

Tab 1	SB 4-C by Bradley; (Identical to H 00003C) Independent Special Districts
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Tab 2	SB 6-C by Bradley; (Identical to H 00005C) Social Media Platforms
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Bradley, Chair
Senator Garcia, Vice Chair

MEETING DATE: Tuesday, April 19, 2022

TIME: 2:30—4:30 p.m.

PLACE: 117 Knott Building

MEMBERS: Senator Bradley, Chair; Senator Garcia, Vice Chair; Senators Albritton, Baxley, Cruz, Farmer, Hooper, Hutson, and Polsky

TAB		BILL DESCRIPTION and SENATE COMMITTEE ACTIONS		COMMITTEE ACTION
1	SB 4-C Bradley (Identical H 3-C)	Independent Special Districts; Dissolving certain independent special districts; authorizing the reestablishment of certain independent special districts, etc.	CA	Favorable Yeas 6 Nays 3
		CA	04/19/2022 Favorable	
2	SB 6-C Bradley (Identical H 5-C)	Social Media Platforms; Revising the definition of the term "social media platform", etc.	CA	Favorable Yeas 6 Nays 3
		CA	04/19/2022 Favorable	

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: SB 4-C

INTRODUCER: Senator Bradley

SUBJECT: Independent Special Districts

DATE: April 19, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hunter	Ryon	CA	Favorable

I. Summary:

SB 4-C dissolves all independent special districts established by a special act prior to the ratification of the Florida Constitution on November 5, 1968, if those districts have not been reestablished, re-ratified, or otherwise reconstituted by special act or general law after such date. Such special districts will be dissolved effective June 1, 2023.

The bill allows an independent special district affected by the bill to be re-established on or after June 1, 2023, pursuant to the requirements and limitations of ch. 189 F.S.

The bill takes effect on July 1, 2022.

II. Present Situation:

Special Districts

A “special district” is a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary.¹ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.² Common types of special districts in Florida include community development districts, drainage and water control districts, fire control districts, and community redevelopment districts. Most of these entities perform a single function, but, in some instances, their enabling legislation allows them to provide several, usually related, types of services.³ Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.⁴ A special district has only those powers expressly provided by, or

¹ Section 189.012(6), F.S.

² Florida House of Representatives, Local Government Formation Manual (2020 – 2022) p. 64, *available at*: <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last visited Apr. 19, 2022).

³ *Id.*

⁴ See ss. 189.031(3), 189.02(1), and 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

reasonably implied from, the authority provided in the district's charter. Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.⁵ Like all powers a special district is provided, the method of financing a district must be stated in its charter.

According to the Department of Economic Opportunity, there are 1,844 special districts in the state, in which 1,228 are independent special districts and 616 are dependent districts.⁶

Special districts are governed generally by the Uniform Special District Accountability Act (Act).⁷ The Act, initially passed in 1989,⁸ created ch. 189, F.S., to centralize provisions governing special districts. Chapter 189, F.S. applies to the formation,⁹ governance,¹⁰ administration,¹¹ supervision,¹² merger,¹³ and dissolution¹⁴ of special districts, unless otherwise expressly provided in law.¹⁵ The Act also provided an extensive statement of legislative intent aiming to improve accountability of special districts to state and local governments and providing for more effective communication and coordination in the monitoring of required reporting.¹⁶

Chapter 189, F.S., establishes criteria defining whether a special district is a “dependent special district” or an “independent special district.” As a general rule, dependent special districts are created at the prerogative of the counties and municipalities and independent special districts are created only as authorized by the Legislature.

Dependent Special Districts

A “dependent special district” is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.¹⁷

A county is authorized to create, by ordinance, a dependent special district within the county, subject to the approval of the governing body of the incorporated area affected.¹⁸ Municipalities

⁶ Department of Economic Opportunity, Special District Accountability Program Official List of Special Districts, available at : <http://specialdistrictreports.floridajobs.org/webreports/StateTotals.aspx> (last visited Apr. 18, 2022)

⁷ Section 189.01, F.S., *but see* ch. 190, F.S. (community development districts), ch. 191, F.S. (independent special fire control districts).

⁸ Ch. 89-169, Laws of Fla.

⁹ *See* s. 189.02, F.S. (creation of dependent special districts), s. 189.031, F.S. (creation of independent special districts).

¹⁰ *See* s. 189.0311, F.S. (charter requirements for independent special districts).

¹¹ *See* s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

¹² *See* s. 189.034, F.S. (oversight for special districts created by special act of the Legislature).

¹³ Sections 189.071, 189.074, F.S.

¹⁴ Sections 189.071, 189.072, F.S.

¹⁵ *See* s. 190.004 (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

¹⁶ Section 189.06, F.S.

¹⁷ Section 189.012(2), F.S.

¹⁸ Section 189.02(2), F.S.

also are authorized to create, by ordinance, a dependent special district within the municipality.¹⁹ Additionally, the Legislature may create a dependent special district by special act at the request or with the consent of the local government upon which the special district will be dependent.²⁰

Independent Special Districts

An “independent special district” is any special district that does not meet the definition of “dependent special district.”²¹ Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely within the borders of a single municipality.

Generally, independent special districts are created by the Legislature through a special act or general law of local application, and must comply with all other criteria mandated by the Florida Constitution, and the charter for any new independent special district must include the minimum elements required by ch. 189, F.S.²²

However, Florida Statutes authorize the creation of certain types of independent special districts without specific action by the Legislature. The Governor and Cabinet, a municipality or county, or a regional combination of cities and counties may initiate the creation of certain special districts in compliance with statutory requirements.²³

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.²⁴

Codification

In 1997, the Legislature passed a comprehensive series of reforms relating to local government oversight that included a provision requiring each special district to codify its special acts into a single act for reenactment by the Legislature no later than December 1, 2001.²⁵ Subsequent legislation extended the deadline for codification to December 1, 2004, and stated the Legislature may adopt a schedule for individual districts to codify their acts.²⁶

¹⁹ Section 189.02(3), F.S.

²⁰ Section 189.02(5), F.S.

²¹ Section 189.012(3), F.S.

²² Section 189.031(1), F.S. The minimum charter requirements for an independent special district are listed in s. 189.031(3), F.S.

²³ Supra note 2.

²⁴ See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

²⁵ Ch. 97-255, s. 24, Laws of Fla., now codified as s. 189.019, F.S.

²⁶ Ch. 98-320, s. 3, Laws of Fla.

Dissolution of an Independent Special District

An independent special district may be dissolved voluntarily, by the district governing body, or involuntarily by the entity creating the independent special district, such as the Legislature or a county or municipality.²⁷

If the governing body of an independent special district created and operating pursuant to a special act elects, by a majority vote plus one, to dissolve the district, the voluntary dissolution of an independent special district may be effectuated only by the Legislature unless otherwise provided by general law.²⁸

In order for the Legislature to dissolve an active independent special district created and operating pursuant to a special act, the special act dissolving the independent special district must be approved by a majority of the resident electors of the district or, for districts in which a majority of governing body members are elected by landowners, a majority of the landowners voting in the same manner the independent special district's governing body is elected.²⁹

If an independent special district was created by a county or municipality via referendum or other procedure, the county or municipality that created the district may dissolve the district pursuant to the same procedure by which the independent special district was created. However, if the independent special district has ad valorem taxation powers, the same procedure required to grant the independent special district ad valorem taxation powers is required to dissolve the district.³⁰

Unless otherwise provided by law or ordinance, when there is dissolution of a special district government, the special district transfers the title to all property owned by the preexisting special district to the local general-purpose government, either a county or municipality, which shall also assume all indebtedness of the preexisting special district.³¹

Local Government Powers

The Florida Constitution grants counties and municipalities broad “home rule” authority that did not exist prior to the ratification of the 1968 Constitution.³² Non-charter county governments

²⁷ Section 189.072 F.S.

²⁸ Section 189.072 (1) F.S.

²⁹ Section 189.072 (2)(a) F.S.

³⁰ Section 189.072 (2)(b) F.S.

³¹ Section 189.076 (2) F.S.³² See Art. VIII, s. 5, Fla. Const. (1885) (“powers, duties[,] and compensation of county commissioners shall be prescribed by law”) and Art. VIII, s. 8, Fla. Const. (1885) (“The Legislature shall... prescribe [municipal] jurisdiction and powers[.]” See also *City of Trenton v. State of New Jersey*, 262 U.S. 182, 186 (1923) (“In the absence of state constitutional provisions safeguarding it to them, municipalities have no inherent right of self-government which is beyond the legislative control of the state.”), *Bowden v. Ricker*, 70 Fla. 154 (Fla. 1915) (“Under the provision of s. 5 of art. 8 of the [1885] Constitution that powers and duties of county commissioners ‘shall be prescribed by law,’ the authority of such officials is only such as may be conferred by statutory regulations.”))

³² See Art. VIII, s. 5, Fla. Const. (1885) (“powers, duties[,] and compensation of county commissioners shall be prescribed by law”) and Art. VIII, s. 8, Fla. Const. (1885) (“The Legislature shall... prescribe [municipal] jurisdiction and powers[.]” See also *City of Trenton v. State of New Jersey*, 262 U.S. 182, 186 (1923) (“In the absence of state constitutional provisions safeguarding it to them, municipalities have no inherent right of self-government which is beyond the legislative control of the state.”), *Bowden v. Ricker*, 70 Fla. 154 (Fla. 1915) (“Under the provision of s. 5 of art. 8 of the [1885] Constitution that powers and duties of county commissioners ‘shall be prescribed by law,’ the authority of such officials is only such as may be conferred by statutory regulations.”))

may exercise those powers of self-government that are provided by general or special law.³³ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.³⁴ Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.³⁵

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, it is not mandatory for a special act to provide an independent special district with ad valorem taxing authority.³⁶

III. Effect of Proposed Changes:

Notwithstanding s. 189.072(2), F.S., the bill amends s. 189.0311, F.S., to dissolve all independent special districts established by a special act prior to the ratification of the Florida Constitution on November 5, 1968, if those districts have not been reestablished, re-ratified, or otherwise reconstituted by special act or general law after such date. Such special districts will be dissolved effective June 1, 2023.

The bill allows an independent special district affected by the bill to be re-established on or after June 1, 2023, pursuant to the requirements and limitations of ch. 189 F.S.

The following six districts appear to operate pursuant to a charter, which predates the 1968 Florida Constitution and was not reestablished, re-ratified, or otherwise reconstituted by a special act or general law after November 5, 1968:

- Bradford County Development Authority (Bradford County)
- Sunshine Water Control District (Broward County)³⁷
- Eastpoint Water and Sewer District (Franklin County)
- Hamilton County Development Authority (Hamilton County)
- Reedy Creek Improvement District (Orange and Osceola Counties)
- Marion County Law Library (Marion County)

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³³ Art. VIII, s. 1(f), Fla. Const.

³⁴ Art. VIII, s. 1(g), Fla. Const.

³⁵ Art. VIII, s. 2(b); *see also* s. 166.021(1), F.S.

³⁶ *See, e.g.*, ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

³⁷ The charter of the Sunshine Drainage District was amended by ch. 2021-255, Laws of Fla., subject to voter approval in a referendum to be held during the 2022 General Election on November 8, 2022.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill will have an indeterminate fiscal impact on residents and businesses currently served by a special district dissolved by the bill. Such residents and businesses may experience a change in services previously provided by the special district and related assessments and taxes imposed.

C. Government Sector Impact:

The bill will have an indeterminate fiscal impact on those local general purpose governments that will assume the assets and indebtedness of an independent special district dissolved by the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 189.0311 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.

By Senator Bradley

5-00006-22C

20224C__

1 A bill to be entitled
2 An act relating to independent special districts;
3 amending s. 189.0311, F.S.; dissolving certain
4 independent special districts; authorizing the
5 reestablishment of certain independent special
6 districts; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Section 189.0311, Florida Statutes, is amended
11 to read:
12 189.0311 Independent special districts; charter
13 requirements.—
14 (1) Notwithstanding any general law, special act, or
15 ordinance of a local government to the contrary, any independent
16 special district charter enacted after September 30, 1989, shall
17 contain the information required by s. 189.031(3). Recognizing
18 that the exclusive charter for a community development district
19 is the statutory charter contained in ss. 190.006-190.041,
20 community development districts established after July 1, 1980,
21 pursuant to the provisions of chapter 190 shall be deemed in
22 compliance with this requirement.
23 (2) Notwithstanding s. 189.072(2), any independent special
24 district established by a special act prior to the date of
25 ratification of the Florida Constitution on November 5, 1968,
26 and which was not reestablished, re-ratified, or otherwise
27 reconstituted by a special act or general law after November 5,
28 1968, is dissolved effective June 1, 2023. An independent
29 special district affected by this subsection may be

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30 reestablished on or after June 1, 2023, pursuant to the
31 requirements and limitations of this chapter.
32 Section 2. This act shall take effect July 1, 2022.

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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: SB 6-C

INTRODUCER: Senator Bradley

SUBJECT: Social Media Platforms

DATE: April 19, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Ryon	Ryon	CA	Favorable

I. Summary:

SB 6-C amends the definition of “social media platform” as it pertains to the application of SB 7072, which was passed by the Legislature during the 2021 Regular Session. SB 7072, signed into law on May 24, 2021, addresses some concerns related to social media platforms, which among other things, requires social media platforms to apply uniform standards, notify censored or deplatformed users, allow users to make certain choices, ensure posts by or about candidates for office in Florida are not shadow banned, and ensure that journalistic enterprises are not censored or deplatformed.

SB 7072 defines “social media platform” as any information service, system, Internet search engine, or access software provider that provides or enables computer access by multiple users to a computer server, including an Internet platform and/or a social media site, operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity, does business in the state, and satisfies at least one of the following thresholds:

- Has annual gross revenues in excess of \$100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index.
- Has at least 100 million monthly individual platform participants globally.

However, the definition of “social media platform” excludes any information service, system, Internet search engine, or access software provider operated by a company that owns and operates a specific type of theme park as defined in s. 509.013, F.S.

The bill removes the theme park exclusion from the definition of “social media platform.”

The bill takes effect upon becoming law.

II. Present Situation:

Section 230

The federal Communications Decency Act (CDA) was passed in 1996 “to protect children from sexually explicit Internet content.”¹ 47 U.S. Code § 230 (Section 230) was later added to the CDA “to maintain the robust nature of Internet communication and, accordingly, to keep government interference in the medium to a minimum.”² Section 230 states that no provider or user of an interactive computer service may be held liable on account of any action which is:³

- Voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or
- Taken to enable or make available to information content providers or others the technical means to restrict access to material from any person or entity that is responsible for the creation or development of information provided through any interactive computer service.

While Section 230 immunity has fostered the free flow of ideas on the Internet, critics have argued that Section 230 shields publishers from liability for allowing harmful content.⁴ Recently, there has also been criticism of the broad immunity provisions or liability shields, which allow individuals unhappy with third-party content to sue the user who posted harmful content but not the platform hosting it. Both sides of the political aisle have claimed that internet platforms engage in political censorship and unduly restrict viewpoints.⁵

SB 7072 (2021) – Social Media Platforms

During the 2021 Regular Session, the Legislature passed SB 7072 to address some concerns related to social media platforms and the limits of Section 230.⁶ The bill was signed into law on May 24, 2021. Among other things, the bill created s. 501.2041, F.S., which enumerates several

¹ *Force v. Facebook, Inc.*, 934 F.3d 53, 63 (2d Cir. 2019) (citing *FTC v. LeadClick Media, LLC*, 838 F.3d 158, 173 (2d Cir. 2016) (citing 141 Cong. Rec. S1953 (daily ed. Feb. 1, 1995) (statement of Sen. Exon)).

² *Force*, 934 F.3d at 63 (quoting *Ricci v. Teamsters Union Local 456*, 781 F.3d 25, 28 (2d Cir. 2015) (quoting *Zeran v. Am. Online, Inc.*, 129 F.3d 327, 330 (4th Cir. 1997)).

³ 47 U.S.C. § 230(c).

⁴ Zoe Bedell and John Major, *What’s Next for Section 230? A Roundup of Proposals* Lawfare, (July 29, 2020) <https://www.lawfareblog.com/whats-next-section-230-roundup-proposals> (last visited Feb. 25, 2021).

⁵ For example, on May 28, 2020, an executive order was issued by President Trump suggesting that websites “should properly lose” their “limited liability shield” whenever they “remove or restrict access to content” not in good faith. Bedell, *supra* note 11; Exec. Order No.13925, 85 Fed. Reg. 34079 (May 28, 2020).

⁶ See Chapter 2021-32, Laws of Fla.

provisions with which social media platforms must comply. Specifically, the law requires social media platforms to:⁷

- Publish standards it uses for determining how to censor,⁸ deplatform,⁹ and shadow ban¹⁰ users, and apply such standards in a consistent manner;
- Inform each user¹¹ about any changes to its user rules, terms, and agreements before implementing the changes and not make changes more than once every 30 days;
- Notify a user in a specified manner within 7 days of censoring or deplatforming the user;
- Allow a user who has been deplatformed to access or retrieve all of the user's information, content, material, and data within a specified time period;
- Allow a user to request the number of other individuals who were shown the user's content or posts, and provide such information upon such request by the user;
- Provide users with an option to opt out of post-prioritization¹² and shadow banning algorithms¹³ to allow sequential or chronological posts and content;
- Ensure that posts by or about candidates for office in Florida are not shadow banned; and
- Ensure that journalistic enterprises¹⁴ are not censored, deplatformed, or shadow banned.

These provisions apply to “social media platform[s]” defined as any information service, system, Internet search engine, or access software provider that provides or enables computer access by multiple users to a computer server, including an Internet platform and/or a social media site, operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity, does business in the state, and satisfies at least one of the following thresholds:

- Has annual gross revenues in excess of \$100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index.
- Has at least 100 million monthly individual platform participants globally.¹⁵

⁷ Section 501.2041(2), F.S.

⁸ “Censor” includes any action taken by a social media platform to delete, regulate, restrict, edit, alter, inhibit the publication or republication of, suspend a right to post, remove, or post an addendum to any content or material posted by a user. The term also includes actions to inhibit the ability of a user to be viewable by or to interact with another user of the social media platform. Section 501.2041(1)(b), F.S.

⁹ “Deplatform” means the action or practice by a social media platform to permanently delete or ban a user or to temporarily delete or ban a user from the social media platform for more than 14 days. Section 501.2041(1)(c), F.S.

¹⁰ “Shadow ban” means action by a social media platform, through any means, whether the action is determined by a natural person or an algorithm, to limit or eliminate the exposure of a user or content or material posted by a user to other users of the social media platform. This term includes acts of shadow banning by a social media platform which are not readily apparent to a user. Section 501.2041(1)(f), F.S.

¹¹ “User” means a person who resides or is domiciled in this state and who has an account on a social media platform, regardless of whether the person posts or has posted content or material to the social media platform. Section 501.2041(1)(h), F.S.

¹² “Post-prioritization” means action by a social media platform to place, feature, or prioritize certain content or material ahead of, below, or in a more or less prominent position than others in a newsfeed, a feed, a view, or in search results. The term does not include post-prioritization of content and material of a third party, including other users, based on payments by that third party, to the social media platform. Section 501.2041(1)(e), F.S.

¹³ “Algorithm” means a mathematical set of rules that specifies how a group of data behaves and that will assist in ranking search results and maintaining order or that is used in sorting or ranking content or material based on relevancy or other factors instead of using published time or chronological order of such content or material. Section 501.2041(1)(a), F.S.

¹⁴ “Journalistic enterprise” means an entity doing business in Florida that:

1. Publishes in excess of 100,000 words available online with at least 50,000 paid subscribers or 100,000 monthly active users;
2. Publishes 100 hours of audio or video available online with at least 100 million viewers annually;
3. Operates a cable channel that provides more than 40 hours of content per week to more than 100,000 cable television subscribers; or
4. Operates under a broadcast license issued by the Federal Communications Commission. Section 501.2041(1)(d), F.S.

¹⁵ Section 501.2041(1)(g), F.S.

The law specifically excludes from the definition of “social media platform” any information service, system, Internet search engine, or access software provider operated by a company that owns and operates a theme park or entertainment complex as defined in s. 509.013, F.S.¹⁶

A social media platform that fails to comply with those specified provisions may be found in violation of the Florida Deceptive and Unfair Trade Practices Act by the Department of Legal Affairs.¹⁷ Additionally, a user may bring a private cause of action against a social media platform for failing to apply consistently certain standards and for censoring or deplatforming without proper notice.¹⁸

SB 7072 also:

- Prohibited social media platforms from deplatforming candidates for political office, and allows the Florida Elections Commission to fine a social media platform \$250,000 per day for deplatforming statewide candidates and \$25,000 per day for deplatforming all other candidates. If a social media platform knowingly provides free advertisements for a candidate, such ads are treated as an in-kind contribution and the candidate must be notified.
- Prohibited social media platforms convicted of or held civilly liable for state or federal antitrust violations from contracting with public entities, and allowed such entities to be placed on the Antitrust Violator Vendor List (list) by the Department of Management Services.

SB 7072 (2021) – Pending Litigation

On May 27, 2021, prior to the July 1, 2021, effective date of SB 7072, Netchoice, LLC and Computer & Communications Industry Association - trade associations of online businesses with members that operate social media platforms - filed a complaint before the United States District Court for the Northern District of Florida, for declaratory and injunctive relief against certain public officials¹⁹ in their official capacities, to enjoin the enforcement SB 7072. Plaintiffs argued that the bill infringed on the rights to freedom of speech, equal protection and due process protected by the First and Fourteenth Amendments to the U.S. Constitution. Additionally, Plaintiffs argued that the bill exceeds Florida’s authority under the Constitution’s Commerce Clause and is preempted by Section 230.²⁰

On June 30, 2021, the District Court granted a preliminary injunction finding that SB 7072 is likely unconstitutional and partly preempted.²¹ The court found the provisions regulating posts

¹⁶ *Id.* Section 509.013, F.S., defines “theme park or entertainment complex” as a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

¹⁷ Section 501.2014(5), F.S.

¹⁸ Section 501.2014(6), F.S.

¹⁹ The Attorney General of Florida, the members of the Florida Elections Commission, and a Deputy Secretary of the Florida Department of Management Services (the Secretary’s position was vacant at the time of filing).

²⁰ Article VI, Paragraph 2 of the United States Constitution, commonly referred to as the Supremacy Clause, establishes that the federal constitution, and federal law generally, take precedence over state laws and constitutions. The Supremacy Clause also prohibits states from interfering with the federal government’s exercise of its constitutional powers, and from assuming any functions that are exclusively entrusted to the federal government. It does not, however, allow the federal government to review or veto state laws before they take effect. See Cornell Law School, Legal Information Institute, *Supremacy Clause*, https://www.law.cornell.edu/wex/supremacy_clause (last visited April 19, 2022).

²¹ *NetChoice, LLC v. Moody*, 546 F. Supp. 3d 1082, 1086 (N.D. Fla. 2021).

“by or about” a candidate and material posted by a “journalistic enterprise” could not be applied without regard to the content of the regulated speech.²² Additionally, the judge found that statements by Florida officials, together with the bill’s theme park carveout, manifested “viewpoint-based motivation” and discrimination among speakers, both requiring strict court review which would likely find the law unconstitutional.²³

Defendants timely appealed the order granting plaintiffs’ motion for a preliminary injunction to the United States Court of Appeals for the Eleventh Circuit. Briefs have been filed an oral argument is scheduled for Thursday, April 28, 2022.

III. Effect of Proposed Changes:

The bill amends s. 501.2041, F.S., to remove the theme park exclusion from the definition of “social media platform.”

The bill reenacts sections of Florida Statutes to incorporate changes made to s. 501.2041, F.S.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²² *Id.* At 1094-95.

²³ *Id.*

B. Private Sector Impact:

Amending the definition of “social media platforms” may have an economic impact on certain entities as it pertains to the application of SB 7072 (2021).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 501.2041 of the Florida Statutes.

The bill reenacts sections 106.072(1)(c) and 287.137(1)(f) 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.



967262

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/19/2022	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 37
and insert:
The term does not include a platform that allows user
interaction that is solely limited to feedback related to host-
provided media content. ~~any information service, system,~~

By Senator Bradley

5-00005-22C

20226C__

A bill to be entitled

An act relating to social media platforms; amending s. 501.2041, F.S.; revising the definition of the term "social media platform"; reenacting ss. 106.072(1)(c) and 287.137(1)(f), F.S., relating to social media deplatforming of political candidates and antitrust violations, denial or revocation of the right to transact business with public entities, and denial of economic benefits, respectively, to incorporate the amendment made to s. 501.2041, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (g) of subsection (1) of section 501.2041, Florida Statutes, is amended to read:

501.2041 Unlawful acts and practices by social media platforms.—

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

(g) "Social media platform" means any information service, system, Internet search engine, or access software provider that:

1. Provides or enables computer access by multiple users to a computer server, including an Internet platform or a social media site;

2. Operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity;

3. Does business in the state; and

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

5-00005-22C

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4. Satisfies at least one of the following thresholds:

a. Has annual gross revenues in excess of \$100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index.

b. Has at least 100 million monthly individual platform participants globally.

~~The term does not include any information service, system, Internet search engine, or access software provider operated by a company that owns and operates a theme park or entertainment complex as defined in s. 509.013.~~

Section 2. For the purpose of incorporating the amendment made by this act to section 501.2041, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 106.072, Florida Statutes, is reenacted to read:

106.072 Social media deplatforming of political candidates.—

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

(c) "Social media platform" has the same meaning as in s. 501.2041.

Section 3. For the purpose of incorporating the amendment made by this act to section 501.2041, Florida Statutes, in a reference thereto, paragraph (f) of subsection (1) of section 287.137, Florida Statutes, is reenacted to read:

287.137 Antitrust violations; denial or revocation of the right to transact business with public entities; denial of economic benefits.—

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

(f) "Person" means a natural person or an entity organized

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59 under the laws of any state or of the United States which
60 operates as a social media platform, as defined in s. 501.2041,
61 with the legal power to enter into a binding contract and which
62 bids or applies to bid on contracts let by a public entity, or
63 which otherwise transacts or applies to transact business with a
64 public entity. The term includes those officers, directors,
65 executives, partners, shareholders, employees, members, and
66 agents who are active in the management of an entity.

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

CourtSmart Tag Report

Room: KB 117

Case No.:

Type:

Caption: Senate Community Affairs Committee

Judge:

Started: 4/19/2022 2:30:14 PM

Ends: 4/19/2022 4:05:17 PM

Length: 01:35:04

2:30:19 PM	Roll call
2:30:33 PM	Quorum is present
2:30:37 PM	Pledge
2:30:58 PM	Comments from the Chair
2:31:20 PM	Pass chair to Sen Hutson
2:31:27 PM	Tab 2, SB 6c by Sen Bradley
2:31:38 PM	Sponsor explains bill
2:32:19 PM	Sen Polsky in questions
2:32:45 PM	Response of Sponsor
2:32:59 PM	Sen Polsky in questions
2:33:06 PM	Response of Sponsor
2:34:31 PM	Sen Cruz in questions
2:35:19 PM	Response of Sponsor
2:36:27 PM	Back and forth in questions
2:38:41 PM	Late filed amendment #967262 by Sen Farmer
2:38:54 PM	Sponsor explains amendment
2:39:23 PM	No questions
2:39:30 PM	Sen Bradley in debate
2:39:58 PM	Sen Farmer closes on amendment
2:43:41 PM	Amendment is not adopted
2:43:48 PM	Back on the bill
2:43:59 PM	No appearance forms
2:44:04 PM	Sen Polsky in debate
2:46:52 PM	Sen Farmer in debate
2:49:05 PM	Sen Cruz in debate
2:51:10 PM	Sponsor closes on bill
2:51:40 PM	Roll on SB 6c
2:51:53 PM	SB 6c is reported favorably
2:52:13 PM	Tab 1, SB 4c by Sen Bradley
2:52:31 PM	Sponsor explains bill
2:53:28 PM	Sen Polsky in questions
2:53:48 PM	Response of Sponsor
2:54:14 PM	Back and forth in questions
3:05:16 PM	Sen Farmer in questions
3:06:50 PM	Response of Sponsor
3:07:32 PM	Back and forth in questions
3:27:44 PM	Chair Hutson in questions
3:28:49 PM	Response of Sponsor
3:29:29 PM	Back and forth in questions
3:30:57 PM	Sen Cruz in questions
3:32:07 PM	Response of Sponsor
3:33:21 PM	Back and forth in questions
3:40:44 PM	Sen Polsky in questions
3:41:23 PM	Response of Sponsor
3:42:04 PM	Back and forth in questions
3:45:48 PM	No appearance forms
3:45:55 PM	Sen Cruz in debate
3:49:31 PM	Sen Farmer in debate
3:55:32 PM	Sen Polsky in debate
4:01:07 PM	Comments from Chair Hutson
4:01:38 PM	Sponsor closes on bill
4:04:31 PM	Roll on SB 4c

4:04:41 PM	SB 4c is reported favorably
4:04:55 PM	Sen Farmer moves to adjourn
4:05:03 PM	Committee adjourned