (h) The governing board disclosed whether the sale or lease
328 will result in a reduction or elimination of ad valorem or other
329 taxes used to support the hospital.
330 (12) Any interested party to the action has the right to
331 seek judicial review of the decision in the appellate district
332 where the hospital is located or in the First District Court of
333 Appeal pursuant to s. 120.68.
334 (a) All proceedings shall be instituted by filing a notice
335 of appeal in accordance with the Florida Rules of Appellate
336 Procedure within 30 days after the date of the final order.
337 (b) In such judicial review, the appellate court shall
338 affirm the decision of the Chief Financial Officer, unless the
339 decision by the Chief Financial Officer is shown to be clearly
340 erroneous.
341 (13) All costs shall be paid by the governing board, unless
342 an interested party contests the action, in which case the court
343 may assign costs equitably to the parties.
344 (14) If any provision of subsection (5), subsection (6), or
345 subsection (7) is not followed, the contract for sale or lease
346 is voidable by any party to the contract. If any member of the
347 governing board negligently or willfully violates subsection
348 (5), subsection (6), or subsection (7), as determined by the

349 Commission on Ethics after receipt of a sworn complaint pursuant
350 to s. 112.322, the member is subject to a penalty, as determined
351 by the Commission on Ethics, pursuant to s. 112.317.
352 (15) If a county, district, or municipal hospital is sold
353 or leased the governing board shall:
354 (a) Deposit 50 percent of the net proceeds of the sale or
355 lease into an economic development trust fund, which shall be
356 under the control of the county commission of the county in
357 which the property is located. The use and distribution of the
358 funds shall be at the discretion of a majority of the county
359 commission, the members of which shall serve as trustees of the
360 trust fund. The net proceeds in the economic development trust
361 fund shall be distributed, in consultation with the Department
362 of Economic Opportunity, to promote new business development,
363 research, collaborative investment with the state university
364 system, and the expansion of business economic opportunities
365 within the affected community; and
366 (b) Appropriate 50 percent of the net proceeds of the sale
367 or lease for funding the delivery of indigent and uncompensated
368 care on an equitable basis, based on the amount of indigent and
369 uncompensated care provided, to all hospitals within the
370 boundaries of the district.
371
372 For the purposes of this subsection, the term "net proceeds"
373 means the sale price after payment of all district debts and
374 obligations.
375 (16) If a county, district, or municipal hospital is sold
376 or leased to a for-profit corporation or other business entity
377 subject to local taxation, in addition to the distribution of

378 funds as directed in subsection (15):
379 (a) Fifty percent of the resulting county and municipal ad
380 valorem tax revenue from the formerly tax-exempt property shall
381 be distributed by the county commission of the county in which
382 the property is located, in consultation with the Department of
383 Economic Opportunity, to promote new or expanded health care
384 business development or health care research within the affected
385 community; and
386 (b) Fifty percent of the resulting county and municipal ad
387 valorem tax revenue from the formerly tax-exempt property shall
388 be appropriated by the county commission for the sole purpose of
389 enhancing education and law enforcement programs within the
390 county.
391 (17) ~~(5)~~ If ~~In the event~~ a hospital operated by a for-profit
392 or not-for-profit Florida corporation receives annually more
393 than $100,000 in revenues from the county, district, or
394 municipality that owns the hospital, the Florida corporation
395 must be accountable to the county, district, or municipality
396 with respect to the manner in which the funds are expended by
397 either:
398 (a) Having the revenues subject to annual appropriations by
399 the county, district, or municipality; or
400 (b) Where there is a contract to provide revenues to the
401 hospital, the term of which is longer than 12 months, the
402 governing board of the county, district, or municipality must be
403 able to modify the contract upon 12 months notice to the
404 hospital.
405
406 A not-for-profit corporation that is subject to this subsection

407 and that does not currently comply with the accountability
408 requirements in this subsection shall have 12 months after the
409 effective date of this act to modify any contracts with the
410 county, district, or municipality in a manner that is consistent
411 with this subsection.
412 (18) ~~(6)~~ Unless otherwise expressly stated in the lease
413 documents, the transaction involving the sale or lease of a
414 hospital shall not be construed as:
415 (a) A transfer of a governmental function from the county,
416 district, or municipality to the private purchaser or lessee;
417 (b) Constituting a financial interest of the public lessor
418 in the private lessee; or
419 (c) Making a private lessee an integral part of the public
420 lessor's decisionmaking process.
421 (19) ~~(7)~~ The lessee of a hospital, under this section or any
422 special act of the Legislature, operating under a lease may
423 ~~shall~~ not be construed to be "acting on behalf of" the lessor as
424 that term is used in statute, unless the lease document
425 expressly provides to the contrary.
426 (20) ~~(8)~~(a) If, whenever the sale of a public hospital by a
427 public agency to a private corporation or other private entity
428 pursuant to this section or pursuant to a special act of the
429 Legislature reflects that:
430 1. The private corporation or other private entity
431 purchaser acquires 100 percent ownership in the hospital
432 enterprise;
433 2. The private corporation or other private entity
434 purchases the physical plant of the hospital facility and has
435 complete responsibility for the operation and maintenance of the

436 facility, regardless of ownership of the underlying real
437 property;
438 3. The public agency seller retains no control over
439 decisionmaking or policymaking for the hospital;
440 4. The private corporation or other private entity
441 purchaser receives no funding from the public agency seller
442 other than by contract for services rendered to patients for
443 whom the public agency seller has the responsibility to pay for
444 hospital or medical care;
445 5. The public agency seller makes no substantial investment
446 in or loans to the private entity;
447 6. The private corporation or other private entity
448 purchaser was not created by the public entity seller; and
449 7. The private corporation or other private entity
450 purchaser operates primarily for its own financial interests and
451 not primarily for the interests of the public agency,
452
453 such a sale shall be considered a complete sale of the public
454 agency's interest in the hospital.
455 (b) A complete sale of a hospital as described in this
456 subsection shall not be construed as:
457 1. A transfer of a governmental function from the county,
458 district, or municipality to the private corporation or other
459 private entity purchaser;
460 2. Constituting a financial interest of the public agency
461 in the private corporation or other private entity purchaser;
462 3. Making the private corporation or other private entity
463 purchaser an "agency" as that term is used in statutes;
464 4. Making the private corporation or other private entity

465 purchaser an integral part of the public agency's decisionmaking
466 process; or
467 5. Indicating that the private corporation or other private
468 entity purchaser is "acting on behalf of a public agency" as
469 that term is used in statute.
470 (21) If the governing board elects to sell or lease any
471 physical property of a county, district, or municipal hospital
472 and such property generated less than 20 percent of the
473 hospital's total revenue within the hospital's most recent
474 fiscal year, the sale or lease of such property is exempt from
475 the requirements under subsections (6)-(16). However, the
476 governing board shall publicly advertise the meeting at which
477 the proposed sale or lease of such property will be considered
478 by the governing board of the hospital in accordance with s.
479 286.0105 or publicly advertise the offer to accept proposals in
480 accordance with s. 255.0525 and receive proposals from all
481 interested and qualified purchasers and lessees. The sale or
482 lease of the property must be for fair market value or, if a
483 lease is for less than fair market value, the lease must be in
484 the best interest of the affected community.
485 Section 2. Section 155.401, Florida Statutes, is created to
486 read:
487 155.401 Power of special taxing district to appropriate
488 proceeds from sale or lease of hospital to economic development
489 trust fund.—Notwithstanding any other provision of general or
490 special law, the purposes for which a special taxing district
491 may appropriate funds from the sale or lease of a hospital to an
492 economic development fund include the promotion and support of
493 economic growth in such district and in the county in which such

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494 district is located and the furthering of the purposes of such
495 district, as provided by law.
496 Section 3. Section 395.3036, Florida Statutes, is amended
497 to read:
498 395.3036 Confidentiality of records and meetings of
499 corporations that lease public hospitals or other public health
500 care facilities.—The records of a private corporation that
501 leases a public hospital or other public health care facility
502 are confidential and exempt from ~~the provisions of~~ s. 119.07(1)
503 and s. 24(a), Art. I of the State Constitution, and the meetings
504 of the governing board of a private corporation are exempt from
505 s. 286.011 and s. 24(b), Art. I of the State Constitution if
506 ~~when~~ the public lessor complies with the public finance
507 accountability provisions of s. 155.40(17) ~~155.40(5)~~ with
508 respect to the transfer of any public funds to the private
509 lessee and if ~~when~~ the private lessee meets at least three of
510 the five following criteria:
511 (1) The public lessor that owns the public hospital or
512 other public health care facility was not the incorporator of
513 the private corporation that leases the public hospital or other
514 health care facility.
515 (2) The public lessor and the private lessee do not
516 commingle any of their funds in any account maintained by either
517 of them, other than the payment of the rent and administrative
518 fees or the transfer of funds pursuant to subsection (5) ~~(2)~~.
519 (3) Except as otherwise provided by law, the private lessee
520 is not allowed to participate, except as a member of the public,
521 in the decisionmaking process of the public lessor.
522 (4) The lease agreement does not expressly require the

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523 lessee to comply with ~~the requirements of~~ ss. 119.07(1) and
524 286.011.
525 (5) The public lessor is not entitled to receive any
526 revenues from the lessee, except for rental or administrative
527 fees due under the lease, and the lessor is not responsible for
528 the debts or other obligations of the lessee.
529 Section 4. This act shall take effect upon becoming a law.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic _____ Bill Number 1568 *(if applicable)*

Name JOSE L. GONZALEZ Amendment Barcode _____ *(if applicable)*

Job Title VP GOVT. AFFAIRS

Address 516 N. ADAMS ST
Street

TALLAHASSEE, FL 32301
City *State* *Zip*

Phone 224-7173

E-mail _____

Speaking: [✓] For [ ] Against [ ] Information

Representing AIF

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic

Bill Number 1568 (if applicable)

Name GUY SPEARMAN

Amendment Barcode (if applicable)

Job Title

Address 516 Delray Ave
Street

Phone 8502227718

Ocala
City State Zip

E-mail

Speaking: [✓] For [ ] Against [ ] Information

Representing HMA

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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/

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic: Sale & Lease Public Hosp.

Bill Number: 1568 *(if applicable)*

Name: John Ratliff

Amendment Barcode: *(if applicable)*

Job Title: Public Policy Director, SEIU 1991

Address: 8441 NW 2d Ave
Street

Miami Gdns FL 33169
City *State* *Zip*

Phone:

E-mail: johnr@seiu1991.org

Speaking: ☐ For ☑ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic _____ Bill Number 1868 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH Phone 727/897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City *State* *Zip*

Speaking: ☐ For ☑ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: Sale/Lease of Public Hospitals

Bill Number: 1568 *(if applicable)*

Name: Nick Iarossi

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 101 E College Ave. #303
Street

TLH FL 32303
City *State* *Zip*

Phone: 222-2075

E-mail: _____

Speaking: ☐ For ☐ Against ☐ Information

Representing: Safety Net Hospital Alliance of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: Sale of Hospitals

Bill Number: 1568 (if applicable)

Name: Steve Uhlfelder

Amendment Barcode: (if applicable)

Job Title: Attorney

Address: 519 E Park Avenue
Street

Tallahassee Fla 32301
City State Zip

Phone: 980-6435

E-mail: steve@sulaw.net

Speaking: [x] For [ ] Against [ ] Information

Representing: Tenet

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 1868

INTRODUCER: Community Affairs Committee and Senator Gardiner

SUBJECT: Federal Grants

DATE: January 30, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.			JU	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The bill(CS) requires a county, municipality, or special district to identify and disclose the projected, unfunded, long-term costs of each project funded by a federal grant prior to accepting such federal grant. The costs shall be calculated from the inception of the project through the two fiscal years after the federal funds have been depleted. The unfunded costs may include, but are not limited to, required state and local matching funds, projected payroll costs, maintenance costs, and costs to operate and administer the project.

A disclosure statement of the costs and a plan to fund the project after the depletion of the federal grant must be posted on the grantee's website 10 days before a vote to accept any monies or 10 days before any action to authorize acceptance. If a special district does not operate a website, procedures are provided to have the disclosure statement posted on the website of either the district's local general-purpose government or the district's governing authority. Accountants conducting audits of counties, municipalities, or special districts will be required to determine compliance with the bill's provisions. The bill further provides that a person may file a civil action to enforce the disclosure and plan provisions.

This bill does not apply to federal grants associated with natural disasters, grants involving the Federal Emergency Management Agency, grants received from the Department of Homeland Security, or Medicaid funds.

This bill amends s. 218.39, F.S., and also creates an undesignated section of the Florida Statutes.

II. Present Situation:

Intergovernmental Grant Impact on Future Periods

A recent working paper by West Virginia University economists Russell Sobel and George Crowley examined the impact of federal grants on state and local tax policy in future periods.[1] Their analysis concluded that grant funding to state and local governments results in higher own source revenue and taxes in the future to support the programs initiated with the federal grant monies. The authors further argue that:

> the recent large increase in federal grants to state and local governments that has occurred as part of the American Recovery and Reinvestment Act (ARRA) will have significant future tax implications at the state and local level as these governments raise revenue to continue these newly funded programs into the future. Federal grants to state and local governments have risen from $461 billion in 2008 to $654 billion in 2010. Based on our estimates, *future* state taxes will rise by between 33 and 42 cents for every dollar in federal grants states received today, while local revenues will rise by between 23 and 46 cents for every dollar in federal (or state) grants received today. Using our estimates, this increase of $200 billion in federal grants will eventually result in roughly $80 billion in future state and local tax and own source revenue increases. This suggests the true cost of fiscal stimulus is underestimated when the costs of future state and local tax increases are overlooked.[2]

Federal Aid to State and Local Governments by Program

The U.S. Census Bureau, Statistical Abstract for 2012, shows that Florida received $22,686,000,000 in total federal aid for state and local governments in 2009.[3] Selected federal department program total grant amounts and percentages of the overall total are shown in the table below.

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[1] Russell S. Sobel and George R. Crowley, *Do Intergovernmental Grants Create Ratchets in State and Local Taxes? Testing the Friedman-Sanford Hypothesis* (No. 10-51, August 2010) http://mercatus.org/sites/default/files/publication/Do%20Intergovernmental%20Grants%20Create%20Ratchets.WP_.Corrected.10.4.10_0.pdf (last visited Jan. 25, 2012).
[2] *Id.*
[3] U.S. Census Bureau, Statistical Abstract of the United States: 2012, *Table 434 Federal Aid to State and Local Governments – Selected Programs by State: 2009 available at* http://www.census.gov/compendia/statab/2012/tables/12s0434.pdf (last visited Jan. 25, 2012).

Department	Total grant amount for 2009	% of total
Health and Human Services	$13,573,000,000	59.8%
Education	$2,201,000,000	9.7%
Transportation	$2,038,000,000	8.9%
Housing and Urban Development	$1,731,000,000	7.6%
Agriculture	$1,418,000,000	6.3%
Labor	$338,000,000	1.5%

Special Districts

Special Districts are governed by the Uniform Special District Accountability Act of 1989 in Chapter 189, F.S.[4] Section 189.403(1), F.S., defines a "special district" as a confined local government unit established for a special purpose. A special district can be created by general law, special act, local ordinance, or by Governor or Cabinet rule. A special district does *not* include a school district, a community college district, a special improvement district, a municipal service taxing or benefit unit, or a political subdivision board of a municipality providing electrical service.[5]

The Special District Information Program (SDIP) maintains an official master list of the individual functions and status of all the dependent and independent special districts throughout the state.[6] As of January 25, 2012, there were 1,620 special districts in the state of Florida. Examples of special districts in Florida include, but are not limited to, water management districts, community development districts, housing authority districts, fire control and rescue districts, mosquito control districts, and transportation districts.[7]

Local Government Annual Financial Audits

Section 218.39, F.S., provides that if a local government will not be audited by the Auditor General, the local government must provide for an annual financial audit to be completed within 9 months after the end of the fiscal year. The audit must be conducted by an independent certified public accountant retained by the entity and paid for from public funds. The entities are:

- Each county, district school board, charter school, or charter technical center.
- Each city with revenues or expenditures and expenses of more than $250,000.
- Each special district with revenues or expenditures and expenses of more than $100,000.
- Each city with revenues or expenditures and expenses between $100,000 and $250,000 that has not been audited within the 2 preceding fiscal years.

[4] Ch. 189, F.S., *see* s. 189.401, F.S.
[5] *Id.*
[6] Sections 189.412(2) and 189.4035, F.S. *See also* Florida Department of Economic Opportunity, *Official List of Special Districts Online*, (*available online at* http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/index.cfm) (last visited Jan. 25, 2012).
[7] *Id.*

- Each special district with revenues or expenditures and expenses between $50,000 and $100,000 that has not been audited within the 2 preceding fiscal years.[8]

The audit report must be filed with the Auditor General and must include a written statement describing corrective actions to be taken in response to each of the auditor's recommendations included in the audit report.[9] The Auditor General shall notify the Legislative Auditing Committee (LAC) of any audit report which indicates an entity has failed to take full corrective action in response to a recommendation made in the two preceding financial audit reports.

Upon being notified, the LAC may direct the governing body of the audited entity to provide a written explanation for its failure to take corrective actions or subsequent plans for correction.[10] If the explanation is not sufficient, the LAC may require an appropriate official from the entity to appear before the committee. Should the LAC determine that there is no justifiable reason for the entity to have not taken corrective action, the Committee may proceed in accordance with s. 11.40(2), F.S.

- In the case of a local government entity or a district school board, the LAC directs the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction until the local government entity or the district school board is in compliance. The LAC must specify the date that action will begin and both departments must receive notification 30 days before the date the withheld funds would normally be distributed.[11]
- In the case of a special district, the LAC must notify the Department of Economic Opportunity that the special district has failed to comply with the law. Failure of a special district to comply with actuarial and financial reporting requirements shall be deemed final action of the special district. The actuarial and financial reporting requirements are declared to be essential requirements of law. Remedy for noncompliance shall be by writ of certiorari.[12]
- In the case of a charter school or charter technical career center, the LAC must notify the appropriate sponsoring entity which may terminate the charter.[13]

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of law stating that before accepting federal grant funds, a county, municipality, or special district must identify and disclose the projected, unfunded, long-term costs of each project that is funded by a federal grant. The costs shall be calculated from inception of the project through the two fiscal years after the federal funds have been depleted. Such unfunded costs include, but are not limited to, required state and local matching funds, projected payroll costs, maintenance costs, and costs to operate and administer the project.

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[8] Nearly 300 special districts did not meet the audit threshold established in Section 218.39, F.S., for the 2008-09 fiscal year. E-mail from Marilyn Rosetti, Audit Manager, Local Government Reviews & Special Audits, State of Florida Auditor General (Nov. 3, 2011) (on file with the Senate Committee on Community Affairs).
[9] Section 218.39(7), F.S.
[10] Section 218.39(8), F.S.
[11] *See* s. 11.40(2), F.S.
[12] *See* ss. 189.421(2)-(3), F.S.
[13] *See* s. 11.40(2), F.S.

The projected, unfunded, long-term costs shall be prominently disclosed by posting a disclosure statement on the website of the county, municipality, or special district at least 10 days before the county, municipality or special district votes to accept the federal grant or otherwise takes any other action to authorize acceptance of the federal grant. If a special district does not operate a website, procedures are provided to have the costs posted on the website of the district's local general-purpose government or governing authority. The disclosure statement must describe the project and must include a plan for funding the project for up to two fiscal years after the depletion of the federal grant.

This section of the bill further provides that a person may file a civil action to enforce the above provisions. If a civil action is filed against a county, municipality, or special district to enforce the above provisions and the court finds that the county, municipality, or special district failed to comply, the court shall assess and award against the appropriate county, municipality, or special district the reasonable costs of enforcement, including reasonable attorney fees.

Certified public accountants conducting audits of counties, municipalities, or special districts pursuant to s. 218.39, F.S., shall report, as part of the audit, whether or not the county, municipality, or special district has complied with the provisions of the bill. This act does not apply to federal grants associated with natural disasters, grants involving the Federal Emergency Management Agency, grants received from the Department of Homeland Security, or Medicaid funds.

Section 2 amends s. 218.39, F.S., to require the Auditor General to notify the Legislative Auditing Committee (LAC) of any audit report that indicates that an audited entity has failed to comply with the required disclosures relating to the receipt of federal funds. If an entity has not complied, the LAC may require a written statement of explanation from the entity and could possibly further require an appropriate entity official to appear before the committee. If the LAC determines that there is no justifiable reason for the failure to prepare a disclosure statement or that the entity has failed to comply with the explanation or appearance requests, the committee may proceed in accordance with s. 11.40(2), F.S.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18(a) of the Florida Constitution states that no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills an important state interest and it meets one of these exceptions:

- The Legislature appropriates funds or provides a funding source not available for such county or municipality on February 1, 1989;
- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and counties or municipalities; or
- The law is required to comply with a federal requirement.

Subsection (d) provides an additional applicable exemption. Laws determined to have an "insignificant fiscal impact," which means an amount not greater than the average statewide population for the applicable fiscal year times $0.10 ($1.88 million for FY 2010-2011), are exempt.

It is not anticipated that the costs to comply with this act will exceed $1.88 million, however, if they do, the law may be unenforceable unless passed by two-thirds in each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Residents of the state will be afforded greater transparency related to the federal grant acceptance process of counties, municipalities and special districts.

C. Government Sector Impact:

Counties, municipalities and special districts will incur indeterminate costs related to reporting and plan development requirements as well as the auditing determinations of the bill. The Auditor General and the Legislative Auditing Committee will experience indeterminate costs associated with their new oversight roles.

The Revenue Estimating Conference has not analyzed the impact of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on January 30, 2012:

- Establishes that the calculation of unfunded costs of a federal project shall cover the time period from the inception of grant through two fiscal years after depletion of grant.
- Provides a procedure for special districts to post disclosures and plans if they do not have a website.
- Requires a determination of compliance with the CS's provisions to be included in a county, municipality, or special district financial audit.
- Requires the Auditor General to notify the Legislative Auditing Committee (LAC) of compliance failures. Under certain circumstances, the LAC may proceed in accordance with the provisions of s. 11.40, F.S.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
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	.	
	.	

The Committee on Community Affairs (Thrasher) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Disclosure of unfunded, long-term costs of
6 federal grant programs.—
7 (1)(a) Before accepting a federal grant, a county,
8 municipality, or special district shall identify and disclose,
9 for each project that is funded by a federal grant, the costs of
10 the activities of the project that will not be funded by the
11 federal funds. The costs shall be calculated from inception of
12 the project through the 2 fiscal years after the federal funds

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13 have been depleted.
14 (b) The costs of activities not paid by federal funds may
15 include, but are not limited to, required state and local
16 matching funds, projected payroll costs, maintenance costs, and
17 costs to operate and administer the project.
18 (c) Such unremitted costs shall be disclosed by prominently
19 posting a disclosure statement on the website of the county,
20 municipality, or special district undertaking the project or
21 activity. The statement shall be posted at least 10 days before
22 the governing body of the county, municipality, or special
23 district votes to accept the federal grant or otherwise takes
24 any other action to authorize acceptance of the federal grant.
25 (d) If a special district does not operate an official
26 website, the special district shall, within a reasonable period
27 of time as established by the local general-purpose government
28 or governments in which the special district is located or the
29 local governing authority to which the district is dependent,
30 transmit the disclosure statement to the manager or
31 administrator of the local general-purpose government or the
32 local governing authority. Thereafter, manager or administrator
33 shall post the special district disclosure statement on the
34 website of the local general-purpose government or governing
35 authority.
36 (e) The disclosure statement for a county, municipality, or
37 special district shall describe the project and must include a
38 plan for funding the project for up to 2 fiscal years after the
39 federal grant funds have been depleted.
40 (2) A person may file a civil action to enforce subsection
41 (1). If a civil action is filed against a county, municipality,

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42 or special district to enforce subsection (1) and the court
43 finds that the county, municipality, or special district failed
44 to comply with that subsection, the court shall assess and award
45 against the appropriate county, municipality, or special
46 district the reasonable costs of enforcing subsection (1),
47 including reasonable attorney fees.
48 (3) Certified public accountants conducting audits of
49 counties, municipalities, or special districts pursuant to s.
50 218.39, shall report, as part of the audit, whether or not the
51 county, municipality, or special district has complied with this
52 section.
53 (4) This section does not apply to federal grants
54 associated with natural disasters, grants involving the Federal
55 Emergency Management Agency, grants received from the Department
56 of Homeland Security, or Medicaid funds.
57 Section 2. Present subsections (9) through (12) of section
58 218.39, Florida Statutes, are renumbered as subsections (10)
59 through (13), respectively, and new subsection (9) is added to
60 that section, to read:
61 218.39 Annual financial audit reports.—
62 (9) The Auditor General shall notify the Legislative
63 Auditing Committee of any audit report that indicates that an
64 audited entity has failed to comply with the required
65 disclosures relating to the receipt of federal funds.
66 (a) The committee may direct the governing body of the
67 audited entity to provide to the committee either the required
68 disclosure statement or a written statement explaining why the
69 required disclosure statement was not prepared.
70 (b) If the committee determines that the written statement

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71 is not sufficient, it may require the chair of the governing
72 body of the local governmental entity or the chair's designee,
73 the elected official of each county agency or the elected
74 official's designee, as appropriate, to appear before the
75 committee.
76 (c) If the committee determines that an audited entity has
77 failed to prepare a required disclosure statement for which
78 there is no justifiable reason for not preparing such, or has
79 failed to comply with committee requests made pursuant to this
80 section, the committee may proceed in accordance with s.
81 11.40(2).
82
83
84 ========== T I T L E A M E N D M E N T ==========
85 And the title is amended as follows:
86 Delete everything before the enacting clause
87 and insert:
88 A bill to be entitled
89 An act relating to federal grants; requiring a county,
90 municipality, or special district to identify and
91 disclose the costs of a federally-funded project that
92 will not be funded by the federal grant; requiring the
93 entity to disclose a plan for funding the project
94 after the depletion of federal funds; authorizing a
95 person to file a civil action to enforce the
96 disclosure of unfunded, long-term costs of a county,
97 municipality, or special district project funded by a
98 federal grant; requiring the court to assess
99 reasonable costs, including attorney fees, against the

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100 county, municipality, or special district if the court
101 finds that the county, municipality, or special
102 district did not disclose the unfunded costs of a
103 project funded by a federal grant; requiring auditors
104 to report on compliance; providing an exception for
105 federal grants associated with natural disasters,
106 grants involving the Federal Emergency Management
107 Agency, grants received from the Department of
108 Homeland Security, or Medicaid funds; requiring that
109 the Auditor General notify the Legislative Auditing
110 Committee of any audit report indicating that an
111 audited entity has failed to comply with the
112 disclosure requirements of this act; providing an
113 effective date.

452734

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Thrasher) recommended the following:

1 **Senate Amendment to Amendment (958174)**
2
3 After line 81
4 insert:
5 Section 3. This act shall take effect July 1, 2012.

By Senator Gardiner

9-01394A-12 20121868__

A bill to be entitled

An act relating to federal grants; requiring a county, municipality, or special district to identify and disclose the unfunded, long-term costs of a project funded by a federal grant; requiring the entity to disclose a plan for funding the project after the depletion of federal funds; authorizing a person to file a civil action to enforce the disclosure of unfunded, long-term costs of a county, municipality, or special district project funded by a federal grant; requiring the court to assess reasonable costs, including attorney fees, against the county, municipality, or special district if the court finds that the county, municipality, or special district did not disclose the unfunded costs of a project funded by a federal grant; providing an exception for federal grants associated with natural disasters, grants involving the Federal Emergency Management Agency, grants received from the Department of Homeland Security, or Medicaid funds; providing an effective date.

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

Section 1. Disclosure of unfunded, long-term costs of federal grant programs.—

(1) Before accepting federal grant funds, a county, municipality, or special district shall identify and disclose the projected, unfunded, long-term costs of each project that is

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

9-01394A-12 20121868__

funded by a federal grant. Such unfunded costs include, but are not limited to, the projected payroll and maintenance costs to operate or administer the project after the depletion of the federal grant. The projected, unfunded, long-term costs shall be prominently disclosed by posting a disclosure statement on the website of the county, municipality, or special district at least 10 days before the county, municipality, or special district votes to accept the federal grant or otherwise takes any other action to authorize acceptance of the federal grant. The disclosure statement must describe the project and must include a plan for funding the project after the depletion of the federal grant.

(2) A person may file a civil action to enforce subsection (1). If a civil action is filed against a county, municipality, or special district to enforce subsection (1) and the court finds that the county, municipality, or special district failed to comply with that subsection, the court shall assess and award against the appropriate county, municipality, or special district the reasonable costs of enforcing subsection (1), including reasonable attorney fees.

(3) This act does not apply to federal grants associated with natural disasters, grants involving the Federal Emergency Management Agency, grants received from the Department of Homeland Security, or Medicaid funds.

Section 2. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Communications, Energy, and Public Utilities, *Chair*
Budget - Subcommittee on Finance and Tax
Judiciary
Reapportionment
Rules

SENATOR ANDY GARDINER
Majority Leader
9th District

January 17, 2012

The Honorable Mike Bennett, Chair
Committee on Community Affairs
315 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Bennett,

Senate Bill 1868 Federal Grants has been referred to your committee. This legislation requires a county, municipality, or special district to identify and disclose the unfunded, long-term costs of a project funded by a federal grant. I respectfully request that Senate Bill 1868 be heard before your committee.

If you have any questions regarding this request, please do not hesitate to contact my office. Thank you for your time and consideration of this legislation.

Sincerely,

Andy Gardiner
State Senate, District 09

rec'd 1/18/12 apw

Cc: Tom Yeatman, Staff Director
Ann Whittaker, Committee Administrative Assistant

AG: svc

REPLY TO:
❒ 1013 East Michigan Street, Orlando, Florida 32806 (407) 428-5800
❒ 330 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5047

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 1724

INTRODUCER: Senator Alexander

SUBJECT: Mosquito Control Districts

DATE: January 24, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill repeals s. 388.191, F.S., which grants the board of commissioners of a mosquito control district the power of eminent domain to condemn any land or easements necessary for the purposes of mosquito control. The section also permits the board to hold, control, and acquire any real or personal property for use by the district. The board is permitted by this section to begin and maintain condemnation proceedings, pursuant to ch. 73, F.S., to obtain real and personal property by eminent domain.

The bill repeals section 388.191 of the Florida Statutes.

II. Present Situation:

Mosquito Control Districts

Section 388.101, F.S., provides that it is the public policy of the state to control mosquitoes in such a manner as to protect health and safety, improve quality of life, promote economic development, and allow for enjoyment of natural attractions of the state. To that end, the Florida Anti-Mosquito Association, now known as the Florida Mosquito Control Association, was established in 1922.[1] Soon after the creation of the association, special taxing districts for mosquito control were established by statute. The first mosquito control district (MCD) formed

[1] Connelly, C.R. and D.B. Carlson (Eds.), 2009. Florida Coordinating Council on Mosquito Control. *Florida Mosquito Control: The state of the mission as defined by mosquito controllers, regulators, and environmental managers.* Vero Beach, FL: University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, at page 22.

was the Indian River Mosquito Control District in 1925.[2] By 1935, five mosquito control districts were created.[3] There are approximately 56 MCDs in Florida.[4]

Chapter 388, F.S., governs and regulates the operation of MCDs in the state. The chapter authorizes the MCDs to take whatever steps are necessary to control all species of mosquito within the confines of applicable state and federal law.[5] Mosquito control is accomplished through a concept known as integrated mosquito management (IMM), which uses multidisciplinary methodologies to implement pest control strategies.[6] IMM includes source reduction, which includes digging ditches and ponds in marsh areas and eliminating standing water that serves as a breeding ground for mosquitoes.[7] IMM also includes the use of mosquito fish in ditches and ponds to eat mosquito larvae.[8] Another method of mosquito control is larviciding, or the application of insecticides to target and eliminate immature mosquitoes in bodies of water harboring larvae and pupae.[9] Florida MCDs use permanent strategies to control mosquitoes, including impounding water, ditching, and draining swampy areas that serve as mosquito breeding grounds. Florida MCDs also use temporary control measures, such as aerosol spraying by ground and aerial equipment to kill adult and larval mosquitoes.[10]

The Department of Agriculture and Consumer Services (DACS) administers and enforces the laws associated with mosquito control in Florida.[11] The Coordinating Council on Mosquito Control was established by statute to assist the DACS in developing and implementing guidelines to resolve disputes associated with mosquito control on public land.[12]

Section 388.191, F.S., permits the board of commissioners of an MCD to hold, control, and acquire any real or personal property for the use of the district. The section also permits the board of commissioners to condemn any land or easements for use by the district. Lastly, the section permits the board of commissioners to exercise the right of eminent domain and begin and continue condemnation proceedings pursuant to the procedure outlined in chapter 73, F.S.

Eminent Domain

Eminent domain is generally defined as the power of the nation or a sovereign state to take, or to authorize the taking of, private property for a public use without the owner's consent, conditioned upon the payment of just compensation.[13] Eminent domain also refers to a legal

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[2] *Id.*
[3] *Id.* at page 23.
[4] University of Florida, Institute of Food and Agricultural Sciences, Florida Medical Entomology Laboratory, *Florida Mosquito Control*, *available at* http://mosquito.ifas.ufl.edu/Florida_Mosquito_Control.htm, (last visited Jan.24, 2012).
[5] In addition to ch. 388, F.S., ch. 487, F.S., Pesticide Regulation and Safety, regulates the use of pesticides in controlling mosquitoes. Chapter 5E-2, F.A.C., regulates pesticide registration in Florida. Also, states must comply with the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 et seq.
[6] American Mosquito Control Association, *Control*, *available at* http://www.mosquito.org/control (last visited Jan 24. 2012).
[7] Leon County, Florida Mosquito Control Website, *History and Facts About Leon County Mosquito Control*, *available at* http://www.leoncountyfl.gov/mosquito/Ed%20&%20Info/History_&_Facts.asp, (last visited Jan., 24 2012).
[8] *See supra* at FN 7.
[9] *Id.*
[10] *Id.*
[11] S. 388.361, F.S.
[12] S. 388.46, F.S.; *see also supra* FN 2 at page 233.
[13] *See* 21 Fla. Jur. 2d Eminent Domain § 1, and references therein.

proceeding in which a government asserts its authority to condemn property, while inverse condemnation is a shorthand description of the manner in which a landowner recovers just compensation for a taking of his or her property when condemnation proceedings have not been instituted.[14] An inverse condemnation action is initiated by the property owner, rather than the governmental entity.[15]

Eminent domain is subject to constitutional prohibitions found in both the federal and state constitutions.[16] The U.S. Constitution requires that property cannot be taken for public use without just compensation.[17] Section 6, Art. X of the Florida Constitution reads:

> a) No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner.
> (b) Provision may be made by law for the taking of easements, by like proceedings, for the drainage of the land of one person over or through the land of another.
> (c) Private property taken by eminent domain pursuant to a petition to initiate condemnation proceedings filed on or after January 2, 2007, may not be conveyed to a natural person or private entity except as provided by general law passed by a three-fifths vote of the membership of each house of the Legislature.

The "full compensation" mandated by the state constitution is restricted to the value of the condemned land,[18] the value of associated appurtenances and improvements, and damages to the remaining land,[19] i.e., severance damages.[20] Florida's law governing eminent domain can be found in chapters 73 and 74 of the Florida Statutes. Except as limited or prohibited by constitutional provisions,[21] there can be no taking of private property for public use against the will of the owner without direct authority from the legislature.[22]

Statutory Eminent Domain Procedures

The statutory eminent domain procedures in ch. 73, F.S., include presuit negotiations between a governmental entity exercising its rights and the land owner,[23] offers of judgment,[24] jury trials,[25]

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[14] *See* Agins v. City of Tiburon, 447 U.S. 255, 100 S.Ct. 2138, 65 L.Ed. 2d 106 (1980).
[15] *See supra* at FN 1.
[16] *See* U.S. Const. Amend. XIV; Art. I, § 9, Fla. Const.
[17] *See* U.S. Const. Amend. V; *by and through* U.S. Const. Amend. XIV.
[18] *See* United States v. Miller, 317 U.S. 369, 63 S.Ct. 276, 87 L.Ed. 336 (1943)("An owner of lands sought to be condemned is entitled to their 'market value fairly determined'"); *see also* United States ex rel. TVA v. Powelson, 319 U.S. 266, 275, 63 S.Ct. 1047, 87 L.Ed. 1390 (1943) ("…the value may be determined in light of the special or higher use of the land").
[19] *See, e.g.,* State Road Dep't. v. Bramlett, 189 So. 2d 481, 484 (Fla. 1966).
[20] *See* Black's Law Dictionary 419 (8th ed. 2004) (" *severance damages*. In a condemnation case, damages awarded to a property owner for diminution in the fair market value of land as a result of severance from the land of the property actually condemned; compensation awarded to a landowner for the loss in value of the tract that remains after a partial taking of the land.").
[21] *Id.*
[22] *See* Marvin v. Housing Authority of Jacksonville, 183 So. 145 (Fla. 1938); *see also* City of Ocala v. Nye, 608 So. 2d 15 (Fla. 1992) (*citing* Peavy-Wilson Lumber Co. v. Brevard County, 31 So. 2d 483 (1947)).
[23] S. 73.015, F.S.
[24] S. 73.032, F.S.
[25] S. 73.071, F.S.

compensation,[26] business damage offers,[27] and costs and attorneys' fees related to the proceeding.[28] Eminent domain actions proceeding to trial require a jury of 12 persons in the circuit court of the county where the property lies.[29] Eminent domain procedures take precedence over all other civil matters.[30]

Supplementary procedures for eminent domain actions in ch. 74, F.S., are commonly referred to as "quick-take" provisions. Under the quick-take provisions, certain entities, including municipalities and public utilities, may take possession of land subject to an eminent domain proceeding in advance of the entry of final judgment.[31] Eminent domain procedures, especially quick-take procedures, offer certain advantages. For the property owner, the only issue in dispute is the amount of compensation for the property taken. Under quick-take, a governmental entity is required to deposit, with the court, an amount not less than the petitioner's estimate of value and, in some circumstances, twice the estimated value of the property, until the amount of compensation is determined by the final judgment.[32]

Since 1959, when s. 388.191, F.S., was enacted, state and federal case law regarding eminent domain powers of the government have significantly evolved. MCD boards are political subdivisions,[33] created by statute, with eminent domain powers.[34]

According to the Department of Agriculture and Consumer Services, the eminent domain power has not been used in recent memory, and would likely be unpopular if it were exerted by a mosquito control district.[35] Recent land issues have been resolved through the purchase of land by the mosquito control district.[36] In addition, s. 388.181, F.S., provides that MCDs are "…fully authorized to do and perform all things necessary to carry out the intent and purposes of this law." This statutory language would include the authority to exercise eminent domain power pursuant to chapter 73, F.S. As a result, s. 388.191, F.S., is duplicative and extraneous.

III. Effect of Proposed Changes:

Section 1 repeals s. 388.191, F.S., relating to the power of eminent domain.

Section 2 provides an effective date of July 1, 2012.

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[26] *Id.*
[27] *Id.*
[28] SS. 73.091, F.S. and 73.092, F.S.
[29] *See supra* at FN 7.
[30] S. 73.071(1), F.S.
[31] S. 74.011, F.S.
[32] S. 74.051(2), F.S.
[33] S. 1.01(8), F.S., states "…'political subdivision' include[s] counties, cities, towns, villages, special tax districts, special road and bridge districts, bridge districts and *all other districts in this state*." (emphasis added).
[34] S. 73.013(1), F.S.
[35] Florida Department of Agriculture and Consumer Services, *Analysis of PCB HHSC 11-07* (April 18, 2011) (on file with Senate Committee on Community Affairs).
[36] *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Alexander

17-01360-12 20121724__

A bill to be entitled

An act relating to mosquito control districts; repealing s. 388.191, F.S., relating to certain powers of the board of county commissioners to hold, control, acquire, or purchase real or personal property, condemn land or easements, exercise the right of eminent domain, and institute and maintain condemnation proceedings for a mosquito control district; providing an effective date.

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

Section 1. Section 388.191, Florida Statutes, is repealed.

Section 2. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget, *Chair*
Rules, *Vice Chair*
Agriculture
Banking and Insurance
Budget - Subcommittee on Finance and Tax
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Education Pre-K - 12
Rules - Subcommittee on Ethics and Elections

JOINT COMMITTEE:
Legislative Budget Commission, *Chair*

SENATOR JD ALEXANDER
17th District

January 18, 2012

The Honorable Michael S. "Mike" Bennett, Chair
Committee on Community Affairs
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Bennett:

I respectfully request that you place Senate Bill 1724, regarding Mosquito Control Districts, on the agenda in the Committee on Community Affairs at your earliest convenience.

Thank you for your consideration of this request.

Sincerely,

JD Alexander
Senator, District 17

cc: Tom Yeatman

rec'd 1/19/12
apw

REPLY TO:
❒ 201 Central Avenue West, Suite 115, City Hall Complex, Lake Wales, Florida 33853 (863) 679-4847
❒ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5044

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget, *Chair*
Rules, *Vice Chair*
Agriculture
Banking and Insurance
Budget - Subcommittee on Finance and Tax
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Education Pre-K - 12
Rules - Subcommittee on Ethics and Elections

JOINT COMMITTEE:
Legislative Budget Commission, *Chair*

SENATOR JD ALEXANDER
17th District

January 26, 2012

Dear Mr. Yeatman,

I respectfully request permission to allow my legislative assistant, Caitlin Murray, to present my bill, SB 1724, to the Committee on Community Affairs, Monday, January 30, 2012. I will not be able to attend.

Thank you for your consideration in this request.

Sincerely,

Senator JD Alexander
District 17

REPLY TO:
☐ 201 Central Avenue West, Suite 115, City Hall Complex, Lake Wales, Florida 33853 (863) 679-4847
☐ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5044

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: CS/SB 480

INTRODUCER: Community Affairs Committee and Senator Dean

SUBJECT: Mobile Home and Recreational Vehicle Parks

DATE: January 30, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	**Favorable**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The bill (CS) establishes uniform standards within ch. 513, F.S., for which the Department of Health (department) is responsible for administering and enforcing. Local government regulations may not be inconsistent with these standards. The bill also establishes a department review and approval process for the construction of a new mobile home park, lodging park, recreational vehicle park, or recreational camp; or certain changes to an existing park or camp. The bill creates standards for separation distances between recreational vehicles and setback distances from the exterior property boundary of recreational vehicle parks.

The bill also revises the responsibilities of a recreational vehicle park operator in relation to personal property that is left on the premises and provides a criminal penalty for when a person fails to depart from a recreational vehicle park under certain conditions.

The bill substantially amends the following sections of the Florida Statutes: 513.01, 513.012, 513.014, 513.02, 513.03, 513.045, 513.05, 513.054, 513.055, 513.10, 513.112, 513.115, and 513.13.

This bill creates s. 513.1115, F.S., and repeals s. 513.111, F.S.

II. Present Situation:

The department is required under s. 381.006, F.S., to conduct an environmental health program as part of fulfilling the state's public health mission. The mission of the environmental health program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program includes the oversight of mobile home parks, lodging parks, recreational vehicle parks, and recreational camps, as provided in ch. 513, F.S.[1]

Chapter 513, F.S., provides that the department is the exclusive regulatory and permitting authority for sanitary standards for all mobile home parks, lodging parks, recreational vehicle parks and recreational camps.[2] In addition to permit and sanitation requirements, ch. 513, F.S., requires each recreational vehicle park renting by the day or week to post its rates, regulates the manner in which the rates are advertised, and requires each operator of a recreational vehicle park to maintain a guest register and a copy of ch. 513, F.S.

Chapter 513, F.S., also provides for:

- The operator of a recreational vehicle park's liability;
- The disposition of unclaimed property;
- The establishment of park rules and regulations;
- The right of a park operator to refuse accommodations or service in certain circumstances;
- Criminal penalties for persons obtaining park accommodations through fraud;
- Criminal penalties for theft of property belonging to the park;
- The eviction of transient guests; and
- Writs of distress. [3]

Pursuant to s. 513.05, F.S.,[4] the department has adopted rules in Chapter 64E-15, Florida Administrative Code (F.A.C.), pertaining to: minimum area requirements, water supply, sewage disposal, sanitary facilities, plumbing, garbage and refuse disposal, insect and rodent control, recreational camp standards, permits and fees, and owner's and operator's responsibilities.[5]

The Mobile Home and Recreational Vehicle Parks Program is administered within the department by the Division of Environmental Health. The program's primary objective is to minimize the risk of injury and illness by conducting routine inspections of parks and camps. The inspections focus on proper sewage disposal, safe drinking water, safe solid waste collection and disposal, and safe and disease-free swimming pools (where provided) to minimize the risk of certain diseases and minimize infestations of harmful insects and rodents. The county health

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[1] Section 381.006(14), F.S.
[2] Section 513.051, F.S.
[3] According to s. 83.12, F.S., "a distress writ shall be issued by a judge of the court which has jurisdiction of the amount claimed. The writ shall enjoin the defendant from damaging, disposing of, secreting, or removing any property liable to distress from the rented real property after the time of service of the writ until the sheriff levies on the property, the writ is vacated, or the court otherwise orders." Section 513.151, F.S., authorizes an operator of a recreational vehicle park to levy a lien against the property of a guest if a guest vacates the premises with an outstanding account.
[4] *See* s. 513.05, F.S., "The department may adopt rules pertaining to the location, construction, modification, equipment, and operation of mobile home parks, lodging parks, recreational vehicle parks, and recreational vehicle camps… as necessary to administer this chapter."
[5] *See* 64E-15.002-15.008, F.A.C.

departments are responsible for receiving and investigating environmental health and sanitation complaints; they also conduct routine inspections, plan reviews, educational programs, investigations, complaints, and enforcement actions. [6]

The department's enforcement actions may include citations, fines, or suspension or revocation of an operating permit.[7] However, the department may only use a single enforcement procedure for any one violation.[8] Certain violations of ch. 513, F.S., are also subject to criminal penalties.[9]

Currently, there are approximately 5,600 mobile home parks, lodging parks, recreational vehicle parks, and recreational camps in Florida.[10] Permits for mobile home parks, lodging parks, recreational vehicle parks, and recreational camps are issued annually by the department under s. 513.02, F.S. Section 513.045, F.S., sets the permissible statutory range for permit fees at $3.50-$6.50 per space, and the total assessed fee at no less than $50 or more than $600, annually.[11] Permit fees are set by department rule at $4 per space and cumulatively not less than $100 or more than $600 annually.[12]

Certain local governments have adopted ordinances with definitions of terms that conflict with the definition of terms under ch. 513, F.S. For example, Charlotte County[13] has adopted an ordinance that defines a "mobile home" as a vehicle exceeding 8 feet in width and 32 feet in overall length, which contradicts the definition of the term mobile home in s. 513.01(3), F.S., which defines a mobile home as a residential structure that is 8 body feet (2.4 meters) or more in width and over 35 feet in length with the hitch. Volusia County[14] defines a "recreational vehicle" as a unit built on a single chassis, not exceeding 400 square feet, designed to be self-propelled or towed by a light-duty truck, and intended only for temporary occupancy. In contrast, the definition of recreational vehicle in s. 513.01(9), F.S.,[15] provides for different length and width requirements,[16] the period of occupancy, and the storage and tying down of such vehicles.

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[6] The Department of Health, Division of Environmental Health, *Mobile Home and Recreational Vehicle Park Program*, available at: <http://www.doh.state.fl.us/environment/community/mobile/index.html> (Last visited on January 4, 2012).
[7] Sections 513.055 and 513.065, F.S.
[8] Section 513.065(6), F.S.
[9] Sections 513.054 (second-degree misdemeanor for specified offenses by an operator of a camp or park), 513.10 (second-degree misdemeanor for operating without a permit), 513.111 (second-degree misdemeanor for an advertising violation), and 513.122, F.S. (third-degree felony for theft of guest property by park employee).
[10] Mobile Home/RV Park Listing, Department of Health, Division of Environmental Health, *Mobile Home and Recreational Vehicle Park Program*, available at: http://www.doh.state.fl.us/environment/community/mobile/index.html. (Last visited on January 4, 2012).
[11] Section 513.045, F.S.
[12] Rule 64E-15.010, F.A.C.
[13] Ordinances of Charlotte County, Florida, Part III: *Land Development and Growth Management*, Ch. 3-4 "Mobile Homes," S. 3-4-1, "Definitions," available at: http://library.municode.com/HTML/10526/level2/PTIIILADEGRMA_CH3-4MOHO.html#PTIIILADEGRMA_CH3-4MOHO_S3-4-1DE (Last visited on January 4, 2012).
[14] Volusia County Code of Ordinances, Ch. 72: *Land Planning*, "Definitions," available at: http://library.municode.com/index.aspx?clientid=11665 (Last visited on January 4, 2012).
[15] Section 513.01(9), F.S., refers to the definition of "recreational vehicle-type unit" in s. 320.01, F.S.
[16] *See* s. 316.515, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 513.01, F.S., to revise the definition of "mobile home" and to define "occupancy." The definition of "mobile home" is modified to exclude a structure originally sold as a recreational vehicle. The term "occupancy" is defined to mean the length of time that a recreational vehicle is occupied by a transient guest and not the length of time that the vehicle is located on the leased recreational site. This definition also provides that certain tie-downs and removable attaching devices do not render the recreational vehicle a permanent part of the site.

Section 2 amends s. 513.012, F.S., to specify that the department is responsible for administering and enforcing uniform laws under ch. 513, F.S. Subsection (2) is created to establish uniform standards, which must include:

- The design, location, and site sizes for sites in parks and camps;
- Sanitary standards for permitting and the operation of parks and camps;
- Permitting of parks and camps as required by ch. 513, F.S.;
- Inspection of parks and camps to enforce compliance with ch. 513, F.S.; and
- Permit requirements.

The bill also creates subsection (3) to establish that ch. 513, F.S., provides the uniform standards pertaining to:

- The liability for property of guests left on sites;
- Separation and setback distances established at the time of approval;
- Unclaimed property;
- Conduct of transient guests;
- Theft of personal property;
- Evictions of transient guests;
- Writs of distress;
- The maintenance of guest registers;
- Occupancy standards for transient rentals; and
- Placement of recreational vehicles by size and type.

Subsection (4) is created to require that local government actions, ordinances, and resolutions be consistent with the uniform standards provided under ch. 513, F.S., and by department rule. However, the bill does not limit the authority of local governments to adopt and enforce local land use, building, fire safety, and other regulations.

Section 3 amends s. 513.014, F.S., to remove a redundant provision that a mobile home park that rents spaces to recreational vehicles for long-term leases, must comply with the laws and rules relating to mobile home parks in ch. 723, F.S.

Section 4 amends s. 513.02, F.S., to require a person, who operates or maintains a mobile home park, lodging park, recreational vehicle park, or recreational camp, to have the department review and approve new construction or changes to the park or camp, which require the construction of new sanitary facilities or additional permitted sites, prior to the commencement of such activities. The department shall identify by rule the procedures and items required to be submitted for review and approval.

The bill designates the permit referred to in current law as an *operating* permit. Inconsistent references to transferring permits are eliminated because permits are not transferrable, pursuant to s. 513.02, F.S. The bill requires a purchaser, who continues to operate the park or camp, to apply for an operating permit within 30 days after the date of sale, rather than before the date of the sale. This bill creates an exception in the permitting requirement for a period of 30 days after the purchase or lease of a park or camp.

The bill authorizes a person to submit plans related to a proposed park or camp to the department for review for an assessment of whether the plans meet the requirements of ch. 513, F.S. A person constructing a new park or camp or adding spaces or renovating an existing park or camp is required to submit plans to the department for review and approval prior to construction, renovation, or addition of spaces.

Section 5 amends s. 513.03, F.S., to require additional information that must be submitted in an application for an operating permit. The additional information must include the number of buildings and sites set aside for group camping, including barracks, cabins, cottages, and tent spaces. The department is required to issue the necessary approval or operating permit, after reviewing the application, conducting an inspection, and determining that the park or camp is not a source of danger to the health of the general public and the park or camp complies with the requirements of ch. 513, F.S.

Section 6 amends s. 513.045, F.S., to clarify language related to the fees imposed for the operating permit. Obsolete language is repealed because the department has adopted rules setting the required fee amounts.

Section 7 amends s. 513.05, F.S., to clarify the department's authority to adopt rules related to reviewing plans that consolidate or expand space or capacity of parks or camps.

Section 8 amends s. 513.054, F.S., to clarify that a person who does not obtain an *operating* permit for a mobile home park, lodging park, recreational vehicle park, or recreational camp or refuses to pay the *operating* permit fee commits a misdemeanor of the second degree.

Section 9 amends s. 513.055, F.S., to clarify that the permit referred to in this section related to the revocation or suspension of a permit applies to an *operating* permit.

Section 10 amends s. 513.10, F.S., to clarify that a person who maintains or operates a mobile home park, lodging park, recreational vehicle park, or recreational camp without first obtaining an *operating* permit or who maintains or operates a park or camp after revocation of the operating permit commits a misdemeanor of the second degree.

Section 11 repeals s. 513.111, F.S., which provides posting or publishing requirements of site rates for a recreational vehicle park that rents by the day or week, certain advertising requirements for recreational vehicle parks, and criminal penalties for those who violate the posting, publishing, or advertising requirements.

Section 12 creates s. 513.1115, F.S., to require the separation distances between recreational vehicles and the setback distances from the exterior property boundary of a recreational vehicle park to be maintained at the distances and setback distances established at the time of the initial approval of the recreational vehicle park by the department and local government. The bill specifies that the separation distance and setback distance requirements provided for in this section do not limit the regulation of the uniform fire safety standards under s. 633.022, F.S.

Section 13 amends s. 513.112, F.S., to eliminate the requirement that the guest registry of a recreational vehicle park must be made available to the department for inspection.

Section 14 amends s. 513.115, F.S., to authorize an operator of a recreational vehicle park to dispose of property unclaimed for 90 days by a guest who has vacated the premises without notice to the operator and who has an outstanding account. An owner of a park is no longer required to provide written notice to any guest or owner of property left at the park prior to disposing of the property. However, the property still must be held by the park for 90 days prior to disposal. The bill specifies that any titled property, including a boat, recreational vehicle, or other vehicle, must be disposed of in accordance with the requirements of ch. 715, F.S.

Section 15 amends s. 513.13, F.S., to provide that if an operator of a recreational vehicle park notifies a person to leave the park for a permissible reason, by either posting or personal delivery, in the presence of a law enforcement officer, and the person fails to depart from the park immediately, the person commits a misdemeanor of the second degree. Pursuant to current subsection (1) of s. 513.13, F.S., permissible reasons for removal include: possessing or dealing in controlled substances, disturbing the peace and comfort of other persons, causing harm to the physical park, or failing to pay the rental rate as agreed.

A recreational vehicle park operator is not liable for damages to personal property left on the premises by a guest who has been arrested for possessing or dealing in controlled substances, disturbing the peace and comfort of other persons, causing harm to the physical park, or failing to pay the rental rate as agreed or for the failure to leave the park after being notified to leave for a permissible reason.

Section 16 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill removes obsolete language pertaining to interim fees and clarifies that the existing fee structure applies to *an annual operating* permit. There are no provisions for the late payment of the annual operating permit fee.

B. Private Sector Impact:

The bill affects newly constructed parks and camps, existing parks or camps that will be expanded, and parks and camps that do not submit the required fees. The uniform standards related to design, operation, and occupancy imposed by the bill could minimize negative fiscal impacts to the industry which result from existing inconsistent local government rules.

C. Government Sector Impact:

The bill requires the department to adopt administrative rules and implement new requirements. The department states that this bill will have a fiscal impact on the department associated with rule amendments and implementing requirements. The department estimates that it will incur estimated expenditures of $4,158, which will be absorbed by the department using existing resources.[17]

VI. Technical Deficiencies:

The terms “spaces” and “sites” seem to be used interchangeably. It may provide clarity and consistency to use and define one term.

VII. Related Issues:

Lines 310 and 315 seem to indicate that local governments, in addition to the department, must provide initial approval of the recreational vehicle park. However, lines 176-183 only provide for initial approval of parks by the department.

The language in lines 63-70 is currently provided for in the definition of the term “recreational vehicle” under s. 513.01, F.S. Therefore, it appears that inclusion of this language under the definition of the term “occupancy” is redundant.

[17] Department of Health, *Agency Bill Analysis, Economic Statement and Fiscal Note: SB 480*, p. 8 (December 7, 2011) (on file with the Senate Committee on Health Regulation).

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on January 30, 2012
The CS creates an exception in the permitting requirement for period of 30 days after the purchase or lease of a park or camp.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

107908

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Storms) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 168 - 172
4 and insert:
5 (e) ~~(5)~~ When a park or camp regulated under this chapter is
6 sold or leased or its ownership is transferred by operation of
7 law upon inheritance, devise, or bequest, the purchaser, lessee,
8 or transferee who continues operation of the park or camp must
9 apply to the department for an operating ~~a~~ permit within 30 days
10 after ~~to the department before~~ the date of sale, lease, or
11 transfer. The provisions of s. 513.10(1) are not applicable
12 during the 30-day period. The applicant must

570628

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Storms) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 310 - 311
4 and insert:
5 approval of the recreational vehicle park by the department.

By Senator Dean

3-00453-12 2012480__

A bill to be entitled

An act relating to mobile home and recreational vehicle parks; amending s. 513.01, F.S.; providing and revising definitions; amending s. 513.012, F.S.; specifying laws and rules to be enforced by the Department of Health; providing for the adoption of rules; amending s. 513.014, F.S.; revising applicability of recreational vehicle park requirements to mobile home parks; amending s. 513.02, F.S.; revising permit requirements; providing requirements for construction review and approval for private parks and camps; requiring the department to adopt rules; amending s. 513.03, F.S.; revising requirements for permit applications; amending s. 513.045, F.S.; providing for an annual operating permit fee to be charged to operators of certain parks or camps; amending s. 513.05, F.S.; providing the department with additional rulemaking authority; amending s. 513.054, F.S.; providing that an operator of a mobile home park, lodging park, recreational vehicle park, or recreational camp who refuses to pay the operating permit fee required by law or who fails, neglects, or refuses to obtain an operating permit for the park commits a misdemeanor of the second degree; amending s. 513.055, F.S.; conforming terminology; amending s. 513.10, F.S.; providing that a person who operates a mobile home park, lodging park, recreational vehicle park, or recreational camp without an operating permit commits a misdemeanor of

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

3-00453-12 2012480__

the second degree; repealing s. 513.111, F.S., relating to the posting and advertising of certain site rates; creating s. 513.1115, F.S.; providing requirements for the establishment of separation and setback distances; amending s. 513.112, F.S.; deleting a provision requiring guest registers to be made available for inspection by the department at any time; amending s. 513.115, F.S.; revising requirements for the handling of unclaimed property; amending s. 513.13, F.S.; providing a penalty for failure to depart from a park under certain circumstances; barring an operator from certain liability; providing an effective date.

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

Section 1. Subsection (3) of section 513.01, Florida Statutes, is amended, present subsections (5) through (11) of that section are renumbered as subsections (6) through (12), respectively, and a new subsection (5) is added to that section, to read:

513.01 Definitions.—As used in this chapter, the term:

(3) “Mobile home” means a residential structure that is transportable in one or more sections, which structure is 8 body feet (2.4 meters) or more in width, over 35 feet in length with the hitch, built on an integral chassis, ~~and~~ designed to be used as a dwelling when connected to the required utilities, and not originally sold as a recreational vehicle, and includes the plumbing, heating, air-conditioning, and electrical systems

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

59 contained in the structure.
60 (5) "Occupancy" means the length of time that a
61 recreational vehicle is occupied by a transient guest and not
62 the length of time that such vehicle is located on the leased
63 recreational vehicle site. A recreational vehicle may be stored
64 and tied down on site when not in use to accommodate the needs
65 of the guest. The attachment of a recreational vehicle to the
66 ground by way of tie-downs or other removable fasteners, and the
67 attachment of carports, porches, screen rooms, and similar
68 appurtenances by way of removable attaching devices, do not
69 render the recreational vehicle a permanent part of the
70 recreational vehicle site.
71 Section 2. Section 513.012, Florida Statutes, is amended to
72 read:
73 513.012 Public health laws; enforcement.—
74 (1) It is the intent of the Legislature that mobile home
75 parks, lodging parks, recreational vehicle parks, and
76 recreational camps be regulated under this chapter. As such, the
77 department shall administer and enforce, with respect to such
78 parks and camps, uniform laws and rules relating to sanitation,
79 control of communicable diseases, illnesses and hazards to
80 health among humans and from animals to humans, and the general
81 health of the people of the state.
82 (2) This chapter establishes uniform standards to be
83 administered and enforced by the department for the issuing of
84 permits for, and the operation of, mobile home parks, lodging
85 parks, recreational vehicle parks, and recreational camps, which
86 include:
87 (a) The design, location, and site sizes for sites in parks

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88 and camps;
89 (b) Sanitary standards for the issuing of permits for, and
90 the operation of, parks and camps;
91 (c) The issuing of permits for parks and camps as required
92 by this chapter;
93 (d) The inspection of parks and camps to enforce compliance
94 with this chapter; and
95 (e) Permit requirements.
96 (3) This chapter establishes uniform standards for
97 recreational vehicle parks and camps which apply to:
98 (a) The liability for property of guests left on sites;
99 (b) Separation and setback distances established at the
100 time of initial approval;
101 (c) Unclaimed property;
102 (d) Conduct of transient guests;
103 (e) Theft of personal property;
104 (f) Evictions of transient guests;
105 (g) Writs of distress;
106 (h) The maintenance of guest registers;
107 (i) Occupancy standards for transient rentals; and
108 (j) Placement of recreational vehicles by size and type.
109 (4) Local governmental actions, ordinances, and resolutions
110 must be consistent with the uniform standards established
111 pursuant to this chapter and as implemented by rules of the
112 department. This chapter does not limit the authority of a local
113 government to adopt and enforce land use, building, firesafety,
114 and other regulations.
115 (5) However, nothing in this chapter qualifies a mobile
116 home park, a lodging park, a recreational vehicle park, or a

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117 recreational camp for a liquor license issued under s.
118 561.20(2)(a)1. Mobile home parks, lodging parks, recreational
119 vehicle parks, and recreational camps regulated under this
120 chapter are exempt from regulation under the provisions of
121 chapter 509.
122 Section 3. Section 513.014, Florida Statutes, is amended to
123 read:
124 513.014 Applicability of recreational vehicle park
125 provisions to mobile home parks.—A mobile home park that has
126 five or more sites set aside for recreational vehicles shall,
127 for those sites set aside for recreational vehicles, comply with
128 the recreational vehicle park requirements included in this
129 chapter. This section does not require a mobile home park with
130 spaces set aside for recreational vehicles to obtain two
131 licenses. ~~However, a mobile home park that rents spaces to~~
132 ~~recreational vehicles on the basis of long-term leases is~~
133 ~~required to comply with the laws and rules relating to mobile~~
134 ~~home parks including but not limited to chapter 723, if~~
135 ~~applicable.~~
136 Section 4. Section 513.02, Florida Statutes, is amended to
137 read:
138 513.02 Permits ~~Permit~~.—
139 (1) A person may not establish or maintain a mobile home
140 park, lodging park, recreational vehicle park, or recreational
141 camp in this state without first obtaining an operating ~~a~~ permit
142 from the department. ~~Such permit is not transferable from one~~
143 ~~place or person to another. Each permit must be renewed~~
144 ~~annually.~~
145 (2) Before the commencement of construction of a new park

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146 or camp or before any change to an existing park or camp which
147 requires construction of new sanitary facilities or additional
148 permitted sites, a person who operates or maintains such park or
149 camp must contact the department to receive a review and
150 approval. The items required to be submitted and the process for
151 issuing a review and approval shall be set by department rule.
152 (3)(a) An operating permit is not transferable from one
153 place or person to another. Each permit must be renewed
154 annually.
155 (b) ~~(2)~~ The department may refuse to issue an operating ~~a~~
156 permit to, or refuse to renew the operating permit of, any park
157 or camp that is not constructed or maintained in accordance with
158 law and with the rules of the department.
159 (c) ~~(3)~~ The department may suspend or revoke an operating ~~a~~
160 permit issued to any person that operates or maintains such a
161 park or camp if such person fails to comply with this chapter or
162 the rules adopted by the department under this chapter.
163 (d) ~~(4)~~ An operating ~~A~~ permit for ~~the operation of~~ a park or
164 camp may not be renewed ~~or transferred~~ if the permittee has an
165 outstanding fine assessed pursuant to this chapter which is in
166 final-order status and judicial reviews are exhausted~~, unless~~
167 ~~the transferee agrees to assume the outstanding fine~~.
168 (e) ~~(5)~~ When a park or camp regulated under this chapter is
169 sold ~~or its ownership transferred~~, the purchaser who continues
170 operation of the park or camp ~~transferee~~ must apply to the
171 department for an operating ~~a~~ permit within 30 days after ~~to the~~
172 ~~department before~~ the date of sale ~~transfer~~. The applicant must
173 provide the department with a copy of the recorded deed or lease
174 agreement before the department may issue an operating ~~a~~ permit

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175 to the applicant.
176 (4) Each person seeking department review of plans for a
177 proposed park or camp may submit the plans to the department for
178 an assessment of whether the plans meet the requirements of this
179 chapter and the rules.
180 (5) Each person constructing a new park or camp or adding
181 spaces to an existing park or camp must, before the
182 construction, renovation, or addition, submit plans to the
183 department for department review and approval.
184 Section 5. Section 513.03, Florida Statutes, is amended to
185 read:
186 513.03 Application for and issuance of permit.—
187 (1) An application for an operating ~~a~~ permit must be made
188 in writing to the department~~,~~ on a form prescribed by the
189 department. The application must state the location of the
190 existing or proposed park or camp;~~,~~ the type of park or camp;~~,~~
191 the number of mobile homes or recreational vehicles to be
192 accommodated; ~~or~~ the number of recreational campsites,
193 buildings, and sites set aside for group camping, including
194 barracks, cabins, cottages, and tent spaces; the type of water
195 supply;~~,~~ the method of sewage disposal;~~,~~ and any other
196 information the department requires.
197 (2) If the department is satisfied, after reviewing the
198 application of the proposed or existing park or camp and causing
199 an inspection to be made, that the park or camp complies with
200 this chapter and is so located, constructed, and equipped as not
201 to be a source of danger to the health of the general public,
202 the department shall issue the necessary approval or operating
203 permit, in writing, on a form prescribed by the department.

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204 Section 6. Subsection (1) of section 513.045, Florida
205 Statutes, is amended to read:
206 513.045 Permit fees.—
207 (1)(a) Each person seeking a permit to establish, operate,
208 or maintain a mobile home park, lodging park, recreational
209 vehicle park, or recreational camp must pay to the department a
210 fee, the amount of which shall be set by rule of the department.
211 (b) Fees established pursuant to this subsection must be
212 based on the actual costs incurred by the department in carrying
213 out its responsibilities under this chapter.
214 (c) The fee for an annual operating ~~a~~ permit may not be set
215 at a rate that is more than $6.50 per space or less than $3.50
216 per space. ~~Until rules setting these fees are adopted by the~~
217 ~~department, the permit fee per space is $3.50.~~ The annual
218 operating permit fee for a nonexempt recreational camp shall be
219 based on an equivalency rate for which two camp occupants equal
220 one space. The total fee assessed to an applicant for an annual
221 operating permit may not be more than $600 or less than $50,
222 except that a fee may be prorated on a quarterly basis.
223 (d) ~~(c)~~ A recreational camp operated by a civic, fraternal,
224 educational, or religious organization that does not rent to the
225 public is exempt from the fee requirements of this subsection.
226 Section 7. Section 513.05, Florida Statutes, is amended to
227 read:
228 513.05 Rules.—The department may adopt rules pertaining to
229 the location, construction, modification, equipment, and
230 operation of mobile home parks, lodging parks, recreational
231 vehicle parks, and recreational camps, except as provided in s.
232 633.022, as necessary to administer this chapter, pursuant to

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the provisions of this chapter and s. 381.006. Such rules may include definitions of terms; requirements for plan reviews of proposed and existing parks and camps; plan reviews of parks that consolidate or expand space or capacity or change space size; water supply; sewage collection and disposal; plumbing and backflow prevention; garbage and refuse storage, collection, and disposal; insect and rodent control; space requirements; heating facilities; food service; lighting; sanitary facilities; bedding; an occupancy equivalency to spaces for permits for recreational camps; sanitary facilities in recreational vehicle parks; and the owners' responsibilities at recreational vehicle parks and recreational camps.

Section 8. Section 513.054, Florida Statutes, is amended to read:

513.054 Penalties for specified offenses by operator.—

(1) Any operator of a mobile home park, lodging park, ~~or~~ recreational vehicle park, or ~~a~~ recreational camp who obstructs or hinders any agent of the department in the proper discharge of the agent's duties; who fails, neglects, or refuses to obtain an operating ~~a~~ permit for the park or camp or refuses to pay the operating permit fee required by law; or who fails or refuses to perform any duty imposed upon the operator by law or rule commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) On each day that such park or camp is operated in violation of law or rule, there is a separate offense.

Section 9. Section 513.055, Florida Statutes, is amended to read:

513.055 Revocation or suspension of operating permit;

fines; procedure.—

(1)(a) The department may suspend or revoke an operating ~~a~~ permit issued to any person for a mobile home park, lodging park, recreational vehicle park, or recreational camp upon the failure of that person to comply with this chapter or the rules adopted under this chapter.

(b) An operating ~~A~~ permit may not be suspended under this section for a period of more than 12 months. At the end of the period of suspension, the permittee may apply for reinstatement or renewal of the operating permit. A person whose operating permit is revoked may not apply for another operating permit for that location before ~~prior to~~ the date on which the revoked operating permit would otherwise have expired.

(2)(a) In lieu of such suspension or revocation of an operating ~~a~~ permit, the department may impose a fine against a permittee for the permittee's failure to comply with the provisions described in paragraph (1)(a) or may place such licensee on probation. The ~~No~~ fine ~~so~~ imposed may not ~~shall~~ exceed $500 for each offense, and all amounts collected in fines shall be deposited with the Chief Financial Officer to the credit of the County Health Department Trust Fund.

(b) In determining the amount of fine to be imposed, if any, for a violation, the department shall consider the following factors:

1. The gravity of the violation and the extent to which the provisions of the applicable statutes or rules have been violated.

2. Any action taken by the operator to correct the violation.

291 3. Any previous violation.
292 Section 10. Subsection (1) of section 513.10, Florida
293 Statutes, is amended to read:
294 513.10 Operating without permit; enforcement of chapter;
295 penalties.—
296 (1) Any person who maintains or operates a mobile home
297 park, lodging park, recreational vehicle park, or recreational
298 camp without first obtaining an operating ~~a~~ permit as required
299 by s. 513.02, or who maintains or operates such a park or camp
300 after revocation of the operating permit, commits ~~is guilty of~~ a
301 misdemeanor of the second degree, punishable as provided in s.
302 775.082 or s. 775.083.
303 Section 11. Section 513.111, Florida Statutes, is repealed.
304 Section 12. Section 513.1115, Florida Statutes, is created
305 to read:
306 513.1115 Placement of recreational vehicles on lots in
307 permitted parks.—
308 (1) Separation distances between recreational vehicles
309 shall be the distances established at the time of the initial
310 approval of the recreational vehicle park by the department and
311 the local government.
312 (2) Setback distances from the exterior property boundary
313 of the recreational vehicle park shall be the setback distances
314 established at the time of the initial approval by the
315 department and the local government.
316 (3) This section does not limit the regulation of the
317 uniform firesafety standards established under s. 633.022.
318 Section 13. Subsection (1) of section 513.112, Florida
319 Statutes, is amended to read:

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320 513.112 Maintenance of guest register and copy of laws.—
321 (1) It is the duty of each operator of a recreational
322 vehicle park that rents to transient guests to maintain at all
323 times a register, signed by or for guests who occupy rental
324 sites within the park. The register must show the dates upon
325 which the rental sites were occupied by such guests and the
326 rates charged for the guests' occupancy. This register shall be
327 maintained in chronological order ~~and shall be available for~~
328 ~~inspection by the department at any time~~. An operator is not
329 required to retain a register that is more than 2 years old.
330 Section 14. Section 513.115, Florida Statutes, is amended
331 to read:
332 513.115 Unclaimed property.—Any property having an
333 identifiable owner which is left in a recreational vehicle park
334 by a guest, including, but not limited to, ~~other than~~ property
335 belonging to a guest who has vacated the premises without notice
336 to the operator and with an outstanding account, which property
337 remains unclaimed after having been held by the park for 90 days
338 ~~after written notice was provided to the guest or the owner of~~
339 ~~the property~~, may be disposed of by ~~becomes the property of~~ the
340 park. Any titled property, including a boat, a recreational
341 vehicle, or other vehicle, shall be disposed of in accordance
342 with the requirements of chapter 715.
343 Section 15. Subsections (2) and (4) of section 513.13,
344 Florida Statutes, are amended to read:
345 513.13 Recreational vehicle parks; eviction; grounds;
346 proceedings.—
347 (2) The operator of any recreational vehicle park shall
348 notify such guest that the park no longer desires to entertain

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349 the guest and shall request that such guest immediately depart
350 from the park. Such notice shall be given in writing. If such
351 guest has paid in advance, the park shall, at the time such
352 notice is given, tender to the guest the unused portion of the
353 advance payment. Any guest who remains or attempts to remain in
354 such park after being requested to leave commits ~~is guilty of~~ a
355 misdemeanor of the second degree, punishable as provided in s.
356 775.082 or s. 775.083. If the notice is given in the presence of
357 a law enforcement officer by posting or personal delivery and
358 the person fails to depart from the park immediately, the person
359 commits a misdemeanor of the second degree, punishable as
360 provided in s. 775.082 or s. 775.083.
361 (4) If any person is illegally on the premises of any
362 recreational vehicle park, the operator of such park may call
363 upon any law enforcement officer of this state for assistance.
364 It is the duty of such law enforcement officer, upon the request
365 of such operator, to place under arrest and take into custody
366 for violation of this section any guest who violates subsection
367 (1) or subsection (2) in the presence of the officer. If a
368 warrant has been issued by the proper judicial officer for the
369 arrest of any violator of subsection (1) or subsection (2), the
370 officer shall serve the warrant, arrest the person, and take the
371 person into custody. Upon arrest, with or without warrant, the
372 guest is deemed to have given up any right to occupancy or to
373 have abandoned the guest's right to occupancy of the premises of
374 the recreational vehicle park; and the operator of the park
375 shall employ all reasonable and proper means to care for any
376 personal property left on the premises by such guest and shall
377 refund any unused portion of moneys paid by such guest for the

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378 occupancy of such premises. The operator is not liable for
379 damages to personal property left on the premises by a guest who
380 violates subsection (1) or subsection (2) and is arrested by a
381 law enforcement officer.
382 Section 16. This act shall take effect July 1, 2012.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Criminal Justice, *Vice Chair*
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Governmental Oversight and Accountability
Reapportionment
Regulated Industries

SENATOR CHARLES S. DEAN, SR.
3rd District

January 17, 2012

The Honorable Michael Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bennett:

I respectfully request you place Senate Bill 480, relating to Mobile Home and Recreational Vehicle Parks, on your Community Affairs Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 3

cc: Tom Yeatman, Staff Director

rec'd 1/17/12 apw

REPLY TO:
☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
☐ Post Office Box 2558, Ocala, Florida 34478-2558 (352) 873-6513
☐ 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-12
Meeting Date

Topic: RV Parks & Campgrounds

Bill Number: SB 480 *(if applicable)*

Name: BARBARA TILLMAN

Amendment Barcode: _____ *(if applicable)*

Job Title: LOBBYIST

Address: 522 E. JEFFERSON ST.
Street

TALLAHASSEE, FL 32301
City *State* *Zip*

Phone: 850-566-9120

E-mail: tillmo@nettally.com

Speaking: [X] For [ ] Against [ ] Information

Representing: FLA. ASSN. OF RV PARKS + CAMPGROUNDS

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

4

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-2012
Meeting Date

Topic _____ Bill Number 480 *(if applicable)*

Name David Eastman Amendment Barcode _____ *(if applicable)*

Job Title General Counsel,

Address 2155 Delta Blvd Ste 210-B Phone _____
Street

Tallahassee, FL 32303 E-mail _____
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Representing Florida Assoc. R.V. Parks & Campgrounds

Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-2012
Meeting Date

Topic: RV Parks + Campgrounds

Bill Number: 480 *(if applicable)*

Name: Bobby Cornwell

Amendment Barcode: *(if applicable)*

Job Title: Exec. Director

Address: 1340 Vickers Rd
Street

Tall Pl 32307
City *State* *Zip*

Phone: 562-7151

E-mail: BCornwell@farvc.org

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida Association of RV parks and campgrounds

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 806

INTRODUCER: Senator Dean

SUBJECT: Enterprise Zones/Citrus County

DATE: January 20, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tell	Hrdlicka	CM	**Favorable**
2.	Roam	Yeatman	CA	**Favorable**
3.			BC	
4.				
5.				
6.				

I. Summary:

Florida has 62 enterprise zones, which are designed to encourage economic development and restoration in blighted or economically depressed communities. A combination of state and local business incentives is intended to encourage economic activity in these zones.

SB 806 creates an opportunity for Citrus County to apply for and receive an enterprise zone designation. Citrus County officials are considering locating the proposed enterprise zone in the Inverness Airport Business Park. The Inverness Airport Business Park is located adjacent to the Inverness Airport on 88 acres of county-owned land.

Citrus County is directed to file its enterprise zone application with the Department of Economic Opportunity (DEO) by December 31, 2012. The application must comply with the nominating procedure in s. 290.0055, F.S. DEO has the discretion to designate an enterprise zone for Citrus County, and if that happens, must establish the enterprise zone's effective date.

SB 806 creates s. 290.00729, F.S.

II. Present Situation:

Enterprise zones in Florida

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 62 enterprise zones.[1]

The Department of Economic Opportunity (DEO) reported that 7,559 new businesses moved into or were created in state enterprise zones between October 1, 2009, and September 30, 2010 – more than double the number the previous fiscal year.[2] However, fewer jobs were created – 6,784 last fiscal year, compared to 9,073 in the prior period.[3] More than $67 million in state and nearly $20 million in local-government financial incentives were approved during FY 09-10, $30 million more than in the prior period.[4]

Over the last 5 years (FY 05-06 through FY 09-10), some 21,682 new businesses have moved into or were created in enterprise zones and 49,403 new jobs have been created.[5]

Designation process

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area: [6]

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

---

[1] Ch. 2011-76, L.O.F., created the potential for three additional enterprise zones: in Martin County, in the City of Palm Bay, and in Lake County. DEO has since approved each community's application. These new enterprise zones became effective on January 1, 2012.

[2] Enterprise Florida, Inc., *Florida Enterprise Zone Program Annual Report, October 1, 2009 - September 30, 2010,* 1 (Mar. 1, 2011), *available at* http://floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf (last visited Jan. 17, 2012).

[3] Id.

[4] Id. at 3.

[5] Information compiled by committee staff from the Enterprise Florida's previous enterprise zone annual reports.

[6] Section 290.0055, F.S.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation, and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying to the local government the financial needs of, and local resources or assistance available to, eligible businesses in the zone;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources, transportation, housing, community development, public safety, and education and environmental concerns will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.[7] As noted above, DEO reported that $67.6 million in state incentives were approved by the Department of Revenue (DOR), between October 1, 2009, and September 30, 2010, for all state enterprise zones. During that same time period, $19.9 million in incentives were provided by local governing bodies, half of the FY 07-08 total. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.[8]

[7] Section 290.007, F.S.
[8] Enterprise Florida, Inc., *supra*, note 2 at 3.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain building materials, up to $5,000 or 97 percent of the tax paid.[9]
- Business Equipment Used in Enterprise Zones: Provides a refund for sales taxes paid on the purchase of certain equipment, up to $5,000 or 97 percent of the tax paid.[10]
- Rural Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[11]
- Urban Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[12]
- Business Property Used in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain business property, up to $5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.[13]
- Community Contribution Tax Credit: Provides a 50 percent sales tax refund for donations made to local community development projects.[14]
- Electrical Energy Used in an Enterprise Zone: Provides a 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.[15]

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[16]
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[17]
- Enterprise Zone Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.[18]
- Community Contribution Tax Credit: Provides a 50 percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.[19]

---

[9] Section 9 of ch. 2010-147, L.O.F., removed the eligibility of condominium parcels or property, as defined in s. 718.103, F.S., for the sales tax exemption for building materials, pursuant to s. 212.08(5)(g), F.S.
[10] Section 212.08(5)(h), F.S.
[11] Section 212.096, F.S.
[12] Id.
[13] *Supra*, note 10.
[14] Section 212.08(5)(p), F.S.
[15] Section 212.08(15), F.S.
[16] Section 220.181, F.S.
[17] Id.
[18] Section 220.182, F.S.
[19] *See* ss. 220.183 and 624.5105, F.S.

5-Year Summary of State Incentives offered in the Enterprise Zone Program[20]

CATEGORY	FY 09-10	FY 08-09	FY 07-08	FY 06-07	FY 05-06
Jobs Tax Credit (SUT)	$5,683,252	$5,227,245	$5,732,605	$6,087,843	$6,777,250
Jobs Tax Credit (CIT)	$4,348,031	$5,072,555	$5,507,311	$5,919,236	$4,253,621
Property Tax Credit (CIT)	$1,384,668	$1, 910,708	$2,184,036	$2,291,961	$1,267,999
Building Materials (SUT Refund)	$54,012,915	$30,994,860	$25,665,025	$18,855,129	$7,415,711
Business Equipment (SUT Refund)	$1,035,562	$1,139,066	$1,269,955	$1,771,396	$2,940,864
Electrical Energy (SUT exempt)	$1,138,054	$1,007,007	$606	$793,179	$778,090
Total Value of State Incentives	$67,602,482	$45,351,441	$40,359,538	$35,718,744	$23,433,535
# of EZs	59	56	56	56	55

The total state incentives awarded over the last 5 years is $212.5 million. Of that amount, nearly $137 million, about 64 percent, has been in the form of refunds of sales and use tax on building materials used in enterprise zones.

Program evaluations

In the 29 years since enacted by the Legislature, the Florida Enterprise Zone Program has undergone numerous changes, many of them the result of two "sunset reviews" of the overall program, in 1994 and 2005. A number of Senate and House interim project reports and program evaluations by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Florida Auditor General have been written on the program.

The most recent program evaluation was prepared by OPPAGA last fall and published in January 2011.[21] Among OPPAGA's findings were:

- The most-used incentive, over the last 5 years, has been the sales and use tax refund on building materials because of claims from condominium developers.
- Applicants in 10 enterprise zones received 84 percent of the incentives, with applicants in Miami-Dade's enterprise zone receiving 55 percent of the total amount.
- Based on OPPAGA's review of the incentive applications over the last 5 years, there is a low participation rate among eligible businesses for the incentives. For example, only 402 businesses have taken advantage of the jobs tax credits, and they hired a total of 8,086 employees who lived within the zones.

[20] *Supra*, note 2 at 3.

[21] Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, *Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program*, Report No. 11-01, (Jan. 1, 2011), *available at* http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf (last visited Jan. 20, 2012).

- DOR does not have consistent procedures for reviewing, validating, processing, and reporting the different tax credit and tax refund incentives. OPPAGA concluded that these inconsistencies may frustrate eligible businesses interested in applying for the incentives, prevents local zone coordinators and DEO from obtaining the most accurate information about program incentives taken, and makes it more difficult for OPPAGA and the Legislature to fully evaluate the incentives.

Citrus County's enterprise zone proposal[22]

Citrus County officials are pursuing an enterprise zone designation for up to 88 acres in the Inverness Airport Business Park area. This area is envisioned to include light manufacturing facilities, aviation-related businesses, and environmental firms. Citrus County has recently taken several steps to attract new and expanding businesses. Among those are:

- Expanding the Inverness Airport runway to 5,000 ft. to accommodate a wide array of aircraft;
- New road construction;
- Re-engineering to enhance water and sewer systems; and
- Improving hangar and office space to attract new businesses.

Citrus County officials believe that designation of this area as an enterprise zone will help in its ability to attract new and expanding businesses.

III. Effect of Proposed Changes:

Section 1 creates s. 290.00729, F.S., to allow Citrus County to seek designation of an enterprise zone within its boundary. Citrus County has until December 31, 2012, to file its application with DEO. The application must meet the requirements of s. 290.0055, F.S., which establishes some of the criteria and details the process by which a local government seeks an enterprise zone designation. While not addressed in this bill, the Citrus County enterprise zone would be limited to an area of up to 20 square miles, as mandated by s. 290.0055, F.S.

The section also specifies that notwithstanding s. 290.0065, F.S., limiting the number of enterprise zones in Florida, DEO may designate one enterprise zone for Citrus County. DEO also is directed to set the initial effective date for the new enterprise zone.

Section 2 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[22] Information provided by John Siefert, Executive Director for the Citrus County Economic Development Council, in a Jan. 17, 2012, e-mail on file with the Senate Committee on Commerce and Tourism.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference met on November 3, 2011, and determined that the passage of SB 806 would result in:

- A recurring negative fiscal impact of $100,000 to general revenue sales tax collections;
- A recurring insignificant negative fiscal impact to general revenue corporate income tax collections;
- A recurring insignificant negative fiscal impact to state trust funds; and
- A recurring insignificant negative fiscal impact to local governments.[23]

B. Private Sector Impact:

Indeterminate. The positive economic impact could be significant to the businesses that locate or already are within the enterprise zone, because of their potential tax savings. Job-seekers also could benefit from employment opportunities afforded them by businesses within the new zone. Finally, consumers could benefit because of the greater diversity of businesses and entertainment options within the enterprise zone.

C. Government Sector Impact:

Indeterminate, but likely minimal. Other than the initial review of Citrus County's application and decision whether to approve or reject it, the workload on DEO staff likely will be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[23] Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference for 2012 Regular Session – Enterprise Zone – Citrus County, HB 371/SB 806* (Nov. 3, 2011), *available at* http://edr.state.fl.us/content/conferences/revenueimpact/archives/2012/pdf/page48-50.pdf (last visited Jan. 20, 2012).

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Dean

3-00808-12 2012806__

A bill to be entitled

An act relating to enterprise zones; creating s. 290.00729, F.S.; authorizing Citrus County to apply to the Department of Economic Opportunity for designation of an enterprise zone; providing an application deadline and requirements; authorizing the department to designate an enterprise zone in Citrus County; requiring the department to establish the effective date of the enterprise zone; providing an effective date.

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

Section 1. Section 290.00729, Florida Statutes, is created to read:

290.00729 Enterprise zone designation for Citrus County.—Citrus County may apply to the department for designation of one enterprise zone for an area within Citrus County. The application must have been submitted by December 31, 2012, and must comply with the requirements of s. 290.0055. Notwithstanding s. 290.0065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the department may designate one enterprise zone under this section. The department shall establish the initial effective date of the enterprise zone designated under this section.

Section 2. This act shall take effect July 1, 2012.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 760

INTRODUCER: Senator Hays

SUBJECT: Local Business Taxes

DATE: January 13, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Pre-meeting**
2.			CU	
3.			BC	
4.				
5.				
6.				

I. Summary:

The local business tax authorized under Chapter 205, F.S., represents the taxes charged and the method by which a local government authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. Counties and municipalities may levy a business tax, and the tax proceeds are considered general revenue for the local government. This tax does not refer to any regulatory fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection.

The bill repeals Chapter 205, F.S., and makes conforming changes to Florida Statutes.

II. Present Situation:

Local Business Tax

The local business tax, authorized in Chapter 205, F.S., represents the fees charged and the method by which a local government authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. Counties and municipalities may levy a business tax, and the tax proceeds are considered general revenue for the local government.[1] This tax does not refer to any regulatory fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection.[2]

Prior to 1972, the state imposed an occupational license tax and shared the revenues with the counties. Municipalities levied their own occupational license taxes pursuant to local ordinance

[1] Sections 205.033 and 205.042, F.S.
[2] Section 205.022(5), F.S.

or resolution. Counties had no authority to levy an occupational license tax until October 1, 1972, when Chapter 72-306, Laws of Florida, repealed the state tax and authorized both counties and cities to impose an occupational tax at the state or city rate then in effect. In 1980, the Legislature authorized counties and municipalities to increase rates by a specified percentage based upon the rates then in effect.[3] In 1986, the legislature authorized Miami-Dade, Broward, Monroe and Collier counties to increase their rates by an additional 50 percent, with the proceeds being dedicated to specified economic development activities.[4]

Effective January 1, 2007, the legislature changed the name of the Local Occupational License Tax to the Local Business Tax.[5] This was done in response to some individuals representing that the fact that they had obtained an "occupational license" under Chapter 205, F.S., conferred upon them some type of official proof of their competency to perform various repairs and services. The name change was intended to clarify that the payments made under Chapter 205, F.S., were taxes and not some type of regulatory fee.

Administrative Procedures

In order to levy a business tax, the governing body must first give at least 14 days of public notice between the first and last reading of the resolution or ordinance by publishing a notice in a newspaper of general circulation within its jurisdiction as defined by law.[6] The public notice must contain the proposed classifications and rates applicable to the business tax.[7] A number of other conditions for levy are imposed on counties and municipalities.[8]

For purposes of Chapter 205, F.S., the terms "business," "profession," and "occupation" do not include the customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions in the state.[9] These institutions are more particularly defined and limited in statute.[10] The term "receipt" means the document that is issued by the local governing authority which bears the words "Local Business Tax Receipt" and evidences that the person in whose name the document is issued has complied with the provisions of Chapter 205, F.S., relating to the business tax.[11]

The governing body of a municipality that levies the tax may request that the county in which the municipality is located issue the municipal receipt and collect the tax.[12] The governing body of a county that levies the tax may request that municipalities within the county issue the county receipt and collect the tax.[13] However, before any local government issues any business receipts on behalf of another local government, appropriate agreements must be entered into by the affected local governments.[14] All business tax receipts are sold by the appropriate tax collector

[3] Chapter 80-274, L.O.F.
[4] Chapter 86-298, L.O.F.
[5] Chapter 2006-152, L.O.F.
[6] Sections 205.033 and 205.042, F.S.
[7] Id.
[8] Sections 205.033 and 205.043, F.S.
[9] Section 205.022(1), F.S.
[10] Id.
[11] Section 205.022(2), F.S.
[12] Section 205.045, F.S.
[13] Id.
[14] Id.

beginning July 1 of each year.[15] The taxes are due and payable on or before September 30 of each year, and the receipts expire on September 30 of the succeeding year.[16] In several situations, administrative penalties are also imposed.[17]

New Tax Levies

A county or municipality that has not yet adopted a business tax ordinance or resolution may adopt a business tax ordinance pursuant to s. 205.0315, F.S. The tax rate structure and classifications in the adopted ordinance must be reasonable and based upon the rate structure and classifications prescribed in ordinances adopted by adjacent local governments that have implemented a local business tax.[18] If no adjacent local government has implemented a local business tax, or if the governing body of the county or municipality finds that the rate structures or classifications of adjacent local governments are unreasonable, then an alternative method is authorized. In such a case, the rate structure or classifications prescribed in the ordinance of the local government seeking to impose the tax may be based upon those prescribed in ordinances adopted by local governments that have implemented a local business tax, in counties or municipalities that have a comparable population.[19]

Tax Base/Rate Restructuring

Currently, counties and municipalities with an existing local business tax may not reclassify businesses, professions, and occupations.[20] However, those counties and municipalities that underwent a reclassification and rate structure revision pursuant to s. 205.0535, F.S., prior to October 1, 1995, or during a window of time available from July 1, 2007, through October 1, 2008, for certain municipalities may, every other year, increase or decrease by ordinance the rates of business taxes by up to 5 percent.[21] However, an increase may not be enacted by less than a majority plus one vote of the governing body.[22] A county or municipality is not prohibited from decreasing or repealing any authorized local business tax.[23]

Exemptions

Chapter 205, F.S., provides several exemptions and exclusions from local business taxes. Customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions are excluded from the definition of "business," "profession," and "occupation" and are thereby excluded from paying local business taxes.[24] There is an optional partial exemption for businesses located in enterprise zones.[25] The delivery and transportation of tangible personal property by a business that is otherwise required to pay a local business tax may not be charged a separate local business tax for such delivery or transportation service.[26] There are also exemptions for persons engaged in specified farming

[15] Section 205.053, F.S.
[16] Id.
[17] Id.
[18] Section 205.0315, F.S.
[19] Id.
[20] Section 205.0535, F.S.
[21] Section 205.0535(4), F.S.
[22] Id.
[23] Id.
[24] Section 205.022(1), F.S.
[25] Section 205.054, F.S.
[26] Section 205.063, F.S.

activities,[27] certain nonresident persons regulated by the Department of Professional Regulation,[28] certain employees of businesses that are required to pay a local business tax,[29] certain disabled persons, the aged, and widows with minor dependents,[30] disabled veterans of any war or their unremarried spouses,[31] and certain mobile home setup operations.[32] Charitable, religious, fraternal, youth, civic, service, or other similar organization that make occasional sales or engage in fundraising projects that are performed exclusively by the members where the proceeds derived from the activities are used exclusively in the charitable, religious, fraternal, youth, civic and service activities of the organization are also exempt.[33]

Regulatory Provisions

Section 205.194, F.S., provides that any person applying for or renewing a local business tax receipt to practice any profession or engage in or manage any business or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, or any other state regulatory agency, including any board or commission thereof, must exhibit an active state certificate, registration, or license, or proof of copy of the same, before such local receipt may be issued.

Sections 205.196, 205.1965, 205.1967, 205.1969, 205.1971, 205.1973 and 205.1975, F.S., provide similar requirements for production of evidence of appropriate licensure prior to issuance of a business tax receipt for pharmacies and pharmacists, assisted living facilities, pest control, health studios, sellers of travel and telemarketing businesses, respectively.

Distribution of Revenues

The revenues derived from the business tax imposed by county governments, exclusive of the costs of collection and any credit given for municipal business taxes, are apportioned between the county's unincorporated area and the incorporated municipalities located within the county by a ratio derived by dividing their respective populations by the county's total population.[34] Within 15 days following the month of receipt, the apportioned revenues are sent to each governing authority; however, this provision does not apply to counties that have established a new rate structure pursuant to s. 205.0535, F.S.[35]

Authorized Uses of Revenues

The tax proceeds are considered general revenue for the county or municipality. Additionally, the county business tax proceeds may be used for overseeing and implementing a comprehensive economic development strategy through advertising, promotional activities and other sales and marketing techniques.[36] The proceeds of the additional county business tax imposed pursuant to s. 205.033(6), F.S., shall be distributed by the county's governing body to a designated

[27] Section 205.064, F.S.
[28] Section 205.065, F.S.
[29] Section 205.066, F.S.
[30] Section 205.162, F.S.
[31] Section 205.171, F.S.
[32] Section 205.193, F.S.
[33] Section 205.192, F.S.
[34] Section 205.033(4), F.S.
[35] Section 205.033(5), F.S.
[36] Section 205.033(7), F.S.

organization or agency for the purpose of implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.[37]

Total Revenues Collected
According to a report published by the Office of Economic and Demographic Research (EDR), in fiscal year 2008-09 counties collected a total of $32 million of local business tax revenue. In that same fiscal year, municipalities collected a total of $120 million of local business tax revenue.[38]

III. Effect of Proposed Changes:

Section 1 repeals Chapter 205, F.S.

Section 2 amends s. 202.24(2)(c), F.S., to delete a reference to local business taxes.

Section 3 amends s. 213.0535(4)(a), F.S., to delete a reference to local business taxes.

Section 4 amends s. 213.756(2)(b), F.S., to delete a reference to local business taxes.

Section 5 amends s. 290.0057(1)(e), F.S., to delete a reference to local business taxes.

Section 6 amends s. 337.401(3)(f), F.S., conforming provisions to changes made by the bill.

Section 7 redesignates specified paragraphs in s. 376.84(1), F.S., and amends s. 376.84(1)(d), F.S., to delete a reference to local business taxes.

Section 8 renumbers specified subsections of s. 379.3761, F.S., and amends the same to delete a reference to local business taxes.

Section 9 amends s. 482.071, F.S., to delete a reference to local business taxes.

Section 10 redesignates specified paragraphs in s. 482.242, F.S., and amends s. 482.242(1)(a), F.S., to delete a reference to local business taxes.

Section 11 renumbers specified subsections of s. 489.119, F.S., and amends s. 489.119(4), F.S., to delete a reference to local business taxes and deletes an application requirement related to local business taxes.

Section 12 amends s. 489.127(1), F.S., to delete a reference to local business taxes.

Section 13 redesignates specified paragraphs in s. 489.128(1), F.S., and amends s. 489.128(1)(b), F.S., to delete a reference to local business taxes.

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[37] Section 205.033(6)(b), F.S.
[38] Office of Economic and Demographic Research, 2012 Economic Development Financial Reference Manual (January 11, 2012) available at:
http://edr.state.fl.us/Content/presentations/local-government/2012economicdevelopmentfinancialreferencemanual.pdf

Section 14 amends s. 489.131, F.S., to delete a reference to local business taxes.

Section 15 amends s. 489.516(3), F.S., to delete a reference to local business taxes.

Section 16 renumbers specified subsections of s. 489.521, F.S., and amends the same to delete a reference to local business taxes.

Section 17 amends s. 489.5315, F.S., to delete a reference to local business taxes.

Section 18 redesignates specified paragraphs in s. 489.532(1), F.S., and amends s. 489.532(1)(b), F.S., to delete a reference to local business taxes.

Section 19 amends s. 489.533(1)(q), F.S., conforming provisions to changes made by the bill.

Section 20 renumbers s. 489.537(9), F.S., and amends the same to delete a reference to local business taxes.

Section 21 amends s. 500.511(3), to delete a reference to local business taxes.

Section 22 amends s. 501.016, F.S., to delete a reference to local business taxes.

Section 23 redesignates specified paragraphs in s. 501.143(3), F.S., and amends s. 501.143(3)(b), F.S., to delete a reference to local business taxes.

Section 24 amends s. 501.160, F.S., to delete a reference to local business taxes.

Section 25 amends s. 507.13, F.S., to delete a reference to local business taxes.

Section 26 amends s. 539.001, F.S., to delete a reference to local business taxes.

Section 27 amends s. 559.939, F.S., to delete a reference to local business taxes.

Section 28 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill eliminates the local businesses taxes authorized under Chapter 205, F.S. This bill does not appear to qualify under any exemption or exception. 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.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons currently paying a local business tax would no longer be required to do so.

C. Government Sector Impact:

The Revenue Estimating Conference estimates the bill would have no impact on state government revenues and would have a negative recurring impact on local government revenues of $164 million dollars beginning in FY 2012-13.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

271688

LEGISLATIVE ACTION

Senate . House

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The Committee on Community Affairs (Richter) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Section 205.0315, Florida Statutes, is repealed.
6 Section 2. Section 205.0316, Florida Statutes, is created
7 to read:
8 205.0316 Local business tax phase out.—
9 (1) Notwithstanding any other provision of this chapter,
10 beginning October 1, 2012, local business tax rates levied
11 pursuant to this chapter may not be increased. Each county and
12 municipality levying a local business tax must reduce the local

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13 business tax rate applicable to each business and occupational
14 classification as follows:
15 (a) For business tax receipts due after October 1, 2013,
16 and on or before September 30, 2014, to an amount no greater
17 than five-sixths of the rate in effect on September 30, 2012.
18 (b) For business tax receipts due on or before September
19 30, 2015, to an amount no greater than four-sixths of the rate
20 in effect on September 30, 2012.
21 (c) For business tax receipts due on or before September
22 30, 2016, to an amount no greater than three-sixths of the rate
23 in effect on September 30, 2012.
24 (d) For business tax receipts due on or before September
25 30, 2017, to an amount no greater than two-sixths of the rate in
26 effect on September 30, 2012.
27 (e) For business tax receipts due on or before September
28 30, 2018, to an amount no greater than one-sixth of the rate in
29 effect on September 30, 2012.
30 (f) For business tax receipts due on or before September
31 30, 2019, to zero.
32 (2) A county or municipality whose business tax receipts
33 during its 2012-2013 fiscal year comprise at least 25 percent of
34 the county or municipality's total revenue derived from local
35 taxes levied by the county or municipality in that fiscal year
36 may opt out of subsection (1). However, a qualifying county or
37 municipality choosing this option may not increase its general
38 county millage, general municipal millage, or any dependent
39 special district millage in any fiscal year above the level in
40 effect for the 2012-2013 fiscal year, unless it ceases levying
41 all local business taxes authorized under this chapter in the

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42 same fiscal year. Any qualifying county or municipality that
43 does not reduce its local business tax rates pursuant to
44 subsection (1), beginning with business tax receipts due on or
45 before September 30, 2014, will be deemed to have opted out of
46 subsection (1) and will instead be subject to this subsection.
47 The terms "general county millage," "general municipal millage,"
48 and "dependent special district millage" have the same meanings
49 as described in s. 200.001(1).
50 Section 3. Notwithstanding revisions made to chapter 205,
51 Florida Statutes, by this act, counties or municipalities
52 imposing a local business tax as of March 9, 2012, pursuant to
53 chapter 205, Florida Statutes, may continue to levy such tax in
54 the same manner and with the same rates and classifications as
55 are in effect on March 9, 2012, to the extent necessary to meet
56 all obligations to, or for the benefit of, holders of bonds or
57 certificates that were issued before March 9, 2012, and for
58 which taxes levied pursuant to chapter 205, Florida Statutes,
59 are expressly identified and pledged as security, separate from
60 any other pledge of non-ad valorem revenues. Expenditures of
61 revenues from tax levies continued pursuant to this section are
62 limited to meeting obligations required by bonds or certificates
63 that were issued before March 9, 2012. Revenues collected in
64 excess of amounts necessary to meet obligations of bonds or
65 certificates must be refunded to taxpayers in proportion to the
66 amount of taxes paid by each taxpayer. A county or municipality
67 may not pledge revenues derived from local business taxes
68 imposed under chapter 205, Florida Statutes, as security for
69 bonds or certificates issued on or after March 9, 2012.
70 Section 4. This act shall take effect upon becoming a law.

271688

71
72 ========== T I T L E A M E N D M E N T ==========
73 And the title is amended as follows:
74 Delete everything before the enacting clause
75 and insert:
76 A bill to be entitled
77 An act relating to local business taxes; repealing s.
78 205.0315, F.S., relating to provisions authorizing
79 certain county or municipalities to adopt a business
80 tax ordinance; creating s. 205.0316, F.S.; requiring
81 the reduction of local business tax rates over time;
82 providing an optional exception; providing that
83 municipalities may continue to levy taxes repealed
84 under the act in order to meet all obligations to
85 holders of bonds or certificates; providing an
86 effective date.

314286

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/30/2012	.	
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The Committee on Community Affairs (Richter) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 463 and 464
4 insert:
5 Section 28. Notwithstanding the repeal of chapter 205,
6 Florida Statutes, by this act, counties or municipalities
7 imposing a local business tax as of March 9, 2012, pursuant to
8 chapter 205, Florida Statutes, may continue to levy such tax to
9 the extent necessary to meet all obligations to, or for the
10 benefit of, holders of bonds or certificates that were issued
11 before March 9, 2012, and for which taxes levied pursuant to
12 chapter 205, Florida Statute, are explicitly pledged as

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13 security. Expenditures of revenues from tax levies continued
14 pursuant to this section are limited to meeting obligations
15 required by bonds or certificates that were issued before March
16 9, 2012. Revenues collected in excess of the amounts necessary
17 to meet obligations of bonds or certificates must be refunded to
18 taxpayers in proportion to the amount of taxes paid by each
19 taxpayer.
20
21 ========== T I T L E A M E N D M E N T ==========
22 And the title is amended as follows:
23 Delete line 9
24 and insert:
25 conforming references and cross-references; providing
26 that counties and municipalities may continue to levy
27 taxes repealed under the act in order to meet all
28 obligations to holders of bonds or certificates issued
29 before a specified date; providing

By Senator Hays

20-00320-12 2012760__

A bill to be entitled

An act relating to local business taxes; repealing ch. 205, F.S., which established the Local Business Tax Act; amending ss. 202.24, 213.0535, 213.756, 290.0057, 337.401, 376.84, 379.3761, 482.071, 482.242, 489.119, 489.127, 489.128, 489.131, 489.516, 489.521, 489.5315, 489.532, 489.533, 489.537, 500.511, 501.016, 501.143, 501.160, 507.13, 539.001, and 559.939, F.S.; conforming references and cross-references; providing an effective date.

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

Section 1. Chapter 205, Florida Statutes, consisting of sections 205.013, 205.022, 205.023, 205.0315, 205.032, 205.033, 205.042, 205.043, 205.045, 205.053, 205.0532, 205.0535, 205.0536, 205.0537, 205.054, 205.063, 205.064, 205.065, 205.066, 205.162, 205.171, 205.191, 205.192, 205.193, 205.194, 205.196, 205.1965, 205.1967, 205.1969, 205.1971, 205.1973, and 205.1975, is repealed.

Section 2. Paragraph (c) of subsection (2) of section 202.24, Florida Statutes, is amended to read:

202.24 Limitations on local taxes and fees imposed on dealers of communications services.—

(2)

(c) This subsection does not apply to:

1. Local communications services taxes levied under this chapter.

2. Ad valorem taxes levied pursuant to chapter 200.

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

20-00320-12 2012760__

~~3. Business taxes levied under chapter 205.~~

3.~~4.~~ "911" service charges levied under chapter 365.

4.~~5.~~ Amounts charged for the rental or other use of property owned by a public body which is not in the public rights-of-way to a dealer of communications services for any purpose, including, but not limited to, the placement or attachment of equipment used in the provision of communications services.

5.~~6.~~ Permit fees of general applicability which are not related to placing or maintaining facilities in or on public roads or rights-of-way.

6.~~7.~~ Permit fees related to placing or maintaining facilities in or on public roads or rights-of-way pursuant to s. 337.401.

7.~~8.~~ Any in-kind requirements, institutional networks, or contributions for, or in support of, the use or construction of public, educational, or governmental access facilities allowed under federal law and imposed on providers of cable or video service pursuant to any existing ordinance or an existing franchise agreement granted by each municipality or county, under which ordinance or franchise agreement service is provided prior to July 1, 2007, or as permitted under chapter 610. Nothing in this subparagraph shall prohibit the ability of providers of cable or video service to recover such expenses as allowed under federal law.

8.~~9.~~ Special assessments and impact fees.

9.~~10.~~ Pole attachment fees that are charged by a local government for attachments to utility poles owned by the local government.

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59 10.~~11.~~ Utility service fees or other similar user fees for
60 utility services.
61 11.~~12.~~ Any other generally applicable tax, fee, charge, or
62 imposition authorized by general law on July 1, 2000, which is
63 not specifically prohibited by this subsection or included as a
64 replaced revenue source in s. 202.20.
65 Section 3. Paragraph (a) of subsection (4) of section
66 213.0535, Florida Statutes, is amended to read:
67 213.0535 Registration Information Sharing and Exchange
68 Program.—
69 (4) There are two levels of participation:
70 (a) Each unit of state or local government responsible for
71 administering one or more of the provisions specified in
72 subparagraphs 1.-7. ~~1.-8.~~ is a level-one participant. Level-one
73 participants shall exchange, monthly or quarterly, as determined
74 jointly by each participant and the department, the data
75 enumerated in subsection (2) for each new registrant, new filer,
76 or initial reporter, permittee, or licensee, with respect to the
77 following taxes, licenses, or permits:
78 1. The sales and use tax imposed under chapter 212.
79 2. The tourist development tax imposed under s. 125.0104.
80 3. The tourist impact tax imposed under s. 125.0108.
81 ~~4. Local business taxes imposed under chapter 205.~~
82 4.~~5.~~ Convention development taxes imposed under s.
83 212.0305.
84 5.~~6.~~ Public lodging and food service establishment licenses
85 issued pursuant to chapter 509.
86 6.~~7.~~ Beverage law licenses issued pursuant to chapter 561.
87 7.~~8.~~ A municipal resort tax as authorized under chapter 67-

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88 930, Laws of Florida.
89 Section 4. Paragraph (b) of subsection (2) of section
90 213.756, Florida Statutes, is amended to read:
91 213.756 Funds collected are state tax funds.—
92 (2)
93 (b) This subsection applies to those taxes enumerated in s.
94 72.011, excluding chapter 202 and that portion of chapter 203
95 collected thereunder~~, and also applies to taxes imposed under~~
96 ~~chapter 205~~.
97 Section 5. Paragraph (e) of subsection (1) of section
98 290.0057, Florida Statutes, is amended to read:
99 290.0057 Enterprise zone development plan.—
100 (1) Any application for designation as a new enterprise
101 zone must be accompanied by a strategic plan adopted by the
102 governing body of the municipality or county, or the governing
103 bodies of the county and one or more municipalities together. At
104 a minimum, the plan must:
105 (e) Commit the governing body or bodies to enact and
106 maintain local fiscal and regulatory incentives, if approval for
107 the area is received under s. 290.0065. These incentives may
108 include the municipal public service tax exemption provided by
109 s. 166.231, the economic development ad valorem tax exemption
110 provided by s. 196.1995, ~~the business tax exemption provided by~~
111 ~~s. 205.054,~~ local impact fee abatement or reduction, or low-
112 interest or interest-free loans or grants to businesses to
113 encourage the revitalization of the nominated area.
114 Section 6. Paragraph (f) of subsection (3) of section
115 337.401, Florida Statutes, is amended to read:
116 337.401 Use of right-of-way for utilities subject to

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117 regulation; permit; fees.—
118 (3)
119 (f) Except as expressly allowed or authorized by general
120 law and except for the rights-of-way permit fees subject to
121 paragraph (c), a municipality or county may not levy on a
122 provider of communications services a tax, fee, or other charge
123 or imposition for operating as a provider of communications
124 services within the jurisdiction of the municipality or county
125 which is in any way related to using its roads or rights-of-way.
126 A municipality or county may not require or solicit in-kind
127 compensation, except as otherwise provided in s. 202.24(2)(c)7.
128 ~~s. 202.24(2)(c)8.~~ or s. 610.109. Nothing in this paragraph shall
129 impair any ordinance or agreement in effect on May 22, 1998, or
130 any voluntary agreement entered into subsequent to that date,
131 which provides for or allows in-kind compensation by a
132 telecommunications company.
133 Section 7. Paragraphs (e) through (o) of subsection (1) of
134 section 376.84, Florida Statutes, are redesignated as paragraphs
135 (d) through (n), respectively, and present paragraph (d) of that
136 subsection is amended to read:
137 376.84 Brownfield redevelopment economic incentives.—It is
138 the intent of the Legislature that brownfield redevelopment
139 activities be viewed as opportunities to significantly improve
140 the utilization, general condition, and appearance of these
141 sites. Different standards than those in place for new
142 development, as allowed under current state and local laws,
143 should be used to the fullest extent to encourage the
144 redevelopment of a brownfield. State and local governments are
145 encouraged to offer redevelopment incentives for this purpose,

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146 as an ongoing public investment in infrastructure and services,
147 to help eliminate the public health and environmental hazards,
148 and to promote the creation of jobs in these areas. Such
149 incentives may include financial, regulatory, and technical
150 assistance to persons and businesses involved in the
151 redevelopment of the brownfield pursuant to this act.
152 (1) Financial incentives and local incentives for
153 redevelopment may include, but not be limited to:
154 ~~(d) Waiver, reduction, or limitation by line of business~~
155 ~~with respect to business taxes pursuant to chapter 205.~~
156 Section 8. Subsections (5) and (6) of section 379.3761,
157 Florida Statutes, are renumbered as subsections (4) and (5),
158 respectively, and present subsection (4) of that section is
159 amended to read:
160 379.3761 Exhibition or sale of wildlife; fees;
161 classifications.—
162 ~~(4) The provisions of this section relative to licensing~~
163 ~~for exhibition do not apply to any municipal, county, state, or~~
164 ~~other publicly owned wildlife exhibit or any traveling zoo,~~
165 ~~circus, or exhibit licensed under chapter 205.~~
166 Section 9. Subsection (5) of section 482.071, Florida
167 Statutes, is amended to read:
168 482.071 Licenses.—
169 ~~(5) A license under this section is a prerequisite for the~~
170 ~~issuance of a local occupational license to engage in pest~~
171 ~~control, as provided in s. 205.1967.~~
172 Section 10. Paragraphs (b) through (g) of subsection (1) of
173 section 482.242, Florida Statutes, are redesignated as
174 paragraphs (a) through (f), respectively, and present paragraph

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175 (a) of that subsection is amended to read:
176 482.242 Preemption.—
177 (1) This chapter is intended as comprehensive and exclusive
178 regulation of pest control in this state. The provisions of this
179 chapter preempt to the state all regulation of the activities
180 and operations of pest control services, including the
181 pesticides used pursuant to labeling and registration approved
182 under part I of chapter 487. No local government or political
183 subdivision of the state may enact or enforce an ordinance that
184 regulates pest control, except that the preemption in this
185 section does not prohibit a local government or political
186 subdivision from enacting an ordinance regarding any of the
187 following:
188 ~~(a) Local business taxes adopted pursuant to chapter 205.~~
189 Section 11. Subsections (5), (6), and (7) of section
190 489.119, Florida Statutes, are renumbered as subsections (4),
191 (5), and (6), respectively, and present subsection (4) of that
192 section is amended to read:
193 489.119 Business organizations; qualifying agents.—
194 ~~(4) When a certified qualifying agent, on behalf of a~~
195 ~~business organization, makes application for a business tax~~
196 ~~receipt in any municipality or county of this state, the~~
197 ~~application shall be made with the tax collector in the name of~~
198 ~~the business organization and the qualifying agent; and the~~
199 ~~license, when issued, shall be issued to the business~~
200 ~~organization, upon payment of the appropriate licensing fee and~~
201 ~~exhibition to the tax collector of a valid certificate for the~~
202 ~~qualifying agent issued by the department, and the state license~~
203 ~~numbers shall be noted thereon.~~

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204 Section 12. Subsection (1) of section 489.127, Florida
205 Statutes, is amended to read:
206 489.127 Prohibitions; penalties.—
207 (1) No person shall:
208 (a) Falsely hold himself or herself or a business
209 organization out as a licensee, certificateholder, or
210 registrant;
211 (b) Falsely impersonate a certificateholder or registrant;
212 (c) Present as his or her own the certificate or
213 registration of another;
214 (d) Knowingly give false or forged evidence to the board or
215 a member thereof;
216 (e) Use or attempt to use a certificate or registration
217 that has been suspended or revoked;
218 (f) Engage in the business or act in the capacity of a
219 contractor or advertise himself or herself or a business
220 organization as available to engage in the business or act in
221 the capacity of a contractor without being duly registered or
222 certified;
223 (g) Operate a business organization engaged in contracting
224 after 60 days following the termination of its only qualifying
225 agent without designating another primary qualifying agent,
226 except as provided in ss. 489.119 and 489.1195;
227 (h) Commence or perform work for which a building permit is
228 required pursuant to part IV of chapter 553 without such
229 building permit being in effect; or
230 (i) Willfully or deliberately disregard or violate any
231 municipal or county ordinance relating to uncertified or
232 unregistered contractors.

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233

234 For purposes of this subsection, a person or business
235 organization operating on an inactive or suspended certificate
236 or registration is not duly certified or registered and is
237 considered unlicensed. ~~A business tax receipt issued under the~~
238 ~~authority of chapter 205 is not a license for purposes of this~~
239 ~~part.~~
240 Section 13. Paragraph (c) of subsection (1) of section
241 489.128, Florida Statutes, is redesignated as paragraph (b), and
242 present paragraph (b) of that subsection is amended to read:
243 489.128 Contracts entered into by unlicensed contractors
244 unenforceable.—
245 (1) As a matter of public policy, contracts entered into on
246 or after October 1, 1990, by an unlicensed contractor shall be
247 unenforceable in law or in equity by the unlicensed contractor.
248 ~~(b) For purposes of this section, an individual or business~~
249 ~~organization may not be considered unlicensed for failing to~~
250 ~~have a business tax receipt issued under the authority of~~
251 ~~chapter 205.~~
252 Section 14. Paragraph (c) of subsection (3) of section
253 489.131, Florida Statutes, is amended to read:
254 489.131 Applicability.—
255 (3) Nothing in this part limits the power of a municipality
256 or county:
257 (c) To collect ~~business taxes, subject to s. 205.065, and~~
258 inspection fees for engaging in contracting or examination fees
259 from persons who are registered with the board pursuant to local
260 examination requirements ~~and issue business tax receipts~~.
261 ~~However, nothing in this part shall be construed to require~~

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262 ~~general contractors, building contractors, or residential~~
263 ~~contractors to obtain additional business tax receipts for~~
264 ~~specialty work when such specialty work is performed by~~
265 ~~employees of such contractors on projects for which they have~~
266 ~~substantially full responsibility and such contractors do not~~
267 ~~hold themselves out to the public as being specialty~~
268 ~~contractors.~~
269 Section 15. Subsection (3) of section 489.516, Florida
270 Statutes, is amended to read:
271 489.516 Qualifications to practice; restrictions;
272 prerequisites.—
273 (3) When a certificateholder desires to engage in
274 contracting in any area of the state, as a prerequisite
275 therefor, he or she shall only be required to exhibit to the
276 local building official, tax collector, or other authorized
277 person in charge of the issuance of licenses and building or
278 electrical permits in the area evidence of holding a current
279 certificate ~~and a current business tax receipt issued by the~~
280 ~~jurisdiction in which the certificateholder's principal place of~~
281 ~~business is located~~ and having paid the fee for the permit
282 required of other persons. However, a local construction
283 regulation board may deny the issuance of an electrical permit
284 to a certified contractor, or issue a permit with specific
285 conditions, if the local construction regulation board has found
286 such contractor, through the public hearing process, to be
287 guilty of fraud or a willful building code violation within the
288 county or municipality that the local construction regulation
289 board represents, or if the local construction regulation board
290 has proof that such contractor, through the public hearing

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291 process, has been found guilty, in another county or
292 municipality within the past 12 months, of fraud or a willful
293 building code violation and finds, after providing notice to the
294 contractor, that such fraud or violation would have been fraud
295 or a violation if committed in the county or municipality that
296 the local construction board represents. Notification of and
297 information concerning such permit denial shall be submitted to
298 the Department of Business and Professional Regulation within 15
299 days after the local construction regulation board decides to
300 deny the permit.
301 Section 16. Subsections (7) through (10) of section
302 489.521, Florida Statutes, are renumbered as subsections (6)
303 through (9), respectively, and present subsection (6) of that
304 section is amended to read:
305 489.521 Business organizations; qualifying agents.—
306 ~~(6) When a business organization qualified to engage in~~
307 ~~contracting makes application for a business tax receipt in any~~
308 ~~municipality or county of this state, the application shall be~~
309 ~~made with the tax collector in the name of the business~~
310 ~~organization, and the business tax receipt, when issued, shall~~
311 ~~be issued to the business organization upon payment of the~~
312 ~~appropriate licensing fee and exhibition to the tax collector of~~
313 ~~a valid certificate issued by the department.~~
314 Section 17. Section 489.5315, Florida Statutes, is amended
315 to read:
316 489.5315 Proprietary electrical or alarm contractors.—
317 Businesses that obtain an electrical or burglar alarm system
318 license to work only on their own equipment, and that do not
319 offer electrical or alarm contracting services to the public,

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320 are not electrical or burglar alarm system contracting
321 businesses ~~and do not have to obtain a business tax receipt in~~
322 ~~addition to any they are otherwise required to have~~.
323 Section 18. Paragraph (c) of subsection (1) of section
324 489.532, Florida Statutes, is redesignated as paragraph (b), and
325 present paragraph (b) of that subsection is amended to read:
326 489.532 Contracts entered into by unlicensed contractors
327 unenforceable.—
328 (1) As a matter of public policy, contracts entered into on
329 or after October 1, 1990, by an unlicensed contractor shall be
330 unenforceable in law or in equity by the unlicensed contractor.
331 ~~(b) For purposes of this section, an individual or business~~
332 ~~organization shall not be considered unlicensed for failing to~~
333 ~~have a business tax receipt issued under the authority of~~
334 ~~chapter 205.~~
335 Section 19. Paragraph (q) of subsection (1) of section
336 489.533, Florida Statutes, is amended to read:
337 489.533 Disciplinary proceedings.—
338 (1) The following acts shall constitute grounds for
339 disciplinary actions as provided in subsection (2):
340 (q) Failing to affix a registration or certification number
341 as required by s. 489.521(6) ~~s. 489.521(7)~~.
342
343 For the purposes of this subsection, construction is considered
344 to be commenced when the contract is executed and the contractor
345 has accepted funds from the customer or lender.
346 Section 20. Subsection (9) of section 489.537, Florida
347 Statutes, is renumbered as subsection (8), and paragraph (b) of
348 subsection (3) and present subsection (8) of that section are

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349 amended to read:
350 489.537 Application of this part.—
351 (3) Nothing in this act limits the power of a municipality
352 or county:
353 (b) To collect fees for ~~business tax receipts and~~
354 inspections for engaging in contracting or examination fees from
355 persons who are registered with the local boards pursuant to
356 local examination requirements.
357 ~~(8) Persons licensed under this part are subject to ss.~~
358 ~~205.0535(1) and 205.065, as applicable.~~
359 Section 21. Subsection (3) of section 500.511, Florida
360 Statutes, is amended to read:
361 500.511 Fees; enforcement; preemption.—
362 (3) PREEMPTION OF AUTHORITY TO REGULATE.—Regulation of
363 bottled water plants, water vending machines, water vending
364 machine operators, and packaged ice plants is preempted by the
365 state. No county or municipality may adopt or enforce any
366 ordinance that regulates the licensure or operation of bottled
367 water plants, water vending machines, or packaged ice plants,
368 unless it is determined that unique conditions exist within the
369 county which require the county to regulate such entities in
370 order to protect the public health. ~~This subsection does not~~
371 ~~prohibit a county or municipality from requiring a business tax~~
372 ~~pursuant to chapter 205.~~
373 Section 22. Subsection (1) of section 501.016, Florida
374 Statutes, is amended to read:
375 501.016 Health studios; security requirements.—Each health
376 studio that sells contracts for health studio services shall
377 meet the following requirements:

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378 (1) Each health studio shall maintain for each separate
379 business location a bond issued by a surety company admitted to
380 do business in this state. The principal sum of the bond shall
381 be $50,000~~, and the bond, when required, shall be obtained~~
382 ~~before a business tax receipt may be issued under chapter 205~~.
383 ~~Upon issuance of a business tax receipt, the licensing authority~~
384 ~~shall immediately notify the department of such issuance in a~~
385 ~~manner established by the department by rule.~~ The bond shall be
386 in favor of the state for the benefit of any person injured as a
387 result of a violation of ss. 501.012-501.019. The aggregate
388 liability of the surety to all persons for all breaches of the
389 conditions of the bonds provided herein shall in no event exceed
390 the amount of the bond. The original surety bond required by
391 this section shall be filed with the department.
392 Section 23. Paragraphs (c) through (f) of subsection (3) of
393 section 501.143, Florida Statutes, are redesignated as
394 paragraphs (b) through (e), respectively, and present paragraph
395 (b) of that subsection is amended to read:
396 501.143 Dance Studio Act.—
397 (3) REGISTRATION OF BALLROOM DANCE STUDIOS.—
398 ~~(b) Any person applying for or renewing a local business~~
399 ~~tax receipt to engage in business as a ballroom dance studio~~
400 ~~must exhibit an active registration certificate from the~~
401 ~~department before the local business tax receipt may be issued~~
402 ~~or reissued under chapter 205.~~
403 Section 24. Subsection (9) of section 501.160, Florida
404 Statutes, is amended to read:
405 501.160 Rental or sale of essential commodities during a
406 declared state of emergency; prohibition against unconscionable

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407 prices.—
408 (9) Upon a declaration of a state of emergency by the
409 Governor, ~~in order to protect the health, safety, and welfare of~~
410 ~~residents, any person who offers goods and services for sale to~~
411 ~~the public during the duration of the emergency and who does not~~
412 ~~possess a business tax receipt under s. 205.032 or s. 205.042~~
413 ~~commits a misdemeanor of the second degree, punishable as~~
414 ~~provided in s. 775.082 or s. 775.083. During a declared~~
415 ~~emergency, this subsection does not apply to religious,~~
416 ~~charitable, fraternal, civic, educational, or social~~
417 ~~organizations. During a declared emergency and~~ when there is an
418 allegation of price gouging against the person, failure to
419 possess a license constitutes reasonable cause to detain the
420 person, provided that the detention shall only be made in a
421 reasonable manner and only for a reasonable period of time
422 sufficient for an inquiry into the circumstances surrounding the
423 failure to possess a license.
424 Section 25. Subsection (1) of section 507.13, Florida
425 Statutes, is amended to read:
426 507.13 Local regulation.—
427 (1)(a) Except as provided in paragraph ~~paragraphs~~ (b) ~~and~~
428 ~~(c)~~, this chapter preempts a local ordinance or regulation of a
429 county or municipality which regulates transactions relating to
430 movers of household goods or moving brokers.
431 (b) This chapter does not preempt an ordinance or
432 regulation originally enacted by a county before January 1,
433 2011, or a subsequent amendment to such an ordinance or
434 regulation. However, registration fees required by such an
435 ordinance or regulation must be reasonable and may not exceed

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436 the cost of administering the ordinance or regulation. In
437 addition, registration and bonding may be required only of a
438 mover or moving broker whose principal place of business is
439 located within that county's jurisdiction.
440 ~~(c) This section does not preempt a local government's~~
441 ~~authority to levy a local business tax pursuant to chapter 205.~~
442 Section 26. Paragraph (f) of subsection (3) of section
443 539.001, Florida Statutes, is amended to read:
444 539.001 The Florida Pawnbroking Act.—
445 (3) LICENSE REQUIRED.—
446 ~~(f) Any person applying for or renewing a local~~
447 ~~occupational license to engage in business as a pawnbroker must~~
448 ~~exhibit a current license from the agency before the local~~
449 ~~business tax receipt may be issued or reissued.~~
450 Section 27. Section 559.939, Florida Statutes, is amended
451 to read:
452 559.939 State preemption.—No municipality ~~or county~~ or
453 other political subdivision of this state shall have authority
454 to levy or collect any registration fee or tax, as a regulatory
455 measure, or to require the registration or bonding in any manner
456 of any seller of travel who is registered or complies with all
457 applicable provisions of this part, unless that authority is
458 provided for by special or general act of the Legislature. Any
459 ordinance, resolution, or regulation of any municipality ~~or~~
460 ~~county~~ or other political subdivision of this state which is in
461 conflict with any provision of this part is preempted by this
462 part. ~~The provisions of this section do not apply to any local~~
463 ~~business tax levied pursuant to chapter 205.~~
464 Section 28. This act shall take effect July 1, 2012.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education Appropriations
Criminal Justice
Reapportionment

JOINT COMMITTEE:
Administrative Procedures

SENATOR D. ALAN HAYS
20th District

November 18, 2011

Senator Michael S. Bennett., Chair
Committee on Community Affairs
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 760 – Local Business Taxes and SB 770 – Exemption from Local Business Taxes

Dear Chairman Bennett:

I respectfully request my above referenced bills be heard before your committee.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

D. Alan Hays, DMD
State Senator, District 20

CC: Tom Yeatman, Staff Director

REPLY TO:
❒ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
❒ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 30, 2012
Meeting Date

Topic: Local Business Tax

Bill Number: SB 760 (if applicable)

Name: Ivette Arango

Amendment Barcode: (if applicable)

Job Title: VP Corp Gov & Community Affairs

Address: 80 SW 8 st Suite 2400
Street

Phone: 305 345-7744

Miami, Fl
City, State, Zip

E-mail: iarango@beaconcouncil.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: The Beacon Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20...)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1 /30/2012
Meeting Date

Topic _____ Bill Number 760 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH Phone 727/897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City *State* *Zip*

Speaking: ☐ For ☑ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1. 30. 2012
Meeting Date

Topic: LOCAL BUSINESS TAX REPEAL

Bill Number: 760 *(if applicable)*

Name: GRETCHEN HARKINS

Amendment Barcode: *(if applicable)*

Job Title: DIRECTOR

Address: 115 S. ANDREWS AVE
Street

FT. LAUD FL 33301
City *State* *Zip*

Phone: 954 357 7575

E-mail: gharkins@broward.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: BROWARD COUNTY

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SJR 720

INTRODUCER: Senator Garcia

SUBJECT: Miami-Dade County Home Rule Charter

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Favorable**
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

Senate Joint Resolution (SJR) 720 proposes an amendment to the Florida Constitution, to authorize amendments or revisions to the home rule charter of Miami-Dade County by a special law approved by a vote of the electors, and provides requirements for a bill proposing such a special law. This joint resolution also authorizes the Miami-Dade charter to provide for fixed term limits of Miami-Dade County Commissioners.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

This joint resolution amends Article VIII, section 6, of the Florida Constitution.

II. Present Situation:

Counties

Article VII, section 1 of the Florida Constitution requires the state to be divided into political subdivisions known as counties which shall provide state services at the local level. There are two types of counties that are recognized under the Florida Constitution: 1) counties that are not operating under a county charter, and 2) counties that are operating under a county charter.[1]

[1] *See* FLA. CONST. art. VII, s. 1(f)-(g).

A.) Non-Charter Counties

Non-charter county governments only have such powers of self-government as is provided by general or special law.[2] In addition, non-charter counties may enact ordinances not inconsistent with general or special law. A county ordinance in a non-charter county that is in conflict with a municipal ordinance is not effective within the municipality to the extent of such conflict.

B.) Charter Counties

Charter counties have greater powers of self-government than non-charter counties. Counties operating under a charter have all powers of self-government not inconsistent with general law or with special law approved by the vote of the electorate.[3] Although a non-charter county can be established through general law, a charter county can only be adopted, amended or related through a special election by the vote of the electors in that county. In a charter county, the charter shall provide which shall prevail in the event of a conflict between county and municipal ordinance. Special acts that do not require referendum approval do not apply to charter counties.

Miami-Dade Home Rule Charter[4]

In 1955, the voters of Dade County were authorized by the Legislature under an amendment to Article VII, section 11, of the 1885 Florida Constitution to enact the first home rule charter in Florida.

Article VIII, section 6(e), of the Florida Constitution, states that the provisions of the Metropolitan Dade (or Miami-Dade) County Home Rule Charter adopted by the electors of Miami-Dade County pursuant to Article VIII, section 11 of the Constitution of 1885 are valid and any subsequent amendments to the charter, authorized by Article VIII, section 11 of the Constitution of 1885 are authorized.[5]

A.) Unique Powers

Article VIII, section 11 of the Constitution of 1885 granted the electors of Miami-Dade County the authority to adopt a home rule charter government in Miami-Dade County of which the Board of County Commissioners of Miami-Dade County is the governing body. In contrast to charter governments created pursuant to Article VIII, section 6(g) of the State Constitution, Miami-Dade County is granted unique powers that include:

- Merging, consolidating abolishing and changing the boundaries of municipal, county or district governments whose jurisdictions lie wholly within Miami-Dade County;
- Providing a method for establishing new municipal corporations, special taxing units and other governmental units in Miami-Dade County;

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[2] FLA. CONST. art. VII, s. 1(f).

[3] FLA. CONST. art. VII, s. 1(g).

[4] Section 125.011(1), F.S., defines the term "county" to mean:

> any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county.

The constitutional sections that are contained in s. 125.011(1), F.S., refer to Key West/Monroe County, Miami-Dade County and Hillsborough County, respectively.

[5] FLA. CONST. art. VII, s. 6(e).

- Providing an exclusive method for municipal corporations to make, amend or repeal its own charter, which, once adopted, cannot be changed or repealed by the Legislature;
- Abolishing the offices of sheriff, tax collector, property appraiser, supervisor of elections and clerk of the circuit court and provide for the consolidation and transfer of their functions; and
- Changing the name of Miami-Dade County.

In addition, even though Article VIII, section 11(5), of the Florida Constitution of 1885 does not limit or restrict the power of the Legislature to enact general laws that apply to Miami-Dade County and any one or more counties in Florida or to any municipality in Miami-Dade County and one or more municipalities in Florida, Miami-Dade County ordinances control in the event of conflict with special or general law only applicable to Miami-Dade County. Hence, the Legislature is prohibited by Article VIII, section 11(5), of the Florida Constitution of 1885, as amended, from enacting special laws that apply only to Miami-Dade County, even if such a special act were approved by referendum.

B.) Special Provisions

Miami-Dade County Home Rule Charter ("Charter") was officially adopted on May 21, 1957. The Charter authorizes the Board of County Commission to create new municipalities; change municipal boundaries; and to establish, merge and abolish special purpose districts. The Charter also abolishes the constitutional office of the Sheriff and authorizes the Board of County Commission to "exercise all powers and privileges granted to municipalities, counties and county officers by the Constitution and laws of the state."[6]

C.) Court Interpretations

Florida courts have consistently invalidated the applicability of special acts passed by the Legislature that attempt to supersede the home rule powers of Miami-Dade County. The Florida Supreme Court has held that the constitutional provisions granting home rule authority to Miami-Dade County transferred to the county "the powers formerly vested in the State Legislature with respect to the affairs, property and government of Dade County and all the municipalities within its territorial limits." *See State v. Dade County.* [7]

In the case of *Chase v. Cowart*,[8] the Florida Supreme Court was asked to determine whether the Miami-Dade County Budget Commission had been abolished by the electors of Miami-Dade County through the enactment of its home rule charter. The Commission was originally established by the Florida Legislature with authority over the fiscal affairs of county boards and county officers of Miami-Dade County and whose jurisdiction fell entirely within Miami-Dade County.

In deciding the issue, the Court weighed the meaning of subsections (5), (6), (7), and (9), s. 11, Art. VIII, of the Florida Constitution of 1885, as amended, which preserve to the Legislature the authority to enact general laws that apply to Miami-Dade County and any one or more counties. The Court also analyzed subsection (1)(c), s. 11, Art. VIII, of the Florida Constitution of 1885, which provides an express grant of power authorizing the voters of Miami-Dade County to adopt

[6] Section 1.01(21), *Miami-Dade County Home Rule Charter.*
[7] 142 So. 2d 79, 85 (Fla. 1961).
[8] 102 So. 2d 147 (Fla. 1958).

a charter, the provisions of which may abolish any board or governmental unit, whose jurisdiction lies wholly within Miami-Dade County, whether created by the Constitution, the Legislature or otherwise.

After conducting its analysis, the Court held that the electors of Miami-Dade County, through the enactment of its home rule charter, abolished the budget commission. The court reasoned that the limitations of subsections (5) and (9) do not prohibit the abolishment of the Budget Board because the charter provision allowing abolishment of the board comes within the exception to the limitations of subsections (5) and (9) that states "except as expressly authorized herein." Specifically stating that section 11(1)(c) is:

> clearly an express grant of power which authorizes the voters of Dade County to adopt a charter, the provisions of which may abolish any board or governmental unit, whose jurisdiction lies wholly in Miami-Dade County, whether created by the Constitution or by the Legislature or otherwise. We think it crystal clear that the words 'except as expressly authorized or provided' as found in subsections (5) and (9) relates directly to the specific grants of power contained in the various sub-subsections of subsection (1).[9]

The Court further stated that its reasoning did not weigh on the analysis of whether the law creating the Budget Board was a general law, general law of local application, or a special act.

In *City of Sweetwater v. Dade County*,[10] the Third District Court of Appeal held that general law provisions governing the annexation of land into municipalities did not apply within Miami-Dade County since municipal boundary changes is "one of the areas of autonomy conferred on Dade County" by its Home Rule Charter.[11] In reaching this holding the Third District Court of Appeal upheld the trial court's judgment ruling which relied on the autonomy granted to Miami-Dade County under Article VII, section 11(1), of the Florida Constitution of 1885, as amended:

> Subsections 1(a) through (i) of the Home Rule Charter Amendment constitute those organic areas of autonomy and authority in local affairs conferred upon Dade County by the Florida Constitution and may not be diminished and curtailed by general laws of the State enacted after 1956. 12

Based on this information the Third District Court of Appeal determined "that the method provided by the Home Rule Charter . . . is effective and exclusive, notwithstanding the existence from time to time of a general state law which makes provision for some other method."[13]

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[9] *Id.* at 152-53.
[10] 343 So. 2d 953 (3rd DCA 1977).
[11] *Id.* at 954.
[12] *Id.* (citations omitted).
[13] *Id.*

III. Effect of Proposed Changes:

This joint resolution would allow the Miami-Dade Home Rule Charter to be amended or revised by special law approved by the electors of Miami-Dade County, notwithstanding any provision of Article VII, section 11, of the Florida Constitution of 1885. If such amendments or revisions are approved by the electors of Miami-Dade County, they shall be deemed an amendment or revision of the charter by the electors of Miami-Dade County. A bill proposing such a special law must be approved at a meeting of the local legislative delegation and filed by a member of that delegation.

This joint resolution also authorizes the Miami-Dade charter to provide for fixed term limits of Miami-Dade County Commissioners.

The joint resolution conforms references in the Florida Constitution to reflect the county's current name, which is Miami-Dade County, and not Dade County.

An effective date for the amendment is not specified. Therefore, the amendment, if approved by the voters, will take effect on the first Tuesday after the first Monday in January following the election at which it is approved.[14]

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments
Section 1, Article XI, of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State, or at a special election held for that purpose.

Section 5(d), Article XI, of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published

[14] FLA. CONST. art. XI, s. 5(e).

once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is $106.14 for this fiscal year.

Section 5(e), Article XI, of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Upon voter approval, this joint resolution would allow Miami-Dade County Home Rule Charter amendments or revisions to be made by special law approved by a vote of the electors. A bill proposing such a special law must be approved at a meeting of the local legislative delegation and filed by a member of that delegation. This joint resolution would also authorize the Miami-Dade charter to provide term limits for its county commissioners.

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election.[15] Costs for advertising vary depending upon the length of the amendment. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is $106.14 for this fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[15] FLA. CONST. art. XI, s. 5(d).

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Garcia

40-00513-12 2012720__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VIII of the State Constitution to authorize amendments or revisions to the home rule charter of Miami-Dade County by special law approved by a vote of the electors; providing requirements for a bill proposing such a special law; authorizing the Miami-Dade County charter to provide for fixed term limits of commissioners.

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

That the following amendment to Section 6 of Article VIII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VIII

LOCAL GOVERNMENT

SECTION 6. Schedule to Article VIII.—

(a) This article shall replace all of Article VIII of the Constitution of 1885, as amended, except those sections expressly retained and made a part of this article by reference.

(b) COUNTIES; COUNTY SEATS; MUNICIPALITIES; DISTRICTS. The status of the following items as they exist on the date this article becomes effective is recognized and shall be continued until changed in accordance with law: the counties of the state; their status with respect to the legality of the sale of intoxicating liquors, wines and beers; the method of selection

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

40-00513-12 2012720__

of county officers; the performance of municipal functions by county officers; the county seats; and the municipalities and special districts of the state, their powers, jurisdiction and government.

(c) OFFICERS TO CONTINUE IN OFFICE. Every person holding office when this article becomes effective shall continue in office for the remainder of the term if that office is not abolished. If the office is abolished the incumbent shall be paid adequate compensation, to be fixed by law, for the loss of emoluments for the remainder of the term.

(d) ORDINANCES. Local laws relating only to unincorporated areas of a county on the effective date of this article may be amended or repealed by county ordinance.

(e) CONSOLIDATION AND HOME RULE. Article VIII, Sections 9, 10, 11 and 24, of the Constitution of 1885, as amended, shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article. All provisions of the Miami-Dade ~~Metropolitan Dade~~ County Home Rule Charter, heretofore or hereafter adopted by the electors of Miami-Dade ~~Dade~~ County pursuant to Article VIII, Section 11, of the Constitution of 1885, as amended, shall be valid, and any amendments to such charter shall be valid; provided that the said provisions of such charter and the said amendments thereto are authorized under said Article VIII, Section 11, of the Constitution of 1885, as amended. However, notwithstanding any provision of Article VIII, Section 11, of the Constitution of 1885, as amended, or any limitations under this subsection, the Miami-Dade County Home Rule Charter may be

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

59 amended or revised by special law approved by the electors of
60 Miami-Dade County and, if approved, shall be deemed an amendment
61 or revision of the charter by the electors of Miami-Dade County.
62 A bill proposing such a special law must be approved at a
63 meeting of the local legislative delegation and filed by a
64 member of that delegation. The charter may provide for fixed
65 term limits of Miami-Dade County Commissioners.
66 (f) MIAMI-DADE ~~DADE~~ COUNTY; POWERS CONFERRED UPON
67 MUNICIPALITIES. To the extent not inconsistent with the powers
68 of existing municipalities or general law, the Metropolitan
69 Government of Miami-Dade ~~Dade~~ County may exercise all the powers
70 conferred now or hereafter by general law upon municipalities.
71 (g) DELETION OF OBSOLETE SCHEDULE ITEMS. The legislature
72 shall have power, by joint resolution, to delete from this
73 article any subsection of this Section 6, including this
74 subsection, when all events to which the subsection to be
75 deleted is or could become applicable have occurred. A
76 legislative determination of fact made as a basis for
77 application of this subsection shall be subject to judicial
78 review.
79 BE IT FURTHER RESOLVED that the following statement be
80 placed on the ballot:
81 CONSTITUTIONAL AMENDMENT
82 ARTICLE VIII, SECTION 6
83 AUTHORIZING AMENDMENTS TO MIAMI-DADE COUNTY HOME RULE
84 CHARTER BY SPECIAL LAW APPROVED BY REFERENDUM.—Authorizes
85 amendments or revisions to the Miami-Dade County Home Rule
86 Charter by a special law when the law is approved by a vote of
87 the electors of Miami-Dade County. A bill proposing such a

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

88 special law must be approved at a meeting of the local
89 legislative delegation and filed by a member of that delegation.
90 It also conforms references in the State Constitution to reflect
91 the county's current name and states that the charter may
92 provide for fixed term limits of Miami-Dade County
93 Commissioners.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Regulation, *Chair*
Agriculture
Budget - Subcommittee on Health and Human Services
Appropriations
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR RENE GARCIA
40th District

January 17, 2012

The Honorable Michael S. "Mike" Bennett
Chair, Community Affairs Committee
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bennett:

This letter should serve as a request to have my bill *SB 720 Miami-Dade County Home Rule Charter* heard at the next possible committee meeting. There is no fiscal impact on the state budget. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

rec'd 1/17/12 apw

State Senator René García
District 40

RG:dm

CC: Tom Yeatman, Staff Director

REPLY TO:
❒ 3814 West 12th Avenue, Hialeah, Florida 33012 (305) 824-5058
❒ 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5106

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic _____ Bill Number 720 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: [✓] For [ ] Against [✓] Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SJR 1740

INTRODUCER: Senator Garcia

SUBJECT: Additional Homestead Tax Exemption

DATE: January 22, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

This joint resolution amends Article VII, section 6 of the Florida Constitution, to authorize the Legislature, by general law and subject to conditions set forth in the general law, to allow counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of the property to an owner who has maintained permanent residency on the property for not less than 20 years, who has attained age 65, and whose household income does not exceed $15,000. The general law must allow counties and municipalities to grant this additional exemption by ordinance and must provide for periodic adjustment of the household income limitation of $15,000 for changes in the cost of living.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

II. Present Situation:

Property Valuation in Florida

Just Value

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.[1]

[1] *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

Assessed Value

The Florida Constitution authorizes certain exceptions to the just valuation standard for specific types of property.

- Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.[2]
- Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.[3]
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.[4]
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.[5]
- The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.[6]
- Certain working waterfront property is assessed based upon the property's current use.[7]

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.[8]

Uniformity Requirement

Article VII, section 2 of the Florida Constitution, provides that "all ad valorem taxation shall be at a uniform rate within each taxing unit. . ." with certain specified exceptions for taxes on intangible personal property.[9]

Property Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.[10]

Homestead Exemption

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[2] Fla. Const. art. VII, s. 4(a).
[3] Fla. Const. art. VII, s. 4(c).
[4] Fla. Const. art. VII, s. 4(e).
[5] Fla. Const. art. VII, s. 4(f).
[6] Fla. Const. art. VII, s. 4(i).
[7] Fla. Const. art. VII, s. 4(j).
[8] Fla. Const. art. VII, ss. 3 and 6.
[9] *See* FLA. CONST. art. VII, s. 2.
[10] *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978). See also, *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978). *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

Article VII, section 6, of the Florida Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains thereon the permanent residence of the owner is eligible for a $25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts. An additional $25,000 homestead exemption applies to homesteads that have an assessed value greater than $50,000 and up to $75,000, excluding ad valorem taxes levied by schools.

Additional Homestead Exemption for Certain Senior Citizens
Article VII, section 6(d) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to $50,000. This additional exemption applies to any person with legal and equitable title to real estate who maintains a property as a permanent residence, who has attained the age of 65, and whose household income, as defined by general law, does not exceed $20,000 adjusted annually for inflation. The county or municipality must grant this additional exemption by ordinance which must be adopted pursuant to the procedures prescribed in chapters 125 and 166, F.S. The county or municipality must specify that the exemption applies only to taxes levied by the unity of government granting the exemption.[11]

Section 196.075(1)(b), F.S., defines "household income" to mean "the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household."

III. Effect of Proposed Changes:

The joint resolution amends Article VII, section 6 of the Florida Constitution, to authorize the Legislature, by general law and subject to conditions set forth in the general law, to allow counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of the property to an owner who has maintained permanent residency on the property for not less than 20 years, who has attained age 65, and whose household income does not exceed $15,000. The general law must allow counties and municipalities to grant this additional exemption by ordinance and must provide for periodic adjustment of the household income limitation of $15,000 for changes in the cost of living.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18, of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[11] *See* s. 196.075, F.S.

D. Other Constitutional Issues:

Constitutional Amendments
Article XI, section 1, of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(d), of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held.

Article XI, section 5(e), of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

Article XI, section 5(a), of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking "first, whether the ballot title and summary 'fairly inform the voter of the chief purpose of the amendment,' and second, 'whether the language of the title and summary, as written, misleads the public.'"[12]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

See Government Sector Impact.

B. Private Sector Impact:

Qualified low-income senior homeowners could benefit from reduced ad valorem taxes if this joint resolution is approved by the voters and counties or municipalities subsequently adopt an ordinance granting the additional homestead exemption.

[12] *Roberts*, 43 So. 3d at 659, citing *Florida Dep't of State v. Slough,* 992 So. 2d 142, 147 (Fla. 2008).

C. Government Sector Impact:

The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is $106.14 for this fiscal year.[13]

According to the Department of Revenue (DOR), the joint resolution would have an operational impact on the agency related to rulemaking and forms. DOR deems this fiscal impact as insignificant.[14]

The Revenue Estimating Conference (REC) discussed the provisions of SJR 1740 at their January 5, 2012, meeting and adopted an indeterminate negative impact should the electorate approve the joint resolution and all the individual jurisdictions pass the necessary ordinances. Due to the overlapping nature of this exemption with existing authorized additional homestead exemptions for seniors, the EDR identified various scenarios for measuring the impact.[15]

Based on a state-wide average of 10.9 mils, the REC ultimately estimated a potential loss in taxable value of $4.3 million in FY 14-15 above what is currently authorized by the counties and the municipalities that currently grant the additional homestead exemptions for low-income seniors. The revenue impact to those local jurisdictions due to the loss in taxable value is $14 million in FY 14-15 and $14.3 million in FY 15-16.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 1738 provides general law to implement the provisions of this joint resolution.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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[13] Department of State, *SJR 314 Analysis* (Oct. 31, 2011) (on file with the Senate Committee on Community Affairs). SJR 314 also proposes a Constitutional amendment.

[14] Florida Department of Revenue, *SJR 1740 Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

[15] Office of Economic and Demographic Research, The Florida Legislature, *Low Income Tenure Based Senior Exemption* ,(January 5, 2012) *available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/impact0106.pdf*. Possible impact scenarios include 1) impact as if the current senior exemption did not exist; 2) impact as the additional exemption that could be authorized beyond what is currently in place; 3) impact as only the new capacity that previously could not be exempted under the low income senior exemption.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Garcia

40-01681-12 20121740__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII of the State Constitution to authorize the Legislature, by general law, to allow counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of the property to an owner who has maintained permanent residency on the property for a specified duration, who has attained age 65, and whose household income does not exceed a specified amount.

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

That the following amendment to Section 6 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon

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40-01681-12 20121740__

establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding:

(1) Fifty thousand dollars to any person who has the legal

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59 or equitable title to real estate and maintains thereon the
60 permanent residence of the owner and who has attained age sixty-
61 five and whose household income, as defined by general law, does
62 not exceed twenty thousand dollars; or~~.~~
63 (2) The value assessable to any person who has the legal or
64 equitable title to real estate and who has maintained thereon
65 the permanent residence of the owner for not less than twenty
66 years and who has attained age sixty-five and whose household
67 income, as defined by general law, does not exceed fifteen
68 thousand dollars.
69
70 The general law must allow counties and municipalities to grant
71 this additional exemption, within the limits prescribed in this
72 subsection, by ordinance adopted in the manner prescribed by
73 general law, and must provide for the periodic adjustment of the
74 income limitation prescribed in this subsection for changes in
75 the cost of living.
76 (e) Each veteran who is age 65 or older who is partially or
77 totally permanently disabled shall receive a discount from the
78 amount of the ad valorem tax otherwise owed on homestead
79 property the veteran owns and resides in if the disability was
80 combat related, the veteran was a resident of this state at the
81 time of entering the military service of the United States, and
82 the veteran was honorably discharged upon separation from
83 military service. The discount shall be in a percentage equal to
84 the percentage of the veteran's permanent, service-connected
85 disability as determined by the United States Department of
86 Veterans Affairs. To qualify for the discount granted by this
87 subsection, an applicant must submit to the county property

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88 appraiser, by March 1, proof of residency at the time of
89 entering military service, an official letter from the United
90 States Department of Veterans Affairs stating the percentage of
91 the veteran's service-connected disability and such evidence
92 that reasonably identifies the disability as combat related, and
93 a copy of the veteran's honorable discharge. If the property
94 appraiser denies the request for a discount, the appraiser must
95 notify the applicant in writing of the reasons for the denial,
96 and the veteran may reapply. The Legislature may, by general
97 law, waive the annual application requirement in subsequent
98 years. This subsection shall take effect December 7, 2006, is
99 self-executing, and does not require implementing legislation.
100 BE IT FURTHER RESOLVED that the following statement be
101 placed on the ballot:
102 CONSTITUTIONAL AMENDMENT
103 ARTICLE VII, SECTION 6
104 ADDITIONAL HOMESTEAD EXEMPTION; LOW-INCOME SENIORS WHO
105 MAINTAIN LONG-TERM RESIDENCY ON PROPERTY; NOT EXCEEDING ASSESSED
106 VALUE.—Proposing an amendment to the State Constitution to
107 authorize the Legislature, by general law and subject to
108 conditions set forth in the general law, to allow counties and
109 municipalities to grant an additional homestead tax exemption
110 not exceeding the assessed value of the property to an owner who
111 has maintained permanent residency on the property for not less
112 than 20 years, who has attained age 65, and whose household
113 income does not exceed $15,000. The general law must allow
114 counties and municipalities to grant this additional exemption
115 by ordinance and must provide for periodic adjustment of the
116 household income limitation of $15,000 for changes in the cost

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117 of living.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic _____

Bill Number 1740 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: [✓] For [ ] Against [✓] Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 1738

INTRODUCER: Senator Garcia

SUBJECT: Homestead Exemptions For Seniors

DATE: January 22, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill provides that the board of county commissioners or the governing body of a municipality may adopt an ordinance to allow an additional homestead exemption up to the amount of the assessed value of the property.

A person qualifies for the potential additional homestead exemption if she or he has:

- maintained permanent residence on the property for at least 20 years,
- attained the age of 65, and
- has a household income that does not exceed $15,000.

The provisions of this bill would require an amendment to the Florida Constitution prior to implementation.

This bill substantially amends section 196.075 and 196.031 of the Florida Statutes.

This bill reenacts a subsection paragraph of section 197.252, of the Florida Statutes.

II. Present Situation:

Property Valuation in Florida

Just Value

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair

market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.[1]

Assessed Value

The Florida Constitution authorizes certain exceptions to the just valuation standard for specific types of property.

- Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.[2]
- Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.[3]
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.[4]
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.[5]
- The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.[6]
- Certain working waterfront property is assessed based upon the property's current use.[7]

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.[8]

Uniformity Requirement

Article VII, section 2 of the Florida Constitution, provides that "all ad valorem taxation shall be at a uniform rate within each taxing unit. . ." with certain specified exceptions for taxes on intangible personal property.[9]

Property Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.[10]

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[1] *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).
[2] Fla. Const. art. VII, s. 4(a).
[3] Fla. Const. art. VII, s. 4(c).
[4] Fla. Const. art. VII, s. 4(e).
[5] Fla. Const. art. VII, s. 4(f).
[6] Fla. Const. art. VII, s. 4(i).
[7] Fla. Const. art. VII, s. 4(j).
[8] Fla. Const. art. VII, ss. 3 and 6.
[9] *See* FLA. CONST. art. VII, s. 2.

Homestead Exemption
Article VII, section 6, of the Florida Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains thereon the permanent residence of the owner is eligible for a $25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts. An additional $25,000 homestead exemption applies to homesteads that have an assessed value greater than $50,000 and up to $75,000, excluding ad valorem taxes levied by schools.

Additional Homestead Exemption for Certain Senior Citizens
Article VII, section 6(d) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to $50,000. This additional exemption applies to any person with legal and equitable title to real estate who maintains a property as a permanent residence, who has attained the age of 65, and whose household income, as defined by general law, does not exceed $20,000 adjusted annually for inflation. The county or municipality must grant this additional exemption by ordinance which must be adopted pursuant to the procedures prescribed in chapters 125 and 166, F.S. The county or municipality must specify that the exemption applies only to taxes levied by the unity of government granting the exemption.[11]

Section 196.075(1)(b), F.S., defines "household income" to mean "the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household."

III. Effect of Proposed Changes:

Section 1 amends s. 196.075, F.S., to provide that the board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow an additional homestead exemption up to the amount of the assessed value for any person who has the legal or equitable title to real estate and has maintained thereon the permanent residence of the owner for at least 20 years, who has attained age 65, and whose household income does not exceed $15,000.

This section of the bill also amends s. 196.075, F.S., to provide that, beginning January 1, 2014, the $15,000 income limitation shall be adjusted annually by the percentage change in the average cost of living index compared with the previous year.

Additional conforming and clarifying changes are also made.

Section 2 amends s. 196.031, F.S., to make conforming changes.

Section 3 reenacts s. 197.252(2)(a), F.S., for the purposes of incorporating the amendment made by this act to s. 196.075, F.S.

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[10] *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978). See also, *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978). *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).
[11] *See* s. 196.075, F.S.

Section 4 provides that this act shall take effect upon the approval of a corresponding Senate Joint Resolution at the general election to be held in November 2012 or at an earlier special election specifically authorized by law for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill would allow counties or municipalities the option to grant an additional homestead exemption. As such, the bill does not fall within the purview of Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

See Government Sector Impact.

B. Private Sector Impact:

Qualified low-income senior homeowners could benefit from reduced ad valorem taxes if counties or municipalities adopt an ordinance granting the additional homestead exemption.

C. Government Sector Impact:

According to the Department of Revenue (DOR), the bill would have an operational impact on the agency related to rulemaking and forms. DOR deems this fiscal impact as insignificant.[12]

The Revenue Estimating Conference (REC) discussed the provisions of SB 1738 at their January 5, 2012, meeting and adopted an indeterminate negative impact should the electorate approve an enabling Constitutional amendment and all the individual jurisdictions pass the necessary ordinances. Due to the overlapping nature of this exemption with existing authorized additional homestead exemptions for seniors, the EDR identified various scenarios for measuring the impact.[13]

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[12] Florida Department of Revenue, *SB 1738 Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

[13] Office of Economic and Demographic Research, The Florida Legislature, *Low Income Tenure Based Senior Exemption*,(January 5, 2012) *available at* *http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/impact0106.pdf*. Possible impact scenarios

Based on a state-wide average of 10.9 mils, the REC ultimately estimated a potential loss in taxable value of $4.3 million in FY 14-15 above what is currently authorized by the counties and the municipalities that currently grant the additional homestead exemptions for low-income seniors. The revenue impact to those local jurisdictions due to the loss in taxable value is $14 million in FY 14-15 and $14.3 million in FY 15-16.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SJR 1740 would provide a Constitutional amendment authorizing this bill.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

include 1) impact as if the current senior exemption did not exist; 2) impact as the additional exemption that could be authorized beyond what is currently in place; 3) impact as only the new capacity that previously could not be exempted under the low income senior exemption.

By Senator Garcia

40-01682-12 20121738__

A bill to be entitled

An act relating to homestead exemptions for seniors; amending s. 196.075, F.S.; authorizing the board of county commissioners of any county or the governing authority of any municipality to adopt an ordinance granting an additional homestead tax exemption up to the assessed value of the property to an owner who has maintained permanent residency on the property for a specified duration, who has attained age 65, and whose household income does not exceed a specified amount; providing definitions applicable to such additional exemption; providing applicability of requirements relating to the adoption of a local ordinance granting such exemption; providing for annual cost-of-living adjustments of the household-income limitation relating to such additional homestead exemption; amending s. 196.031, F.S.; conforming provisions to changes made by the act; reenacting s. 197.252(2)(a), F.S., relating to homestead tax deferral, to incorporate the amendments made to s. 196.075, F.S., in reference thereto; providing a contingent effective date.

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

Section 1. Section 196.075, Florida Statutes, is amended to read:

196.075 Additional homestead exemption for persons 65 and older.—

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

(a) "Household" means a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.

(b) "Household income" means the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.

(2) In accordance with s. 6(d), Art. VII of the State Constitution, the board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow an additional homestead exemption of up to:

(a) Fifty-thousand dollars ~~$50,000~~ for any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age 65, and whose household income does not exceed $20,000; and~~.~~

(b) The amount of the assessed value for any person who has the legal or equitable title to real estate and has maintained thereon the permanent residence of the owner for at least 20 years, who has attained age 65, and whose household income does not exceed $15,000.

(3) Beginning January 1, 2001, the $20,000 income limitation and beginning January 1, 2014, the $15,000 income limitation shall be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer-price-index figures for the stated 12-month period, relative to the United States as

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59 a whole, issued by the United States Department of Labor.
60 (4) An ordinance granting additional homestead exemption as
61 authorized by this section must meet the following requirements:
62 (a) It must be adopted under the procedures for adoption of
63 a nonemergency ordinance specified in chapter 125 by a board of
64 county commissioners~~,~~ or chapter 166 by a municipal governing
65 authority.
66 (b) It must specify that the exemption applies only to
67 taxes levied by the unit of government granting the exemption.
68 Unless otherwise specified by the county or municipality, this
69 exemption will apply to all tax levies of the county or
70 municipality granting the exemption, including dependent special
71 districts and municipal service taxing units.
72 (c) It must specify the amount of the exemption, which may
73 not exceed the applicable amount specified in subsection (2)
74 ~~$50,000~~. If the county or municipality specifies a different
75 exemption amount for dependent special districts or municipal
76 service taxing units, the exemption amount must be uniform in
77 all dependent special districts or municipal service taxing
78 units within the county or municipality.
79 (d) It must require that a taxpayer claiming the exemption
80 annually submit to the property appraiser, not later than March
81 1, a sworn statement of household income on a form prescribed by
82 the Department of Revenue.
83 (5) The department must require by rule that the filing of
84 the statement be supported by copies of any federal income tax
85 returns for the prior year, any wage and earnings statements (W-
86 2 forms), any request for an extension of time to file returns,
87 and any other documents it finds necessary, for each member of

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88 the household, to be submitted for inspection by the property
89 appraiser. The taxpayer's sworn statement shall attest to the
90 accuracy of the documents and grant permission to allow review
91 of the documents if requested by the property appraiser.
92 Submission of supporting documentation is not required for the
93 renewal of an exemption under this section unless the property
94 appraiser requests such documentation. Once the documents have
95 been inspected by the property appraiser, they shall be returned
96 to the taxpayer or otherwise destroyed. The property appraiser
97 is authorized to generate random audits of the taxpayers' sworn
98 statements to ensure the accuracy of the household income
99 reported. If so selected for audit, a taxpayer shall execute
100 Internal Revenue Service Form 8821 or 4506, which authorizes the
101 Internal Revenue Service to release tax information to the
102 property appraiser's office. All reviews conducted in accordance
103 with this section shall be completed on or before June 1. The
104 property appraiser may not grant or renew the exemption if the
105 required documentation requested is not provided.
106 (6) The board of county commissioners or municipal
107 governing authority must deliver a copy of any ordinance adopted
108 under this section to the property appraiser no later than
109 December 1 of the year prior to the year the exemption will take
110 effect. If the ordinance is repealed, the board of county
111 commissioners or municipal governing authority shall notify the
112 property appraiser no later than December 1 of the year prior to
113 the year the exemption expires.
114 (7) Those persons entitled to the homestead exemption in s.
115 196.031 may apply for and receive an additional homestead
116 exemption as provided in this section. Receipt of the additional

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117 homestead exemption provided for in this section shall be
118 subject to the provisions of ss. 196.131 and 196.161, if
119 applicable.
120 (8) If title is held jointly with right of survivorship,
121 the person residing on the property and otherwise qualifying may
122 receive the entire amount of the additional homestead exemption.
123 (9) If the property appraiser determines that for any year
124 within the immediately previous 10 years a person who was not
125 entitled to the additional homestead exemption under this
126 section was granted such an exemption, the property appraiser
127 shall serve upon the owner a notice of intent to record in the
128 public records of the county a notice of tax lien against any
129 property owned by that person in the county, and that property
130 must be identified in the notice of tax lien. Any property that
131 is owned by the taxpayer and is situated in this state is
132 subject to the taxes exempted by the improper homestead
133 exemption, plus a penalty of 50 percent of the unpaid taxes for
134 each year and interest at a rate of 15 percent per annum.
135 However, if such an exemption is improperly granted as a result
136 of a clerical mistake or omission by the property appraiser, the
137 person who improperly received the exemption may not be assessed
138 a penalty and interest. Before any such lien may be filed, the
139 owner must be given 30 days within which to pay the taxes,
140 penalties, and interest. Such a lien is subject to the
141 procedures and provisions set forth in s. 196.161(3).
142 Section 2. Paragraph (d) of subsection (7) of section
143 196.031, Florida Statutes, is amended to read:
144 196.031 Exemption of homesteads.—
145 (7) The exemptions provided in paragraphs (1)(a) and (b)

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146 and other homestead exemptions shall be applied as follows:
147 (d) Other exemptions include and shall be applied in the
148 following order: widows, widowers, blind persons, and disabled
149 persons, as provided in s. 196.202; disabled ex-servicemembers
150 and surviving spouses, as provided in s. 196.24, applicable to
151 all levies; the local option low-income senior exemption ~~up to~~
152 ~~$50,000~~, applicable to county levies or municipal levies, as
153 provided in s. 196.075; and the veterans percentage discount, as
154 provided in s. 196.082.
155 Section 3. For the purpose of incorporating the amendment
156 made by this act to section 196.075, Florida Statutes, in a
157 reference thereto, paragraph (a) of subsection (2) of section
158 197.252, Florida Statutes, is reenacted to read:
159 197.252 Homestead tax deferral.—
160 (2)(a) Approval of an application for homestead tax
161 deferral shall defer the combined total of ad valorem taxes and
162 non-ad valorem assessments:
163 1. Which exceeds 5 percent of the applicant's household
164 income for the prior calendar year if the applicant is younger
165 than 65 years old;
166 2. Which exceeds 3 percent of the applicant's household
167 income for the prior calendar year if the applicant is 65 years
168 old or older; or
169 3. In its entirety if the applicant's household income:
170 a. For the previous calendar year is less than $10,000; or
171 b. Is less than the designated amount for the additional
172 homestead exemption under s. 196.075 and the applicant is 65
173 years old or older.
174 Section 4. This act shall take effect upon the approval of

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175 Senate Joint Resolution ____, or a similar joint resolution
176 having substantially the same specific intent and purpose, at
177 the general election to be held in November 2012 or at an
178 earlier special election specifically authorized by law for that
179 purpose.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Regulation, *Chair*
Agriculture
Budget - Subcommittee on Health and Human Services Appropriations
Governmental Oversight and Accountability
Reapportionment
Transportation

SENATOR RENE GARCIA
40th District

January 18, 2012

The Honorable Mike Bennett
Chair, Community Affairs Committee
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bennett:

This letter should serve as a request to have my bill *SB 1738 Homestead Exemptions for Seniors* heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

rec'd 1/18/12

State Senator René García
District 40

RG:dm

CC: Tom Yeatman, Staff Director

REPLY TO:
☐ 3814 West 12th Avenue, Hialaah, Florida 33012 (305) 824-5058
☐ 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5106

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SJR 838

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Homestead Assessment Limitation/Low-income Senior Citizens

DATE: January 22, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

The joint resolution proposes an amendment to the Florida Constitution to allow the Legislature, by general law, to authorize counties and municipalities to limit the assessments of the homesteads of eligible senior citizens. The assessments would be limited to the assessed value of the property in the prior year if the just value of the property is equal to or less than 150 percent of the average just value of homestead property in the respective county or municipality. The general law must allow counties and municipalities to provide this limitation by ordinance in a manner prescribed by general law. The general law must designate a state agency to annually provide the average just value of homestead property based on the prior year's tax roll to each property appraiser.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

This joint resolution amends Article VII, section 4 of the Florida Constitution.

II. Present Situation:

Property Valuation in Florida

Just Value

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair

market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.[1]

Assessed Value

The Florida Constitution authorizes certain exceptions to the just valuation standard for specific types of property.

- Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.[2]
- Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.[3]
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.[4]
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.[5]
- The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.[6]
- Certain working waterfront property is assessed based upon the property's current use.[7]

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.[8]

Uniformity Requirement

Article VII, section 2 of the Florida Constitution, provides that "all ad valorem taxation shall be at a uniform rate within each taxing unit. . ." with certain specified exceptions for taxes on intangible personal property.[9]

Tax Exemptions and Assessment Limitations for Homesteads

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.[10]

---

[1] *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).
[2] Fla. Const. art. VII, s. 4(a).
[3] Fla. Const. art. VII, s. 4(c).
[4] Fla. Const. art. VII, s. 4(e).
[5] Fla. Const. art. VII, s. 4(f).
[6] Fla. Const. art. VII, s. 4(i).
[7] Fla. Const. art. VII, s. 4(j).
[8] Fla. Const. art. VII, ss. 3 and 6.
[9] *See* FLA. CONST. art. VII, s. 2.

Homestead Exemption
Article VII, section 6 of the Florida Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains thereon the permanent residence of the owner is eligible for a $25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts. An additional $25,000 homestead exemption applies to homesteads that have an assessed value greater than $50,000 and up to $75,000, excluding ad valorem taxes levied by schools.

Additional Homestead Exemption for Certain Senior Citizens
Article VII, section 6(d) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to $50,000. This additional exemption applies to any person with legal and equitable title to real estate who maintains a property as a permanent residence, who has attained the age of 65, and whose household income, as defined by general law, does not exceed $20,000 adjusted annually for inflation. The county or municipality must grant this additional exemption by ordinance which must be adopted pursuant to the procedures prescribed in chapters 125 and 166, F.S. The county or municipality must specify that the exemption applies only to taxes levied by the unity of government granting the exemption.[11]

Section 196.075(1)(b), F.S., defines "household income" to mean "the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household."

Homestead Assessment Limitation: Save Our Homes
The *Save Our Homes* assessment limitation was amended into the Florida Constitution in 1992. Article VII, section 4(d) of the Florida Constitution, limits the amount that a homestead's assessed value can increase annually to the lesser of three percent or the percentage increase in the Consumer Price Index (CPI).[12] In addition, no assessment may exceed just value.

In 2008, Florida voters approved an additional amendment to Article VII, section 4(d) of the Florida Constitution, to provide for the portability of the accrued *Save Our Homes* benefit. This amendment allows homestead property owners who relocate to a new homestead to transfer up to $500,000 of the *Save Our Homes* accrued benefit to the new homestead.

III. Effect of Proposed Changes:

This joint resolution amends Article VII, section 4 of the Florida Constitution, to authorize the Legislature, by general law, to allow counties or municipalities to limit ad valorem tax assessments on homestead property of low income seniors to the previous year's assessed value of the property.

To be eligible for the limitation on assessment, the property must qualify for the low-income senior exemption under section 6(d) of the Florida Constitution and the value of the homestead

[10] *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978). See also, *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978). *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).
[11] *See* s. 196.075, F.S.
[12] Fla. Const. art. VII, s. 4(d).

property must be equal to or less than 150 percent of the average just value of homestead property within the respective county or municipality.

The joint resolution further provides that the general law implementing the constitutional provision must allow counties and municipalities to provide, by ordinance in a manner prescribed by general law, the additional limitation on the assessed value of the property. The general law must specify the state agency that will calculate the average just value of homestead property within each county and municipality based on the prior year's tax roll of each county.

The general law must provide that the state agency will annually supply the information on the average just value of homestead property to each property appraiser.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments
Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held.

Article XI, section 5(e) of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

Article XI, section 5(a) of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking "first, whether the ballot title and summary 'fairly inform the voter of the chief purpose of the amendment,' and second, 'whether the language of the title and summary, as written, misleads the public.'"[13]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Qualified low-income senior homeowners could benefit from an ad valorem assessment limit if counties or municipalities adopt an ordinance granting the limitation.

C. Government Sector Impact:

The Revenue Estimating Conference has not evaluated the potential impact of this joint resolution. However, the resolution, if passed, would only affect a county or municipality that chose to impose the assessment limit.

The joint resolution requires that the Legislature designate a state agency to produce a report on average homestead values. If the Department of Revenue (DOR) is named as the agency to produce the report of average homestead value which must be provided annually to property appraisers, DOR indicates it can generate this document by making a small adjustment to an existing report DOR provides annually to the Governor's office.[14]

VI. Technical Deficiencies:

None.

VII. Related Issues:

The ballot summary states that, "Currently, counties and municipalities may grant an additional homestead exemption to a person who is 65 years of age or older and who has a household income of $20,000 or less."

Given that the $20,000 income limitation is adjusted annually, the current senior low income exemption is around $26,000 according to the DOR.[15]

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[13] *Roberts*, 43 So. 3d at 659, citing *Florida Dep't of State v. Slough,* 992 So. 2d 142, 147 (Fla. 2008).
[14] Florida Department of Revenue, *SJR 838 Analysis* (Nov. 29, 2011) (on file with the Senate Committee on Community Affairs).
[15] *Id.*

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Diaz de la Portilla

36-00008A-12 2012838__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution to authorize counties and municipalities to limit the assessed value of the homesteads of certain low-income senior citizens.

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

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for

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

36-00008A-12 2012838__

taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 ~~of this Article~~ shall have their homestead assessed ~~at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only~~ as provided in this subsection.

(1) Except as provided in paragraph (2), assessments subject to this subsection shall change ~~be changed~~ annually on January 1 ~~1st~~ of each year; but those changes in assessments may ~~shall~~ not exceed the lower of the following:

a. Three percent ~~(3%)~~ of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or a successor index ~~reports~~ for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to limit assessments on homestead property subject to the additional homestead tax exemption under Section 6(d) to the assessed value of the property in the prior year if the just value of the property is equal to or less than one hundred fifty percent of the average just value of homestead property within the respective county or municipality. The general law must allow counties and municipalities to provide this limitation by ordinance adopted in the manner prescribed by general law, must specify the state agency designated to calculate the average

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just value of homestead property within each county and municipality, and must provide that such agency annually supply that information to each property appraiser. The calculation shall be based on the prior year's tax roll of each county.

(3)~~(2)~~ An ~~No~~ assessment may not ~~shall~~ exceed just value.

(4)~~(3)~~ After a ~~any~~ change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (9) ~~(8)~~ apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(5)~~(4)~~ New homestead property shall be assessed at just value as of January 1 ~~1st~~ of the year following the establishment of the homestead, unless the provisions of paragraph (9) ~~(8)~~ apply. That assessment shall ~~only~~ change only as provided in this subsection.

(6)~~(5)~~ Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law.~~; provided,~~ However, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(7)~~(6)~~ In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(8)~~(7)~~ The provisions of this subsection ~~amendment~~ are severable. If a provision ~~any of the provisions~~ of this subsection is ~~amendment shall be~~ held unconstitutional by a ~~any~~ court of competent jurisdiction, the decision of the ~~such~~ court does ~~shall~~ not affect or impair any remaining provisions of this subsection ~~amendment~~.

(9)~~(8)~~a. A person who ~~establishes a new homestead as of~~

~~January 1, 2009, or January 1 of any subsequent year and who~~ has received a homestead exemption pursuant to Section 6 ~~of this Article~~ as of January 1 of either of the two years immediately preceding the establishment of a ~~the~~ new homestead is entitled to have the new homestead assessed at less than just value. ~~If this revision is approved in January of 2008, a person who establishes a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007.~~ The assessed value of the newly established homestead shall be determined as follows:

1. If the just value of the new homestead is greater than or equal to the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be the just value of the new homestead minus an amount equal to the lesser of $500,000 or the difference between the just value and the assessed value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned. Thereafter, the homestead shall be assessed as provided in this subsection.

2. If the just value of the new homestead is less than the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be equal to the just value of the new homestead divided by the just value of the prior homestead and multiplied by the assessed value of the prior homestead. However, if the difference between the just value of the new homestead and the assessed value of the new homestead calculated pursuant to this sub-subparagraph is greater than $500,000, the

117 assessed value of the new homestead shall be increased so that
118 the difference between the just value and the assessed value
119 equals $500,000. Thereafter, the homestead shall be assessed as
120 provided in this subsection.
121 b. By general law and subject to conditions specified
122 therein, the Legislature shall provide for application of this
123 paragraph to property owned by more than one person.
124 (e) The legislature may, by general law, for assessment
125 purposes and subject to the provisions of this subsection, allow
126 counties and municipalities to authorize by ordinance that
127 historic property may be assessed solely on the basis of
128 character or use. Such character or use assessment shall apply
129 only to the jurisdiction adopting the ordinance. The
130 requirements for eligible properties must be specified by
131 general law.
132 (f) A county may, in the manner prescribed by general law,
133 provide for a reduction in the assessed value of homestead
134 property to the extent of any increase in the assessed value of
135 that property which results from the construction or
136 reconstruction of the property for the purpose of providing
137 living quarters for one or more natural or adoptive grandparents
138 or parents of the owner of the property or of the owner's spouse
139 if at least one of the grandparents or parents for whom the
140 living quarters are provided is 62 years of age or older. Such a
141 reduction may not exceed the lesser of the following:
142 (1) The increase in assessed value resulting from
143 construction or reconstruction of the property.
144 (2) Twenty percent of the total assessed value of the
145 property as improved.

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146 (g) For all levies other than school district levies,
147 assessments of residential real property, as defined by general
148 law, which contains nine units or fewer and which is not subject
149 to the assessment limitations set forth in subsections (a)
150 through (d) shall change only as provided in this subsection.
151 (1) Assessments subject to this subsection shall be changed
152 annually on the date of assessment provided by law. However,~~;~~
153 ~~but~~ those changes in assessments may ~~shall~~ not exceed ten
154 percent ~~(10%)~~ of the assessment for the prior year.
155 (2) An ~~No~~ assessment may not ~~shall~~ exceed just value.
156 (3) After a change of ownership or control, as defined by
157 general law, including any change of ownership of a legal entity
158 that owns the property, such property shall be assessed at just
159 value as of the next assessment date. Thereafter, such property
160 shall be assessed as provided in this subsection.
161 (4) Changes, additions, reductions, or improvements to such
162 property shall be assessed as provided for by general law.~~;~~
163 However, after the adjustment for any change, addition,
164 reduction, or improvement, the property shall be assessed as
165 provided in this subsection.
166 (h) For all levies other than school district levies,
167 assessments of real property that is not subject to the
168 assessment limitations set forth in subsections (a) through (d)
169 and (g) shall change only as provided in this subsection.
170 (1) Assessments subject to this subsection shall be changed
171 annually on the date of assessment provided by law. However,~~;~~
172 ~~but~~ those changes in assessments may ~~shall~~ not exceed ten
173 percent ~~(10%)~~ of the assessment for the prior year.
174 (2) An ~~No~~ assessment may not ~~shall~~ exceed just value.

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

175 (3) The legislature must provide that such property shall
176 be assessed at just value as of the next assessment date after a
177 qualifying improvement, as defined by general law, is made to
178 such property. Thereafter, such property shall be assessed as
179 provided in this subsection.
180 (4) The legislature may provide that such property shall be
181 assessed at just value as of the next assessment date after a
182 change of ownership or control, as defined by general law,
183 including any change of ownership of the legal entity that owns
184 the property. Thereafter, such property shall be assessed as
185 provided in this subsection.
186 (5) Changes, additions, reductions, or improvements to such
187 property shall be assessed as provided for by general law.~~;~~
188 However, after the adjustment for any change, addition,
189 reduction, or improvement, the property shall be assessed as
190 provided in this subsection.
191 (i) The legislature, by general law and subject to
192 conditions specified therein, may prohibit the consideration of
193 the following in the determination of the assessed value of real
194 property used for residential purposes:
195 (1) Any change or improvement made for the purpose of
196 improving the property's resistance to wind damage.
197 (2) The installation of a renewable energy source device.
198 (j)(1) The assessment of the following working waterfront
199 properties shall be based upon the current use of the property:
200 a. Land used predominantly for commercial fishing purposes.
201 b. Land that is accessible to the public and used for
202 vessel launches into waters that are navigable.
203 c. Marinas and drystacks that are open to the public.

204 d. Water-dependent marine manufacturing facilities,
205 commercial fishing facilities, and marine vessel construction
206 and repair facilities and their support activities.
207 (2) The assessment benefit provided by this subsection is
208 subject to conditions and limitations and reasonable definitions
209 as specified by the legislature by general law.
210 BE IT FURTHER RESOLVED that the following statement be
211 placed on the ballot:
212 CONSTITUTIONAL AMENDMENT
213 ARTICLE VII, SECTION 4
214 ASSESSMENT OF HOMESTEAD PROPERTY OWNED BY LOW-INCOME SENIOR
215 CITIZENS.—Currently, counties and municipalities may grant an
216 additional homestead exemption to a person who is 65 years of
217 age or older and who has a household income of $20,000 or less.
218 This proposed amendment to the State Constitution authorizes
219 counties and municipalities to limit the assessments of the
220 homesteads of persons receiving such additional exemption to the
221 assessed value of the property in the prior year if the just
222 value of the property is equal to or less than 150 percent of
223 the average just value of homestead property in the respective
224 county or municipality. As such, if authorized by a county or
225 municipality, these individuals will not be required to pay more
226 county or municipal ad valorem taxes than they paid in the prior
227 year as the result of an increase in the value of their
228 homesteads.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules - Subcommittee on Ethics and Elections, *Chair*
Budget - Subcommittee on General Government Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Communications, Energy, and Public Utilities
Health Regulation
Reapportionment
Regulated Industries

SENATOR MIGUEL DIAZ de la PORTILLA
36th District

January 19, 2012

The Honorable Michael S. Bennett
Chairman, Committee on Community Affairs
410 Knott Building

Via Email

Re: Senate Bill 838

Dear Chairman Bennett:

Senate Bill 838, Homestead Assessment Limitation/Low-Income Senior Citizens, has been referred to the Committee on Community Affairs. I respectfully request that you place this bill on the agenda at the next available meeting.

Thank you for your consideration.

Sincerely,

rec'd 1/19/12
afw

Miguel Diaz de la Portilla
Senator, District 36

Cc: Tom Yeatman, Staff Director
Ann Whittaker, Administrative Assistant

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5109

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules - Subcommittee on Ethics and Elections, *Chair*
Budget - Subcommittee on General Government Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Communications, Energy, and Public Utilities
Health Regulation
Reapportionment
Regulated Industries

SENATOR MIGUEL DIAZ de la PORTILLA
36th District

January 30, 2012

The Honorable Mike Bennett
Chairman
Community Affairs

Via email

Dear Senator Bennett:

I respectfully request that my legislative assistant, Patricia Gosney, be allowed to present SJR 838, Low Income Senior Citizens, on my behalf this morning.

Thank you.

Sincerely,

Miguel Diaz de la Portilla

Cc: Mr. Tom Yeatman; Ms. Ann Whittaker

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5109

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic _____ Bill Number 838 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☑ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

1-30-12 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic

Bill Number 838 *(if applicable)*

Name JESS MCCARTY

Amendment Barcode *(if applicable)*

Job Title ASS'T COUNTY ATTY

Address 111 NW 1ST ST 2810

Street

MIAMI 33128

City *State* *Zip*

Phone 305-979-7110

E-mail JMM2@MIAMIDADE.GOV

Speaking: [x] For [ ] Against [ ] Information

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 1460

INTRODUCER: Senator Simmons

SUBJECT: Preference in Award of State Contracts

DATE: January 25, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Favorable**
2.			ED	
3.			GO	
4.			BC	
5.				
6.				

I. Summary:

The bill expands the reciprocal preference provided in current law to include the purchase of construction services. It also provides that for a competitive solicitation in which payment is to be made, in whole or in part, from funds appropriated by the state, Florida's reciprocal preference preempts and supersedes any local ordinance or regulation based upon specified criteria. Finally, the bill provides that, other than the requirements imposed for solicitations involving state funds, a county, municipality, school district, or other political subdivision of the state is not prevented from awarding a contract to any vendor in accordance with applicable state laws or local ordinances or regulations.

This bill substantially amends s. 287.084 of the Florida Statutes.

II. Present Situation:

Chapter 287, F.S., regulates state agency[1] procurement of personal property and services. The Department of Management Services is responsible for overseeing state purchasing activity, including professional and construction services, as well as commodities needed to support agency activities, such as office supplies, vehicles, and information technology.[2] The Division of

[1] As defined in s. 287.012(1), F.S., "agency" means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges.
[2] *See* ss. 287.032 and 287.042, F.S.

State Purchasing in the department establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.[3]

Agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These include the following:

- "Single source contracts," which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- "Invitations to bid," which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- "Requests for proposal," which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- "Invitations to negotiate," which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.[4]

Current law requires that contracts for commodities or contractual services in excess of $35,000[5] must be procured utilizing a competitive solicitation process.[6,7]

Local governmental units are not subject to the provisions of Chapter 287, F.S. Local governmental units may look to Chapter 287, F.S., for guidance in the procurement of goods and services, but many have local policies or ordinances to address competitive solicitations.

Florida law authorizes state agencies, counties, municipalities, school districts, and other political subdivisions to use a preference in the award of contracts for the purchase of personal property, through competitive solicitation, when the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is another state, or political subdivision of that state.[8] The reciprocal preference is discretionary and may be used by a procuring entity to award a preference to the lowest responsible and responsive vendor having a principal place of business in this state.[9] The preference available is limited to the preference provided for by an out-of-state bidder's home state.[10] Florida state and local agencies can only apply a preference against a bidder from another state if, and to the extent that, the other state imposes a preference on Florida bidders.[11]

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[3] Chapter 287, F.S., provides requirements for the procurement of personal property and services. Part I of that chapter pertains to commodities, insurance, and contractual services, and part II pertains to motor vehicles.
[4] *See* ss. 287.012(6) and 287.057, F.S.
[5] Section 287.012, F.S.
[6] Section 287.057(1), F.S.
[7] As defined in s. 287.012(6), F.S., “competitive solicitation” means the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.
[8] Section 287.084(1), F.S.
[9] *Id.*
[10] *Id.*
[11] *Id.*

If a solicitation to purchase personal property provides for the granting of a preference, any vendor whose principal place of business is not in Florida must submit with the bid, proposal, or reply documents with a written opinion of an attorney, licensed in the vendor's state, explaining the preferences that state provides to vendors, within the vendor's state, for public contracts.[12]

Florida's preference law does not apply to transportation projects for which federal aid funds are available.[13]

III. Effect of Proposed Changes:

Section 1 amends s. 287.084, F.S., relating to preference to Florida business. The bill expands the reciprocal preference in current law to include the purchase of construction services.

The bill requires the procuring entity to disclose in its solicitation documents if state funds are being used in the payment, and the amount of the funds or the percentage of the funds compared to the anticipated total cost of the personal property or construction services. For a competitive solicitation in which payment is to be made, in whole or in part, from funds appropriated by the state, the bill provides that Florida's reciprocal preference preempts and supersedes any local ordinance or regulation that grants a preference to a vendor based upon the following specified criteria:

- The vendor maintaining an office or place of business within a particular jurisdiction;
- The vendor hiring employees or subcontractors from within a specific jurisdiction; or
- The vendor’s prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

Finally, the bill provides that, other than the requirements imposed for solicitations involving state funds, a county, municipality, school district, or other political subdivision of the state is not prevented from awarding a contract to any vendor in accordance with applicable state laws or local ordinances or regulations.

Section 2 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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[12] Section 287.084(2), F.S.

[13] *See* s. 287.084(1), F.S. The Common Grant Rule issued by the U.S. Department of Transportation, 49 C.F.R. 18.36(c)(2), prohibits the use of state or local geographical preferences in the evaluation of bids or proposals for projects involving federal funds.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The establishment of local preference laws could implicate the Equal Protection Clause and the Commerce Clause of the United States Constitution.

The Equal Protection Clause
The United States Constitution provides that "no State shall . . . deny to any person within its jurisdiction, the equal protection of law."[14] The in-state preference provisions in this bill could constitute an equal protection violation. If such legislation is challenged, the court would use a rational basis test to determine the constitutionality of the alleged discriminatory treatment.[15] Under the rational basis test, a court must uphold a state statute so long as the classification bears a rational relationship to a legitimate state interest.[16]

The Commerce Clause
The United States Constitution provides that Congress shall have the power "to regulate commerce . . . among the states."[17] The Commerce Clause acts not only as a positive grant of power to Congress, but also as a negative constraint upon the states.[18]

Courts have used a two-tiered analysis to determine whether a statutory scheme violates the Commerce Clause:

1. "If a statute 'directly regulates or discriminates against interstate commerce, or [if] its effect is to favor in-state economic interests over out-of-state interests,' the court may declare it unconstitutional as applied, without further inquiry."[19]
2. ". . . if the statute regulates evenhandedly and if it has only an indirect effect on interstate commerce, the court must determine whether the state's interest is legitimate and, if so, whether the burden on interstate commerce exceeds the local benefits."[20]

However, when a state or local government is acting as a "market participant" rather than a "market regulator," it is not subject to the limitations of the Commerce Clause.[21] A state is considered to be a "market participant" when it is acting as an economic actor such as a purchaser of goods and services.[22] Since the state is acting as a "market participant"

[14] U.S. CONST. amend. XIV, § 1. *See also* FLA. CONST. art. I, s. 2.
[15] *Nordlinger v. Hahn*, 505 U.S. 1, 33-34 (1992) (stating that a "classification *rationally* furthers a state interest when there is some fit between the disparate treatment and the legislative purpose.").
[16] *Id.*
[17] U.S. CONST. art. I, s. 8, cl. 3.
[18] *See Gibbons v. Ogden*, 22 U.S. 1 (1824).
[19] *National Collegiate Athletic Ass'n v. Associated Press*, 18 So. 3d 1201, 1211(Fla. 1st DCA 2009) (citing *Brown-Forman Distillers Corp. v. New York State Liquor Authority*, 476 U.S. 573, 578-579).
[20] *Id.* (citations omitted); *See Bainbridge v. Turner*, 311 F.3d 1104, 1108-1109.
[21] See *White v. Massachusetts Council of Constr. Employers*, 460 U.S. 204, 204 (1983) (providing that a state may grant and enforce a preference to local residents when entering into construction projects for public projects).
[22] *Id.*

under this bill, the in-state preference provisions herein are likely to be upheld as an exception to the Commerce Clause.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill could result in more business being awarded to Florida based companies as a result of the new preference for construction services.

C. Government Sector Impact:

There is no known fiscal impact on local governments; however, there may be an operational impact as the statute would preempt local ordinances or regulations in certain circumstances. Department of Revenue estimated an increase in cost of $125,000.[23]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

[23] Substantive Analysis of SB 574, Department of Revenue, February 21, 2011 (on file with the Community Affairs Committee). SB 1460 is identical to SB 574 which was filed during the 2011 Legislative Session.

By Senator Simmons

22-00860B-12 20121460__

A bill to be entitled

An act relating to preference in award of state contracts; amending s. 287.084, F.S.; expanding provisions that authorize an agency, county, municipality, school district, or other political subdivision of the state to provide preferential consideration to a Florida business in awarding competitively bid contracts to purchase personal property to include the purchase of construction services; providing that for specified competitive solicitations the authority to grant preference supersedes any local ordinance or regulation which grants preference to specified vendors; requiring a county, municipality, school district, or other political subdivision to make specified disclosures in competitive solicitation documents; providing construction; providing an effective date.

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

Section 1. Subsection (1) of section 287.084, Florida Statutes, is amended to read:

287.084 Preference to Florida businesses.—

(1)(a) When an agency, county, municipality, school district, or other political subdivision of the state is required to make purchases of personal property or construction services through competitive solicitation and the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is in a state or

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

22-00860B-12 20121460__

political subdivision thereof which grants a preference for the purchase of such personal property or construction services to a person whose principal place of business is in such state, then the agency, county, municipality, school district, or other political subdivision of this state may award a preference to the lowest responsible and responsive vendor having a principal place of business within this state, which preference is equal to the preference granted by the state or political subdivision thereof in which the lowest responsible and responsive vendor has its principal place of business. However, this section does not apply to transportation projects for which federal aid funds are available.

(b)1. For a competitive solicitation in which payment for the personal property or construction services is to be made in whole or in part from funds appropriated by the state, this section preempts and supersedes any local ordinance or regulation that grants preference to a vendor based upon:

a. The vendor maintaining an office or place of business within a particular local jurisdiction;

b. The vendor hiring employees or subcontractors from within a particular local jurisdiction; or

c. The vendor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

2. In any competitive solicitation subject to this section, a county, municipality, school district, or other political subdivision shall disclose in the solicitation document whether payment will come from funds appropriated by the state and, if known, the amount of such funds or the percentage of such funds as compared to the anticipated total cost of the personal

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

59 property or construction services.
60 3. Except as provided in subparagraph 1., this section does
61 not prevent a county, municipality, school district, or other
62 political subdivision of this state from awarding a contract to
63 any vendor in accordance with applicable state laws or local
64 ordinances or regulations.
65 Section 2. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Education Pre-K - 12 Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections
Reapportionment

SENATOR DAVID SIMMONS
Majority Whip
22nd District

January 13, 2012

The Honorable Michael Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bennett:

I would like to respectfully request that you place Senate Bill 1460, relating to Preference in Award of State Contracts, on the next agenda for the Community Affairs Committee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours

David Simmons

rec'd
1/12/12 apw

cc: Tom Yeatman, staff director for Community Affairs Committee

REPLY TO:
☐ 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
☐ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5050

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: Preference State Contracts

Bill Number: 1460 (if applicable)

Name: Richard Watson

Amendment Barcode: _____ (if applicable)

Job Title: Legislative Counsel

Address: P.O. Box 10038
Street

Tallahassee FL 32302
City State Zip

Phone: 850 222.0000

E-mail: rlwatson@associatedbuilders.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: Associated Bldrs

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic _____ Bill Number 1460 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☑ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: SB 1960

Bill Number: 1460 *(if applicable)*

Name: Stephen Hogge

Amendment Barcode: *(if applicable)*

Job Title:

Address: 117 S. Gadsden St.
Street

Tallahassee, FL
City *State* *Zip*

Phone:

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: Florida League of Cities

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: Preference in awarding state contracts

Bill Number: SB 1460 *(if applicable)*

Name: Andy Palmer

Amendment Barcode: *(if applicable)*

Job Title:

Address: 215 S. Monroe St., Suite 505
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: (850) 205-9000

E-mail: andy.palmer@metzlaw.com

Speaking: [X] For [ ] Against [ ] Information waive in support

Representing: Associated General Contractors

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

1-30-12 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic _____ Bill Number 1460 *(if applicable)*

Name JESS MCCARTY Amendment Barcode _____ *(if applicable)*

Job Title ASS'T COUNTY ATTY

Address 111 NW 1ST ST 2810 Phone 305-979-7110

Street

MIAMI 33128 E-mail JMM2@MIAMIDADE.GOV

City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: CS/CS/SB 354

INTRODUCER: Community Affairs Committee; Transportation Committee; and Senator Simmons

SUBJECT: Seminole County Expressway Authority

DATE: January 30, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Buford	TR	**Fav/CS**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/SB 354 recreates the Seminole County Expressway Authority (the Authority or SCEA), which was dissolved through the enactment of legislation during the 2011 Session. The Authority may assume and resume all duties and responsibilities of the prior SCEA for any contract or agreement that existed on June 30, 2011, and to which the prior SCEA was a party.

This bill creates numerous undesignated sections of law.

II. Present Situation:

Florida expressway authorities are formed either under the Florida Expressway Authority Act (ch. 348, F.S., Part I of the F.S.) or by special act of the Legislature. The purpose of Florida's expressway authorities is to construct, maintain, and operate tolled transportation facilities complementing the State Highway System and the Florida Turnpike Enterprise. The expressway authorities have boards of directors that typically include a combination of local-government officials and Governor appointees who decide on projects and expenditure of funds.

Chapter 2011-64, L.O.F., enacted during the 2011 Legislative Session, contains various provisions related to transportation, including the repeal of statutes creating six expressway authorities, which do not currently operate or maintain a toll facility.[1] Specifically, ch. 2011-64, L.O.F., repealed Part VIII of ch. 348, F.S., which provided for the creation and operation of the Seminole County Expressway Authority. The law also removed provisions authorizing the remaining authorities to enter into lease purchase agreements.

The Authority was an agency of the state, created in 1974 under ch. 348, Part VIII, F.S., (consisting of ss. 348.95 through 348.963, F.S.) for the purposes and having the right to acquire, hold, construct, improve, maintain, operate, own and lease the expressway system within Seminole County.

The Florida Transportation Commission (FTC), as part of its primary functions, serves as an oversight body for transportation authorities and monitors and reports on the efficiency, productivity and management of those authorities created under chs. 343 and 348, F.S. According to FTC's Transportation Authority Monitoring and Oversight Fiscal Year 2010 Report, "the SCEA does not operate any facilities, but does have a Board that generally meets semi-annually. The Board is made up of five County Commissioners and two City Commissioners, who meet to track planning for future toll roads in the county. SCEA, working with the [Florida] Department [of Transportation] and the Orlando-Orange County Expressway Authority, recently approved the final road alignment for the Wekiva Parkway in Seminole County."[2] For purposes of FTC's report, SCEA was considered an inactive authority.[3]

III. Effect of Proposed Changes:

This bill recreates the Authority and reinstates previously repealed provisions that were found in ss. 348.95 through 348.963, F.S. (2011). In addition, the Authority may assume and resume all duties and responsibilities of the prior SCEA for any contract or agreement that existed on June 30, 2011, and to which the prior SCEA was a party.

The governing body of the authority will have seven members consisting of:

- five members of the Board of County Commissioners of Seminole County; and
- two members that are duly elected municipal officers of Seminole County appointed by the Board of County Commissioners.

Municipal members of the governing board shall be eligible for reappointment. The members shall elect from their number a chairperson; they also may select a treasurer and a secretary who are not required to be authority members. Four members constitute a quorum, and the affirmative vote of three members is necessary for the authority to take action. Authority members are entitled to receive per diem and other expenses incurred in connection with Authority business, pursuant to s. 112.061, F.S.

---

[1] Expressway authorities deleted from the Florida Statutes include: Brevard County Expressway Authority, Broward County Expressway Authority, Pasco County Expressway Authority, St. Lucie County Expressway Authority, Seminole County Expressway Authority, and Southwest Florida Expressway Authority.

[2] http://www.ftc.state.fl.us/PDF/Reports/TAMO/Final_FY2010_Oversight_Report_052511.pdf (last visited 1/5/12).

[3] The status of "inactive" was assigned to those organizations that had never met, operated no facilities, disbanded, or were active at one time and transferred their facilities.

The SCEA may acquire, hold, construct, improve, maintain, operate, own and lease an expressway system. Powers are granted to:

- enter lease or lease-purchase agreements;
- set and collect tolls, fees, or charges and to delegate toll collection responsibility to the FDOT;
- borrow money, and make and issue negotiable notes;
- enter contracts;
- have the power of eminent domain;
- encumber all or any part of the revenues, rates, fees, rentals, or other receipts of the authority, including gasoline tax revenues received from county under a lease-purchase agreement; and
- do all things necessary or convenient for the conduct of its business.

Bonds may be issued through the state Division of Bond Finance. No obligation of the Authority may be deemed an obligation of the state. The FDOT may be appointed by the authority as an agent for construction of the expressway system.

Section 1: Provides a popular title: "Seminole County Expressway Authority Law."

Section 2: Defines terms used in this part.

Section 3: Creates the Authority and specifies membership on the expressway authority board of directors, their terms and duties, allows hiring of staff, with a limitation on their salary.

Section 4: Specifies powers of the governing board, including authorizing SCEA to assume and resume all duties and responsibilities of the prior SCEA for any contract or agreement that existed on June 30, 2011, and to which the prior SCEA was a party.

Section 5: Specifies bonds may be issued by the State Division of Bond Finance on behalf of the expressway authority.

Section 6: Allows the Authority to enter into a lease-purchase agreement with the FDOT for any transportation facilities built by the Authority.

Section 7: Allows the Authority to appoint FDOT as its agent for purposes of constructing aforementioned facilities.

Section 8: Allows the Authority to acquire land and property and provides the right of eminent domain.

Section 9: Provides the Authority the ability to enter into contracts with other governmental bodies.

Section 10: Specifies the covenant of the state against altering the right vested in the Authority until all bonds are paid and discharged.

Section 11: Exempts the Authority from certain taxation.

Section 12: Provides eligibility for investments and securities.

Section 13: Expresses the intent of pledges made by the FDOT is enforceable in court.

Section 14: Specifies no approval from voters shall be necessary before bonds can be issued.

Section 15: Provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on January 30, 2012
The CS provides that the total compensation package for any authority employee may not exceed the total compensation package of the Secretary of the Florida Department of Transportation.

CS by Transportation on January 9, 2012:

The CS includes as powers and duties of the Authority that the SCEA may assume and resume all duties and responsibilities of the prior SCEA for any contract or agreement that existed on June 30, 2011, and to which the prior SCEA was a party.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

821942

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment**
2
3 Between lines 144 and 145
4 insert:
5 (7) The total compensation package for any authority
6 employee may not exceed the total compensation package of the
7 Secretary of the Florida Department of Transportation.

By the Committee on Transportation; and Senator Simmons

596-01759-12 2012354c1

A bill to be entitled

An act relating to the Seminole County Expressway Authority; creating the Seminole County Expressway Authority Law; providing definitions; creating the Seminole County Expressway Authority; prohibiting an entity or body or another authority from exercising jurisdiction, control, authority, or power over an expressway system in Seminole County without the consent of the Seminole County Expressway Authority; providing for membership and terms of the authority; authorizing staffing; providing for certain reimbursement for authority members; providing for the powers and duties of the authority; providing for the assumption of duties and responsibilities of the prior Seminole County Expressway Authority for certain contracts and agreements; requiring notice of public hearing and an opportunity for municipal officials and residents to discuss and advise the authority; providing for the issuance of bonds; providing for lease-purchase agreements between the Department of Transportation and the authority; providing criteria for the lease-purchase agreements; providing for use of certain revenues as payments for the lease-purchase agreements; authorizing the Department of Transportation to use funds for the operation of the authority and to generate preparatory information necessary for an expressway system; providing for an agent for construction; authorizing the authority to appoint the department as its agent under certain

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

596-01759-12 2012354c1

circumstances; authorizing the authority to acquire land and properties; providing for the cooperation of other entities to further the purposes of the act; prohibiting the state from changing the terms of the bonds; exempting the authority from certain taxes; providing for the bond's eligibility for investments and security; providing for the enforcement by bondholders of any pledge relating to the bonds issued by the department; providing for the extent of the powers authorized by the act; providing an effective date.

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

Section 1. Short title.—Sections 1-14 of this act may be cited as the "Seminole County Expressway Authority Law."

Section 2. Definitions.—As used in sections 1-14 of this act, the term:

(1) "Agency of the state" means the state and any department of, or corporation, agency, or instrumentality created, designated, or established by, the state.

(2) "Authority" means the Seminole County Expressway Authority.

(3) "Bond" means a note, bond, refunding bond, or other evidence of indebtedness or obligation, in temporary or definitive form, which the authority issues pursuant to this part.

(4) "County" means Seminole County.

(5) "Department" means the Department of Transportation

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59 existing under chapters 334-339, Florida Statutes.
60 (6) "Expressway" means the same as limited access
61 expressway.
62 (7) "Federal agency" means the United States, the President
63 of the United States, and any department of, or corporation,
64 agency, or instrumentality created, designated, or established
65 by, the United States.
66 (8) "Gasoline tax funds of Seminole County" mean all of the
67 80 percent surplus gasoline tax funds accruing in each year to
68 the Department of Transportation for use in Seminole County
69 under the provisions of s. 9, Article XII of the State
70 Constitution, or all constitutional gas funds as may otherwise
71 be provided by the State Constitution or by statute for use in
72 Seminole County, after deduction of any amount of such gasoline
73 tax funds pledged by the Department of Transportation or the
74 county for outstanding obligations.
75 (9) "Lease-purchase agreement" means an agreement that the
76 authority may enter into with the Department of Transportation
77 pursuant to this part.
78 (10) "Limited access expressway" means a street or highway
79 especially designed for through traffic and over, from, or to
80 which no person has the right of easement, use, or access except
81 in accordance with the rules and regulations adopted by the
82 authority for the use of such facility. The street or highway
83 may be a parkway from which trucks, buses, and other commercial
84 vehicles are excluded, or it may be a freeway open to use by all
85 customary forms of street and highway traffic.
86 (11) "Members" mean the governing body of the authority,
87 and the term "member" means one of the individuals constituting

88 the governing body.
89 (12) "Seminole County Expressway System" or "system" means
90 any expressway and appurtenant facilities thereto in Seminole
91 County, including, but not limited to, all approaches, roads,
92 bridges, and avenues of access for the expressway.
93 (13) "State Board of Administration" means the body
94 corporate existing under s. 9, Article XII of the State
95 Constitution or any successor thereto.
96 Section 3. Seminole County Expressway Authority.—
97 (1) There is created a body politic and corporate, an
98 agency of the state, to be known as the "Seminole County
99 Expressway Authority" and referred to as "authority."
100 (2) The authority has exclusive right to exercise all the
101 powers under sections 1-14 of this act, and no other entity,
102 body, or authority within or without Seminole County may
103 directly or indirectly exercise jurisdiction, control,
104 authority, or power in any manner relating to any expressway
105 system within Seminole County without the express consent of the
106 authority or as otherwise provided in sections 1-14 of this act.
107 (3) The governing body of the authority consists of seven
108 members. Five members must be members of the Board of County
109 Commissioners of Seminole County, and the term of each member is
110 concomitant with his or her term as a county commissioner. Two
111 members shall be appointed by the board of county commissioners
112 from among the duly elected municipal officers within the
113 county, and the municipal members serve 2-year terms unless
114 reappointed. Each 2-year term runs from the date of appointment
115 and automatically terminates if the member ceases to be a duly
116 elected municipal officer. The board of county commissioners

117 shall fill a municipal membership vacancy within 45 days after
118 the occurrence of the vacancy, and the board must appoint an
119 individual who is jointly recommended to the board of county
120 commissioners by two-thirds of the municipalities in the county
121 within 30 days after the vacancy.
122 (4) The authority shall elect one of its members as chair
123 of the authority. The authority shall elect a secretary and a
124 treasurer, who need not be members of the authority. The chair,
125 secretary, and treasurer hold the office at the will of the
126 authority. Four members of the authority constitute a quorum,
127 and the affirmative vote of three members is necessary for any
128 action taken by the authority. A vacancy in the authority does
129 not impair the right of the quorum to exercise the rights and
130 perform the duties of the authority.
131 (5) Each appointed member of the authority shall enter upon
132 his or her duties upon the effective date of his or her
133 appointment, or as soon thereafter as practicable.
134 (6) The authority may employ an executive secretary, an
135 executive director, and its own counsel and legal staff,
136 technical experts, engineers, and other employees, permanent or
137 temporary, as it may require; determine the qualifications and
138 fix the compensation of the persons, firms, or corporations; and
139 employ a fiscal agent. However, the authority shall solicit at
140 least three sealed proposals for the performance of any services
141 as the fiscal agent. The authority may delegate to one or more
142 of its agents or employees any of its powers as it deems
143 necessary to carry out the purposes of sections 1-14 of this
144 act, subject to the supervision and control of the authority.
145 (7) The authority shall reimburse its members for travel

146 and other necessary expenses incurred in connection with the
147 business of the authority as provided in s. 112.061, Florida
148 Statutes, but the members may not draw salaries or other
149 compensation.
150 Section 4. Powers and duties.—
151 (1)(a) The authority may acquire, hold, construct, improve,
152 maintain, operate, own, and lease, in the capacity of lessor,
153 the Seminole County Expressway System.
154 (b) The authority, in the construction of the Seminole
155 County Expressway System, may construct any extension, addition,
156 or improvement to the system or appurtenant facilities,
157 including all necessary approaches, roads, bridges, and avenues
158 of access, with any change, modification, or revision of the
159 project as deemed necessary.
160 (2) The authority may exercise all powers necessary,
161 appurtenant, convenient, or incidental to the implementation of
162 sections 1-14 of this act, including, but not limited to, the
163 following:
164 (a) To sue and be sued, implead and be impleaded, and
165 complain and defend in all courts;
166 (b) To adopt, use, and alter at will a corporate seal;
167 (c) To acquire, purchase, hold, lease as lessee, and use
168 any franchise or property, real, personal, or mixed, tangible or
169 intangible, or any interest necessary to implement the purposes
170 of sections 1-14 of this act; and to sell, lease as lessor,
171 transfer, and dispose of, at any time, any property or interest
172 acquired by the authority;
173 (d) To enter into and make leases for terms not exceeding
174 40 years, as lessee or lessor, and to implement the right to

175 lease as provided in sections 1-14 of this act;
176 (e) To enter into and make lease-purchase agreements with
177 the department for terms not exceeding 40 years or until any
178 bond secured by a pledge of rental, and any refund, are fully
179 paid, whichever is longer;
180 (f) To fix, alter, charge, establish, and collect rates,
181 fees, rentals, and other charges for the services and facilities
182 of the Seminole County Expressway System, which rates, fees,
183 rentals, and other charges are sufficient to comply with any
184 covenant made with the holders of any bonds issued pursuant to
185 sections 1-14 of this act; however, the authority may assign or
186 delegate to the department any of its rights and powers;
187 (g)1. To borrow money as provided by the State Bond Act.
188 2. To reimburse Seminole County for any sums expended from
189 the gasoline tax funds of Seminole County and any other revenues
190 provided to the authority by Seminole County and used for the
191 payment of the obligations. If the authority deems it
192 practicable, the authority may repay disbursed revenues from
193 Seminole County or gasoline tax funds, together with interest at
194 the highest rate applicable, to any obligations of the authority
195 for which funds or revenues were used to pay debt service.
196 3. To hire and retain independent certified public
197 accountants and auditors to audit the books and records of the
198 authority and the department with respect to the Seminole County
199 Expressway System or any part thereof, so long as any bonds of
200 the authority are outstanding;
201 (h) To make contracts and to execute all instruments
202 necessary to conduct its business;
203 (i) Without limitation of the foregoing, to borrow money

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204 and accept grants from, and to enter into contracts, leases, or
205 other transactions with, any federal agency, the state, any
206 agency of the state, Seminole County, or any other public body
207 of the state;
208 (j) To have the power of eminent domain, including the
209 procedural powers granted under chapters 73 and 74, Florida
210 Statutes;
211 (k) To pledge, hypothecate, or otherwise encumber all parts
212 of the revenues, rates, fees, rentals, or other charges or
213 receipts of the authority, including all or any portion of the
214 gasoline tax funds of Seminole County or other revenues received
215 by the authority pursuant to the terms of any lease-purchase
216 agreement between the authority and the department or any other
217 agreement between the authority and Seminole County, as security
218 for any of the obligations of the authority;
219 (l) To do all acts necessary for the conduct of its
220 business and the general welfare of the authority in order to
221 implement the powers granted to it by sections 1-14 of this act
222 or any other law;
223 (m) To employ fiscal agents as provided by section 3 of
224 this act. The State Board of Administration may, upon request of
225 the authority, act as fiscal agent for the authority in the
226 issuance of any bonds that may be issued pursuant to section 5
227 of this act. The State Board of Administration may, upon request
228 of the authority, take over the management, control,
229 administration, custody, and payment of any debt service or fund
230 or asset available for any bond issued pursuant to section 5 of
231 this act. The authority may enter into a deed of trust, an
232 indenture, a resolution, or another agreement with its fiscal

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233 agent, a financial institution, an insurance company, or a bank
234 or trust company within or without the state, as security for
235 the bonds, and may, under the agreement, sign and pledge any of
236 the revenues, rates, fees, rentals, or other charges or receipts
237 of the authority, including any portion of the gasoline tax
238 funds of Seminole County or other revenues received by the
239 authority pursuant to the terms of a lease-purchase agreement
240 between the authority and the department or any other agreement
241 between the authority and Seminole County. The deed of trust,
242 indenture, resolution, or other agreement may contain provisions
243 as are customary in such instruments, or, if the authority
244 authorizes, may include, without limitation, provisions as to:
245 1. The completion, improvement, operation, extension,
246 maintenance, and repair of the Seminole County Expressway
247 System; the lease of, or lease-purchase agreement for, the
248 system; and the duties of the authority and others, including
249 the department.
250 2. The availability and application of funds and the
251 safeguarding of funds on hand or on deposit.
252 3. The rights and remedies of the trustee and the holders
253 of the bonds and any institution providing liquidity or credit
254 support for the bonds.
255 4. The terms and provisions of the bonds or the resolutions
256 authorizing the issuance of the bonds.
257 5. The terms and conditions pursuant to which the authority or
258 any trustee for the bonds is entitled to receive any revenues
259 from Seminole County to pay the principal of or interest on the
260 bonds; and
261 (n) To assume and resume all duties and responsibilities of

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262 the prior Seminole County Expressway Authority for any contract
263 or agreement that existed on June 30, 2011, and to which the
264 prior Seminole County Expressway Authority was a party.
265 (3) The authority may not pledge the credit or taxing power
266 of the state or any political subdivision or agency of the
267 state, including Seminole County. The obligations of the
268 authority are not deemed obligations of the state, or any
269 political subdivision or agency of the state. The state, or any
270 political subdivision or agency of the state, except the
271 authority, is not liable for the payment of the principal of or
272 interest on the obligations. However, the gasoline tax funds of
273 Seminole County or other revenues may be pledged for the payment
274 of the principal of or interest on the obligations pursuant to
275 the terms of a lease-purchase agreement between the authority
276 and the department or any other agreement between the authority
277 and Seminole County.
278 (4) The consent of a municipality is not necessary for any
279 project of the authority, notwithstanding any provision in
280 sections 1-14 of this act or any other law to the contrary or
281 whether the project lies within the boundaries of any
282 municipality, in whole or in part. However, an official or a
283 resident of a municipality in which a project of the authority
284 is located, in whole or in part, must have reasonable
285 opportunity to discuss the project and advise the authority of
286 his or her position at a duly advertised public hearing. Notice
287 of the public hearing must be advertised in a newspaper
288 published in Seminole County and circulated in the affected
289 municipalities. The notice must be published once at least 2
290 weeks before the public hearing and must contain the time and

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291 place of the public hearing and a short description of the
292 subject to be discussed. The public hearing may be adjourned
293 from time to time and set for a time and place certain without
294 necessity of further advertisement. In routing and locating an
295 expressway or its interchange in or through a municipality, the
296 authority must consider the effect of such location on the
297 municipality as a whole and must not unreasonably split or
298 divide an area of the municipality or separate one area of the
299 municipality from another.
300 Section 5. Bonds.—Bonds may be issued on behalf of the
301 authority as provided by the State Bond Act.
302 Section 6. Lease-purchase agreement.—
303 (1) The authority may enter into a lease-purchase agreement
304 with the department relating to and covering the Seminole County
305 Expressway System.
306 (2) The lease-purchase agreement shall provide for the
307 leasing of the Seminole County Expressway System by the
308 authority, as lessor, to the department, as lessee; shall
309 prescribe the terms of the agreement and the rentals to be paid;
310 and shall provide that, upon the completion of the faithful
311 performance of the agreement and the termination of such lease-
312 purchase agreement, the authority shall transfer to the state
313 title in fee simple absolute to the Seminole County Expressway
314 System and the authority shall deliver to the department deeds
315 and conveyances necessary to vest title in fee simple absolute
316 in the state.
317 (3) The lease-purchase agreement may include other
318 provisions, agreements, and covenants as the authority and the
319 department deem necessary, including, but not limited to,

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320 provisions as to the bonds to be issued pursuant to this part;
321 the completion, extension, improvement, operation, and
322 maintenance of the Seminole County Expressway System and the
323 expenses and the cost of operation of the authority and the
324 system; the charging and collection of tolls, rates, fees, and
325 other charges for the use of the services and facilities; the
326 application of federal or state grants or aid made or given to
327 assist the authority in the completion, extension, improvement,
328 operation, and maintenance of the Seminole County Expressway
329 System, which the authority may accept and apply to these
330 purposes; the enforcement of payment and collection of rentals;
331 and any other terms, provisions, or covenants necessary,
332 incidental, or appurtenant to the making of, and full
333 performance under, the lease-purchase agreement.
334 (4) The department, as lessee under such lease-purchase
335 agreement, may pay, as rentals under the agreement, any rates,
336 fees, charges, funds, moneys, receipts, or income accruing to
337 the department from the operation of the Seminole County
338 Expressway System and the gasoline tax funds or other revenues
339 of Seminole County used to pay the principal of or interest on
340 any obligations issued to finance any portion of the system and
341 may also pay, as rentals, any appropriations received by the
342 department pursuant to state law. The lease-purchase agreement
343 or any holder of bonds issued pursuant to section 5 of this act
344 may not require the making or continuance of any appropriations.
345 (5) Gasoline tax funds or other revenues of Seminole County
346 may not be pledged as rentals under a lease-purchase agreement
347 or another agreement without the consent of Seminole County,
348 evidenced by a resolution adopted by the board of county

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349 commissioners of the county at a public hearing held pursuant to
350 due notice thereof published at least once a week for 3
351 consecutive weeks before the hearing in a newspaper of general
352 circulation in the county. The resolution must provide that, for
353 bonds issued on behalf of the authority, any excess of the
354 pledged gasoline tax funds and other revenues of Seminole County
355 which is not required for debt service or for reserves for debt
356 service shall be distributed to Seminole County as provided by
357 law. Before making any application for the pledge of gasoline
358 tax funds, the authority shall present the plan of its proposed
359 project to the Seminole County Planning and Zoning Commission
360 for comments and recommendations. The department may covenant in
361 a lease-purchase agreement that it will pay all or part of the
362 cost of the system, and any part of the cost of completing the
363 system to the extent that the proceeds of bonds issued for the
364 project are insufficient, from sources other than the revenues
365 derived from the operation of the system and the gasoline tax
366 funds or any other revenue of Seminole County pledged for such
367 purpose. The department may agree to make payments from any
368 moneys available to Seminole County, in connection with the
369 construction or completion of the system, as deemed by the
370 department to be fair and proper under any covenant that is
371 entered into.
372 (6) The system is a part of the state road system, and the
373 department may, upon the request of the authority, expend money
374 out of any funds available for the purpose and use its
375 engineering and other powers deemed necessary by the department
376 for the operation of the authority and for traffic surveys,
377 borings, surveys, preparation of plans and specifications,

378 estimates of cost, and other preliminary engineering and other
379 studies. However, the aggregate amount of moneys expended for
380 this purpose by the department may not exceed the sum of
381 $500,000.
382 Section 7. Agent for construction.—The authority may
383 appoint the department as its agent for the construction of and
384 improvements and extensions to the Seminole County Expressway
385 System and for the completion of the system. If the department
386 is appointed, the authority shall provide the department with
387 complete copies of all documents, agreements, resolutions,
388 contracts, and instruments relating to the system; shall request
389 the department to do the construction work, including the
390 planning, surveying, and actual construction of the completion,
391 extension, and improvement to the Seminole County Expressway
392 System; and shall transfer the necessary funds for the
393 construction to the credit of an account of the department in
394 the State Treasury. The department shall proceed with the
395 construction and shall use the funds that are authorized for the
396 construction of roads and bridges.
397 Section 8. Acquisition of lands and property.—
398 (1) The Seminole County Expressway Authority may acquire
399 private or public property and property rights, including rights
400 of access, air, view, and light, by gift, devise, purchase, or
401 condemnation by an eminent domain proceeding, as the authority
402 deems necessary to implement sections 1-14 of this act. The
403 property that the authority may acquire includes, but is not
404 limited to, any land:
405 (a) Reasonably necessary for securing applicable permits,
406 areas necessary for management of access, borrow pits, drainage

407 ditches, water retention areas, rest areas, replacement access
408 for landowners whose access is impaired due to the construction
409 of a facility, and replacement rights-of-way for relocated rail
410 and utility facilities;
411 (b) For existing, proposed, or anticipated transportation
412 facilities on the Seminole County Expressway System or in a
413 transportation corridor designated by the authority; or
414 (c) For the purposes of screening, relocation, removal, or
415 disposal of junkyards and scrap metal processing facilities.
416
417 The authority may condemn any material and property necessary
418 for these purposes.
419 (2) The authority may exercise the right of eminent domain
420 in the manner provided by law.
421 (3) If the authority acquires property for a transportation
422 facility or in a transportation corridor, the authority is not
423 subject to any liability imposed by chapter 376 or chapter 403,
424 Florida Statutes, for preexisting soil or groundwater
425 contamination due solely to its ownership. This section does not
426 affect the rights or liabilities of any past or future owners of
427 the acquired property, nor does it affect the liability of any
428 governmental entity for the results of its actions that create
429 or exacerbate a pollution source. The authority and the
430 Department of Environmental Protection may enter into an
431 interagency agreement for the performance, funding, and
432 reimbursement of the investigative and remedial acts necessary
433 for property acquired by the authority.
434 Section 9. Cooperation with other units, boards, agencies,
435 and individuals.—Any county, municipality, drainage district,

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436 road or bridge district, school district, or any other political
437 subdivision, board, commission, or individual in or of the state
438 may make and enter into a contract, lease, conveyance, or other
439 agreement consistent with sections 1-14 of this act with the
440 authority. The authority may make and enter into a contract,
441 lease, conveyance, or other agreement with any political
442 subdivision, agency, or instrumentality of the state, any
443 federal agency, any corporation, or any individual to implement
444 sections 1-14 of this act.
445 Section 10. Covenant of the state.—The state pledges to,
446 and agrees with, any person, firm, corporation, or federal or
447 state agency subscribing to or acquiring the bonds issued by the
448 authority pursuant to section 5 of this act that the state will
449 not limit or alter the rights vested in the authority and the
450 department until all bonds at any time issued, together with the
451 interest on the bonds, are fully paid and discharged. The state
452 pledges to, and agrees with, the United States that, when any
453 federal agency constructs or contributes any funds for the
454 completion, extension, or improvement of the Seminole County
455 Expressway System or any part or portion thereof, the state will
456 not alter or limit the rights and powers of the authority and
457 the department in any manner that would be inconsistent with the
458 continued maintenance and operation of the Seminole County
459 Expressway System or the completion, extension, or improvement
460 of the system, or that is inconsistent with the due performance
461 of the agreement between the authority and the federal agency.
462 The authority and the department have and may exercise all
463 powers granted in sections 1-14 of this act necessary to
464 implement the purposes of sections 1-14 of this act and the

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465 purposes of the United States in the completion, extension, or
466 improvement of the Seminole County Expressway System or any part
467 or portion of the system.
468 Section 11. Exemption from taxation.—The authority created
469 pursuant to sections 1-14 of this act is for the benefit of the
470 people of the state, for the increase of their commerce and
471 prosperity, and for the improvement of their health and living
472 conditions. Because the authority is performing essential
473 governmental functions in carrying out the purposes of sections
474 1-14 of this act, the authority is exempt from taxes or
475 assessments upon any property acquired or used by it for such
476 purposes, or upon any revenues, rates, fees, rentals, receipts,
477 income, or charges received by it. The bonds issued by the
478 authority, their transfer, and the income from the bonds,
479 including any profits made on the sale of the bonds, are at all
480 times free from taxation of any kind by the state or any
481 political subdivision, taxing agency, or instrumentality of the
482 state. However, the exemption granted by this section is not
483 applicable to any tax imposed under chapter 220, Florida
484 Statutes, on interest, income, or profits on debt obligations
485 owned by corporations. When a property of the authority is
486 leased, it is exempt from ad valorem taxes if the use by the
487 lessee qualifies the property for exemption under s. 196.199,
488 Florida Statutes.
489 Section 12. Eligibility for investments and security.—Any
490 bonds or other obligations issued pursuant to sections 1-14 of
491 this act are legal investments for banks, savings banks,
492 trustees, executors, administrators, and all other fiduciaries,
493 and for all state, municipal, and other public funds, and are

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494 securities eligible for deposit as security for all state,
495 municipal, or other public funds, notwithstanding the provisions
496 of any law.
497 Section 13. Pledges enforceable by bondholders.—A pledge by
498 the department of rates, fees, revenues, gasoline tax funds of
499 Seminole County, or other funds as rentals to the authority, or
500 any covenant or agreement relative to the pledge, is enforceable
501 in any court of competent jurisdiction against the authority or
502 directly against the department by any holder of bonds issued by
503 the authority.
504 Section 14. Complete and additional authority.—
505 (1) The powers conferred by sections 1-14 of this act are
506 in addition to the existing powers of the authority and the
507 department, and sections 1-14 of this act do not repeal any of
508 the provisions of any other law, general, special, or local. The
509 extension and improvement of the Seminole County Expressway
510 System, and the issuance of bonds pursuant to section 5 of this
511 act to finance all or part of the cost of the system, may be
512 accomplished upon compliance with the provisions of sections 1-
513 14 of this act without regard to or necessity for compliance
514 with the provisions, limitations, or restrictions contained in
515 any other general, special, or local law. Approval of any bonds
516 issued under this part by qualified electors or qualified
517 electors who are freeholders in the state, in Seminole County or
518 in any other political subdivision of the state, is not required
519 for the issuance of bonds pursuant to section 5 of this act.
520 (2) Sections 1-14 of this act do not repeal, rescind, or
521 modify any other law relating to the State Board of
522 Administration, the Department of Transportation, or the

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523 Division of Bond Finance of the State Board of Administration,
524 but supersede any law that is inconsistent with the provisions
525 of sections 1-14 of this act.
526 Section 15. This act shall take effect July 1, 2012.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Education Pre-K - 12 Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections
Reapportionment

SENATOR DAVID SIMMONS
Majority Whip
22nd District

January 10, 2011

The Honorable Michael Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bennett:

I would like to respectfully request that you place Senate Bill 354, Relating to the Seminole County Expressway Authority, on the next agenda for the Community Affairs Committee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours,

David Simmons

rec'd 1/10/12 apw

cc: Tom Yeatman, staff director for Community Affairs Committee

REPLY TO:
☐ 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
☐ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5050

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: Seminole Co. Expressway Authority

Bill Number: 354 (if applicable)

Name: Bobby Brantley

Amendment Barcode: (if applicable)

Job Title: Lobbyist

Address: 215 S. Monroe St
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-521-0600

E-mail: bbrantley@shutts.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Seminole County Commission

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SJR 1070

INTRODUCER: Community Affairs Committee and Senator Ring

SUBJECT: Term Limits/Constitutional County Officers and County Commissioners

DATE: January 30, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Fav/CS**
2.			JU	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SJR 1070 proposes an amendment to s. 1, Art. VIII of the State Constitution to authorize the imposition of term limits on county commissioners when provided for by county charter. This joint resolution provides that the amendment will be submitted to the Florida voters for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose. Specifically, the amendment also adds language to s. 1(e), Art. VIII, which provides that a county charter may impose term limits on county commissioners.

II. Present Situation:

Florida County Government

Article VIII of the State Constitution contains provisions relating to Florida's counties and municipalities, with s. 1 specific to the county form of government. That section requires the state to be divided by law into political subdivisions called "counties." Counties may be created, abolished or changed by law, with provision for the payment or apportionment of public debt. Pursuant to general or special law, a county government may be established by charter, which

must be adopted, amended or repealed only upon a vote of the electors of the county in a special election called for that purpose.

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

> NON-CHARTER GOVERNMENT. Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.
>
> CHARTER GOVERNMENT. Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

In addition, a special constitutional provision provides unique authorization for the Miami-Dade County home rule charter.[1] The most significant distinction between charter and non-charter county power is the fact that the State Constitution provides a direct constitutional grant of the power of self-government to a county upon charter approval, whereas a non-charter county has "such power of self-government as is provided by general or special law." As such, charter counties possess greater home rule authority than non-charter counties.

A county that does not have a charter form of government may locally initiate and adopt a county home rule charter pursuant to the provisions of ss. 125.60-125.64, F.S. In addition to satisfying multiple statutory requirements, the charter must be adopted by a majority vote of the qualified electors of the county.

County Commissioners

In a non-charter county, the county's governing body must be composed of a five or seven member board of county commissioners serving staggered terms of four years. If a county operates under a county charter, the charter may vary the number of members serving on the county's governing body. Section 1(e), Art. VIII of the State Constitution provides:

> COMMISSIONERS. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years. After each decennial census the board of county commissioners shall divide the county into districts of contiguous

[1] See, s. 11 of Art.VIII of the State Constitution of 1885, as referenced in s. 6(e), Art.VIII of the State Constitution of 1968, as amended in January 1999.

territory as nearly equal in population as practicable. One commissioner residing in each district shall be elected as provided by law.

Term Limits

The Florida Supreme Court held in *Cook v. City of Jacksonville*,[2] that a charter county may not impose a "term limit" provision upon those county officer positions which are authorized by s. 1(d), Art. VIII of the State Constitution in that a term limit is a disqualification from election to office and that s. 4, Art. VI of the State Constitution provides the exclusive list of those disqualifications, which may be permissibly imposed. That section provides term limits for Florida representatives and senators, the lieutenant governor, any office of the Florida cabinet, and U.S. Representatives and Senators from Florida.[3]

On December 12, 2011, the Florida Supreme Court agreed to hear an appeal from a Fourth District Court of Appeal case that overturned a 2010 Broward County trial court decision ruling that voter-imposed term limits for county commissioners were unconstitutional, based on previous Florida Supreme Court decisions.[4] The West Palm Beach appeals court held that s. 1(e), Art. VII of the Florida Constitution grants voters in charter counties the home rule power to term limit their own commissioners.[5]

The Respondents in the Broward case (Broward County and its supervisor of elections) have argued that *Cook* addressed the constitutionality of term limits on s. 1(d) officers (i.e., county constitutional officers), and that section 1(e) (regarding county commissioners) was not at issue in *Cook*. Further, the Respondents have asserted that *Cook's* rationale for prohibiting term limits is inapplicable to county commissioners because, unlike section 1(d), section 1(e) grants charter counties broad power to structure their own governing bodies, noting the introductory language of that provision: "[e]xcept when otherwise provided by county charter."

Twenty of Florida's 67 counties currently operate under a charter: Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval, Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia and Wakulla. Ten of these charters contain term limitations,[6] and several of these provisions have been challenged.[7]

III. Effect of Proposed Changes:

CS/SJR 1070 proposes an amendment to s. 1, Art. VIII of the State Constitution to authorize the imposition of term limits on county commissioners when provided for by county charter. The joint resolution provides that the amendment will be submitted to the Florida voters for approval or rejection at the next general election or at an earlier special election specifically authorized by

---

[2] *Cook v. City of Jacksonville* 823 So. 2d 86 (Fla. 2002).
[3] FL. Const. art. VI, §4.
[4] SC11-1737 Fla. Sup. Ct. (pending)
[5] *Snipes v. Telli*, 2011 WL3477086 (Fla. App. 4 Dist.)
[6] Brevard, Broward, Clay, Duval, Hillsborough, Orange, Palm Beach, Polk, Sarasota and Volusia counties.
[7] For example, *In Re: The Matter of Sam Killebrew v. Lori Edwards* Case No.: 53-2011CA-001950-0000-00 (the Polk County Supervisor of Elections), was filed in the Circuit Court of the Tenth Judicial Circuit on May 3, 2011. This lawsuit requests the court to declare the portions of the Polk County Charter providing terms limits for county commissioners as unconstitutional and invalid.

law for that purpose. Specifically, the amendment also adds language to s. 1(e), Art. VIII of the State Constitution, which provides that a county charter may impose term limits on county commissioners.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments
Section 1, Article XI of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State, or at a special election held for that purpose.

Section 5(d), Article XI of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is $106.14 for this fiscal year.

Section 5(e), Article XI of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Division of Elections of the Department of State is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county. The average cost per word to advertise an amendment is $106.14.

The Department of State normally is the defendant in lawsuits challenging proposed amendments to the Florida Constitution. The cost for defending these lawsuits has ranged from $10,000 to $150,000, depending on a number of variables.[8]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on January 30, 2012
This amendment removes the provision of the bill that would have allowed a county charter to subject any constitutional county officer to term limits.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

[8] *Id*.

582594

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Ring) recommended the following:

1 **Senate Amendment (with ballot and title amendments)**
2
3 Delete lines 37 - 38
4 and insert:
5 transferred to another office. When
6
7 ====== B A L L O T S T A T E M E N T A M E N D M E N T ======
8 And the ballot statement is amended as follows:
9 Delete lines 96 - 100
10 and insert:
11 board of county commissioners. The term of office for each
12 county commissioner is 4 years with no term limits. This

582594

13 amendment to the State Constitution would authorize the
14 imposition of term limits on county commissioners when provided
15 by county
16
17 ========== T I T L E A M E N D M E N T ==========
18 And the title is amended as follows:
19 Delete lines 4 - 5
20 and insert:
21 the imposition of term limits on county commissioners
22 when provided by

By Senator Ring

32-01014-12 20121070__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 1 of Article VIII of the State Constitution to authorize the imposition of term limits on constitutional county officers and county commissioners when provided by county charter.

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

That the following amendment to Section 1 of Article VIII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VIII

LOCAL GOVERNMENT

SECTION 1. Counties.—

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished, or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody, and method of disbursing county funds shall be provided by general law.

(c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended, or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax

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

32-01014-12 20121070__

collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court. A~~; except, when provided by~~ county charter or special law approved by vote of the electors of the county may provide for~~,~~ any county officer under this subsection to ~~may~~ be chosen in another manner ~~therein specified,~~ or may abolish any county office under this subsection ~~may be abolished~~ when all the duties of the office prescribed by general law are transferred to another office. A county charter may also subject any county officer under this subsection to term limits. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds.

(e) COMMISSIONERS. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years. A county charter may impose term limits on county commissioners. After each decennial census the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district shall be elected as provided by law.

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

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

59 within the municipality to the extent of such conflict.
60 (g) CHARTER GOVERNMENT. Counties operating under county
61 charters shall have all powers of local self-government not
62 inconsistent with general law, or with special law approved by
63 vote of the electors. The governing body of a county operating
64 under a charter may enact county ordinances not inconsistent
65 with general law. The charter shall provide which shall prevail
66 in the event of conflict between county and municipal
67 ordinances.
68 (h) TAXES; LIMITATION. Property situate within
69 municipalities shall not be subject to taxation for services
70 rendered by the county exclusively for the benefit of the
71 property or residents in unincorporated areas.
72 (i) COUNTY ORDINANCES. Each county ordinance shall be filed
73 with the custodian of state records and shall become effective
74 at such time thereafter as is provided by general law.
75 (j) VIOLATION OF ORDINANCES. Persons violating county
76 ordinances shall be prosecuted and punished as provided by law.
77 (k) COUNTY SEAT. In every county there shall be a county
78 seat at which shall be located the principal offices and
79 permanent records of all county officers. The county seat may
80 not be moved except as provided by general law. Branch offices
81 for the conduct of county business may be established elsewhere
82 in the county by resolution of the governing body of the county
83 in the manner prescribed by law. No instrument shall be deemed
84 recorded until filed at the county seat, or a branch office
85 designated by the governing body of the county for the recording
86 of instruments, according to law.
87 BE IT FURTHER RESOLVED that the following statement be

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

88 placed on the ballot:
89 CONSTITUTIONAL AMENDMENT
90 ARTICLE VIII, SECTION 1
91 TERM LIMITS ON CONSTITUTIONAL COUNTY OFFICERS AND COUNTY
92 COMMISSIONERS WHEN PROVIDED BY COUNTY CHARTER.—The State
93 Constitution currently provides for the election in each county
94 of a sheriff, a tax collector, a property appraiser, a
95 supervisor of elections, a clerk of the circuit court, and a
96 board of county commissioners. The term of office for each such
97 officer or county commissioner is 4 years with no term limits.
98 This amendment to the State Constitution would authorize the
99 imposition of term limits on those constitutional county
100 officers and county commissioners when provided by county
101 charter.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Budget - Subcommittee on Education Pre-K - 12
Appropriations
Commerce and Tourism
Community Affairs
Higher Education

SENATOR JEREMY RING
32nd District

January 11, 2012

Honorable Senator Michael S. "Mike" Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, Fl 32399

Dear Chairman Bennett,

I am writing to respectfully request your cooperation in placing Senate Bill 1070, relating to Term Limits/Constitutional County Officers and County Commissioners on the Community Affairs Committee agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

Jeremy Ring

Jeremy Ring
Senator District 32

cc: Tom Yeatman

rec'd 1/11/12 afw

REPLY TO:
☐ 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392
☐ 210 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5094

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic _____ Bill Number 1070 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: [✓] For [ ] Against [✓] Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: Term Limits Constitutional Officers

Bill Number: SJR 1070 (if applicable)

Name: Keri Rayborn

Amendment Barcode: 582594 (if applicable)

Job Title:

Address: PO Box 1565
Street

Tallahassee, Fl 32302
City, State, Zip

Phone: (850) 524-2394

E-mail: keri@raybornconsultants.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: Florida Sheriffs Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/30/12
Meeting Date

Topic _____

Bill Number 1070 *(if applicable)*

Name Meghan Hoza

Amendment Barcode 582594 *(if applicable)*

Job Title Lobbyist

Address 10521 SW Village Center Dr #101
Street

Port St Lucie, FL 34987
City *State* *Zip*

Phone (772) 485-0693

E-mail _____

Speaking: [x] For [ ] Against [ ] Information

Representing Palm Beach County Sheriffs Office

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 670

INTRODUCER: Judiciary Committee and Senator Ring

SUBJECT: Real Property

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Cibula	JU	**Fav/CS**
2.	Hinton	Yeatman	CA	**Favorable**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The bill amends s. 695.01, F.S., to provide that a lien for an improvement, service, fine, or penalty, other than a lien for taxes, non-ad valorem or special assessments, or utilities is valid against a creditor or subsequent purchaser only if it is properly recorded in the county in which the property is located and meets additional requirements for the recorded notice of lien to identify the property. The recorded notice of lien must contain:

- the name of the owner of record,
- a description or address of the property, and
- the tax or parcel identification number applicable to the property as of the date of recording.

This bill amends s. 695.01, F.S.

II. Present Situation:

A lien is a charge or encumbrance upon property.[1] Liens include mortgages, construction liens, and other liens authorized by statute. Mortgages are liens on the property mortgaged.[2] Construction liens are authorized by statute.[3]

Florida has a recording statute which states:

> No conveyance, transfer, or mortgage of real property, or of any interest therein, nor any lease for a property, or of any interest therein, nor any lease for a term of 1 year or longer, shall be good and effectual in law or equity against creditors or subsequent purchasers for a valuable consideration and without notice, unless the same be recorded according to law; nor shall any such instrument made or executed by virtue of any power of attorney be good or effectual in law or in equity against creditors or subsequent purchasers for a valuable consideration and without notice unless the power of attorney be recorded before the accruing of the right of such creditor or subsequent purchaser.[4]

Section 695.01, F.S., is a notice recording statute and "Florida courts over time have described and applied Florida's recording statute in a manner that is consistent with a 'notice' type of recording statute."[5] Under a notice type of recording statute, "a subsequent mortgagee of real property for value and without notice (actual and constructive)[6] of a prior mortgage of the real property will prevail against the prior mortgagee."[7]

Under Florida law, a mortgage is a specific lien on the property and not a conveyance of the legal title or the right to possession.[8] As a "lien theory" state, with a notice type recording statute, liens are generally afforded precedence based on whether subsequent purchasers have notice of the lien. The act of recording an instrument in compliance with s. 695.01, F.S., provides constructive notice of a prior encumbrance on the property which is the subject of the instrument.[9] Grantees by quitclaim are deemed and held to be bona fide purchasers without notice within the meaning of the recording acts.[10]

---

[1] BLACK'S LAW DICTIONARY 475 (Abridged 5th ED. 1983).
[2] Section 697.02, F.S.
[3] See Chapter 713, F.S.
[4] Section 695.01, F.S.
[5] *Argent Mortg. Co., LLC v. Wachovia Bank N.A.*, 52 So. 3d 796, 799 (Fla. 5th DCA 2010) (citation omitted).
[6] "Actual notice" means "notice expressly and actually given, and brought home to the party directly." BLACK'S LAW DICTIONARY 550 (Abridged 5th ED. 1983). The term, "constructive notice" means "information or knowledge of a fact imputed by law to a person (although he may not actually have it), because he could have discovered the fact by proper diligence, and his situation was such as to cast upon him the duty of inquiring into it." *Id.*
[7] *Argent Mortg. Co., LLC v. Wachovia Bank N.A.*, 52 So. 3d at 799.
[8] Section 697.02, F.S.
[9] *Lafitte v. Gigliotti Pipeline, Inc.*, 624 So. 2d 844, 845 (Fla. 2d DCA 1993). See also, 37 FLA. JUR. 2D *Mortgages* s. 133 (2011).
[10] Section 695.01(2), F.S.

According to the Real Property, Probate, and Trust Law Section of The Florida Bar (RPPTL Section), liens assessed and maintained by a municipality or branch of a municipality often go undetected because:

- They are often unrecorded;
- Confusion often arises over determination of which branch of government has the right to impose the lien; and
- Confusion arises as to whom to contact to determine the existences of possible liens.[11]

Local governments may impose liens on real property for improvements, services, costs of repairs and associated penalties levied in accordance with local building code enforcement.[12] The state government may also file a notice of a lien on real property in some instances.[13] A lien, in some cases, may be legally enforceable although it is not recorded in the public records of the county in which the property is located.[14] This may be characterized as a "hidden lien" because the owner or other affected parties do not have actual notice and may not discover the existence of the lien through proper diligence by searching the public records in the county where the property is located.

III. Effect of Proposed Changes:

The bill amends s. 695.01, F.S., to provide that a lien for an improvement, service, fine, or penalty, other than a lien for taxes, non-ad valorem or special assessments, or utilities is valid against a creditor or subsequent purchaser only if it is properly recorded in the county in which the property is located and meets additional requirements for the recorded notice of lien to identify the property. The recorded notice of lien must contain:

- the name of the owner of record,
- a description or address of the property, and
- the tax or parcel identification number applicable to the property as of the date of recording.

The bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

---

[11] The Real Property, Probate, and Trust Law Section of the Florida Bar, *White Paper: Fair Notice of Government of Governmental Liens* (2009) (on file with the Senate Committee on Judiciary).
[12] *See e.g.*, s. 162.09(3), F.S., which authorizes local governments to file a lien in the public records against land upon a valid order imposing a code enforcement fine.
[13] *See e.g.*, ss. 589.13, 589.14, 589.15, and 589.16, F.S.
[14] See *Dade County v. Certain Lands*, 247 So. 2d 787, 789-90 (Fla. 3d DCA 1971).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The applicable filing fee for recording liens is outlined in s. 28.24, F.S.

B. Private Sector Impact:

The bill may have a positive impact on the private sector through greater certainty and notice of governmental liens. Committee staff does not have data specifying the number of governmental entities that are not currently recording all liens on real property or how many additional liens may be filed as a result of the requirements of the bill. Private parties that are buying and selling real property may benefit to the extent the bill provides additional information to such parties prior to entering into these transactions.

C. Government Sector Impact:

Committee staff does not have data specifying the number of governmental entities that are not recording all liens on real property that will be required to do so by the bill. Any additional costs associated with recording liens as required by the bill may be negated to the extent the governmental entities may more effectively enforce collection of such liens. To date, the Revenue Estimating Conference has not scheduled the bill for a determination of its potential impact.

The Clerks of Court may experience increased revenue attributed to increased filings of liens.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on January 19, 2012:
The committee substitute no longer revises requirements for holders of title under a quitclaim deed. The committee substitute revises requirements for the recorded notice of lien for certain liens to be valid against creditors or subsequent purchasers for valuable consideration.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Judiciary; and Senator Ring

590-02032-12 2012670c1

A bill to be entitled

An act relating to liens on real property; amending s. 695.01, F.S.; providing that a lien imposed on real property by a governmental or quasi-governmental entity for certain purposes, other than a lien for taxes, non-ad valorem or special assessments, or utilities, is not valid against a creditor or subsequent purchasers unless the lien is recorded; specifying the required contents of the recorded notice of lien; providing an effective date.

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

Section 1. Subsection (3) is added to section 695.01, Florida Statutes, to read:

695.01 Conveyances and liens to be recorded.—

(3) A lien by a governmental entity or quasi-governmental entity which attaches to real property for an improvement, service, fine, or penalty, other than a lien for taxes, non-ad valorem or special assessments, or utilities, is valid and effectual against creditors and subsequent purchasers for a valuable consideration only if the lien is recorded in the official records of the county in which the property is located. The recorded notice of lien must contain the name of the owner of record, a description or address of the property, and the tax or parcel identification number applicable to the property as of the date of recording.

Section 2. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Community Affairs
Higher Education

SENATOR JEREMY RING
32nd District

January 19, 2012

Honorable Senator Michael Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, Fl 32399

Dear Chairman Bennett,

I am writing to respectfully request your cooperation in placing Senate Bill 670, relating to real property on the Community Affairs agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

Jeremy Ring

Jeremy Ring
Senator District 32

cc: Tom Yeatman, Staff Director

rec'd 1/19/12
aff

REPLY TO:
☐ 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392
☐ 210 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5094

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic _____ Bill Number 670 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: [✓] For [ ] Against [✓] Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1.30.12
Meeting Date

Topic: SB670 - support

Bill Number: 670 *(if applicable)*

Name: Martha Edenfield

Amendment Barcode: *(if applicable)*

Job Title:

Address: PO Box 10095
Street

Tallahassee, FL 32302
City, State, Zip

Phone: 850.222.3533

E-mail: martha@penningtonlaw.com

Speaking: ☐ For ☐ Against ☐ Information Waive in support!

Representing: The Real Property, Probate + Trust Law Section of the Florida Bar

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 1322

INTRODUCER: Senator Norman

SUBJECT: Local Requirements for Dangerous Dogs

DATE: January 30, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Yeatman	CA	**Favorable**
2.			GO	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill removes a provision that exempts local ordinances adopted before October 1, 1990 from the prohibition on ordinances that are specific to breed.

This bill amends section 767.14 of the Florida Statues.

II. Present Situation:

Chapter 767, F.S., outlines the state's "Damage by Dogs" provisions. In 1990, the State of Florida enacted a dangerous dog law. The Legislature found that "dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of the owners to confine and properly train and control their dogs; that existing laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements on the owners of dangerous dogs."[1]

A "dangerous dog" is defined as a dog that:

- Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
- Has more than once severely injured or killed a domestic animal while off the owner's property; or
- Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such

[1] Section 767.10, F.S.

actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.[2]

Enforcement of the dangerous dog law relies on a formal complaint to trigger an investigation by an animal control authority. Pending the outcome of the investigation, the dog must be confined by its owner or impounded with an animal control authority and may not be relocated or have its ownership transferred. A dog cannot be declared dangerous if the threat, injury or damage was sustained by a person who was unlawfully on the property, harassing the dog or its owner, or if the dog was protecting a human from an unjustified attack.[3]

After the investigation, the animal control authority makes an initial determination as to whether there is sufficient cause to classify the dog as dangerous. The owner must have an opportunity for a hearing prior to a final determination. The local governing body establishes the hearing procedures. If the dog is classified as a dangerous dog, the animal control authority must provide written notice to the owner, and the owner may appeal the classification to the county court.[4]

Within 14 days after the classification as a dangerous dog by the animal control authority or the classification is upheld by the county court on appeal, the owner must register the dog with the animal control authority and renew the certificate annually. Vaccination, enclosure, warning sign, and identification requirements must then be followed. The owner must immediately notify the animal control authority if the dog is loose, bites or attacks a person or another animal, or if there is any other change in status. A dangerous dog must remain in its enclosure at all times unless it is muzzled and restrained by a chain or leash. Any violation of these requirements is a noncriminal infraction punishable by a fine, not to exceed $500. Exemptions are provided for: hunting dogs, when engaged in any legal hunt or training procedure; dogs engaged in training or exhibiting in legal sports, such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials; and dogs used for law enforcement work.[5]

In addition to civil penalties, the owner of a dangerous dog can be charged with the following criminal violations:

- 3rd degree felony (punishable under s. 775.082, s. 775.083, or s. 775.084, F.S.), if the dog has previously been declared "dangerous" and it attacks and causes severe injury to or death of any human.[6]
- 1st degree misdemeanor (punishable under s. 775.082 or s. 775.083, F.S.), if the dog has previously been declared "dangerous" and it attacks or bites a person or domestic animal without provocation.

[2] Section 767.11(1), F.S.
[3] Section 767.12(1)(a), F.S.
[4] Section 767.12(1)(c)(d), F.S.
[5] Section 767.12(2-7), F.S.
[6] Section 767.13, F.S.

- 2nd degree misdemeanor (punishable under s. 775.082 or s. 775.083, F.S.), if the dog has not previously been declared "dangerous" but causes severe injury to or death of any human and the owner had prior knowledge of, but recklessly disregarded, the dog's dangerous propensities.

Under these criminal scenarios, the dog must be confiscated, placed in quarantine, if necessary, or impounded for 10 business days after the owner is given written notification of the animal control authority's intent to destroy. During such time, the owner may request a hearing, and the dog may not be destroyed while an appeal is pending. However, the owner must pay for all boarding costs and other fees to maintain the dog during any appeal process. If a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner is not guilty of any crime under this section.[7]

Local governments are authorized to place further restrictions and additional requirements on owners of dangerous dogs. However, no local regulation may be breed-specific, or lessen the provisions of chapter 767 unless the regulation was adopted prior to October 1, 1990.[8] Florida is one of twelve states that prohibit local governments from enacting breed specific ordinances.[9] A handful of communities were grandfathered in with an exception to this provision including Miami-Dade County.

In *State v. Peters*, the 3rd District Court of Appeals upheld the City of North Miami's ordinance that required owners of pit bull-type dogs to post a surety bond (or provide other proof of financial responsibility) and confine the dogs indoors or in a locked pen.[10] The City of North Miami defined "Pit Bull Dog" with reference to the descriptions given by the American Kennel Club (AKC) and the United Kennel Club (UKC). The court held that:

- the ordinance did not deny equal protection to dog owners;
- the ordinance did not deny due process;
- the ordinance was not unconstitutionally vague in its definition of pit bull; and
- the determination of whether a dog was pit bull within the meaning of the ordinance was a matter of evidence not constitutional law.[11]

A similar Dade County ordinance also survived a challenge on vagueness grounds in a federal district court.[12]

The Senate Committee on Community Affairs Interim Report 2009-102[13] reviewed the law on breed specific ordinances and surveyed local governments. The report concluded that while little evidence exists to support claims that one breed is more predisposed to aggressive behavior than others, studies do provide evidence that certain breeds are more likely to cause severe injury than

[7] Section 767.13(5), F.S.
[8] Section 767.14, F.S.
[9] Pit Bull Awareness: Breed Specific Legislation; Nov. 28, 2007.
[10] 534 So. 2d 760 (Fla. 3d DCA 1988).
[11] *Id.*
[12] *American Dog Owners Association, Inc. v. Dade County*, 728 F. Supp. 1533 (S.D. Fla. 1989).
[13] Florida Senate Committee on Community Affairs, Review of the Viability of City or County Pre-emption of Banning Certain Dog Breeds by Ordinance, Interim Report 2009-102, *available at* http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-102ca.pdf.

others. The courts have consistently upheld these breed specific laws due to the rational relationship state and local governments have in preserving public safety and welfare. The issue of dangerous dogs varies greatly in different areas of this state – rural, semi-rural, and suburban. Within these local governments, human and dog populations vary greatly and can create possible unique areas of concern.

III. Effect of Proposed Changes:

Section 1 removes a provision that exempts local ordinances adopted before October 1, 1990 from the prohibition on ordinances that are specific to breed.

Section 2 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Veterinarians in localities that have breed-specific ordinances may see an increase in business since previously prohibited breeds will become legal to own.

C. Government Sector Impact:

Any local government that has a breed specific ordinance or one that lessens state restrictions governing dangerous dogs will be preempted. In localities that require dog licenses and that have breed-specific prohibitions, there will be an increase in dog license purchases resulting in an increase in revenue. The scale of that increase is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Norman

12-01344A-12 20121322__

A bill to be entitled

An act relating to local requirements for dangerous dogs; amending s. 767.14, F.S.; removing the provision that exempts local ordinances adopted before a specified date from the prohibition on ordinances that are specific to breed or that lessen state restrictions governing dangerous dogs; providing an effective date.

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

Section 1. Section 767.14, Florida Statutes, is amended to read:

767.14 Additional local restrictions authorized. ~~Nothing in~~ This act does not ~~shall~~ limit a ~~any~~ local government from placing further restrictions or additional requirements on owners of dangerous dogs or developing procedures and criteria for the implementation of this act, provided that no such regulation is specific to breed and that the provisions of this act are not lessened by such additional regulations or requirements. ~~This section shall not apply to any local ordinance adopted prior to October 1, 1990.~~

Section 2. This act shall take effect July 1, 2012.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Vice Chair*
Budget - Subcommittee on Finance and Tax
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Health Regulation
Military Affairs, Space, and Domestic Security
Transportation

JOINT COMMITTEE:
Legislative Auditing Committee, *Alternating Chair*

SENATOR JIM NORMAN
12th District

January 11, 2012

The Honorable Mike Bennett, Chair
Senate Community Affairs
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bennett:

My Senate Bill 1322, an act relating to Local Requirements for Dangerous Dogs has been referred to your committee. I respectfully request that this bill be placed on the first possible agenda for a hearing.

Should you or your staff have any questions, please do not hesitate to contact me or my chief aide, Ben Kelly.

Sincerely,

Jim Norman, Senator
12th District

rec'd 1/12/12
afw

JN: dlc

cc: Tom Yeatman, Staff Director – Senate Community Affairs

REPLY TO:
☐ 14031 North Dale Mabry Boulevard, Tampa, Florida 33618 (813) 265-6260
☐ 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5068

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

AMERICAN KENNEL CLUB℠

January 10, 2012

The Honorable Jim Norman
Florida State Senate
214 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: AKC Support of Senate Bill 1322

Dear Senator Norman:

On behalf of responsible dog owners in Florida, the American Kennel Club (AKC) thanks you for sponsoring Senate Bill 1322 and provides our endorsement of this legislation to end breed-based discrimination for all dogs in Florida.

The AKC was established in 1884 to promote the study, breeding, exhibiting, and advancement of purebred dogs. The AKC supports the adoption of reasonable, enforceable, non-discriminatory laws to govern the ownership of dogs. We understand that it can be a daunting task to develop legislation that will allow responsible citizens to enjoy a myriad of activities with their dogs while at the same time protecting all people from the actions of irresponsible dog owners. We believe, however, that this balance is attainable.

The AKC believes that dog owners should be responsible for their dogs and that laws should impose appropriate penalties on irresponsible owners. Communities must establish a well-defined procedure for dealing with dogs proven to be dangerous which includes, if necessary, the destruction of such animals. In order to be effective, such ordinances should not single out specific breeds or phenotypic classes of dogs. Deeds, not breeds, should be addressed.

For these and other reasons, breed-specific ordinance are opposed by the American Kennel Club, the American Veterinary Medical Association, the National Animal Control Association, the American Society for the Prevention of Cruelty to Animals, and a host of other respected national animal organizations who recognize the inequities and inherent fallacies of such law.

Should this legislation pass, the AKC and our local kennel clubs stand ready to assist local governments in drafting dangerous dog ordinances that do not discriminate solely on the basis of a dog's breed but instead establish measurable, objective criteria for designating a dog as dangerous. We thank you for your support of this important legislation and look forward to working with you as it progresses.

Sincerely,

Sarah Sprouse

Sarah Sprouse, Manager
AKC Government Relations

Cc: Members of the Florida State Senate

8051 Arco Corporate Drive Raleigh, NC 27617-3390 Tel 919 816-3600 www.akc.org

American Rottweiler Club

16005 Pine Creek Way, Magnolia, TX 77355-3351

713-557-0807 **jshaver522@yahoo.com**

January 18, 2012

Senator Jim Norman

RE: Support for SB 1322

Dear Senator Bennett:

I am writing to you on behalf of the American Rottweiler Club, a non-profit corporation representing the interests of Rottweilers across the nation including Florida. The American Rottweiler Club is in support of Senate Bill 1322 and would urge you to do all within your power to see that it passes the Senate and eventually becomes law in Florida.

Senate Bill 1322 would simply make sense in that it requires all incorporated areas in Florida to comply with current Florida law prohibiting breed specific legislation against animals and their owners based solely upon the particular type of animal involved as opposed to the owner and their animal's actions. The current "grandfathering" of certain municipalities, such as Miami-Dade and Hollywood, Florida, is not acceptable. All Florida cities should be required to follow state law. We believe that SB 1322 is a good step toward ensuring that everyone is subject to the same laws in Florida. Animal owners in one area of the state should not be unknowingly penalized by simply traveling through another city that might have conflicting laws with no notice to the general traveling public.

Your consideration of this matter would be greatly appreciated.

Respectfully,

Jeff Shaver, President
American Rottweiler Club

January 23, 2012

The Honorable Jim Norman
Florida State Senate
214 Senate Office Building
404 South Monroe Street
Tallahassee FL 32399-1100

Dear Senator Norman:

On behalf of The Humane Society of the United States (HSUS) and our more than 11 million supporters, including over 863,000 in Florida and 16,125 in District 12 I wish to thank you for filing S.B. 1322, which would repeal a provision in Florida's dangerous dog law that allows local dog breeds in effect prior to 1991.The HSUS strongly supports this bill.

The HSUS supports S.B. 1322/H.B. 997 and opposes ordinances that ban or strictly regulate dogs based solely on their breed for a number of reasons:

Breed alone cannot predict whether a dog may pose a danger to his or her community. A dog's tendency to bite depends on many factors, including heredity, early experience, later socialization and training, health, and whether the dog is spayed or neutered, among others.

Dog bite statistics do not give an accurate depiction of which breeds bite most frequently. Dog bite statistics often show that dogs from popular large breeds cause the most bites, but that assumption is not necessarily true. It is critical to understand the dog populations in the community. For example, a study showing 5 attacks by golden retrievers and 10 attacks by pit bulls in the same community would seem to indicate that pit bulls are more dangerous. However, if you look at the dog populations in that community and learn that there are 50 golden retrievers and 500 pit bulls, then the pit bulls are actually the safer breed statistically. Determining the number of dogs of a particular breed in a community is difficult because only a fraction of dogs are licensed. Reports of the dogs responsible for bites may also be inaccurate. For example, the breed of the biting dog might not be accurately recorded. Additionally, the actual number of bites by each breed is likely unknown, since many bites may go unreported.

Labeling one breed as "dangerous" simply encourages the development of new "dangerous" breeds. "Dangerous" breeds vary over time and any dog can become dangerous when bred or trained to be aggressive. Banning or restricting one breed will simply cause irresponsible owners to train other breeds for the same characteristics. For example, 40 years ago, pit bulls and rottweilers (the most recent breeds targeted) were of little to no concern. At that time it was the Doberman pinscher who was considered dangerous. Simply put, if you ban one breed, individuals will just move on to another one--banning a breed only speeds up the timetable.

There are other, more effective ways to address dog bite concerns than ordinances prohibiting the ownership of dogs based on breed. Florida's current breed-neutral dangerous dog law based on a dog's previous behavior (with the exception of the grandfathering provision your bill would repeal) is far more effective than targeting specific breeds because they hold the owner responsible for the behavior of the dog. Since intact males are involved in 70-76% of reported dog bite incidents[1], spaying and neutering of dogs deemed to be dangerous should be required. Stronger laws against dogfighting help to crack down on owners who breed dogs specifically for aggression and fighting. To reduce dog bites, communities should enact legislation that restricts dog chaining, provide ample subsidized spay/neuter services, and increase staffing and resources for animal control.

With the exception of the grandfathering provision that your bill would repeal, Florida's current dangerous dog law targets individual dogs with a history of aggressive behavior regardless of breed. With passage of S.B. 1322/H.B. 997, Florida's dangerous dog law would provide a consistent standard that protects our communities from dangerous dogs while preventing well socialized dogs from being unfairly targeted simply because of their breed or appearance.

Sincerely,

Laura Bevan
Director, Southern Regional Office
The Humane Society of the United States
1624 Metropolitan Circle
Tallahassee FL 32308

[1] "A Community Approach to Dog Bite Prevention," American Veterinary Medical Association Task Force on Canine Aggression and Human-Canine Interaction, *JAVMA*, Vol 218, No. 11, June 1, 2001, p. 1733.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic

Bill Number SB 1322 (if applicable)

Name JACK CORY

Amendment Barcode (if applicable)

Job Title V.P. Public Aff Cen

Address 110 E. Colley A-
Street

Tallahassee
City State Zip

Phone 850 893-0095

E-mail JACKCORY@PACnet.net

Speaking: [✓] For [ ] Against [ ] Information

Representing Fig Florida

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-12
Meeting Date

Topic: Local Requirements Dangerous Dogs

Bill Number: 1322 (if applicable)

Name: Julian Mixon

Amendment Barcode: (if applicable)

Job Title: Governmental Consultant

Address: 119 E. Park Ave
Street

Tallahassee FL 32301
City State Zip

Phone: 850-222-2591

E-mail: julian@mixonandassociate.com

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Association of Kennel Clubs

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-12
Meeting Date

Topic: Local Requirements Dangerous Dogs

Bill Number: 1322 *(if applicable)*

Name: Pat Mixon

Amendment Barcode: _____ *(if applicable)*

Job Title: Governmental Consultant

Address: ~~2630 Noble Dr~~ 119 E. Park Ave
Street

Tallahassee FL 32303
City *State* *Zip*

Phone: 850-222-2591

E-mail: pat@mixonandassociates.com

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Veterinary Medical Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-12
Meeting Date

Topic _____

Bill Number 1322 *(if applicable)*

Name JESS MCCARTY

Amendment Barcode _____ *(if applicable)*

Job Title ASS'T COUNTY ATTY

Address 111 NW 1ST ST 2810
Street

MIAMI 33128
City *State* *Zip*

Phone 305-979-7110

E-mail JMM2@MIAMIDADE.GOV

Speaking: ☐ For ☑ Against ☐ Information

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-2012
Meeting Date

Topic SB1322/HB997 Miami-Dade Pit Bill Number SB1322/HB997 (if applicable)

Name Deborah Castleberry Amendment Barcode _____ (if applicable)

Job Title Retired

Address 7 Coorland Rd. Phone 229.400.1399
Street

Havana FL 32333 E-mail castleberryds@gmail.com
City State Zip

Speaking: [✓] For [ ] Against [ ] Information

Representing Self

Appearing at request of Chair: [ ] Yes [✓] No Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: Dangerous Dog

Bill Number: 1322 (if applicable)

Name: Kate MacFall

Amendment Barcode: (if applicable)

Job Title:

Address: 2144 Delta Way
Street

Tallahassee Fl. 32303
City State Zip

Phone: 850 508 1001

E-mail: kmacfall@comcast.net

Speaking: [x] For [ ] Against [ ] Information

Representing: Animal Shelter Foundation

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: HB 997 / SB 1322 - Breed Discrimination

Bill Number: SB 1322 *(if applicable)*

Name: KELLY MORTON

Amendment Barcode: *(if applicable)*

Job Title: BEST FRIENDS ANIMAL SOCIETY - SPECIALIST

Address: 356B OAK ST
Street

JACKSONVILLE, FL 32205
City, State, Zip

Phone: 904-704-8006

E-mail: kellym@bestfriends.org

Speaking: [✓] For [ ] Against [ ] Information

Representing: BEST FRIENDS ANIMAL SOCIETY

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1.30.12
Meeting Date

Topic: ~~SB 1322~~ Pit Bull Ban - Miami-Dade

Bill Number: 1322 (if applicable)

Name: Ernest Sims, Jr.

Amendment Barcode: (if applicable)

Job Title: Honorary Board Member Miami Coalition

Address: 770 Newman Cove
Street

Tall
City State Zip

Phone:

E-mail:

Speaking: [x] For [ ] Against [ ] Information

Representing: Miami Coalition Against BSL

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-12
Meeting Date

Topic: Act Relating to Dogs

Bill Number: 1322 (if applicable)

Name: Denise LASHER

Amendment Barcode: (if applicable)

Job Title:

Address: PO Box 1440
Street

Lutz FL 33548
City State Zip

Phone: 813-240-4567

E-mail: lasherinc@gmail.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: BEST FRIENDS

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 1182

INTRODUCER: Community Affairs Committee and Senator Norman

SUBJECT: Public Housing

DATE: January 30, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Fav/CS**
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The bill (CS) allows the Florida Housing Finance Corporation to utilize up to 10 percent of certain annual tax credits, revenue bonds, and loan funds for high priority affordable housing projects. Such projects include housing to support economic development and job creation, housing for veterans and their families and housing for other special needs populations.

This bill also provides a finding that essential commercial goods and services required for daily living are necessary to residents of housing authorities but are difficult to access. To address this, the bill grants a housing authority the ability to develop and construct commercial projects, collocated with housing projects, which would provide these types of goods and services. Revenue received by a housing authority from a commercial project must be used to upgrade and improve the housing project or to preserve and rehabilitate other housing authority properties. A commercial project so established would be exempt from property taxation and all taxes and special assessments of the state or any city, town, county, or political subdivision of the state. A housing authority's power of eminent domain would not apply to real property used to provide access to essential commercial goods and services.

The bill also revises provisions for terminating a rental agreement that involves rent subsidies received from a local, state or national government.

This bill substantially amends sections 83.56, 421.02, 421.03, 421.08, 421.09, 421.32, 422.02, 422.04, 423.01, 423.02, and 420.507 of the Florida Statutes.

This bill substantially amends and reenacts section 421.21 of the Florida Statutes.

II. Present Situation:

Public Housing Authorities

The state role in housing and urban development is outlined in part I of ch. 421, F.S., (Housing Authorities Law), ch. 422, F.S., (Housing Cooperation Law), and ch. 423, F.S., (Tax Exemption of Housing Authorities).[1] Section 421.02, F. S., finds that there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford. Providing such accommodations, including the acquisition by a housing authority of property to be used for or in connection with housing projects, are deemed exclusively public uses and purposes for which public money may be spent and private property acquired and are governmental functions of public concern.

City, County, and Regional Housing Authorities

Florida statutes provide for the creation of special district city, county and regional housing authorities. Of the 110 Public Housing Authorities in Florida,[2] 93 are special districts.[3]

The determination of the need for a city housing authority may be made by the governing body of a city or upon the filing of a petition signed by 25 city residents. The mayor, with the approval of the governing body, appoints no fewer than five and no more than seven persons as commissioners of the authority.[4] The powers of each authority are vested in the commissioners and action may be taken upon a majority vote of the commissioners. No commissioner or employee of an authority may acquire any interest in any housing project or in any property included or planned to be included in any project, nor in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project.[5]

Section 421.08, F.S., establishes the powers of a housing authority including:

- the power to acquire, lease, and operate housing projects,
- the power to provide for the construction, reconstruction, improvement, alteration, or repair of any housing project,

[1] The Department of Economic Opportunity (DEO) is the state agency charged with the responsibility of this state role.
[2] Florida Housing Data Clearing House, *Public Housing Agency Results*, available at http://flhousingdata.shimberg.ufl.edu/a/public_housing_agency?next=results&submit_submit.x=15&submit_submit.y=13&nid=1 (last visited Jan. 26, 2012).
[3] Florida Department of Economic Opportunity, *Official List of Special Districts Online*, (*available online at* http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/index.cfm) (last visited Jan. 26, 2012).
[4] At least one commissioner must be a resident of a housing project or a person of low income who resides within the housing authority's jurisdiction and is receiving a rent subsidy.
[5] *See* ss. 412.04, 421.05 and 421.06, F.S.

- the power to lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project, and
- the power to invest any funds held in reserves or sinking funds.

Section 421.08(8)(a), F.S., grants the power to:

> organize for the purpose of creating a for-profit or not-for-profit corporation, limited liability company, or other similar business entity . . . to develop, acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects. These projects may include nonresidential uses and may use public and private funds to serve individuals or families who meet the applicable income requirements of the state or federal program involved; . . .

Section 421.27, F.S., governs the creation and powers of county housing authorities which is similar to the creation of city housing authorities.[6] A county housing authority's area of operation includes all of the county except that portion which lies within the territorial boundaries of any city as defined in the Housing Authorities Law. A regional housing authority may be created by two or more contiguous counties if a regional entity would be a more economically or administratively efficient unit.[7] The powers of a regional housing authority are analogous to those of a city or county housing authority.

Housing Authorities and Eminent Domain

An authority has the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes.[8] Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the state or any political subdivision may be acquired without its consent.

Federal Aid for Housing Authorities

Section 421.21, F.S., empowers a housing authority to borrow money or accept grants or other financial assistance from the Federal Government for housing projects. This section also allows a housing authority to take over or lease or manage any housing project or undertaking constructed or owned by the Federal Government. In addition, an authority is authorized "to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance or operation of any housing project by such authority."[9]

Housing Cooperation Law (Chapter 422, Florida Statutes)

Chapter 422, Florida Statues, provides that any state public body, for the purpose of aiding and cooperating in the construction or operation of housing projects may:

- sell or lease any of its property to a housing authority or the Federal Government;

[6] In counties, petitions must be signed by 25 county residents and the Governor appoints the commissioners.
[7] *See* s. 421.28, F.S. The Governor appoints commissioners pursuant to s. 421.30, F.S.
[8] Section 421.12, F.S. An authority may exercise the power of eminent domain pursuant to ch. 73 and ch. 74, F.S.
[9] Section 421.21, F.S.

- cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;
- furnish, close, pave, install, grade, or plan streets, roads, alleys, or sidewalks;
- do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of housing projects;
- purchase or legally invest in any of the debentures of a housing authority.[10]

Tax Exemption of Housing Authorities

Chapter 423, Florida Statutes, provides property tax exemptions as well as state and local government tax and assessment exemptions for housing authorities. Specifically, s. 423.01(4), F.S., states:

> Such housing projects, including all property of a housing authority used for or in connection therewith or appurtenant thereto, are exclusively for public uses and municipal purposes and not for profit, and are governmental functions of state concern. As a matter of legislative determination, it is found and declared that the property and debentures of a housing authority are of such character as may be exempt from taxation.

Section 423.02, F.S., states that

> . . . housing projects, including all property of housing authorities used for or in connection therewith or appurtenant thereto, of housing authorities shall be exempt from all taxes and special assessments of the state or any city, town, county, or political subdivision of the state . . .[11]

Age of Public Housing Units in Florida

The first public housing units were built in Florida in the 1940s. According to the Shimberg Center for Housing Studies at the University of Florida, as of 2009, public housing authorities provided 35,840 housing units in the state. Of these, 77% were built before 1980 and 15% are now over 50 years old.[12] The table below provides data on numbers and ages of public housing units.

Public Housing by Decade[13]	
Decade Built	**Housing Units**
1940-1949	2,991

[10] *See* s. 422.04(1), F.S.
[11] In lieu of such taxes or special assessments a housing authority may agree to make payments to a local government for services, improvements or facilities furnished by the entity for the benefit of a housing project owned by the housing authority.
[12] E-mail from Anne Ray, Florida Housing Data Clearinghouse Manager, Shimberg Center for Housing Studies (Jan. 26, 2012) (on file with the Senate Committee on Community Affairs).
[13] According to the Florida Housing Data Clearinghouse, the year built is unknown for 2,475 of the units.

1950-1959	2,475
1960-1969	5,647
1970-1979	14,442
1980-1989	3,021
1990-1999	1,030
2000-2009	3,759
Total	33,365

The Affordable Housing Commission's 2006 Annual Report highlighted the age and expiration of Florida's affordable housing stock stating that the physical condition and maintenance of older units was a cause for concern.[14] The report went on to outline the parameters of the situation.

> From a preservation perspective, the threat to public housing is the ongoing deterioration of an aging stock. Additionally, the physical condition of public housing properties is crucial to the ability of PHAs [Public Housing Authorities] to rent the units and generate revenue. The capital needs of public housing have been chronically under-funded for much of the program's history, and the mechanisms to address maintenance and rehabilitation can be unwieldy. Early in the program's history, too little funding was provided to keep maintenance problems in check and today these long deferred maintenance issues continue to worsen.

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC)[15] is a state entity primarily responsible for encouraging the construction and reconstruction of new and rehabilitated affordable housing in Florida. It was created in 1997, when the Legislature enacted chapter 97-167, Laws of Florida, to streamline implementation of affordable housing programs by reconstituting the agency as a corporation. The FHFC is a public corporation housed within the Department of Economic Opportunity (DEO), but is a separate budget entity not subject to the control, supervision, or direction of the DEO. Instead, it is governed by a nine member board of directors comprised of the Secretary of DEO, who serves as an ex officio voting member, and eight members appointed by the Governor, subject to confirmation by the Senate.

The corporation operates several housing programs financed with state and federal dollars, including:

- The State Apartment Incentive Loan Program (SAIL), which annually provides low-interest loans on a competitive basis to affordable housing developers;[16]

[14] The Affordable Housing Study Commission, *A Preservation Strategy for Florida's Affordable Multifamily Housing* (2006) *available at* http://www.floridahousing.org/NR/rdonlyres/63332252-F3EA-486A-9F59-B95E7F6CDE56/0/AHSCFinalReport2006.pdf (last visited Jan. 26, 2012).
[15] Formerly the Florida Housing Finance Agency.
[16] Under current law, low interest mortgage loans provided under the SAIL Program are only available for qualifying farm workers, commercial fishing workers, the elderly, and the homeless. *See* s. 420.507(22), F.S.

- The Florida Homeowner Assistance Program (HAP), which includes the First Time Homebuyer Program, the Down Payment Assistance Program, the Homeownership Pool Program, and the Mortgage Credit Certificate program;
- The Florida Affordable Housing Guarantee Program, which encourages lenders to finance affordable housing by issuing guarantees on financing of affordable housing developments financed with mortgage revenue bonds;
- The State Housing Initiatives Partnership Program (SHIP), which provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing;
- The Community Workforce Housing Innovation Pilot Program (CWHIP), which awards funds on a competitive basis to promote the creation of public-private partnerships to develop, finance, and build workforce housing; and
- The Hardest Hit Fund (HHF), established by the U.S. Treasury in 2010, which provides foreclosure prevention assistance through an unemployment mortgage program and a mortgage loan reinstatement program

The FHFC receives funding for its affordable housing programs from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.[17] Pursuant to s. 420.507, F.S., the FHFC is also authorized to receive federal funding in connection with the corporation's programs directly from the Federal Government.[18] Section 420.509, F.S., allows the FHFC to issue revenue bonds which are payable solely from pledged revenues and shall not be secured by the full faith and credit of the state.

The State Housing Tax Credit Program is outlined in s. 420. 5093, F.S. The FHFC establishes procedures necessary for proper allocation and distribution of state housing tax credits, including the establishment of criteria for any single-family or commercial component of a project. The board of directors of the FHFC administers the allocation procedures and determines allocations on behalf of the corporation.

The State Housing Strategy Act, located in Part I, of ch. 420, F.S., was created by the Legislature in 1992 to guarantee adequate affordable housing for Florida residents.[19] Pursuant to s. 420.0003, F.S., the DEO and the FHFC annually coordinate with the Shimberg Center for Affordable Housing at the University of Florida[20] to develop and maintain statewide data on affordable housing needs for specific populations.[21] These studies are then used to review and evaluate existing affordable housing accommodations to ensure that they are consistent with current need assessments and to recommend any improvements or plan modifications.[22]

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[17] Sections 201.15(9) and (10), F.S.
[18] *See* ss. 420.507(33) and 159.608, F.S.
[19] Section 420.0003, F.S.
[20] The Shimberg Center was established at the University of Florida in 1988 to "facilitate safe, decent and affordable housing throughout the state of Florida" and was named after Jim Shimberg Sr., a Tampa homebuilder dedicated to affordable housing. The Center's Florida Housing Data Clearinghouse provides public information on Florida housing needs, programs and demographics. For more information visit: http://www.shimberg.ufl.edu/ (last visited Jan. 31, 2012).
[21] Section 420.0003(4)(c), F.S.
[22] *Id*.

Landlord and Tenant Obligations

Chapter 83, Florida Statutes governs landlord and tenant issues. A landlord's obligation to maintain premises is outlined in s. 83.51, F.S.,[23] while a tenant's obligation to maintain a dwelling unit is addressed in s. 83.52, F.S.[24] If a landlord accepts rent or if the tenant pays rent with actual knowledge of an obligation noncompliance by the other party, the landlord or tenant waives his or her right to terminate a rental agreement or to bring a civil action for that noncompliance. These provisions do not apply to that portion of rent subsidies received from a local, state, or national government or agency; however, waiver will occur if an action has not been instituted within 45 days of the noncompliance.

III. Effect of Proposed Changes:

Section 1 amends s. 83.56, F.S., to extend the time prior to a landlord's wavier of civil action in terminating a rental agreement when the rental agreement involves rent subsidies received from a local, state or national government.

Section 2 amends s. 421.02, F.S., by declaring that an important public purpose is served by providing access to essential commercial goods and services necessary for daily living for persons served by public housing authorities. Limited transportation capacity and significant family demands are cited as complications for these persons in their access efforts.

Section 3 amends s. 421.03, F.S., related to definitions. "Essential commercial goods and services" is newly defined to mean goods, such as groceries and clothing, and services, such as child care, K-12 education, financial services, job training and placement, and laundry facilities that are necessary for daily living and that may be difficult for persons of low income to access unless collocated[25] with the housing project where they live and substantially serving persons of low income.

The definition of "housing project" is amended to also include any work or undertaking "to provide access to essential commercial goods and services."

Section 4 amends s. 421.08, F.S., to preclude a housing authority's power of eminent domain with respect to real property used to provide access to essential commercial goods and services. A housing authority's current power to develop, acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects is expanded to also include commercial projects that allow access to essential goods and services for persons of low income residing in such residential projects.

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[23] In addition to complying with applicable building, housing, and health codes, landlords must make reasonable provisions for exterminations, garbage removal and functioning facilities for heat during winter, running water, and hot water.
[24] In addition to complying with applicable building, housing, and health codes, tenants must keep premises clean and sanitary and may not destroy, deface, damage, impair, or remove any part of the premises.
[25] Collocate is defined as "to set or place together, especially side by side." See http://dictionary.reference.com/browse/collocate. The words collocate or collocated are found in at least 13 Florida statutes.

This section of the bill also proscribes that any revenue received by a housing authority from the specified commercial projects must be used exclusively to upgrade and improve living conditions in the housing project or to preserve and rehabilitate public or affordable housing managed by the housing authority.

Section 5 amends s. 421.09, F.S., to make a conforming cross reference.

Section 6 reenacts and amends s. 421.21, F.S., to update and clarify language.

Section 7 amends s. 421.32, F.S., to update language and make conforming cross references.

Section 8 amends s. 422.02, F.S., by making a cross reference related to the access of essential commercial goods and services necessary for daily living.

Section 9 amends s. 422.04, F.S., to expand a state body's authority to aid in the planning, undertaking, construction, or operation of certain projects furnished adjacent to or in connection with housing projects. The bill includes commercial projects that allow access to essential goods and services for persons of low income residing in housing projects among the allowable projects. Language is also update and clarified.

Section 10 amends s. 423.01, F.S., to expand the current housing authority exemption from property and debentures taxation to include all property used to provide access to essential goods and services necessary for daily living for persons residing in housing projects. In addition, this section of the bill declares that facilities made available by housing authorities to provide access to essential goods and services necessary for daily living for persons residing in housing projects are a critical component of those housing projects and constitute a public use and a governmental function.

Section 11 amends s. 423.02, F.S., to expand the current housing authority exemption from all taxes and special assessments of the state or any city, town, county, or political subdivision of the state to also include all commercial projects that allow access to essential goods and services for persons of low income residing in housing projects.

Section 12 amends s. 420.507, F.S., to add subsection (48) which allows the FHFC to utilize up to 10 percent of certain annual tax credits, revenue bonds, and loan funds appropriated by the Legislature and allocated via competitive solicitation for high priority affordable housing projects. Such projects include housing to support economic development and job creation, housing for veterans and their families and housing for other special needs populations.

Section 13 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Art. VII, State Constitution, provides that except upon approval by two-thirds of the members of each house, the Legislature may not enact, amend, or repeal any

general law if the anticipated effect of doing so would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989. The tax exemption provisions of this bill would reduce the revenue-raising authority of municipalities and counties and may require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Residents of public housing projects would experience indeterminate transportation savings if the commercial projects proposed by the bill are created on housing authority property. Owners of any commercial projects created would realize assorted indeterminate savings due to the various taxing and assessment exemptions provided in the bill.

Depending on the extent that the FHFC exercises its new authority to utilize funding for affordable housing, targeted residents may experience indeterminate costs savings related to increased housing access.

C. Government Sector Impact:

Housing authorities would experience an indeterminate reduction in maintenance costs as a result of the new revenue streams to preserve and rehabilitate public housing projects. Local government bodies would incur an indeterminate loss in potential tax revenues due to the exemption provisions of the bill.

The Revenue Estimating Conference has not met to consider the fiscal impact of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on January 30, 2012:

- Revises provisions for terminating a rental agreement that involves rent subsidies received from a local, state or national government.
- Allows the FHFC to utilize up to 10 percent of certain annual tax credits, revenue bonds, and loan funds for specified high priority affordable housing projects.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

479964

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
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The Committee on Community Affairs (Norman) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 42 and 43
4 insert:
5 Section 1. Subsection (5) of section 83.56, Florida
6 Statutes, is amended to read:
7 83.56 Termination of rental agreement.—
8 (5) If the landlord accepts rent with actual knowledge of a
9 noncompliance by the tenant or accepts performance by the tenant
10 of any other provision of the rental agreement that is at
11 variance with its provisions, or if the tenant pays rent with
12 actual knowledge of a noncompliance by the landlord or accepts

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13 performance by the landlord of any other provision of the rental
14 agreement that is at variance with its provisions, the landlord
15 or tenant waives his or her right to terminate the rental
16 agreement or to bring a civil action for that noncompliance, but
17 not for any subsequent or continuing noncompliance. Any tenant
18 who wishes to defend against an action by the landlord for
19 possession of the unit for noncompliance of the rental agreement
20 or of relevant statutes shall comply with the provisions in s.
21 83.60(2). The court may not set a date for mediation or trial
22 unless the provisions of s. 83.60(2) have been met, but shall
23 enter a default judgment for removal of the tenant with a writ
24 of possession to issue immediately if the tenant fails to comply
25 with s. 83.60(2). This subsection does not apply to that portion
26 of rent subsidies received from a local, state, or national
27 government or an agency of local, state, or national government;
28 however, waiver will occur if an action has not been instituted
29 within 90 ~~45~~ days after the landlord has actual knowledge of the
30 noncompliance.
31
32 ========== T I T L E A M E N D M E N T ==========
33 And the title is amended as follows:
34 Delete line 2
35 and insert:
36 An act relating to public housing; amending s. 83.56,
37 F.S.; revising provisions for terminating a rental
38 agreement that involves rent subsidies received from a
39 local, state, or national government; amending s.
40 421.02,

280978

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/30/2012	.	
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The Committee on Community Affairs (Norman) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 42 and 43
4 insert:
5 Section 1. Section 420.5071, Florida Statutes, is created
6 to read:
7 420.5071 Assessment of need for affordable housing.—
8 (1) In exercising its powers, the corporation shall seek to
9 secure equal access to affordable housing for all residents of
10 this state.
11 (2) In connection with any corporation competitive program
12 for multifamily housing, the corporation shall adopt rules that

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13 take into consideration the most recent county-by-county need
14 assessment prepared by the Shimberg Center for Affordable
15 Housing Studies at the University of Florida. These corporate
16 rules must address the longstanding inequality of access to
17 affordable housing among counties in the state.
18 (3) The corporation shall use data from the Shimberg Center
19 for Affordable Housing Studies to establish by rule the
20 statewide level of service for affordable housing by dividing
21 the total number of units built with assistance from any
22 corporation funds by the total number of eligible households in
23 the state. The level of service must be expressed as a
24 percentage. Any counties that have less than the statewide
25 average level of service are deemed underserved counties, and
26 any counties that have more than the statewide average level of
27 service are deemed oversaturated counties.
28 (4) In adopting rules for any corporation competitive
29 program for multifamily housing which takes in account the need
30 for affordable housing in each county, the corporation shall
31 ensure, as its first financing priority, that funds are made
32 available in underserved counties before the funds are made
33 available in oversaturated counties. In any county where the gap
34 between the statewide level of service and the county's level of
35 service is greater than 50 units, the corporation shall reduce
36 the gap between the statewide level of service and the county's
37 level of service as follows:
38 (a) Fifteen percent every year in counties that have a
39 population of 825,000 or more;
40 (b) Forty-five percent every 3 years in counties that have
41 a population of more than 100,000 but fewer than 825,000;

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42 (c) One-hundred percent within 7 years in counties that
43 have a population of 100,000 or fewer.
44
45 The corporation shall ensure that a county is not allocated in
46 excess of the statewide level of service in a given year. This
47 subsection is subject to the requirements of s. 420.5087(1).
48 (5) To ensure that affordable housing financing is approved
49 in underserved counties, any affordable housing application
50 approved by the corporation which does not progress beyond the
51 corporation's credit underwriting phase is not counted against
52 any county allocation cap established by the corporation, and
53 the corporation shall, pursuant to the corporation's ranking
54 system, reallocate those funds to the application that is next
55 in line in that county.
56 (6) The corporation shall allocate financing in every
57 county at least once every 3 years, subject to the requirements
58 of s. 420.5087(1) and subsection (4). In seeking this goal, the
59 corporation shall consider need determinations reflected in the
60 data from the Shimberg Center for Affordable Housing Studies,
61 current market conditions, and any potential impact on the
62 Affordable Housing Guarantee Fund.
63
64 ========== T I T L E A M E N D M E N T ==========
65 And the title is amended as follows:
66 Delete line 2
67 and insert:
68 An act relating to public housing; creating s.
69 420.5071, F.S.; requiring that the Florida Housing
70 Finance Corporation seek to secure equal access to

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71 affordable housing for all state residents; requiring
72 that the corporation adopt rules that address
73 inequality of access to affordable housing among
74 counties in the state; requiring that the corporation
75 use data generated by the Shimberg Center for
76 Affordable Housing Studies to establish by rule the
77 statewide level of service for affordable housing;
78 requiring that the corporation prioritize the
79 availability of its funds; requiring that the
80 corporation reduce the gap between the statewide level
81 of service and the county's level of service under
82 certain conditions; requiring that the corporation
83 ensure that a county is not allocated in excess of the
84 statewide level of service in a given year; providing
85 that in underserved counties an affordable housing
86 application approved by the corporation which does not
87 progress beyond the corporation's credit underwriting
88 phase is not counted against any county allocation cap
89 established by the corporation; requiring that the
90 corporation reallocate those funds to the application
91 that is next in line in that county; requiring that
92 the corporation allocate financing in every county at
93 least once every specified number of years; amending
94 s. 421.02,

933162

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
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The Committee on Community Affairs (Bennett) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 564 and 565
4 insert:
5 Section 11. Subsection (48) is added to section 420.507, Florida
6 Statutes, to read:
7 (48) Florida Housing may utilize up to 10 percent of its
8 annual allocation of low income housing tax credits, allocation
9 of non-taxable revenue bonds, and State Apartment Incentive Loan
10 funds appropriated by the legislature and available to allocate
11 by request for proposals or other competitive solicitation
12 funding for high priority affordable housing projects, such as

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13 housing to support economic development and job creation
14 initiatives, housing for veterans and their families, and other
15 special needs populations in communities throughout the state as
16 determined by the corporation on an annual basis.
17
18 ========== T I T L E A M E N D M E N T ==========
19 And the title is amended as follows:
20 Delete lines 38 - 39
21 and insert:
22 purposes of clarifying various provisions; authorizing
23 Florida Housing Finance Corporation to set aside a
24 portion of its federal and state funding to fund
25 housing for economic development initiatives,
26 veteran's housing and housing for other special needs
27 populations, authorizing the use of competitive
28 requests for proposal to fund projects; providing an
29 effective date.

By Senator Norman

12-00941-12 20121182__

A bill to be entitled

An act relating to public housing; amending s. 421.02, F.S.; revising a declaration of necessity; providing that access to essential commercial goods and services for persons of low income served by housing authorities is a public use; amending s. 421.03, F.S.; reordering and revising definitions applicable to the Housing Authorities Law; revising the definition of the term "housing project"; defining the term "essential commercial goods and services"; amending s. 421.08, F.S.; prohibiting the use of eminent domain for certain purposes; expanding certain powers of housing authorities to include certain commercial projects providing essential goods and services; providing for the use of revenues received from such projects; amending s. 421.09, F.S.; conforming a cross-reference; reenacting and amending s. 421.21, F.S., relating to tax exemptions applicable to housing authorities created pursuant to certain federal programs; amending s. 421.32, F.S.; conforming a cross-reference; amending s. 422.02, F.S.; revising a declaration of necessity; providing that there exists a shortage of access to essential commercial goods and services necessary for daily living for persons of low income; amending s. 422.04, F.S.; expanding certain powers of state public bodies to include certain commercial projects providing essential goods and services; amending s. 423.01, F.S.; revising and providing findings and declarations of property of tax

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12-00941-12 20121182__

exemption for housing authorities relating to access to essential commercial goods and services necessary for daily living for persons of low income; amending s. 423.02, F.S.; exempting certain commercial projects that allow access to essential goods and services for persons of low income residing in such housing projects from certain taxes and special assessments; providing organizational and editorial changes for purposes of clarifying various provisions; providing an effective date.

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

Section 1. Section 421.02, Florida Statutes, is amended to read:

421.02 Finding and declaration of necessity.—It is hereby declared that:

(1) There exist in the state insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; that within the state there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that such ~~the aforesaid~~ conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the residents of the state and impair economic values; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime

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prevention and punishment, public health, welfare and safety, fire and accident protection, and other public services and facilities.

(2) Blighted areas in the state cannot be revitalized, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, solely through the operation of private enterprise.

(3) The clearance, replanning, and reconstruction of the areas in which insanitary or unsafe housing conditions exist, ~~and~~ the providing of safe and sanitary dwelling accommodations, and the access to essential commercial goods and services necessary for daily living for persons of low income, including the acquisition by a housing authority of property to be used for or in connection with housing projects or appurtenant thereto, are exclusively public uses and purposes for which public money may be spent and private property acquired and are governmental functions of public concern.

(4) An important public purpose is served by providing access to essential commercial goods and services necessary for daily living for persons served by public housing authorities as those persons often have limited transportation capacity and significant family demands. Issues such as limited transportation capacity and significant family demands complicate daily living and make access to essential commercial goods and services difficult.

(5) ~~(4)~~ The necessity in the public interest for the provisions hereinafter enacted~~,~~ is hereby declared ~~as~~ a matter of legislative determination.

Section 2. Section 421.03, Florida Statutes, is amended to

read:

421.03 Definitions.~~—~~As used ~~The following terms, wherever used or referred to~~ in this part, except where the context clearly indicates otherwise, the term ~~shall have the following respective meanings for the purposes of this part, unless a different meaning clearly appears from the context~~:

(1) ~~(6)~~ "Area of operation":

(a) In the case of a housing authority of a city having a population of less than 25,000, includes ~~shall include~~ such city and the area within 5 miles of its ~~the~~ territorial boundaries. ~~thereof; and~~

(b) In the case of a housing authority of a city having a population of 25,000 or more includes ~~shall include~~ such city and the area within 10 miles from its ~~the~~ territorial boundaries. ~~thereof; provided~~ However, ~~that~~ the area of operation of a housing authority of a ~~any~~ city may ~~shall~~ not include any area that ~~which~~ lies within the territorial boundaries of another ~~some other~~ city ~~as herein defined;~~ and may ~~further provided that the area of operation shall~~ not extend outside ~~of~~ the boundaries of the county in which the city is located, and a ~~no~~ housing authority has no ~~shall have any~~ power or jurisdiction outside ~~of~~ the county in which the city is located.

(2) ~~(1)~~ "Authority" or "housing authority" means a ~~shall mean any of the~~ public corporation ~~corporations~~ created pursuant to ~~by~~ s. 421.04.

(3) ~~(2)~~ "City" means ~~shall mean~~ any city or town of the state having a population of more than 2,500, according to the last preceding federal or state census. The term means ~~"The~~

~~city" shall mean~~ the particular city for which a particular housing authority is created.

(4) ~~(5)~~ "Clerk" means ~~shall mean~~ the clerk of the city or the officer of the city charged with the duties customarily imposed on the clerk ~~thereof~~.

(5) ~~(11)~~ "Debentures" means ~~shall mean~~ any notes, interim certificates, debentures, revenue certificates, or other obligations issued by an authority pursuant to this chapter.

(6) "Essential commercial goods and services" means goods, such as groceries and clothing, and services, such as child care, K-12 education, financial services, job training and placement, and laundry facilities, that are necessary for daily living and that may be difficult for persons of low income to access unless collocated with the housing project where they live and substantially serving persons of low income.

(7) "Federal Government" means ~~shall include~~ the United States Government~~, the Federal Emergency Administration of Public Works~~ or any department, commission, ~~other~~ agency, or other instrumentality thereof~~, corporate or otherwise, of the United States~~.

(8) ~~(3)~~ "Governing body" means ~~shall mean~~ the city council, the commission, or other legislative body charged with governing the city, as the case may be.

(9) "Housing project" means ~~shall mean~~ any work or undertaking:

(a) To demolish, clear, or remove buildings from any slum area, which~~; such work or undertaking~~ may embrace the adaption of such area to public purposes, including parks or other recreational or community purposes; ~~or~~

(b) To provide decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of low income, which~~; such work or undertaking~~ may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes; ~~or~~

(c) To provide access to essential commercial goods and services; or

(d) ~~(c)~~ To accomplish a combination of the foregoing.

The term ~~"housing project"~~ also applies ~~may be applied~~ to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

(10) ~~(4)~~ "Mayor" means ~~shall mean~~ the mayor of the city or the officer thereof charged with the duties customarily imposed on the mayor or executive head of the city.

(11) ~~(13)~~ "Obligee of the authority" or "obligee" includes ~~shall include~~ any holder of debentures, trustee or trustees for any such holders, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the authority.

(12) ~~(10)~~ "Persons of low income" means ~~shall mean~~ persons or families who lack the amount of income which is necessary, as

175 determined by the authority undertaking the housing project, to
176 enable them, without financial assistance, to live in decent,
177 safe and sanitary dwellings, without overcrowding.
178 (13) ~~(12)~~ "Real property" includes ~~shall include~~ all lands,
179 including improvements and fixtures thereon, and property of any
180 nature appurtenant thereto, or used in connection therewith, and
181 every estate, interest and right, legal or equitable, therein,
182 including terms for years and liens by way of judgment, mortgage
183 or otherwise and the indebtedness secured by such liens.
184 (14) ~~(8)~~ "Slum" means ~~shall mean~~ any area where dwellings
185 predominate which, by reason of dilapidation, overcrowding,
186 faulty arrangement or design, lack of ventilation, light or
187 sanitary facilities, or any combination of these factors, are
188 detrimental to safety, health and morals.
189 Section 3. Section 421.08, Florida Statutes, is amended to
190 read:
191 421.08 Powers of authority.—
192 (1) An authority shall constitute a public body corporate
193 and politic, exercising the public and essential governmental
194 functions set forth in this chapter, and having all the powers
195 necessary or convenient to carry out and effectuate the purpose
196 and provisions of this chapter, including the following powers
197 in addition to others ~~herein~~ granted in this chapter:
198 (a) ~~(1)~~ To sue and be sued; to have a seal and to alter it
199 ~~the same~~ at pleasure; to have perpetual succession; to make and
200 execute contracts and other instruments necessary or convenient
201 to the exercise of the powers of the authority; to appear in
202 court through any of its officers, agents, or employees, for the
203 exclusive purpose of filing eviction papers; and to make and

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204 from time to time amend and repeal bylaws, rules and
205 regulations, not inconsistent with this chapter, to carry into
206 effect the powers and purposes of the authority.
207 (b) ~~(2)~~ Within its area of operation, to prepare, carry out,
208 acquire, lease, and operate housing projects and~~;~~ to provide for
209 the construction, reconstruction, improvement, alteration, or
210 repair of any housing project or any part thereof.
211 (c) ~~(3)~~ To arrange or contract for the furnishing by any
212 person or agency, public or private, of services, privileges,
213 works, or facilities for, or in connection with, a housing
214 project or the occupants thereof.~~; provided, however, that~~
215 1. Notwithstanding any other power or provision in this
216 chapter, the authority may ~~shall~~ not construct, lease, control,
217 purchase, or otherwise establish, in connection with or as a
218 part of any housing project or any other real or any other
219 property under its control, any system, work, facilities,
220 plants, or other equipment for the purpose of furnishing utility
221 service of any kind to such projects or to any tenant or
222 occupant thereof if ~~in the event that~~ a system, work, facility,
223 plant, or other equipment for the furnishing of the same utility
224 service is being ~~actually~~ operated by a municipality or private
225 concern in the area of operation or the city or the territory
226 immediately adjacent thereto~~; provided, further~~, but this does
227 not ~~that nothing herein shall be construed to~~ prohibit the
228 construction or acquisition by the authority of any system,
229 work, facilities, or other equipment for the sole and only
230 purpose of receiving utility services from any such municipality
231 or such private concern and then distributing such utility
232 services to the project and to the tenants and occupants

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233 thereof.~~; and,~~
234 2. Notwithstanding ~~anything to the contrary contained in~~
235 ~~this chapter or in~~ any other provision of law, the authority may
236 ~~to~~ include, in any contract let in connection with a project,
237 stipulations requiring that the contractor and any
238 subcontractors comply with requirements as to minimum wages and
239 maximum hours of labor~~,~~ and ~~comply~~ with any conditions which the
240 Federal Government may have attached to its financial aid of the
241 project.
242 (d)~~(4)~~ To lease or rent any dwellings, houses,
243 accommodations, lands, buildings, structures, or facilities
244 embraced in any housing project and, subject to the limitations
245 contained in this chapter, to establish and revise the rents or
246 charges therefor; to own, hold, and improve real or personal
247 property; to purchase, lease, obtain options upon, acquire by
248 gift, grant, bequest, devise, or otherwise any real or personal
249 property or any interest therein; to acquire by the exercise of
250 the power of eminent domain any real property, except real
251 property to be used to provide access to essential commercial
252 goods and services; to sell, lease, exchange, transfer, assign,
253 pledge, or dispose of any real or personal property or any
254 interest therein; to insure or provide for the insurance of any
255 real or personal property or operations of the authority against
256 any risks or hazards; and to procure or agree to the procurement
257 of insurance or guarantees from the Federal Government of the
258 payment of any such debts or parts thereof, whether or not
259 incurred by the ~~said~~ authority, including the power to pay
260 premiums on any such insurance.
261 (e)~~(5)~~ To invest any funds held in reserves or sinking

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262 funds, or any funds not required for immediate disbursement, in
263 property or securities in which savings banks may legally invest
264 funds subject to their control and~~;~~ to purchase its debentures
265 at a price not exceeding ~~more than~~ the principal amount thereof
266 and accrued interest, with all debentures so purchased to be
267 canceled.
268 (f)~~(6)~~ Within its area of operation: to investigate into
269 living, dwelling, and housing conditions and into the means and
270 methods of improving such conditions; to determine where slum
271 areas exist or where there is a shortage of decent, safe, and
272 sanitary dwelling accommodations for persons of low income; to
273 make studies and recommendations relating to the problem of
274 clearing, replanning, and reconstruction of slum areas and the
275 problem of providing dwelling accommodations for persons of low
276 income; to administer fair housing ordinances and other
277 ordinances as adopted by cities, counties, or other authorities
278 who wish to contract for administrative services and to
279 cooperate with the city, the county, or the state or any
280 political subdivision thereof in action taken in connection with
281 such problems; and to engage in research, studies, and
282 experimentation on the subject of housing.
283 (g)~~(7)~~ Acting through one or more commissioners or other
284 person or persons designated by the authority:~~;~~ to conduct
285 examinations and investigations and to hear testimony and take
286 proof under oath at public or private hearings on any matter
287 material for its information; to administer oaths, issue
288 subpoenas requiring the attendance of witnesses or the
289 production of books and papers, and ~~to~~ issue commissions for the
290 examination of witnesses who are outside ~~of~~ the state, ~~or~~ unable

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291 to attend before the authority, or excused from attendance; and
292 to make available to appropriate agencies, including those
293 charged with the duty of abating or requiring the correction of
294 nuisances or like conditions, or of demolishing unsafe or
295 insanitary structures within its area of operation, its findings
296 and recommendations with regard to any building or property
297 where conditions exist which are dangerous to the public health,
298 morals, safety, or welfare.
299 (h) ~~(8)(a)~~ To organize for the purpose of creating a for-
300 profit or not-for-profit corporation, limited liability company,
301 or other similar business entity pursuant to all applicable laws
302 of this state in which the housing authority may hold an
303 ownership interest or participate in its governance in order to
304 develop, acquire, lease, construct, rehabilitate, manage, or
305 operate multifamily or single-family residential projects and
306 commercial projects that allow access to essential goods and
307 services for persons of low income residing in such residential
308 projects.
309 1. These projects may include nonresidential uses and may
310 use public and private funds to serve individuals or families
311 who meet the applicable income requirements of the state or
312 federal program involved; whose income does not exceed 150
313 percent of the applicable median income for the area, as
314 established by the United States Department of Housing and Urban
315 Development; and who, in the determination of the housing
316 authority, lack sufficient income or assets to enable them to
317 purchase or rent a decent, safe, and sanitary dwelling. These
318 corporations, limited liability companies, or other business
319 entities may join partnerships, joint ventures, or limited

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320 liability companies pursuant to applicable laws or may otherwise
321 engage with business entities in developing, acquiring, leasing,
322 constructing, rehabilitating, managing, or operating such
323 projects.
324 2. ~~(b)~~ The creation by a housing authority of such a
325 corporation, limited liability company, or other business entity
326 that is properly registered pursuant to all applicable laws
327 before the effective date of this act is ratified and validated
328 if the creation of such corporation, limited liability company,
329 or other business entity would have been valid had this act been
330 in effect at the time such corporation, limited liability
331 company, or other business entity was created and registered.
332 3. ~~(c)~~ Proceedings or acts performed by a housing authority
333 or a corporation, limited liability company, or other business
334 entity authorized pursuant to subparagraph 2. ~~paragraph (b)~~ are
335 ratified and validated if such proceedings or acts were in
336 furtherance of the purposes set forth in this chapter and would
337 have been valid had this act been in effect at the time such
338 proceedings or acts were performed.
339 (i) ~~(9)~~ Notwithstanding s. 112.061, to ~~the governing board~~
340 ~~of an authority may~~ approve and implement policies for per diem,
341 travel, and other expenses of its officials, officers, board
342 members, employees, and authorized persons in a manner
343 consistent with federal guidelines.
344 (j) ~~(10)~~ To exercise all or any part or combination of
345 powers ~~herein~~ granted in this section. ~~No~~ Provisions of law
346 relating ~~with respect~~ to acquisition, operation, or disposition
347 of property by other public bodies do not apply ~~shall be~~
348 ~~applicable~~ to an authority unless the Legislature ~~shall~~

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349 specifically states so ~~state~~.
350 (2) Any revenue received by a housing authority from
351 commercial projects that provide access to essential goods and
352 services necessary for daily living of persons residing in
353 housing projects must be used exclusively to upgrade and improve
354 living conditions in the housing project or to preserve and
355 rehabilitate public or affordable housing managed by the housing
356 authority.
357 Section 4. Subsection (2) of section 421.09, Florida
358 Statutes, is amended to read:
359 421.09 Operation not for profit.—
360 (2) This section does not prohibit or restrict the
361 activities or operations of a business entity created under s.
362 421.08(1)(h) ~~421.08(8)~~.
363 Section 5. Section 421.21, Florida Statutes, is reenacted
364 and amended to read:
365 421.21 Aid from Federal Government; tax exemptions.—
366 (1) In addition to the powers conferred upon an authority
367 by other provisions of this chapter, an authority is empowered
368 to borrow money or accept grants or other financial assistance
369 from the Federal Government for or in aid of any housing project
370 within its area of operation, to take over or lease or manage
371 any housing project or undertaking constructed or owned by the
372 Federal Government, and to these ends, to comply with such
373 conditions and enter into such trust indentures, leases or
374 agreements as may be necessary, convenient or desirable. It is
375 the purpose and intent of this chapter to authorize every
376 authority to do any and all things necessary or desirable to
377 secure the financial aid or cooperation of the Federal

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378 Government in the undertaking, construction, maintenance, or
379 operation of any housing project by such authority.
380 (2) In addition to the powers conferred upon an authority
381 by subsection (1) and other provisions of this chapter, an
382 authority is empowered to borrow money or accept grants or other
383 financial assistance from the Federal Government under s. 202 of
384 the Housing Act of 1959 (Pub. L. No. 86-372) or any law or
385 program of the United States Department of Housing and Urban
386 Development, which provides for direct federal loans in the
387 maximum amount, as defined therein, for the purpose of assisting
388 certain nonprofit corporations to provide housing and related
389 facilities for elderly families and elderly persons.
390 (a) Housing authorities created under this section are
391 authorized to execute mortgages, notes, bills, or other forms of
392 indebtedness together with any agreements, contracts, or other
393 instruments required by the United States Department of Housing
394 and Urban Development in connection with loans made for the
395 purposes set forth in this subsection.
396 (b) This provision relating to housing facilities for the
397 elderly is cumulative and in addition to the powers given to
398 housing authorities under this chapter. All powers granted
399 generally by law to housing authorities in Florida relating to
400 issuance of trust indentures, debentures, and other methods of
401 raising capital ~~shall~~ apply also to housing authorities in
402 connection with their participation in programs of the United
403 States Department of Housing and Urban Development.
404 (3) It is the legislative intent that the tax exemption of
405 housing authorities provided by chapter 423~~, shall~~ specifically
406 applies ~~apply~~ to any housing authority created under this

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407 section.
408 Section 6. Section 421.32, Florida Statutes, is amended to
409 read:
410 421.32 Rural housing projects.—County housing authorities
411 and regional housing authorities are specifically empowered and
412 authorized to borrow money, accept grants, and exercise their
413 other powers to provide housing for farmers of low income and
414 domestic farm labor as defined in s. 514 of the Federal Housing
415 Act of 1949. In connection with such projects, any such housing
416 authority may enter into such leases or purchase agreements,
417 accept such conveyances and rent or sell dwellings forming part
418 of such projects to or for farmers of low income, as such
419 housing authority deems necessary in order to ensure ~~assure~~ the
420 achievement of the objectives of this law. Such leases,
421 agreements, or conveyances may include such covenants as the
422 housing authority deems appropriate regarding such dwellings and
423 the tracts of land described in any such instrument, which
424 covenants shall be deemed to run with the land where the housing
425 authority deems it necessary and the parties to such instrument
426 so stipulate. In providing housing for farmers of low income,
427 county housing authorities and regional housing authorities are
428 ~~shall~~ not ~~be~~ subject to the limitations provided in ss.
429 421.08(1)(c) ~~421.08(3)~~ and 421.10(3). ~~Nothing contained in~~ This
430 section may not ~~shall~~ be construed as limiting any other powers
431 of any housing authority.
432 Section 7. Section 422.02, Florida Statutes, is amended to
433 read:
434 422.02 Finding and declaration of necessity.—It has been
435 found and declared in the Housing Authorities Law that there

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436 exist in the state unsafe and insanitary housing conditions and
437 a shortage of safe and sanitary dwelling accommodations and
438 access to essential commercial goods and services necessary for
439 daily living for persons of low income; that these conditions
440 necessitate excessive and disproportionate expenditures of
441 public funds for crime prevention and punishment, public health,
442 welfare and safety, fire and accident protection, and other
443 public services and facilities; and that the public interest
444 requires the remedying of these conditions. It is found and
445 declared that the assistance herein provided for the remedying
446 of the conditions set forth in the Housing Authorities Law
447 constitutes a public use and purpose and an essential
448 governmental function for which public moneys may be spent and
449 other aid given; that it is a proper public purpose for any
450 state public body to aid any housing authority operating within
451 its boundaries or jurisdiction or any housing project located
452 therein, as the state public body derives immediate benefits and
453 advantages from such an authority or project; and that the
454 provisions hereinafter enacted are necessary in the public
455 interest.
456 Section 8. Section 422.04, Florida Statutes, is amended to
457 read:
458 422.04 Cooperation in undertaking housing projects.—
459 (1) For the purpose of aiding and cooperating in the
460 planning, undertaking, construction, or operation of housing
461 projects located within the area in which it is authorized to
462 act, any state public body may, upon such terms, with or without
463 consideration, as it may determine:
464 (a) Dedicate, sell, convey, or lease any of its property to

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465 a housing authority or the Federal Government.~~;~~
466 (b) Cause parks~~;,~~ playgrounds~~;,~~ recreational, community,
467 educational, water, sewer, or drainage facilities; commercial
468 projects that allow access to essential goods and services for
469 persons of low income residing in housing projects; or any other
470 works~~, which~~ it is otherwise empowered to undertake~~,~~ to be
471 furnished adjacent to or in connection with housing projects.~~;~~
472 (c) Furnish, dedicate, close, pave, install, grade,
473 regrade, plan, or replan streets, roads, roadways, alleys,
474 sidewalks, or other places ~~which~~ it is otherwise empowered to
475 undertake.~~;~~
476 (d) Plan or replan, zone or rezone any part of such state
477 public body; make exceptions from building regulations and
478 ordinances; and, with respect to any city or town, ~~also may~~
479 change its map.~~;~~
480 (e) Enter into agreements, which may extend over any
481 period, notwithstanding any provision or rule of law to the
482 contrary, with a housing authority or the Federal Government
483 respecting action to be taken by such state public body pursuant
484 to any of the powers granted by this chapter.~~;~~
485 (f) Do any and all things, necessary, or convenient to aid
486 and cooperate in the planning, undertaking, construction, or
487 operation of such housing projects.~~;~~
488 (g) Purchase or legally invest in any of the debentures of
489 a housing authority and exercise all of the rights of any holder
490 of such debentures.~~;~~
491 (h) Not require any changes to be made in a housing project
492 or the manner of its construction or take any other action
493 relating to such construction with respect to any housing

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494 project which a housing authority has acquired or taken over
495 from the Federal Government and which the housing authority by
496 resolution has found and declared to have been constructed in a
497 manner that will promote the public interest and afford
498 necessary safety, sanitation, and other protection.~~, no state~~
499 ~~public body shall require any changes to be made in the housing~~
500 ~~project or the manner of its construction or take any other~~
501 ~~action relating to such construction;~~
502 (i) Incur the entire expense of ~~In connection with~~ any
503 public improvements made by the ~~a~~ state public body in
504 exercising the powers herein granted~~, such state public body may~~
505 ~~incur the entire expense thereof~~.
506 (2) Any law or statute to the contrary notwithstanding, any
507 sale, conveyance, lease, or agreement provided for in this
508 section may be made by a state public body without appraisal,
509 public notice, advertisement, or public bidding.
510 Section 9. Section 423.01, Florida Statutes, is amended to
511 read:
512 423.01 Finding and declaration of property of tax exemption
513 for housing authorities.—It has been found and declared in the
514 Housing Authorities Law and the Housing Cooperation Law that:
515 (1) There exist in the state housing conditions that ~~which~~
516 constitute a menace to the health, safety, morals, and welfare
517 of the residents of the state;
518 (2) These conditions necessitate excessive and
519 disproportionate expenditures of public funds for crime
520 prevention and punishment, public health, welfare and safety,
521 fire and accident prevention, and other public services and
522 facilities;

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523 (3) The public interest requires the remedying of these
524 conditions by the creation of housing authorities to undertake
525 projects for slum clearance and for providing safe and sanitary
526 dwelling accommodations and access to essential commercial goods
527 and services necessary for daily living for persons who lack
528 sufficient income to enable them to live in decent, safe, and
529 sanitary dwellings without overcrowding; ~~and~~
530 (4) Facilities made available by housing authorities to
531 provide access to essential goods and services necessary for
532 daily living for persons residing in housing projects are a
533 critical component of those housing projects and constitute a
534 public use and a governmental function; and
535 (5) ~~(4)~~ Such housing projects, including all property of a
536 housing authority used for or in connection therewith or
537 appurtenant thereto and all property used to provide access to
538 essential goods and services necessary for daily living for
539 persons residing in such housing projects, are exclusively for
540 public uses and municipal purposes and not for profit~~,~~ and are
541 governmental functions of state concern. As a matter of
542 legislative determination, it is found and declared that the
543 property and debentures of a housing authority are of such
544 character as may be exempt from taxation.
545 Section 10. Section 423.02, Florida Statutes, is amended to
546 read:
547 423.02 Housing projects exempted from taxes and
548 assessments; payments in lieu thereof.—The housing projects,
549 including all property of housing authorities used for or in
550 connection therewith or appurtenant thereto and all commercial
551 projects that allow access to essential goods and services for

552 persons of low income residing in such housing projects, of
553 housing authorities shall be exempt from all taxes and special
554 assessments of the state or any city, town, county, or political
555 subdivision of the state. ~~, provided,~~ However, ~~that~~ in lieu of
556 such taxes or special assessments, a housing authority may agree
557 to make payments to any city, town, county, or political
558 subdivision of the state for services, improvements, or
559 facilities furnished by such city, town, county, or political
560 subdivision for the benefit of a housing project owned by the
561 housing authority, but ~~in no event shall~~ such payments may not
562 exceed the estimated cost to such city, town, county, or
563 political subdivision of the services, improvements, or
564 facilities to be so furnished.
565 Section 11. This act shall take effect July 1, 2012.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Vice Chair*
Budget - Subcommittee on Finance and Tax
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Health Regulation
Military Affairs, Space, and Domestic Security
Transportation

JOINT COMMITTEE:
Legislative Auditing Committee, *Alternating Chair*

SENATOR JIM NORMAN
12th District

January 12, 2012

The Honorable Mike Bennett, Chair
Senate Community Affairs
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bennett:

My Senate Bill 1182, an act relating to Public Housing has been referred to your committee. I respectfully request that this bill be placed on the first possible agenda for a hearing.

Should you or your staff have any questions, please do not hesitate to contact me or my chief aide, Ben Kelly.

Sincerely,

rec'd 1/12/12 apw

Jim Norman

Jim Norman, Senator
12th District

JN: dlc

cc: Tom Yeatman, Staff Director – Senate Community Affairs

REPLY TO:
☐ 14031 North Dale Mabry Boulevard, Tampa, Florida 33618 (813) 265-6260
☐ 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5068

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-12
Meeting Date

Topic: JESS MCCARTY

Bill Number: 1182 *(if applicable)*

Name:

Amendment Barcode: 479964 *(if applicable)*

Job Title:

Address: *Street*

City *State* *Zip*

Phone:

E-mail:

Speaking: [x] For [ ] Against [ ] Information

Representing: MIAMI-DADE COUNTY

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-12
Meeting Date

1182
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Richard Pinsky

Job Title

Address 106 E College Ave #1200
Street

Tallahassee — Fl — 32301
City — *State* — *Zip*

Phone

E-mail Richard.Pinsky@akerman.com

Speaking: [✓] For [ ] Against [ ] Information

Representing Fl. Public Housing Authorities (FAHRO)

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

For officially noticed committee meetings, pursuant to s. 11.061, *Florida Statutes,* state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee:

Time: from _____ to _____

This form is part of the public record for this meeting.

S-001 (08/24/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic: AFFORDABLE HOUSING

Bill Number: 1182 (if applicable)

Name: WELLINGTON MEFFERT

Amendment Barcode: 280 - (if applicable)

Job Title: GEN. COUNSEL

Address: 227 N. BRONOUGH ST. STE 5000
Street

TALLAHASSEE FL 32301
City State Zip

Phone: 850-488.4197

E-mail: wellington.meffert@floridahousing.org

Speaking: [ ] For [✓] Against [ ] Information

Representing: FLORIDA HOUSING FINANCE CORPORATION

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: AFFORDABLE HOUSING - VETERANS

Bill Number: 1182 *(if applicable)*

Name: JEFF SHARKEY

Amendment Barcode: *(if applicable)*

Job Title: CAPITOL ALLIANCE GROUP

Address: 106 E. College Ave
Street

TLH, FL
City *State* *Zip*

Phone: 224 1660

E-mail: JEFFREY.SHARKEY@GMAIL.COM

Speaking: [x] For [ ] Against [x] Information

Representing: WORKFORCE HOUSING COALITION

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2012
Meeting Date

Topic _____ Bill Number 1182 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727/897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: [✓] For [ ] Against [✓] Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/12
Meeting Date

Topic: Public housing

Bill Number: 1182 *(if applicable)*

Name: Kelly Mallette

Amendment Barcode: 479964 *(if applicable)*

Job Title:

Address: 104 West Jefferson Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850-224-3427

E-mail: kelly@rlbookpa.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Miami-Dade County, Florida Apartment Association

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 294

INTRODUCER: Senator Bennett

SUBJECT: Enterprise Zone/Charlotte County

DATE: January 23, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tell	Hrdlicka	CM	**Favorable**
2.	Hinton	Yeatman	CA	**Favorable**
3.			BC	
4.				
5.				
6.				

I. Summary:

Florida has 62 enterprise zones, which are designed to encourage economic development and restoration in blighted or economically depressed communities. A combination of state and local business incentives is intended to encourage economic activity in these zones.

SB 294 creates an opportunity for Charlotte County to apply for and receive an enterprise zone designation. Charlotte County officials are considering locating the proposed enterprise zone in the unincorporated midsection of the county, in an area of up to 20 square miles in size.

Charlotte County is directed to file its enterprise zone application to the Department of Economic Opportunity (DEO) by December 31, 2012. The application must comply with the nominating procedure in s. 290.0055, F.S. DEO has the discretion to designate an enterprise zone for Charlotte County, and if that happens, must establish the enterprise zone's effective date.

SB 294 creates s. 290.00729, F.S.

II. Present Situation:

Enterprise Zones in Florida

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 62 enterprise zones.[1]

The Department of Economic Opportunity (DEO) reported that 7,559 new businesses moved into or were created in state enterprise zones between October 1, 2009, and September 30, 2010 – more than double the number the previous fiscal year.[2] However, fewer jobs were created – 6,784 last fiscal year, compared to 9,073 in the prior period.[3] More than $67 million in state and nearly $20 million in local-government financial incentives were approved during FY 09-10, $30 million more than in the prior period.[4]

Over the last 5 years (FY 05-06 through FY 09-10), some 21,682 new businesses have moved into or were created in enterprise zones and 49,403 new jobs have been created.[5]

Designation process

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area: [6]

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

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[1] Ch. 2011-76, L.O.F., created the potential for three additional enterprise zones: in Martin County, in the City of Palm Bay, and in Lake County. DEO has since approved each community's application. These new enterprise zones became effective on January 1, 2012.

[2] Enterprise Florida, Inc., *Florida Enterprise Zone Program Annual Report, October 1, 2009 - September 30, 2010,*1 (Mar. 1, 2011), *available at* http://floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf (last visited Jan. 12, 2012).

[3] Id.

[4] Id.

[5] Information compiled by committee staff from the Enterprise Florida's previous enterprise zone annual reports.

[6] Section 290.0055, F.S.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation, and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying to the local government the financial needs of, and local resources or assistance available to, eligible businesses in the zone;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources, transportation, housing, community development, public safety, and education and environmental concerns will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.[7] As noted above, DEO reported that $67.6 million in state incentives were approved by the Department of Revenue (DOR), between October 1, 2009, and September 30, 2010, for all state enterprise zones. During that same time period, $19.9 million in incentives were provided by local governing bodies, half of the FY 07-08 total. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.[8]

[7] Section 290.007, F.S.
[8] Enterprise Florida, Inc., *supra*, note 2 at 3.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain building materials, up to $5,000 or 97 percent of the tax paid.[9]
- Business Equipment Used in Enterprise Zones: Provides a refund for sales taxes paid on the purchase of certain equipment, up to $5,000 or 97 percent of the tax paid.[10]
- Rural Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[11]
- Urban Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[12]
- Business Property Used in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain business property, up to $5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.[13]
- Community Contribution Tax Credit: Provides 50 percent sales tax refund for donations made to local community development projects.[14]
- Electrical Energy Used in an Enterprise Zone: Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.[15]

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[16]
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[17]
- Enterprise Zone Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.[18]
- Community Contribution Tax Credit: Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.[19]

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[9] Section 9 of ch. 2010-147, L.O.F., removed the eligibility of condominium parcels or property, as defined in s. 718.103, F.S., for the sales tax exemption for building materials, pursuant to s. 212.08(5)(g), F.S.
[10] Section 212.08(5)(h), F.S.
[11] Section 212.096, F.S.
[12] Id.
[13] *Supra*, note 10.
[14] Section 212.08(5)(p), F.S.
[15] Section 212.08(15), F.S.
[16] Section 220.181, F.S.
[17] Id.
[18] Section 220.182, F.S.
[19] *See* ss. 220.183 and 624.5105, F.S.

5-Year Summary of State Incentives offered in the Enterprise Zone Program[20]

CATEGORY	FY 09-10	FY 08-09	FY 07-08	FY 06-07	FY 05-06
Jobs Tax Credit (SUT)	$5,683,252	$5,227,245	$5,732,605	$6,087,843	$6,777,250
Jobs Tax Credit (CIT)	$4,348,031	$5,072,555	$5,507,311	$5,919,236	$4,253,621
Property Tax Credit (CIT)	$1,384,668	$1, 910,708	$2,184,036	$2,291,961	$1,267,999
Building Materials (SUT Refund)	$54,012,915	$30,994,860	$25,665,025	$18,855,129	$7,415,711
Business Equipment (SUT Refund)	$1,035,562	$1,139,066	$1,269,955	$1,771,396	$2,940,864
Electrical Energy (SUT exempt)	$1,138,054	$1,007,007	$606	$793,179	$778,090
Total Value of State Incentives	$67,602,482	$45,351,441	$40,359,538	$35,718,744	$23,433,535
# of EZs	59	56	56	56	55

The total state incentives awarded over the last 5 years is $212.5 million. Of that amount, nearly $137 million, about 64 percent, has been in the form of refunds of sales and use tax on building materials used in enterprise zones.

Program evaluations

In the 29 years since enacted by the Legislature, the Florida Enterprise Zone Program has undergone numerous changes, many of them the result of two "sunset reviews" of the overall program, in 1994 and in 2005. A number of Senate and House interim project reports and program evaluations by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Florida Auditor General have been written on the program.

The most recent program evaluation was prepared by OPPAGA last fall and published in January 2011.[21] Among OPPAGA's findings were:

- The most-used incentive, over the last 5 years, has been the sales and use tax refund on building materials because of claims from condominium developers.
- Applicants in 10 enterprise zones received 84 percent of the incentives, with applicants in Miami-Dade's enterprise zone receiving 55 percent of the total amount.
- Based on OPPAGA's review of the incentive applications over the last five years, there is a low participation rate among eligible businesses for the incentives. For example, only 402 businesses have taken advantage of the jobs tax credits, and they hired a total of 8,086 employees who lived within the zones.

[20] *Supra*, note 2 at 3.

[21] Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, *Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program*, Report No. 11-01, (Jan. 1, 2011), *available at* http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf (last visited Jan. 12, 2012).

- DOR does not have consistent procedures for reviewing, validating, processing, and reporting the different tax credit and tax refund incentives. OPPAGA concluded that these inconsistencies may frustrate eligible businesses interested in applying for the incentives, prevents local zone coordinators and DEO from obtaining the most accurate information about program incentives taken, and makes it more difficult for OPPAGA and the Legislature to fully evaluate the incentives.

Charlotte County's enterprise zone proposal[22]
Charlotte County officials are pursuing an enterprise zone designation for up to 20 square miles in the county's mid-section, specifically in the Parkside and Murdock Village areas. The 850-acre Parkside, which previously was designated as a community redevelopment district, is envisioned as a "medical arts village" anchored by two existing hospitals that will include medical-related businesses, retailers, residential development, and recreational green space. Murdock Village, comprising about 1,200 acres, includes about 870 acres purchased by the county. Murdoch Village is envisioned as a multi-purpose area, including an "entertainment park," a youth baseball facility, and a research technology business park.

III. Effect of Proposed Changes:

Section 1 creates s. 290.00729, F.S., to allow Charlotte County to seek designation of an enterprise zone, of up to 20 square miles in area, within its boundary. Charlotte County has until December 31, 2012, to file its application with DEO. The application must meet the requirements of s. 290.0055, F.S., which establishes some of the criteria and details the process by which a local government seeks an enterprise zone designation.

The section also specifies that notwithstanding s. 290.0065, F.S., limiting the number of enterprise zones in Florida, DEO may designate one enterprise zone for Charlotte County. DEO also is directed to set the initial effective date for the new enterprise zone.

Section 2 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[22] Information provided by Debrah Forester, redevelopment manager for the Charlotte County Economic Development Office, in a Jan. 10, 2012, telephone conversation, and from information on the office's website, http://www.floridasinnovationcoast.com (last visited Jan. 12, 2012).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference met on November 3, 2011, and determined that the passage of SB 294 would result in:

- A recurring negative fiscal impact of $200,000 to general revenue sales tax collections;
- A recurring insignificant negative fiscal impact to general revenue corporate income tax collections;
- A recurring insignificant negative fiscal impact to state trust funds; and
- A recurring insignificant negative fiscal impact to local governments.[23]

B. Private Sector Impact:

Indeterminate. However, the positive economic impact could be significant to the businesses that locate or already are within the enterprise zone, because of their potential tax savings. Job-seekers also could benefit from employment opportunities afforded them by businesses within the new zone. Finally, consumers could benefit because of the greater diversity of businesses and entertainment options within the enterprise zone.

C. Government Sector Impact:

Indeterminate, but likely minimal. Other than the initial review of Charlotte County's application and decision whether to approve or reject it, the workload on DEO staff likely will be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

[23] Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference for 2012 Regular Session – Enterprise Zone – Charlotte County, HB 201/SB 294* (Nov.3, 2011), *available at* http://edr.state.fl.us/content/conferences/revenueimpact/archives/2012/pdf/page45-47.pdf (last visited Jan. 12, 2012).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Bennett

21-00299-12 2012294__

A bill to be entitled

An act relating to enterprise zones; creating s. 290.00729, F.S.; authorizing Charlotte County to apply to the Department of Economic Opportunity for designation of an enterprise zone; providing application requirements; authorizing the department to designate an enterprise zone in Charlotte County; requiring that the department establish the initial effective date for the enterprise zone; providing an effective date.

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

Section 1. Section 290.00729, Florida Statutes, is created to read:

290.00729 Enterprise zone designation for Charlotte County.—Charlotte County may apply to the Department of Economic Opportunity for designation of one enterprise zone encompassing an area not to exceed 20 square miles within Charlotte County. The application must be submitted by December 31, 2012, and must comply with the requirements in s. 290.0055. Notwithstanding s. 290.0065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the department may designate one enterprise zone under this section. The department shall establish the initial effective date of the enterprise zone designated under this section.

Section 2. This act shall take effect July 1, 2012.

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

CourtSmart Tag Report

Room: KN 412 **Case:** **Type:**
Caption: Senate Committee on Community Affairs **Judge:**

Started: 1/30/2012 10:02:01 AM
Ends: 1/30/2012 11:45:16 AM Length: 01:43:16

10:02:12 AM	Roll Call
10:02:46 AM	Tab 1
10:02:48 AM	Senator Gaetz presents
10:06:41 AM	On bill as amended
10:06:46 AM	Senator Gibson question
10:07:31 AM	Gaetz response
10:08:36 AM	Nick Iarossi
10:10:26 AM	Bennett comment
10:11:52 AM	Gibson question
10:13:40 AM	Brian Pitts
10:16:49 AM	John Ratliff
10:18:37 AM	Senator Thrasher
10:19:51 AM	Senator Gibson
10:21:02 AM	Senator Gaetz closes
10:21:26 AM	Roll Call
10:21:56 AM	Tab 7
10:22:00 AM	Senator Garcia presents
10:23:25 AM	Roll Call
10:23:44 AM	Tab 8
10:24:01 AM	Senator Garcia presents
10:24:56 AM	Roll Call
10:25:24 AM	Tab 9
10:25:39 AM	Roll Call
10:26:02 AM	Tab 11
10:26:07 AM	Senator Simmons presents
10:31:35 AM	Senator Gibson
10:32:14 AM	Senator Simmons Answer
10:33:26 AM	Senator Richter question
10:34:12 AM	Response
10:35:04 AM	Senator Norman question/comment
10:37:51 AM	Response
10:39:33 AM	Senator Norman question
10:40:37 AM	Answer
10:41:21 AM	Senator Thrasher comment
10:43:01 AM	Senator Storms
10:46:08 AM	Senator Storms follow up
10:48:02 AM	Stephen Hogge comment
10:53:16 AM	Senator Thrasher question
10:53:42 AM	Brain Pitts
10:55:23 AM	Rick Watson
10:58:03 AM	Senator Gibson
10:58:26 AM	Answer
10:59:18 AM	Senator Gibson
10:59:48 AM	Response
11:00:53 AM	Senator Norman comment/question
11:02:23 AM	Senator Richter
11:03:56 AM	Senator Thrasher
11:04:46 AM	Senator Bennett comment
11:05:54 AM	Senator Simmons closes
11:07:34 AM	Roll Call
11:07:55 AM	Tab 12
11:07:57 AM	Senator Simmons presents

11:09:48 AM	Roll Call
11:10:15 AM	Tab 2
11:10:28 AM	Senator Gardiner presents
11:12:06 AM	Senator Wise comment/question
11:13:45 AM	Senator Norman comment
11:16:37 AM	Roll Call
11:17:06 AM	Tab 13
11:17:10 AM	Senator Ring presents
11:20:06 AM	Senator Thrasher
11:20:27 AM	Senator Bennett question
11:22:01 AM	Roll Call
11:22:36 AM	Tab 14
11:22:40 AM	Senator Ring presents
11:24:01 AM	Roll Call
11:24:40 AM	Tab 3
11:24:58 AM	Aide to Senator Alexander presents
11:26:05 AM	Roll Call
11:27:19 AM	Tab 15
11:27:58 AM	Senator Norman presents
11:29:18 AM	Roll Call
11:30:37 AM	Tab 16
11:31:02 AM	Senator Norman presents
11:32:11 AM	Tab 4
11:32:27 AM	Presented by staff for Senator Dean
11:34:23 AM	Roll Call
11:34:43 AM	Tab 5
11:35:18 AM	Roll Call
11:35:42 AM	Tab 10
11:36:09 AM	Presented by staff for Senator Diaz de la Portilla
11:36:42 AM	Brian Pitts comments
11:39:04 AM	Roll Call
11:39:38 AM	Tab 17
11:39:47 AM	Senator Norman has the chair
11:39:52 AM	Senator Bennett presents
11:40:20 AM	Roll Call
11:40:40 AM	Senator Bennett has the chair
11:40:45 AM	Tab 16 (return)
11:41:07 AM	Senator Bennett presents late filed amendment
11:42:30 AM	Senator Gibson comment/question
11:42:41 AM	Senator Norman responds
11:44:27 AM	Roll Call
11:44:54 AM	Close meeting