

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Lee, Chair
Senator Clemens, Vice Chair

MEETING DATE: Tuesday, February 21, 2017

TIME: 12:30—3:00 p.m.

PLACE: 301 Senate Office Building

MEMBERS: Senator Lee, Chair; Senator Clemens, Vice Chair; Senators Bean, Brandes, Campbell, Perry, Rodriguez, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SJR 134 Artiles (Similar HJR 721, Compare HJR 87, HJR 271, HJR 571, SJR 130, SJR 132, SJR 136, SJR 138)	Selection and Duties of County Officers/Sheriff; Proposing amendments to the State Constitution to remove authority for a county charter to provide for choosing certain county officers in a manner other than election, prohibit a special law to provide for choosing a sheriff in a manner other than election, authorize the abolition of any county office if its duties are transferred to another office by special law approved by county voters, and remove authority for a county charter to transfer certain duties of the clerk of the circuit court to another officer, etc. CA 02/21/2017 Fav/CS EE JU RC	Fav/CS Yeas 6 Nays 2
2	SB 90 Brandes	Renewable Energy Source Devices; Revising the definition of the term "renewable energy source device"; prohibiting the consideration of just value of property attributable to a renewable energy source device in determining the assessed value of any real property; exempting a renewable energy source device from the tangible personal property tax, etc. CU 02/07/2017 Favorable CA 02/21/2017 Fav/CS AFT AP	Fav/CS Yeas 8 Nays 0
Consideration of proposed bill:			
3	SPB 7002	OGSR/Donor Information/Publicly Owned Performing Arts Center; Amending provisions which provide an exemption from public records requirements for information that identifies a donor or prospective donor of a donation made for the benefit of a publicly owned performing arts center if the donor desires to remain anonymous; removing the scheduled repeal of the exemption, etc.	Submitted as Committee Bill Yeas 6 Nays 1

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 Committee on Community Affairs

BILL: CS/SJR 134

INTRODUCER: Community Affairs Committee and Senator Artiles

SUBJECT: Selection and Duties of County Officers/Sheriff

DATE: February 22, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			EE	
3.			JU	
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 134 proposes to amend the Florida Constitution to remove authority for a county charter or special law to provide for choosing a sheriff in a manner other than by election or to alter the duties of the sheriff or abolish the office of the sheriff.

If the joint resolution is adopted and the proposed amendment is approved by the voters, the office of the sheriff will be filled only by vote of the county electors and for terms of 4 years.

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. The joint resolution provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

II. Present Situation:

Article VIII of the Florida Constitution establishes the authority for home rule by counties and municipalities in Florida. The Legislature is required to divide the state into counties¹ and has the authority to choose to create municipalities.²

¹ Art. VIII, s. 1(a), Fla. Const.

² Art. VIII, s. 2(a), Fla. Const.

Pursuant either to general³ or special law, a county government may be adopted by charter approved by the county voters. Any county not having a chartered form of consolidated government may, pursuant to the provisions of ss. 125.60-125.64, F.S., locally initiate and adopt by a majority vote of the qualified electors of the county a county home rule charter.⁴ A special constitutional provision provides unique authorization for the Miami-Dade County home rule charter.⁵ Currently, 20 Florida counties have adopted charters.⁶

Charter Commission

Creation of Charter Commission

After the adoption of a resolution by the board of county commissioners, or upon the submission of a petition to the county commission signed by at least 15 percent of the qualified electors of a county requesting that a charter commission be established, a charter commission shall be appointed within 30 days of the adoption of the resolution or filing of the petition.⁷ The charter commission must be composed of an odd number of not less than 11 nor more than 15 members.⁸ The members of the commission must be appointed by the board of county commissioners of the county or, if so directed in the initiative petition, by the legislative delegation. No member of the Legislature or the board of county commissioners may be a member of the charter commission.⁹

Duties of Charter Commission

The charter commission must meet within 30 days after appointment for organization purposes and must elect a chair and vice chair from its membership.¹⁰ The charter commission must conduct a comprehensive study of county government operations and of the ways in which the county government might be improved or reorganized.¹¹ Within 18 months after its initial

³ Section 125.60, F.S.

⁴ *Id.*

⁵ In 1956, an amendment to the 1885 Florida Constitution provided Dade County with the authority to adopt, revise, and amend from time to time a home rule charter government for the county. The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status. Article VIII, s. 11(5) of the 1885 State Constitution, now incorporated by reference in art. VIII, s. 6(e), Fla. Const. (1968), further provided the Metropolitan Dade County Home Rule Charter, and any subsequent ordinances enacted pursuant to the charter, may conflict with, modify, or nullify any existing local, special, or general law applicable only to Dade County. Accordingly, Miami-Dade County ordinances enacted pursuant to the Charter may implicitly, as well as expressly, amend or repeal a special act that conflicts with a Miami-Dade County ordinance. Effectively, the Miami-Dade Charter can only be altered through constitutional amendment, general law, or county actions approved by referendum, *Chase v. Cowart*, 102 So. 2d 147, 149-50 (Fla. 1958).

⁶ Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval (consolidated government with the City of Jacksonville, ch. 67-1320, Laws of Fla.), Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia, and Wakulla Counties. The Local Government Formation Manual 2017-2018, Appendix C, at p. 104, available at <http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2911&Session=2017&DocumentType=General Publications&FileName=2017-2018 Local Government Formation Manual Final Pub.pdf>

⁷ Section 125.61(1), F.S.

⁸ Section 125.61(2), F.S.

⁹ *Id.*

¹⁰ Section 125.62, F.S.

¹¹ Section 125.63, F.S.

meeting, unless such time is extended by resolution of the board of county commissioners, the charter commission must present a proposed charter to the board of county commissioners.¹² The charter commission must conduct three public hearings at intervals of not less than 10 nor more than 20 days regarding the proposed charter. At the final hearing, the charter commission must incorporate any amendments it deems desirable, vote upon the proposed charter, and forward the charter to the board of county commissioners for the holding of a referendum.¹³

Submission of the Charter to the Voters

Upon submission of the charter to the board of county commissioners, the board must call a special election to determine whether the qualified electors approve the proposed charter.¹⁴ The referendum election must be held not more than 90 nor less than 45 days after the receipt of the proposed charter.¹⁵

If a majority of voters favor the adoption of the proposals in the new charter, the charter becomes effective on January 1 of the next year or at such other time as provided by the charter.¹⁶ Once adopted by the electors, the charter may be amended only by a vote of the county electors.¹⁷ If a majority of voters reject the adoption of the proposals in the new charter, a new referendum may not be held for 2 years following the date of the referendum.¹⁸

After the acceptance or rejection of the proposed charter by the qualified electors, the charter commission is dissolved, and all property of the charter commission becomes property of the county.¹⁹

Differences between Charter Counties and Non-Charter Counties²⁰

Structure

The structure of the government of a non-charter county is specified in the Florida Constitution and in the Florida Statutes. As a result, non-charter counties may only change the structure of county government through amendments to the Florida Constitution or the Florida Statutes. In contrast, the structure of a charter county is specified in the charter as approved by the county's electorate. This flexibility allows a charter county to alter its structure in order to meet the needs of the county.

¹² *Id.*

¹³ *Id.*

¹⁴ Section 125.64(1), F.S.

¹⁵ *Id.*

¹⁶ Section 125.64(2), F.S.

¹⁷ *Id.*

¹⁸ Section 125.64(3), F.S.

¹⁹ Section 125.64(4), F.S.

²⁰ The Florida Association of Counties, *Basic Differences between Charter and Non-Charter Counties* (Mar. 2008), available at http://www.fl-counties.com/themes/bootstrap_subtheme/sitefinity/documents/basic-differences-between-charter-and-non-charter-counties-pdf-.pdf (last visited Jan. 26, 2017).

Powers of Self-Government

A non-charter county has such powers of self-government as provided by general²¹ or special law.²² Alternatively, a charter county has all powers of self-government *not inconsistent* with general law or special law approved by the county voters.²³ Accordingly, charter counties may take any action as long as it does not conflict with state law, whereas non-charter counties may only do what state law allows them to do.

Initiative, Referendum, and Recall of County Officers

The Florida Statutes do not provide for initiative,²⁴ referendum,²⁵ or recall²⁶ of county officers in a non-charter county. As a result, non-charter counties do not have the power to take these actions. On the other hand, a charter county may provide for initiative, referendum, and recall of county officers in its charter.

Administrative Code

The Florida Statutes do not require an administrative code for non-charter counties. As a result, a non-charter county may not require an administrative code. Conversely, charter counties may require an administrative code in its charter which details all regulations, policies, and procedures.

Utility Taxation

A non-charter county may not levy a utility tax in an unincorporated area of the county. However, a charter county may provide for the levying of such a tax in an unincorporated area of the county.

Special Acts

In a non-charter county, the Legislature can adopt a special act, and it is effective without the approval of the electors. However, in a charter county, a special act adopted by the Legislature is not effective unless the special act is also approved by a vote of the local electorate.

Municipal Ordinances

In a non-charter county, if there is a conflict between a municipal ordinance and a county ordinance, the municipal ordinance prevails within that municipality. On the contrary, an ordinance from a charter county will prevail over a conflicting municipal ordinance if such an instance is provided for in the county charter.

²¹ Ch. 125, Part I, F.S.

²² Art. VIII, s. 1(f), Fla. Const.

²³ Art. VIII, s. 1(g), Fla. Const.

²⁴ Initiative is the ability of citizens to petition to call for a referendum to consider charter revisions.

²⁵ Referendum is the ability of citizens to review and make periodic recommendations for revisions to the charter which are consistent with the petition and charter review requirements stipulated by the charter.

²⁶ Recall is the ability of citizens to remove a county commissioner from office for those reasons consistent with the Florida Statutes and the petition requirements stipulated in the charter.

County Officers Under the Florida Constitution

The Florida Constitution creates five specific county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court (collectively, the five constitutional offices/officers).²⁷ The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds. Each officer is elected separately by the voters of the county for terms of 4 years. These officers have prescribed duties provided for in general law.²⁸

The five constitutional offices can only be altered through charter provision or by special act approved by the voters of the county.²⁹ All non-charter counties have the five constitutional officers with statutorily prescribed duties. Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred the powers to another county office.³⁰

Brevard County

Brevard “expressly preserved” the offices of the sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court as departments of county government, rather than constitutional offices.³¹ The county reiterated the ability to transfer or add to the powers of each of the county officers.³² The county has transferred the powers of the clerk of circuit court as auditor, and custodian of county funds to the county manager.³³ Each of the officers remains elected for 4 year terms.³⁴

Broward County

Broward County has not altered the constitutionally elected offices and duties of the sheriff, property appraiser, and supervisor of elections.³⁵ However, the office of the tax collector was abolished and the duties were transferred to the department of finance and administrative services, headed by the finance and administrative services director appointed by the county

²⁷ Art. VIII, s. 1(d), Fla. Const. In a separate subsection, the constitution provides for counties to be governed by a board of county commissioners unless otherwise provided in their respective charters, if any. Art. VIII, s. 1(e), Fla. Const., which is not affected by the joint resolution.

²⁸ See ch. 30, F.S. (setting forth certain duties of the sheriff as a constitutional officer); ch. 197, F.S. (setting forth certain duties of the tax collector as a constitutional officer); ch. 193, Part I, F.S. (setting forth certain duties of the property appraiser as a constitutional officer); ch. 102, F.S. (setting forth certain duties of the supervisor of elections as a constitutional officer); ch. 28, F.S. (setting forth certain duties of the clerk of the circuit court as a constitutional officer).

²⁹ Art. VIII, s. 1(d), Fla. Const.

³⁰ Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia Counties.

³¹ BREVARD COUNTY FLORIDA, Code of Ordinances, Charter, Art. 4, s. 4.1, available at https://www.municode.com/library/fl/brevard_county/codes/code_of_ordinances.

³² BREVARD COUNTY FLORIDA, Code of Ordinances, Charter, Art. 4, ss. 4.2.1, 4.2.2, 4.2.3, 4.2.4 & 4.2.5, available at https://www.municode.com/library/fl/brevard_county/codes/code_of_ordinances.

³³ BREVARD COUNTY FLORIDA, Code of Ordinances, Charter, Art. 2, s. 2.9.4, and Art. 4, s. 4.2.1, and Code of Ordinances, ch. 2, ss. 2-68 & 2-73, available at https://www.municode.com/library/fl/brevard_county/codes/code_of_ordinances.

³⁴ BREVARD COUNTY FLORIDA, Code of Ordinances, Charter, Art. 4, s. 4.1.1, available at https://www.municode.com/library/fl/brevard_county/codes/code_of_ordinances.

³⁵ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I Charter, “Definitions”, available at https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances.

administrator.³⁶ Though the clerk of the circuit court also retains the status of constitutional officer, the clerk's constitutional duties as clerk of the county commission were transferred to the county administrator.³⁷

Clay County

Clay County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser, and supervisor of elections.³⁸ Although the clerk of the circuit court also retains the status of constitutional officer, the clerk's constitutional duties as clerk of the county commission, auditor, and custodian of county funds were transferred to the county administrator.³⁹

Duval County

Duval County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser, and supervisor of elections.⁴⁰ The clerk of the circuit court retains the status of constitutional officer but the clerk's duties as clerk of the county commission were transferred to the council secretary and the constitutional duties as auditor were transferred to the council auditor.⁴¹

Miami-Dade County

Miami-Dade County abolished the constitutional offices of the sheriff, tax collector, supervisor of elections,⁴² and property appraiser,⁴³ transferred these powers to the mayor, and granted the mayor the discretion to sub-delegate the powers.⁴⁴ The duties of the sheriff were transferred to

³⁶ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I Charter ss. 3.05 & 3.06, *available at*, https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances.

³⁷ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I Charter, "Definitions" & s. 3.03G., *available at* https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances.

³⁸ CLAY COUNTY FLORIDA, Home Rule Charter, Article III, s. 3.1, 2014 Edition, *available at*, <http://www.claycountygov.com/about-us>.

³⁹ CLAY COUNTY FLORIDA, Home Rule Charter, Article III, ss. 3.1 & 2.3A.(1)(f), 2014 Edition, *available at* <http://www.claycountygov.com/about-us>.

⁴⁰ JACKSONVILLE COUNTY FLORIDA, Charter and Related Laws, Part A. ss. 8.01, 9.01, 10.01 & 11.01, *available at* https://www.municode.com/library/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA. Duval County currently lacks the authority to alter the methods by which the clerk of the circuit court or the sheriff are elected, nor can the County abolish the offices. Art. VIII, s. 6(e), Fla. Const., (1968), incorporating by reference Art. VIII, s. 9, Fla. Const. (1885, as amended in 1934). The consolidated government of the City of Jacksonville was created by ch. 67-1320, Laws of Florida, adopted pursuant to Art. VIII, s. 9, Fla. Const. (1885).

⁴¹ JACKSONVILLE COUNTY FLORIDA, Charter and Related Laws, Part A. s. 12.06, *available at*, https://www.municode.com/library/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA; JACKSONVILLE COUNTY FLORIDA, Code of Ordinances, Title II ss. 11.103 & 13.103, *available at*, https://www.municode.com/library/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA.

⁴² Referred to in the Miami-Dade Charter as the "supervisor of registration." See MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.01, *available at* https://www.municode.com/library/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

⁴³ Referred to in the Miami-Dade Charter as the "county surveyor." See MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.01, *available at* https://www.municode.com/library/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

⁴⁴ MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.01, *available at* https://www.municode.com/library/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

the police department, the director of which is appointed by the mayor.⁴⁵ The duties of the tax collector were transferred to the department of finance,⁴⁶ the director of which is jointly appointed by the mayor and the clerk of court.⁴⁷ The county property appraiser, although not retained as a constitutional office, remains an elected position.⁴⁸ The duties of the supervisor of elections were transferred to the elections department, the director of which is appointed by the mayor.⁴⁹ The clerk of the circuit court remains a constitutional, elected officer with some changes in duties.⁵⁰ Although the clerk is still the clerk of the county commission, the clerk's financial recorder and custodian duties were transferred to the department of financial services, and the clerk's auditing duties were transferred to the commission auditor.⁵¹

Orange County

Orange County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser,⁵² and supervisor of elections.⁵³ Although the clerk of the circuit court also retains the status of constitutional officer,⁵⁴ the clerk's constitutional duties as clerk of the county commission, auditor, and custodian of county funds were transferred to the county comptroller.⁵⁵

Osceola County

Osceola County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser, and supervisor of elections.⁵⁶ The clerk of the circuit court retains the status of constitutional officer, but the clerk's duties as clerk of the county commission, auditor, and custodian of funds were transferred to the county manager.

⁴⁵ Historically, the Miami-Dade Police Director was appointed by the county manager. This appointment power was subsequently reallocated to the mayor when the office of county manager was abolished. See Miami-Dade County Florida, Code of Ordinances, ss. 2-91, 2-92 & 1-4.4 available at https://www.municode.com/library/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTXIIMIDEPODE.

⁴⁶ MIAMI-DADE COUNTY FLORIDA, Constitutional Amendment and Charter, Part I s. 5.03, Nov. 4, 2014, available at https://www.municode.com/library/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH. See also MIAMIDADE.GOV, Miami-Dade County Finance Department, <http://www.miamidade.gov/finance>.

⁴⁷ MIAMI-DADE COUNTY FLORIDA, Constitutional Amendment and Charter, Part I s. 5.03, available at https://www.municode.com/library/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

⁴⁸ MIAMIDADE.GOV, County Departments, <http://miamidade.gov/wps/portal/Main/departments>.

⁴⁹ Though the Miami-Dade charter and ordinances do not expressly so state, the supervisor of elections is an appointed official. See MIAMIDADE.GOV, County Departments, <http://miamidade.gov/wps/portal/Main/departments>.

⁵⁰ MIAMIDADE.GOV, County Departments, <http://miamidade.gov/wps/portal/Main/departments>.

⁵¹ MIAMIDADE.GOV, Miami-Dade County Finance Department, <http://www.miamidade.gov/finance/>; MIAMI-DADE COUNTY FLORIDA, Constitutional Amendment and Charter, Part I s. 9.10, available at https://www.municode.com/library/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

⁵² At one point the county abolished the constitutional offices of sheriff, tax collector, and property appraiser but ultimately reconstituted the constitutional offices. ORANGE COUNTY FLORIDA, Charter, s. 703, available at https://www.municode.com/library/fl/orange_county/codes/code_of_ordinances.

⁵³ ORANGE COUNTY FLORIDA SUPERVISOR OF ELECTIONS, *About the Supervisor*, <http://www.ocfelections.com/aboutbillcowles.aspx>.

⁵⁴ ORANGE COUNTY FLORIDA, Code of Ordinances, Part I s. 2-66, available at https://www.municode.com/library/fl/orange_county/codes/code_of_ordinances.

⁵⁵ ORANGE COUNTY FLORIDA, Code of Ordinances, Part I s. 2-67, available at https://www.municode.com/library/fl/orange_county/codes/code_of_ordinances.

⁵⁶ OSCEOLA COUNTY FLORIDA, Home Rule Charter, Article III s. 3.1, available at https://www.municode.com/library/fl/osceola_county/codes/code_of_ordinances?nodeId=11534.

Volusia County

Volusia County established its charter by special law in 1970,⁵⁷ and the voters of Volusia County subsequently approved it in a special countywide election the same year. Volusia County abolished the constitutional offices of the sheriff, tax collector, supervisor of elections, and property appraiser. The county transferred these offices' powers to new charter offices. The duties of the sheriff were transferred to and divided between the department of public safety and the department of corrections.⁵⁸ The duties of the tax collector were transferred to the department of finance.⁵⁹ The duties of the property appraiser were transferred to the department of property appraisal.⁶⁰ The duties of the supervisor of elections were transferred to the department of elections.⁶¹ The sheriff, property appraiser, and supervisor of elections are elected directors of their respective offices.⁶² The tax collector is appointed by the county manager and confirmed by the county council.⁶³ The clerk of the circuit court remains a constitutionally elected officer except that the clerk's constitutional duties as clerk of the county commission were transferred to and divided between the department of central services and the department of finance.⁶⁴

Existing Selection and Removal Procedures for Constitutional Officers in Charter Counties

In addition to whether the five constitutional officers are elected or appointed, some counties provide in their charters for term limits, recall procedures, or the non-partisan election of these officers. While not expressly identified in Art. VIII, s. 1(d) of the Florida Constitution, these additional "selection and removal procedures" could be interpreted as affecting the selection of the five constitutional officers.

There is no constitutional or statutory prohibition limiting the ability of charter counties to impose additional selection and removal procedures on the five constitutional officers. The broad home rule power of counties allows them to act so long as the action taken is not "inconsistent with general law, or . . . special law."⁶⁵ This suggests that counties can currently modify their

⁵⁷ Chapter 70-966, Laws of Fla.

⁵⁸ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(2), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁵⁹ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(1), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁶⁰ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(3), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁶¹ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(4), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁶² VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 602.1, https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁶³ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 2-111(a), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO. VOLUSIA.ORG, Revenue Division-Tax Collection, <http://www.volusia.org/services/financial-and-administrative-services/revenue-services/>.

⁶⁴ CLERK OF THE CIRCUIT COURT, VOLUSIA COUNTY FLORIDA, Overview, <https://www.clerk.org/html/about.aspx#Overview>; VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1 (1)(b) & (5), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁶⁵ Art. VIII, s. 1(g), Fla. Const.

selection or removal procedures within the existing Art. VIII, s. 1(d), Florida Constitution, framework through charter amendment or special law.⁶⁶

Term Limits

Three charter counties have imposed term limits on one or more of the five constitutional officers.⁶⁷ Although the imposition of term limits on the five constitutional officers is not constitutionally or statutorily prohibited, or expressly endorsed, the imposition of term limits currently is interpreted to be within the broad home rule power of the charter.⁶⁸

Recall

Five counties have charters expressly providing for the recall of one or more of the five constitutional officers.⁶⁹ Regardless of whether a county charter includes a recall provision, counties have independent statutory authority to conduct a recall of any of the five constitutional officers.⁷⁰

Non-partisan Elections

Seven counties require non-partisan elections for some or all elections of the five constitutional officers.⁷¹ Non-partisan election of the five constitutional officers is neither constitutionally nor statutorily prohibited and is therefore within the broad home rule power of charter counties.⁷²

III. Effect of Proposed Changes:

If the joint resolution is adopted and the proposed amendment is approved by the voters, the resulting limitation on revising the status of the sheriff will have no impact on non-charter counties⁷³ and those charter counties that retained the sheriff without any changes to its selection or authority.⁷⁴ Charter counties that changed the selection or authority of the sheriff will be required to revise their charters and ordinances to conform to the revised constitutional requirement.⁷⁵

⁶⁶ Current statute and case law also supports this principle. *See* s. 100.361, F.S. (providing that whether or not a charter county adopts a recall provision, the county may exercise recall authority); *Telli v. Broward County*, 94 So. 3d 504, 512-13 (Fla. 2012) (allowing charter counties to adopt term limits on county commissioners and explicitly overruling a prior case which barred this in the case of the five constitutional officers).

⁶⁷ Duval, Orange, and Sarasota Counties.

⁶⁸ *Telli v. Broward County*, *supra* at n. 65.

⁶⁹ Brevard, Clay, Duval, Miami-Dade, and Sarasota Counties.

⁷⁰ Section 100.361, F.S.

⁷¹ Lee, Leon, Miami-Dade, Orange, Palm Beach, Polk, and Volusia Counties.

⁷² *See* Art. III s. 11(a)(1), Fla. Const. (prohibiting the Legislature from enacting special laws which alter local election procedure but excepting charter counties); Ch. 105, F.S. (providing for non-partisan elections and procedure).

⁷³ Baker, Bay, Bradford, Calhoun, Citrus, Collier, DeSoto, Dixie, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Levy, Liberty, Madison, Manatee, Marion, Martin, Monroe, Nassau, Okaloosa, Okeechobee, Pasco, Putnam, Santa Rosa, St. Johns, St. Lucie, Sumter, Suwannee, Taylor, Union, Walton, and Washington Counties.

⁷⁴ Alachua, Charlotte, Columbia, Hillsborough, Lee, Leon, Palm Beach, Pinellas, Polk, Sarasota, Seminole, and Wakulla Counties.

⁷⁵ Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia Counties.

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. The joint resolution provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

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:

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

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.’”⁷⁶

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 10th week and again in the 6th week immediately before the week the election is held. The Department of State, Division of Elections, estimated the average cost per word to advertise an amendment to the Florida Constitution is \$135.97 for the previous fiscal year. The department estimated the publication costs for advertising a similar joint resolution from 2016 to be at least \$96,130.79 to \$100,735.77, possibly

⁷⁶ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

greater, depending on the final wording of the joint resolution and the resulting ballot language.⁷⁷

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Charter counties that changed the selection or authority of the sheriff will incur an indeterminate negative fiscal impact to the extent of having to revise their charters and ordinances to conform to the revised constitutional requirement.

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 10th week and again in the 6th week immediately before the week the election is held. The Department of State, Division of Elections, estimated the average cost per word to advertise an amendment to the Florida Constitution is \$135.97 for the previous fiscal year. The department estimated the publication costs for advertising a similar joint resolution from 2016 to be at least \$96,130.79 to \$100,735.77, possibly greater, depending on the final wording of the joint resolution and the resulting ballot language.⁷⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose. The next general election in Florida is the gubernatorial election scheduled for November 6, 2018. If approved by the voters, the amendment takes effect

⁷⁷ 2016 Agency Legislative Bill Analysis, Department of State, HJR 165 (10/27/2015).

⁷⁸ 2016 Agency Legislative Bill Analysis, Department of State, HJR 165 (10/27/2015).

on January 8, 2019. As a result, affected charter counties will have just over 2 months to revise their charters and ordinances to conform to this amendment and elect a sheriff.

VIII. Statutes Affected:

No statutes are affected. However, the amendment proposed by this joint resolution, if approved by the electorate and implemented by the Legislature, would amend Article VIII, section 1 of the Florida Constitution.

IX. 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 Committee on February 21, 2017:

Requires the sheriff to be an elected officer in all counties and retains the charter county and special law options to change the office and duties of the tax collector, the property appraiser, the supervisor of elections, and the clerk of the circuit court.

B. Amendments:

None.



714942

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the resolving clause
and insert:

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



714942

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 collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, the tax collector, the property appraiser, the supervisor of elections, and the clerk of the circuit court ~~any county officer~~ may be chosen in another manner therein specified, or ~~any county office~~ may be abolished when all the duties of the office prescribed by general law are transferred to another office. 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. Notwithstanding section 6(e) of this article, this subsection provides the exclusive manner for the selection, length of terms, abolition of office, and transfer of duties of



714942

the sheriff in each county.

(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. 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 within the municipality to the extent of such conflict.

(g) 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.

(h) TAXES; LIMITATION. Property situate within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas.



714942

(i) COUNTY ORDINANCES. Each county ordinance shall be filed with the custodian of state records and shall become effective at such time thereafter as is provided by general law.

(j) VIOLATION OF ORDINANCES. Persons violating county ordinances shall be prosecuted and punished as provided by law.

(k) COUNTY SEAT. In every county there shall be a county seat at which shall be located the principal offices and permanent records of all county officers. The county seat may not be moved except as provided by general law. Branch offices for the conduct of county business may be established elsewhere in the county by resolution of the governing body of the county in the manner prescribed by law. No instrument shall be deemed recorded until filed at the county seat, or a branch office designated by the governing body of the county for the recording of instruments, according to law.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VIII, SECTION 1

SELECTION AND DUTIES OF COUNTY SHERIFF.—Proposing an amendment to the State Constitution to remove authority for a county charter or a special law to provide for choosing a sheriff in a manner other than by election or to alter the duties of the sheriff or abolish the office of the sheriff. The amendment is applicable to all counties and takes effect January 8, 2019, if approved.

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

And the title is amended as follows:



714942

98 Delete everything before the resolving clause
99 and insert:

100 Senate Joint Resolution

101 A joint resolution proposing an amendment to Section 1
102 of Article VIII of the State Constitution to remove
103 authority for a county charter or special law to
104 provide for choosing a sheriff in a manner other than
105 by election or to alter the duties of the sheriff or
106 abolish the office of the sheriff.

By Senator Artiles

40-00231-17

2017134__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 1 of Article VIII and the creation of a new section in Article XII of the State Constitution to remove authority for a county charter to provide for choosing certain county officers in a manner other than election, prohibit a special law to provide for choosing a sheriff in a manner other than election, authorize the abolition of any county office if its duties are transferred to another office by special law approved by county voters, and remove authority for a county charter to transfer certain duties of the clerk of the circuit court to another officer.

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

That the following amendment to Section 1 of Article VIII and the creation of a new section in Article XII of the State Constitution are 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

40-00231-17

2017134__

33 county government may be established by charter which shall be
34 adopted, amended or repealed only upon vote of the electors of
35 the county in a special election called for that purpose.

36 (d) COUNTY OFFICERS. There shall be elected by the electors
37 of each county, for terms of four years, a sheriff, a tax
38 collector, a property appraiser, a supervisor of elections, and
39 a clerk of the circuit court; except, when provided by ~~county~~
40 ~~charter or~~ special law approved by vote of the electors of the
41 county, any county officer may be chosen in another manner
42 therein specified, except the sheriff, or any county office may
43 be abolished when all the duties of the office prescribed by
44 general law are transferred to another office as provided by
45 special law approved by vote of the electors of the county. When
46 not otherwise provided by ~~county charter or~~ special law approved
47 by vote of the electors, the clerk of the circuit court shall be
48 ex officio clerk of the board of county commissioners, auditor,
49 recorder, and custodian of all county funds. Notwithstanding
50 section 6(e) of this article, this subsection provides the
51 exclusive manner for the selection, length of terms, abolition
52 of office, and transfer of duties of the sheriff, tax collector,
53 property appraiser, supervisor of elections, and clerk of the
54 circuit court in each county.

55 (e) COMMISSIONERS. Except when otherwise provided by county
56 charter, the governing body of each county shall be a board of
57 county commissioners composed of five or seven members serving
58 staggered terms of four years. After each decennial census the
59 board of county commissioners shall divide the county into
60 districts of contiguous territory as nearly equal in population
61 as practicable. One commissioner residing in each district shall

40-00231-17

2017134__

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 within the municipality to the extent of such conflict.

(g) 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.

(h) TAXES; LIMITATION. Property situate within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas.

(i) COUNTY ORDINANCES. Each county ordinance shall be filed with the custodian of state records and shall become effective at such time thereafter as is provided by general law.

(j) VIOLATION OF ORDINANCES. Persons violating county ordinances shall be prosecuted and punished as provided by law.

(k) COUNTY SEAT. In every county there shall be a county seat at which shall be located the principal offices and permanent records of all county officers. The county seat may

40-00231-17

2017134__

not be moved except as provided by general law. Branch offices for the conduct of county business may be established elsewhere in the county by resolution of the governing body of the county in the manner prescribed by law. No instrument shall be deemed recorded until filed at the county seat, or a branch office designated by the governing body of the county for the recording of instruments, according to law.

ARTICLE XII

SCHEDULE

Selection and duties of county officers.—The amendment to Section 1 of Article VIII, which removes the authority for a county charter to provide for choosing certain county officers in a manner other than election, prohibits a special law to provide for choosing a sheriff in a manner other than election, authorizes the abolition of any county office if its duties are transferred to another office by special law approved by county voters, and removes authority for a county charter to transfer certain ex officio duties of the clerk of the circuit court to another officer, takes effect January 5, 2021.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VIII, SECTION 1

ARTICLE XII

SELECTION AND DUTIES OF COUNTY OFFICERS.—Removes authority for a county charter to provide for choosing certain county officers other than by election; prohibits a special law to provide for choosing a sheriff other than by election; authorizes abolition of any county office and transfer of duties

40-00231-17

2017134__

only by approval of county voters; and removes authority for a county charter to transfer certain duties of the clerk of the circuit court. The amendment takes effect January 5, 2021, if approved.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot if a court declares the preceding statement defective and the decision of the court is not reversed:

CONSTITUTIONAL AMENDMENT

ARTICLE VIII, SECTION 1

ARTICLE XII

SELECTION AND DUTIES OF COUNTY OFFICERS.—Proposing an amendment to the State Constitution, applicable to all counties, to remove authority for a county charter to provide for choosing certain county officers in a manner other than by election and prohibits a special law approved by county voters to provide for choosing a sheriff in a manner other than by election. The amendment authorizes the abolition of any county office if its duties are transferred to another office by special law approved by county voters. The amendment also removes authority for a county charter to transfer to another officer the duties of the clerk of the circuit court to serve as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds. The amendment takes effect January 5, 2021, if approved.

District Office
13501 SW 128th Street
Ste 115 A
Miami, FL 33186
305- 252- 4300



Tallahassee Office
308 Senate Office Building
402 South Monroe Street
Tallahassee, FL 32399
850-487-5040

**Florida Senate
Office of Senator Frank Artiles- District 40**

Tuesday, January 03, 2017

The Honorable Tom Lee
Chairman, Committee on Community Affairs
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: SJR 134 – Selection and Duties of County Officers / Sheriff

Dear Senator Lee,

I hope this correspondence finds you well.

Please have this letter serve as my formal request to have **SJR 134: Selection and Duties of County Officers / Sheriff**, be heard during the next Community Affairs Committee Meeting.

The purpose of this legislation is to ensure that the Office of the Sheriff is separated from the executive branch of government. The Sheriff should be elected by the people and thus be directly accountable to the people.

Should you have any questions or concerns, please feel free to reach out to my office at any time.

Respectfully,

A handwritten signature in cursive script, appearing to read "Frank Artiles".

Senator Frank Artiles, District 40

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-21-17
Meeting Date

SJR 134
Bill Number (if applicable)

Topic CONSTITUTIONAL OFFICERS

081815
Amendment Barcode (if applicable)

Name LAURA XOMANS

Job Title _____

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA ASSOC COUNTIES

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/21/17
Meeting Date

134
Bill Number (if applicable)

Topic SELECTION AND DUTIES OF COUNTY OFFICERS

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL

Job Title LEGISLATIVE COORDINATOR

Address 115 S. ANDREWS AVE

Phone 954-253-7320

Street

FT. LAUDERDALE FL 33301

Email DSAINVIL@BROWARD.ORG

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/2017

134

Meeting Date

Bill Number (if applicable)

Topic Selection and Duties of County Officers/Sheriff

Amendment Barcode (if applicable)

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone 850-877-2165

Street

Tallahassee

FL

32308

Email mdunagan@flsheriffs.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2-21-17

Meeting Date

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

134

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JESS McCARTY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 15 St 2810

Street

MIAMI

33129

City

State

Zip

Phone 305-979-7110

Email JMM2@MIAMI-DADE.GOV

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

134

Meeting Date

Bill Number (if applicable)

Topic ELECTED Sheriff

Amendment Barcode (if applicable)

Name JOHN RIVERA

Job Title PRESIDENT

Address 300 E BREVARD ST

Phone 733 18003722

Street

TALLAHASSEE FL 32301

City

State

Zip

Email JOHN@DCPBA.ORG

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLA / DADE PBA

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 (10/14/14)

COMMITTEE: Community Affairs
ITEM: SJR 134
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, February 21, 2017
TIME: 12:30—3:00 p.m.
PLACE: 301 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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 Committee on Community Affairs

BILL: CS/SB 90

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Renewable Energy Source Devices

DATE: February 22, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.	Present	Yeatman	CA	Fav/CS
3.			AFT	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 90 expands the current prohibition against the consideration of a renewable energy source device in determining the assessed value of real property. Specifically, the bill:

- Expands the definition of “renewable energy source device” to include various new devices, but excludes specified equipment that is involved in distribution and transmission;
- Expands the prohibition on including a renewable energy source device in a real property tax assessment from only real property used for residential purposes to all real property; and
- Applies the prohibition to devices without regard to the date of installation, as opposed to the current prohibition, which only applies to devices that were installed on or after January 1, 2013.

These amendments expire December 31, 2037, and the text of the amended subsections reverts to that in existence on December 31, 2017, with stated exceptions.

The bill also exempts a renewable energy source device from the tangible personal property tax. This new section expires December 31, 2037.

The bill takes effect January 1, 2018.

II. Present Situation:

Ad Valorem Taxes

The State Constitution authorizes local government ad valorem taxes on real property and tangible personal property,¹ provides conditions and limitations upon the assessment of property for tax purposes,² and provides several ad valorem tax exemptions.³ Among the exemptions is authorization for the Legislature to prohibit the consideration of the installation of a renewable energy source device in the determination of the assessed value of real property used for residential purposes.⁴

Exemption for Renewable Energy Source Devices

The Legislature has implemented this prohibition in s. 193.624, F.S. The statute prohibits a property appraiser who is determining the assessed value of real property used for residential purposes from considering an increase in the just value of the property attributable to the installation of a renewable energy source device. The statute applies to a renewable energy source device installed on or after January 1, 2013, to new and existing residential real property. The statute defines the term “renewable energy source device” to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters;
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks;
- Rockbeds;
- Thermostats and other control devices;
- Heat exchange devices;
- Pumps and fans;
- Roof ponds;
- Freestanding thermal containers;
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy; and
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

Under current law, a renewable energy source device owned and installed on non-residential real property by the owner of the real property becomes a part of that real property and is taxable as real property. If a device is owned by someone other than the owner of the real property where it

¹ FLA. CONST. art. VII, s. 9.

² FLA. CONST. art. VII, s. 4.

³ FLA. CONST. art. VII, s. 3.

⁴ FLA. CONST. art. VII, s. 4(i).

is installed, the device remains separate and distinct from the real property and the owner of the device is subject to tangible personal property tax on the device.

Constitutional Amendment

During the 2016 primary election, voters approved a constitutional amendment to expand the exemption discussed above. The amendment authorizes the Legislature to prevent ad valorem taxation of a solar or renewable energy source device whether it is owned by the owner of the real property on which it is installed or by another person. For a solar or renewable energy source device taxed as tangible personal property, the amendment authorizes the Legislature to exempt the assessed value of a solar or renewable energy source device from the tangible personal property tax, subject to conditions, limitations, and reasonable definitions specified by general law.⁵ For a solar or renewable energy source device owned by the real property owner and taxed as real property, the amendment authorizes the Legislature to prohibit the consideration of the installation of a solar or renewable energy source device for the purpose of ad valorem taxation of real property.⁶

The amendment also creates a schedule of implementation.⁷ The amendments to the State Constitution take effect January 1, 2018, and will expire December 31, 2037. Upon expiration, the schedule of implementation will be repealed and the text of the amended substantive sections will revert to that in existence on December 31, 2017. Any amendments to such text otherwise adopted are preserved and continue to operate to the extent that they are not dependent upon the portions of text which expire pursuant to the schedule.

Tangible Personal Property Tax

Tangible personal property is everything other than real estate, which is used in a business or rental property. Examples of tangible personal property are computers, furniture, tools, machinery, signs, equipment, leasehold improvements, supplies, and leased equipment.⁸

Every new business owning tangible personal property on January 1 must file an initial tax return.⁹ Property owners who lease, lend, or rent property must also file. Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value.¹⁰ Owners of tangible personal property are required to file tax returns in the county where the property is located, and the owner of tangible personal property must file a separate return for each site in the county where he or she transacts business.¹¹ Owners of tangible personal property do not need to file an annual tangible personal property return after their initial filing if the initial application for exemption is accepted, and the value of the tangible personal property is less than \$25,000.¹² However, for any year in which the assessed value of

⁵ FLA. CONST. art. VII, s. 3.

⁶ FLA. CONST. art. VII, s. 4.

⁷ FLA. CONST. art. XII, s. 34.

⁸ Section 192.001, F.S.

⁹ Section 193.062, F.S.; See also Department of Revenue, Tangible Personal Property, *available at* <http://dor.myflorida.com/dor/property/tpp/> (last visited Feb. 14, 2017).

¹⁰ FLA. CONST. art. VII, s. 3.

¹¹ Section 196.183(1), F.S.

¹² Section 196.183(3), F.S.

the tangible personal property exceeds \$25,000, the owner of the tangible personal property must still file a return.

The taxable value of tangible personal property tax is the just value (fair market value) of the property adjusted for any exclusions, differentials, or exemptions allowed by the Constitution and the Florida Statutes. The Constitution strictly limits the Legislature's authority to provide exemptions or adjustments to fair market value.¹³ The tax rate is the same millage rate levied by counties, cities, school districts, and special districts on real property.

Based on preliminary data for 2016, the tangible personal property tax comprised \$1.969 billion in taxes levied statewide.¹⁴ Tangible personal property makes up approximately 7 percent of the total taxes levied in Florida.¹⁵ Additionally, certain small and rural counties rely heavily upon the tangible personal property tax. The tangible personal property tax makes up 49.3 percent of the total taxes levied in Hardee County; 36.9 percent of the total taxes levied in Liberty County; 41.3 percent of the total taxes levied in Taylor County; and 49.9 percent of the total taxes levied in Hamilton County.¹⁶

III. Effect of Proposed Changes:

The bill amends s. 193.624, F.S., to expand the definition of “renewable energy source device” to include:

- Wiring, structural supports, and other components used as integral parts of a system; and
- Power conditioning and storage devices that store or use solar or geothermal energy.

However, the term does not include any equipment that is on the distribution or transmission side of the point of interconnection where a renewable energy source device is interconnected to an electric utility's distribution grid or transmission lines.

The bill also expands the application of the existing prohibition against the consideration of renewable energy devices in determining the assessed value of real property. First, the prohibition currently applies to residential property only; the bill expands coverage to all real property. Second, the prohibition currently applies only to a device installed on or after January 1, 2013; under the bill, it will apply without regard to when installation occurred.

These amendments expire December 31, 2037, and the text of the amended subsections reverts to that in existence on December 31, 2017. Any amendments to the text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

¹³ FLA. CONST. art. VII, s. 4.

¹⁴ This figure was derived by multiplying an assumed 17.7796 statewide aggregate millage rate by the estimated 2016 tangible personal property total value of \$110.7 billion and dividing by 1,000. Tangible personal property related to centrally accessed railroads and private carlines is not included in this calculation.

¹⁵ Department of Revenue, Distribution of Taxes Levied by Property Type for County and Municipal Governments, Fiscal Year 2016-17, available at http://sdrftp03.dor.state.fl.us/County_Municipal_Data/16table2/all_counties_table2.pdf. (Last visited Feb. 15, 2017).

¹⁶ *Id.*

The bill creates s. 196.182, F.S., to exempt a renewable energy source device from tangible personal property tax. This new section expires December 31, 2037.

The bill reenacts ss. 193.155 and 193.1554, F.S., to incorporate the amendments made to s. 193.624, F.S.

The bill takes effect January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of section 18, Article VII of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2016-2017 was \$2 million or less.^{17,18,19} The Revenue Estimating Conference has not examined the fiscal impact of this bill. However, it appears likely that the bill will exceed the \$2 million threshold.

The county/municipality mandates provision of section 18, Article VII of the Florida Constitution, may apply because this bill reduces local government authority to raise revenue by reducing ad valorem tax bases compared to the tax bases that would exist under current law. 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. Although this bill would be implementing constitutional amendments adopted by Florida voters, the amendments were permissive and only authorize, and do not require, the Legislature to act.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁷ FLA. CONST. art. VII, s. 18(d).

¹⁸ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 13, 2017).

¹⁹ Based on the Demographic Estimating Conference's population adopted on November 1, 2016. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 13, 2017).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The exemptions will have a negative impact on local government revenues, which the Revenue Estimating Conference has not yet determined.

B. Private Sector Impact:

The exemptions from ad valorem tax on real property and tangible personal property tax may stimulate sales and leases of renewable energy source devices; may encourage the development of renewable energy device leasing businesses; and will reduce taxes for electric utilities that install renewable energy devices to produce electricity.

C. Government Sector Impact:

The bill applies to all renewable energy source devices, regardless of when they were installed, and thus, it applies to devices installed prior to the bill's effective date. The bill also appears to apply to electric utilities, some of which have pre-existing devices, and some of which may have been installed in part based on incentive agreements with local governments. In such instances, the effect of the bill is uncertain, and depends largely on the provisions of any such agreement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 193.624 of the Florida Statutes.

This bill creates section 196.182 of the Florida Statutes.

This bill reenacts sections 193.155(4)(a) and 193.1554(6)(a) of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS by Community Affairs Committee on February 21, 2017:

Clarifies the definition of renewable energy source device” by removing duplicative language and providing that the term does not include equipment involved in the distribution or transmission side of the point of interconnection where a renewable energy source device is interconnected to an electric utility’s grid or transmission lines.

B. Amendments:

None.

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



262180

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 30 - 31

and insert:

(a) Solar energy collectors, photovoltaic modules, and
inverters.



940312

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Between lines 53 and 54
insert:

The term does not include any equipment that is on the
distribution or transmission side of the point of
interconnection where a renewable energy source device is
interconnected to an electric utility's distribution grid or
transmission lines.

By Senator Brandes

24-00198B-17

201790__

A bill to be entitled
An act relating to renewable energy source devices;
amending s. 193.624, F.S.; revising the definition of
the term "renewable energy source device"; prohibiting
the consideration of just value of property
attributable to a renewable energy source device in
determining the assessed value of any real property;
deleting a provision relating to applicability as of a
specified date; creating s. 196.182, F.S.; exempting a
renewable energy source device from the tangible
personal property tax; providing for expiration;
reenacting ss. 193.155(4)(a) and 193.1554(6)(a), F.S.,
relating to homestead assessments and nonhomestead
residential property assessments, respectively, to
incorporate the amendment made to s. 193.624, F.S., in
references thereto; providing that specified
amendments made by the act expire on a certain date;
providing an effective date.

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

Section 1. Section 193.624, Florida Statutes, is amended to
read:

193.624 Assessment of renewable energy source devices
~~residential property.~~

(1) As used in this section, the term "renewable energy
source device" means any of the following equipment that
collects, transmits, stores, or uses solar energy, wind energy,
or energy derived from geothermal deposits:

(a) Solar energy collectors, photovoltaic modules, power
conditioning and storage devices, and inverters.

(b) Storage tanks and other storage systems, excluding

24-00198B-17

201790__

swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, wiring, structural supports, refrigerant handling systems, and other components ~~equipment~~ used as integral parts of to interconnect such systems; however, such equipment does not include conventional backup systems of any type or any equipment or structure that would be required in the absence of the renewable energy source device.

(j) Windmills and wind turbines.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that store or use solar energy, wind energy, or energy derived from geothermal deposits to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

(2) In determining the assessed value of real property ~~used for residential purposes, an increase in~~ the just value of the property attributable to ~~the installation of~~ a renewable energy source device may not be considered.

~~(3) This section applies to the installation of a renewable energy source device installed on or after January 1, 2013, to new and existing residential real property.~~

Section 2. Section 196.182, Florida Statutes, is created to

24-00198B-17

201790__

62 read:

63 196.182 Exemption of renewable energy source devices.—A
64 renewable energy source device, as defined in s. 193.624, which
65 is considered tangible personal property is exempt from ad
66 valorem taxation. This section expires December 31, 2037.

67 Section 3. For the purpose of incorporating the amendment
68 made by this act to section 193.624, Florida Statutes, in a
69 reference thereto, paragraph (a) of subsection (4) of section
70 193.155, Florida Statutes, is reenacted to read:

71 193.155 Homestead assessments.—Homestead property shall be
72 assessed at just value as of January 1, 1994. Property receiving
73 the homestead exemption after January 1, 1994, shall be assessed
74 at just value as of January 1 of the year in which the property
75 receives the exemption unless the provisions of subsection (8)
76 apply.

77 (4)(a) Except as provided in paragraph (b) and s. 193.624,
78 changes, additions, or improvements to homestead property shall
79 be assessed at just value as of the first January 1 after the
80 changes, additions, or improvements are substantially completed.

81 Section 4. For the purpose of incorporating the amendment
82 made by this act to section 193.624, Florida Statutes, in a
83 reference thereto, paragraph (a) of subsection (6) of section
84 193.1554, Florida Statutes, is reenacted to read:

85 193.1554 Assessment of nonhomestead residential property.—

86 (6)(a) Except as provided in paragraph (b) and s. 193.624,
87 changes, additions, or improvements to nonhomestead residential
88 property shall be assessed at just value as of the first January
89 1 after the changes, additions, or improvements are
90 substantially completed.

24-00198B-17

201790__

91 Section 5. The amendments made by this act to s. 193.624(2)
92 and (3), Florida Statutes, expire December 31, 2037, and the
93 text of those subsections shall revert to that in existence on
94 December 31, 2017, except that any amendments to such text
95 enacted other than by this act shall be preserved and continue
96 to operate to the extent that such amendments are not dependent
97 upon the portions of text which expire pursuant to this section.

98 Section 6. This act shall take effect January 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Committee on
Community Affairs

Subject: Committee Agenda Request

Date: February 7th, 2017

I respectfully request that **Senate Bill #90**, relating to **Renewable Energy Source Devices**, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-21-17

Meeting Date

S.B. 90

Bill Number (if applicable)

Topic

Amendment 4 implementation

Amendment Barcode (if applicable)

Name

Richard Pinsky

Job Title

Address

106 E. College Ave #1200

Phone

Street

Tallahassee

FL

32301

Email

City

State

Zip

Speaking:

☒

For

☐

Against

☒

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Florida Solar Industry 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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/17

Meeting Date

②

90

Bill Number (if applicable)

Topic Renewable Energy Source Devices

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL

Job Title LEGISLATIVE COORDINATOR

Address 115 S. ANDREWS AVE
Street

Phone 954-253-7320

FT. LAUDERDALE FL 33301
City State Zip

Email DSAINVIL@BROWARD.ORG

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 21, 2017
Meeting Date

SB 90
Bill Number (if applicable)

Topic Renewable Energy Resources

Amendment Barcode (if applicable)

Name Kris Ellington

Job Title _____

Address 1302 Leewood Dr
Street
Tallahassee FL 32312
City State Zip

Phone _____

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing League of Women Voters

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2-21-17

Meeting Date

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

90

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST ST 2810

Phone 305-979-7110

Street

MIAMI, FL 33128

City

State

Zip

Email JMM2@MIAMIDADE.GOV

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-21-17

Meeting Date

SB 90

Bill Number (if applicable)

Topic Renewable Energy Source Devices

Amendment Barcode (if applicable)

Name Ryder Rudd

Job Title Consultant

Address 115-1 East Park Ave.
Street

Phone 850 727 5000

Tallahassee FL 32301
City State Zip

Email ryder@advantageconsulting.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Nature Conservancy

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2-21-2017

~~SB 90~~

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

SB 90

Meeting Date

Bill Number (if applicable)

Topic Energy

Amendment Barcode (if applicable)

Name Susan Clickman

Job Title Florida Director

Address PO Box 310

Phone 727-742-9003

Street

Indian Rocks Beach FL 33785

City

State

Zip

Email susan@cleanenergy.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Southern Alliance for Clean Energy

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/17

Meeting Date

SB 90

Bill Number (if applicable)

Topic Energy

Amendment Barcode (if applicable)

Name STEVEN LEVITAS

Job Title SVP for Regulatory Affairs and Strategy

Address 130 Roberts Street

Phone 919-749-2953

Street

Asheville

City

NC

State

28801

Zip

Email steven.levitas@cccrenew.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Cypress Creek Renewables

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-21-17

Meeting Date

SB90

Bill Number (if applicable)

Topic SOLAR

Amendment Barcode (if applicable)

Name LAURA YOUHANS

Job Title _____

Address _____

Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA ASSOCIATION OF COUNTIES

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/17

Meeting Date

90

Bill Number (if applicable)

Topic Solar Tax Abatement

Amendment Barcode (if applicable)

Name Maggie Clark

Job Title Government Affairs Director

Address 119 S. Monroe Street, Ste 208
Street

Phone 205-9000

TLH FL 32301
City State Zip

Email MClark@SEIA.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Solar Energy Industry 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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/17
Meeting Date

90
Bill Number (if applicable)

Topic RENEWABLE ENERGY

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 1674 UNIVERSITY PARKWAY #296
Street
SARASOTA FL 34243
City State Zip

Phone 941-323-2404

Email cullenasea@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing SIERRA CLUB 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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/21/17
Meeting Date

SB 90
Bill Number (if applicable)

Topic Renewable Energy Source Devices

Amendment Barcode (if applicable)

Name Shawn Foster

Job Title Lobbyist

Address 5957 Riviera Lane
Street
New Port Richay, FL 34655
City State Zip

Phone 727-808-4131

Email foster@scgroupp.us

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Coronal Energy

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 (10/14/14)

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2-21-17

Date

58 90

Bill Number

Name

JEFF SHARKEY

Phone

850-224-1660

Address

106 E. LOWEY AVE SUITE 640

E-mail

JEFFREYSHARKEY@

Street

TAMPAHSEE

FL

32301

Job Title

PRESIDENT

gmail.com

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Appearing at request of Chair

☐

Subject

SOLAR

Representing

ENERGY FREEDOM COMMISSION of AMERICA / TESLA

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

____.m.

to

____.m.

COMMITTEE: Community Affairs
ITEM: SB 90
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, February 21, 2017
TIME: 12:30—3:00 p.m.
PLACE: 301 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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 Committee on Community Affairs

BILL: SPB 7002

INTRODUCER: Community Affairs Committee

SUBJECT: OGSR/Donor Information/Publicly Owned Performing Arts Center

DATE: February 22, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Present	Yeatman		CA Submitted as Committee Bill

I. Summary:

SPB 7002 eliminates the scheduled repeal of the current public records exemption for identifying information provided by a donor or a prospective donor to a publicly owned performing arts center if the donor or prospective donor wishes to remain anonymous. Such information includes the name, address, or telephone number of the donor or prospective donor. As a result, if the bill passes, this information will continue to be exempt from public disclosure.

The bill requires a majority vote for passage and takes effect on October 1, 2017.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities and any person acting on behalf of the government.²

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ An exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. Specific questions are enumerated for consideration under the review.¹⁷ The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁸ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.¹⁹

Examples of Existing Exemptions for Donors or Prospective Donors

<i>Entity</i>	<i>Exemption</i>	<i>Florida Statute</i>	<i>Status</i>
Enterprise Florida, Inc.	Identity of donor or prospective donor who desires to remain anonymous and all identifying information	s. 11.45(3)(i)	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.
Florida Development Finance Corporation, Inc.	Identity of donor or prospective donor who desires to remain anonymous and all identifying information	s. 11.45(3)(j)	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.
Cultural Endowment Program (Department of State)	Information which, if released, would identify donors and amounts contributed.	s. 265.605(2)	Confidential and exempt from s. 119.07(1), F.S.

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one Legislature cannot bind a future Legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(a), F.S.

¹⁸ FLA. CONST., art. I, s. 24(c).

¹⁹ Section 119.15(7), F.S.

<i>Entity</i>	<i>Exemption</i>	<i>Florida Statute</i>	<i>Status</i>
	Information which, if released, would identify prospective donors.		
Direct Support Organization (DSO) (University of West Florida)	Identity of donor or prospective donor of property to a DSO who desires to remain anonymous, and all identifying information.	s. 267.1732(8)	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.
Citizen Support Organization (CSO) (Fish and Wildlife Conservation Commission)	Identity of donor or prospective donor to a CSO who desires to remain anonymous and all identifying information.	s. 379.223(3)	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.
Florida Agricultural Center and Horse Park Authority (Department of Agriculture and Consumer Services)	Identity of donor or prospective donor who desires to remain anonymous and all identifying information.	s. 570.686	Confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution.
John and Mable Ringling Museum of Art Direct Support Organization (Florida State University)	Information that, if released, would identify donors who wish to remain anonymous or prospective donors who wish to remain anonymous when the DSO has identified the prospective donor and has not obtained the name in another manner.	s. 1004.45(2)(h)	Confidential and exempt from s. 119.07(1), F.S.
Florida Prepaid College Board Direct Support Organization	Identity of donors who wish to remain anonymous. Any sensitive, personal information regarding contract beneficiaries, including identity.	s. 1009.983(4)	Confidential and exempt from s. 119.07(1) and s. 24(a), Art. I, State Constitution.

Publicly Owned Performing Arts Centers in Florida

Section 265.7015, F.S., defines the term “publicly owned performing arts center” as:

a facility consisting of at least 200 seats, owned and operated by a county, municipality, or special district, which is used and occupied to promote development of any or all of the performing, visual, or fine arts or any or all matters relating thereto and to encourage and cultivate public and professional knowledge and appreciation of the arts.

If a donor or prospective donor of a donation made for the benefit of a publicly owned performing arts center desires to remain anonymous, information that would identify the name,

address, or telephone number of that donor or prospective donor is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.²⁰

If s. 265.7015, F.S., is not reenacted by the Legislature, it will be repealed on October 2, 2017.²¹

Florida has dozens of performing arts centers located throughout the state, and their ownership, management, and financing varies widely according to information on their websites.

A statewide study completed in 2009 found that Florida's nonprofit arts and culture industry generated \$3.1 billion in economic activity, including:

- 88,236 full time equivalent jobs;
- \$2.057 billion in resident household income;
- \$196 million in local government revenue; and
- \$249 million in state government revenue.²²

OGSR Survey and Results

From June to September of 2016, Senate and House professional staff, in conjunction with the Division of Cultural Affairs of the Department of State, sent out a survey to publicly owned performing arts centers to ascertain if s. 265.7015, F.S., remains necessary, pursuant to the OGSR.²³ Four publicly owned performing arts centers responded to the survey.

The surveys revealed that publicly owned performing arts centers normally received requests for anonymity at the time of donation and that donors and prospective donors had chosen anonymity on several occasions. Most publicly owned performing arts centers appeared to collect only contact information from the donors and prospective donors such as their name, address, or phone number. One publicly owned performing arts center defined a donor as "one who is making or has made a contribution" and a prospective donor as "one who is or has been identified as one with the potential to make a contribution."

Each of the publicly owned performing arts centers that responded to the survey believed that the exemption encouraged donations by ensuring the information provided by the donor or prospective donor remained confidential and exempt and stated that the public records exemption should be reenacted.

III. Effect of Proposed Changes:

Section 1 amends s. 265.7015, F.S., by deleting the scheduled repeal of the public records exemption. As a result, the covered records will remain exempt from disclosure.

²⁰ Section 265.7015(2), F.S.

²¹ Section 265.7015(3), F.S.

²² Division of Cultural Affairs of the Department of State, Arts and Economic Prosperity III: The Economic Impact of Nonprofit Arts and Culture Organizations and Their Audiences in the State of Florida, *available at* <http://dos.myflorida.com/cultural/info-and-opportunities/resources-by-topic/economic-impact-of-the-arts>. (Last visited January 17, 2017)

²³ The surveys are on file with the Senate Committee on Community Affairs.

Section 2 provides an effective date of October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption. If an exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. The bill does not create or expand a public records exemption, therefore it does not require a two-thirds vote for final passage.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Donors or prospective donors to publicly owned performing arts centers have the option of requesting anonymity, which may encourage more private entities to donate to these facilities.

C. Government Sector Impact:

This public records exemption may encourage donations and therefore result in a financial gain to counties and municipalities that own and operate publicly owned performing arts centers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 265.7015 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of 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.

FOR CONSIDERATION By the Committee on Community Affairs

578-00323-17

20177002pb

A bill to be entitled
An act relating to a review under the Open Government
Sunset Review Act; amending s. 265.7015, F.S., which
provides an exemption from public records requirements
for information that identifies a donor or prospective
donor of a donation made for the benefit of a publicly
owned performing arts center if the donor desires to
remain anonymous; removing the scheduled repeal of the
exemption; providing an effective date.

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

Section 1. Section 265.7015, Florida Statutes, is amended
to read:

265.7015 Confidentiality of certain donor information;
~~related to a publicly owned performing arts centers center.~~

(1) As used in this section, the term "publicly owned
performing arts center" means a facility consisting of at least
200 seats, owned and operated by a county, municipality, or
special district, which is used and occupied to promote
development of any or all of the performing, visual, or fine
arts or any or all matters relating thereto and to encourage and
cultivate public and professional knowledge and appreciation of
the arts.

(2) If a donor or prospective donor of a donation made for
the benefit of a publicly owned performing arts center desires
to remain anonymous, information that would identify the name,
address, or telephone number of that donor or prospective donor
is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
I of the State Constitution.

~~(3) This section is subject to the Open Government Sunset
Review Act in accordance with s. 119.15 and shall stand repealed~~

578-00323-17

20177002pb

~~on October 2, 2017, unless reviewed and saved from repeal
through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2017.

APPEARANCE RECORD

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

02/21/17
Meeting Date#7002
Bill Number (if applicable)

Topic PUBLIC RECORDS EXEMPTION - Donor Information

Amendment Barcode (if applicable)

Name DAVE ERICUS

Job Title LOBBYIST

Address 205 S. Adams St.
Street

Phone 850-591-7550

Tallahassee FL 32301
City State Zip

Email dave@erichsconsultants.com

Speaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Broward Center for the Performing Arts

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist 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 COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SPB 7002
FINAL ACTION: Submitted as Committee Bill
MEETING DATE: Tuesday, February 21, 2017
TIME: 12:30—3:00 p.m.
PLACE: 301 Senate Office Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

CourtSmart Tag Report

Room: SB 301 **Case No.:**
Caption: Senate Committee on Community Affairs

Type:
Judge:

Started: 2/21/2017 12:35:48 PM
Ends: 2/21/2017 1:06:47 PM **Length:** 00:31:00

12:35:52 PM Meeting Called to Order
12:35:55 PM Roll Call
12:36:01 PM Quorum Present
12:36:15 PM Tab 1
12:36:48 PM Senator Artilles on SJR 134
12:37:01 PM Delete All Amendment 714942
12:37:07 PM Debate?
12:37:21 PM Senator Rodriguez questions
12:37:27 PM Senator Artilles
12:38:15 PM Senator Rodriguez
12:39:16 PM Senator Artilles
12:39:59 PM Questions?
12:40:06 PM Chairman Lee
12:40:09 PM Senator Artilles
12:40:50 PM Questions?
12:40:54 PM Senator Perry
12:41:13 PM Senator Artilles
12:41:46 PM Laura Youmans from Florida Assoc. Counties
12:44:15 PM Daphanee Sainvil waives in opposition representing Broward County
12:44:40 PM Matt Dunagan from Florida Sheriffs Assoc. waives in support
12:45:06 PM Jess McCarty representing Miami-Dade County
12:45:33 PM Senator Rodriguez questions
12:46:23 PM Chairman Lee
12:46:39 PM McCarty speaks
12:46:50 PM Senator Perry
12:48:01 PM Chairman Lee
12:48:07 PM McCarty
12:49:02 PM John Rivera representing FLA/Dade PBA
12:50:56 PM Chairman Lee
12:51:52 PM Senator Campbell
12:53:13 PM Debate?
12:53:26 PM Senator Rodriguez
12:54:44 PM Senator Bean
12:55:50 PM Senator Artilles closes
12:55:57 PM All in favor of Amendment
12:56:03 PM Amendment adopted
12:56:11 PM Back on bill as amended
12:56:21 PM Senator Artilles closes on bill
12:57:27 PM Vote on Bill
12:57:46 PM SJR 134 is reported favorably
12:57:57 PM Tab 2
12:58:06 PM SB 90 Senator Brandes
12:58:33 PM Senator Clemens
12:59:03 PM There are 2 amendments to the bill
12:59:20 PM Barcode 262180 technical amendment adopted
12:59:30 PM Barcode 940312 by Brandes
12:59:48 PM Debate on amendment?
12:59:52 PM Senator Clemens
1:00:40 PM Appearance cards?
1:00:44 PM Debate?
1:00:50 PM Senator Brandes Closes
1:00:55 PM Back on bill as amended

1:00:58 PM	Cards?
1:01:17 PM	Richard Pinsky representing Florida Solar Industry Assoc. supports
1:01:29 PM	Kris Ellington representing League of Women Voters supports
1:01:36 PM	Jess McCarty representing Miami-Dade County supports
1:01:46 PM	Ryder Rudd representing The Nature Conservancy supports
1:01:51 PM	Susan Glickman representing Southern Alliance for Clean Energy supports
1:01:55 PM	Steven Levitas representing Cypress Creek Renewables supports
1:02:31 PM	Laura Youmans representing Florida Assoc. of Counties speaks
1:02:41 PM	Maggie Clark representing Solar Energy Industry Assoc. supports
1:02:54 PM	David Ericks representing The Broward Center for the Performing Arts supports
1:03:01 PM	Shawn Foster representing Coronal Energy supports
1:03:10 PM	Jeff Sharkey representing Energy Freedom Commission of America/Tesla supports
1:03:24 PM	Vote on SB 90
1:03:41 PM	Bill is reported favorably
1:03:43 PM	Tab 3
1:03:58 PM	SPB 7002
1:04:07 PM	Bryan Present presenting SPB 7002
1:04:54 PM	questions?
1:05:06 PM	Dave Ericks supports
1:05:13 PM	Debate?
1:05:29 PM	Senator Clemens
1:05:59 PM	Moves for Committee Bill
1:06:30 PM	SPB 7002 Voted favorably
1:06:39 PM	Meeting Adjourned