

Tab 1 SB 1040 by Lee; Discretionary Sales Surtaxes							
824748	D	S	RCS	CA, Lee	Delete everything after	03/27 02:08 PM	
Tab 2 SB 1054 by Lee; (Similar to CS/H 00009) Community Redevelopment Agencies							
895662	D	S	RCS	CA, Lee	Delete everything after	03/27 02:59 PM	
Tab 3 CS/SB 1000 by IT, Hutson; (Similar to CS/H 00693) Communications Services							
281892	D	S	RCS	CA, Hutson	Delete everything after	03/28 08:19 AM	
Tab 4 SB 1616 by Baxley; (Identical to H 00861) Local Government Financial Reporting							
Tab 5 SB 428 by Perry; (Similar to H 00291) Growth Management							
138184	A	S	L RCS	CA, Perry	Before L.14:	03/28 08:45 AM	
Tab 6 SB 1494 by Perry; (Identical to H 06017) Small-scale Comprehensive Plan Amendments							
Tab 7 SB 564 by Hooper; (Similar to H 00399) Truth in Millage Notices							
732174	D	S	L RCS	CA, Hooper	Delete everything after	03/27 01:28 PM	
Tab 8 SB 658 by Albritton; (Identical to H 00781) Property Assessment Administration							
Tab 9 SB 1420 by Gruters; (Similar to H 00777) Florida Building Code							
372712	D	S	RCS	CA, Gruters	Delete everything after	03/27 03:12 PM	
Tab 10 SB 1792 by Gruters; (Similar to H 01237) Towing and Immobilizing of Vehicles and Vessels							
128966	A	S	RCS	CA, Gruters	btw L.120 - 121:	03/27 01:42 PM	
320918	A	S	RCS	CA, Gruters	btw L.207 - 208:	03/27 01:42 PM	
630976	A	S	RCS	CA, Gruters	btw L.593 - 594:	03/27 01:42 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Flores, Chair
Senator Farmer, Vice Chair

MEETING DATE: Tuesday, March 26, 2019

TIME: 4:00—6:00 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Flores, Chair; Senator Farmer, Vice Chair; Senators Broxson, Pizzo, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1040 Lee	Discretionary Sales Surtaxes; Requiring a petition sponsor of an initiative to adopt a charter county and regional transportation system surtax to comply with specified requirements within a specified timeframe before the proposed referendum; requiring a county to make the proposed referendum and a specified legal opinion available on its official website; requiring the Office of Program Policy Analysis and Government Accountability, upon receiving a certain notice, to procure a certified public accountant for a performance audit, etc. CA 03/26/2019 Fav/CS FT AP	Fav/CS Yeas 4 Nays 1
2	SB 1054 Lee (Similar CS/H 9)	Community Redevelopment Agencies; Prohibiting a person from lobbying a community redevelopment agency until he or she has registered as a lobbyist with that agency; authorizing an agency to establish an annual lobbyist registration fee, not to exceed a specified amount; requiring ethics training for community redevelopment agency commissioners; revising the list of projects that are prohibited from being financed by increment revenues; specifying the level of tax increment financing that a governing body may establish for funding the redevelopment trust fund, etc. CA 03/26/2019 Fav/CS ATD AP	Fav/CS Yeas 4 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, March 26, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 1000 Innovation, Industry, and Technology / Hutson (Similar CS/H 693)	Communications Services; Reducing the rates of certain communications services taxes; specifying limitations and prohibitions on municipalities and counties relating to registrations and renewals of communications services providers; prohibiting certain municipalities and counties from electing to impose permit fees; specifying prohibited acts by municipalities and counties in the use of their authority over the placement of facilities for certain purposes, etc. IT 03/12/2019 Fav/CS CA 03/26/2019 Fav/CS FT AP	Fav/CS Yeas 4 Nays 1
4	SB 1616 Baxley (Identical H 861, Compare H 7035, CS/S 7014)	Local Government Financial Reporting; Requiring county and municipal budget officers, respectively, to submit certain information to the Office of Economic and Demographic Research within a specified timeframe; requiring adopted budget amendments and final budgets to remain posted on each entity's official website for a specified period of time, etc. CA 03/26/2019 Favorable GO RC	Favorable Yeas 4 Nays 1
5	SB 428 Perry (Similar H 291)	Growth Management; Requiring a local government's comprehensive plan to include a property rights element; providing a statement of rights that a local government may use; requiring each local government to adopt a property rights element by a specified date, etc. CA 03/26/2019 Fav/CS JU RC	Fav/CS Yeas 5 Nays 0
6	SB 1494 Perry (Identical H 6017)	Small-scale Comprehensive Plan Amendments; Removing the acreage limitations that apply to small-scale comprehensive plan amendments, etc. CA 03/26/2019 Favorable IS RC	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, March 26, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 564 Hooper (Similar H 399)	Truth in Millage Notices; Authorizing property appraisers to make notices of proposed property taxes available on their websites in lieu of mailing the notices; authorizing property appraisers to use electronic technology and devices for certain formatting purposes; revising timeframes for filing petitions with the value adjustment board as to valuation issues, etc. CA 03/26/2019 Fav/CS FT AP	Fav/CS Yeas 5 Nays 0
8	SB 658 Albritton (Identical H 781)	Property Assessment Administration; Requiring the Department of Revenue to pay for aerial photographs and nonproperty ownership maps furnished to fiscally constrained counties, etc. CA 03/26/2019 Favorable AEG AP	Favorable Yeas 5 Nays 0
9	SB 1420 Gruters (Similar H 777)	Florida Building Code; Requiring a manufacturer to submit certain information when seeking to have an insulation product approved by the Florida Building Commission; requiring the manufacturer to provide test data to certain persons upon request; specifying that the failure to provide the test data is a violation of the Florida Deceptive and Unfair Trade Practices Act, etc. CA 03/26/2019 Fav/CS CM RC	Fav/CS Yeas 5 Nays 0
10	SB 1792 Gruters (Similar H 1237)	Towing and Immobilizing of Vehicles and Vessels; Specifying that local governments may enact rates to tow or immobilize vessels on private property and to remove and store vessels under specified circumstances; prohibiting counties and municipalities, respectively, from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators, towing businesses, or vehicle immobilization services; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges; authorizing vehicle immobilization devices to be used on trespassing motor vehicles, etc. CA 03/26/2019 Fav/CS IS RC	Fav/CS Yeas 5 Nays 0

Other Related Meeting Documents

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, March 26, 2019, 4:00—6:00 p.m.

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 1040

INTRODUCER: Community Affairs Committee and Senator Lee

SUBJECT: Discretionary Sales Surtaxes

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1040 establishes additional provisions related to local government discretionary surtaxes. The bill requires that a referendum to adopt or amend a local government discretionary sales surtax must be held at a general election. In addition, the petition sponsor of an initiative to adopt a charter county and regional transportation system surtax is required to complete the following actions 180 days before a proposed referendum: 1) obtain an independent legal opinion verifying the referendum's statutory compliance; 2) provide a copy of the final resolution or ordinance to the Office of Program Policy Analysis and Government Accountability (OPPAGA); and 3) file the initiative petition and its required valid signatures with the supervisor of elections. A copy of the final resolution or ordinance must also be sent by counties and school districts to OPPAGA 180 days prior to referenda for purposes of surtax performance audit.

Failure to comply with the above charter county and regional transportation surtax and performance audit provisions renders a discretionary sales surtax referendum void. Provisions of the bill apply to referenda to adopt or amend local government discretionary sales surtaxes held on or after October 1, 2019.

II. Present Situation:

Discretionary Sales Surtaxes

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.”¹ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into. Discretionary sales surtax rates currently levied vary from 0.5 percent to 2.0 percent.²

The Legislature has authorized the following local option discretionary sales surtaxes:

- Charter County and Regional Transportation System Surtax, for operating a transportation system in a charter county, a county which is consolidated with that of one or more municipalities, or a county that is within or under an interlocal agreement with a regional transportation or transit authority.
- Local Government Infrastructure Surtax, for financing local government infrastructure projects.
- Small County Surtax, providing additional revenue for counties having fewer than 50,000 residents as of April 1, 1992.
- Indigent Care and Trauma Center Surtax, for providing medical care for indigent persons (in non-consolidated counties having a population of at least 800,000) and funding trauma centers (in non-consolidated counties having a population less than 800,000).
- County Public Hospital Surtax, for operating, maintaining, and administering a county public general hospital in a county as defined in s. 125.011(1), F.S. (i.e., Miami-Dade County).
- School Capital Outlay Surtax, for constructing and renovating schools.
- Voter-Approved Indigent Care Surtax, for providing medical care for indigent persons in counties with a population less than 800,000.
- Emergency Fire Rescue Services and Facilities Surtax, for providing emergency fire rescue services and facilities.
- Pension Liability Surtax for funding pension liability shortfalls.

The Department of Revenue (DOR) administers, collects, and enforces county discretionary sales surtaxes pursuant to the same procedures used in the administration, collection, and enforcement of the state sales tax.³ DOR then remits to the appropriate county the surtax proceeds less an administration fee not to exceed 3 percent.⁴

¹ Section 212.054, F.S.

² Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2019 Local Discretionary Sales Surtax Rates in Florida’s Counties, 225-226 (2019) <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf>, available at (last visited Mar. 23, 2019).

³ Section 212.054(4)(a), F.S.

⁴ Section 212.054(4)(b) and (c), F.S.

The 56 counties and 19 school districts levying one or more discretionary sales surtaxes were projected to realize \$3.38 billion in revenue in fiscal year 2018-19.⁵ If all counties and school districts levied discretionary sales surtaxes at the maximum possible rates, they would raise \$14.32 billion in revenue in fiscal year 2018-19.⁶

Most local discretionary sales surtaxes may only be approved by referendum, while some may be approved by an extraordinary vote of the county commission.⁷ If voter approval is required, a majority of electors voting must approve the referendum.⁸

Charter County and Regional Transportation System Surtax

Any county that has adopted a home rule charter, any county government that has consolidated with one or more municipalities, and any county that is within or under an interlocal agreement with a regional transportation or transit authority created under chs. 343 or 349, F.S., may levy this surtax at a rate of up to 1 percent, subject to approval by a majority vote of the county's electorate or a charter amendment approved by a majority vote of the county's electorate.⁹

Based on these criteria, 31 counties (i.e., Alachua, Bay, Brevard, Broward, Charlotte, Citrus, Clay, Columbia, Duval, Escambia, Franklin, Gulf, Hernando, Hillsborough, Lee, Leon, Manatee, Miami-Dade, Okaloosa, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Santa Rosa, Sarasota, Seminole, Volusia, Wakulla, and Walton) are eligible to levy the surtax. Currently, only four of the 31 eligible counties levy this surtax at the following percentages: Broward (1.0), Duval (0.5), Hillsborough (1.0), and Miami-Dade (0.5).¹⁰

Generally, the surtax proceeds are used for the development, construction, operation, and maintenance of fixed guideway rapid transit systems; bus systems; on-demand transportation services; and roads and bridges.¹¹ Counties eligible to levy the surtax may also use up to 25 percent of the proceeds for nontransit purposes.¹²

Collections for the Charter County and Regional Transportation System Surtax are estimated to produce \$342.4 million in Fiscal Year 2018-2019.¹³

⁵ Office of Economic and Demographic Research, *2018 Local Government Financial Information Handbook* p. 148 (Sep. 2018), available at <http://edr.state.fl.us/Content/local-government/reports/lgfih18.pdf> (last visited Mar. 27, 2019).

⁶ *Id.*

⁷ See s. 212.055, F.S.; and s. 212.055(3), F.S., small county surtax may be approved by extraordinary vote of the county commission as long as surtax revenues are not used for servicing bond indebtedness; s. 212.055(4), F.S., indigent care and trauma center surtax may be approved by extraordinary vote of the county commission; and s. 212.055(5), F.S., county public hospital surtax may be approved by extraordinary vote of the county commission.

⁸ Section 212.055, F.S.

⁹ Section 212.055(1), F.S. See also *supra* note 2. The timing for placing the referendum on the ballot is set at the discretion of the governing body.

¹⁰ See *supra* note 2.

¹¹ Section 212.055(1)(d), F.S.

¹² Section 212.055(1)(d)3., F.S.

¹³ See *supra* note 2.

Discretionary Sales Surtax Performance Audits

Chapter 2018-118, s. 35, L.O.F., required that for all discretionary sales surtax referendum held on or after March 23, 2018 a performance audit by an independent certified public accountant must be conducted.¹⁴ Section 212.055(10)(a), F.S., defines this audit as:

an examination of the program conducted according to applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies, including the effectiveness of the program, the structure and design of the program, alternative methods of achieving the goals of the program, performance measures that may be used to track program accomplishments, the accuracy and adequacy of public documents, and reports related to the program, and compliance of the program with applicable policies, rules, and laws.

OPPAGA is responsible for both selecting the accountant and paying for the accountant's services.¹⁵ The results of the performance audit, including any findings, recommendations, or other accompanying documents must be made available on the website of the county or school district at least 60 days prior to the referendum and must be maintained on the website for at least 2 years.¹⁶

Referendum Process

The Florida Election Code provides the general requirements for a referendum.¹⁷ The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.¹⁸ The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.¹⁹ The ballot summary and title must be included in the resolution or ordinance calling for the referendum.²⁰ For some discretionary sales surtaxes, the form of the ballot question is specified by the statute authorizing the tax.²¹

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.²² A “general election” is held on the first Tuesday after the first Monday in November in even-numbered years to fill national, state, county, and district offices, and for voting on constitutional amendments.²³

¹⁴ Section 212.055(10)(a), F.S.

¹⁵ *Id.*

¹⁶ S. 212.055(10)(b), F.S.

¹⁷ Section 101.161, F.S.

¹⁸ Section 101.161(1), F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ See e.g., s. 212.055(4)(a)2, (4)(b)1., F.S. (ballot question for discretionary sales surtax for indigent care and trauma center).

²² Section 97.021(12), F.S.

²³ FLA. CONST. Art. VI, s. 5(a). See also s. 97.021(16), F.S.

Initiative Petition Procedures for Placement of the Ballot

Section 100.371, F.S., governs how constitutional amendments proposed by initiative are placed on the ballot for the general election. Under s. 100.371(3), F.S., each initiative petition signature is dated when made and is valid for a period of two years following the date.²⁴ The sponsor must submit dated forms to the appropriate supervisor of elections for verification and the supervisor must verify signatures within 30 days of receipt of the petition forms and payment of a required fee.²⁵ The supervisor can verify that a signature is valid only if it meets certain requirements. Signature forms must be retained for one year or until notified by the Division of Elections.

Written Legal Opinions

In general, a legal opinion is a document in which an official such as a state attorney general, a city solicitor, or a private attorney renders her or his understanding of the law as applied to the assumed facts.²⁶ It may or may not serve as protection to one acting on it, depending on the nature of it and the law governing such opinions. Legal opinions are occasionally formally addressed to clients but substantively intended to benefit (or, at least, also benefit) third parties who are explicitly permitted to rely on them.²⁷ Third parties commonly require these opinions as a condition precedent to closing business transactions.²⁸

III. Effect of Proposed Changes:

Section 1 amends s. 212.055, F.S., to require that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. This will limit the timing and frequency of these referenda to even-year November elections.

The bill also provides requirements of a petition sponsor if a charter county and regional transportation system discretionary surtax proposal is to be adopted by initiative. Specifically, at least 180 days before the proposed referendum, the petition sponsor must do the following:

- Obtain an independent written legal opinion from an attorney who is a member in good standing of The Florida Bar, verifying that the proposed referendum complies with state law, and provide the proposed referendum and legal opinion to the governing body of the county which will make both documents available on its official website;
- Provide a copy of the final resolution or ordinance of the proposed referendum to OPPAGA, which will then procure the certified public accountant for the required discretionary sales surtax performance audit; and
- File the initiative petition and its required valid signatures with the supervisor of elections who will verify signatures and retain signature forms in the same manner as required for initiatives under s. 100.371(3), F.S.

²⁴ See s. 100.371(3), F.S., for the remainder of the information presented in this section of the bill analysis.

²⁵ See s. 99.097(4), F.S., regarding the fee for checking signatures and grounds for having such fees waived.

²⁶ See BLACK'S LAW DICTIONARY (6th ed. 1990).

²⁷ See Steven L. Schwarcz, *The Limits of Lawyering: Legal Opinions in Structured Finance*, Texas Law Review, vol. 84, no.1, 2005.

²⁸ *Id.*

The failure of an initiative sponsor to comply with the requirements above renders any referendum held void.

In addition, the bill requires the county or school district for which a discretionary sales surtax referendum is to be held to provide a copy of the final resolution or ordinance of the proposed referendum to OPPAGA 180 days before the proposed referendum for purposes of a performance audit. Within 30 days of receiving such notification, OPPAGA must procure the certified public accountant needed for the required performance audit. The failure to comply with the 180-day notification of OPPAGA or a required completion of the performance audit 60 days before the referendum is held renders any such referendum to adopt a discretionary sales surtax void.

Section 2 provides an effective date of October 1, 2019.

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:

The Revenue Estimating Conference determined that the provisions of the bill requiring referenda be held at a general election would not affect state or local government revenues.

B. Private Sector Impact:

Petition sponsors of initiatives to adopt a charter county and regional transportation system surtax will incur costs related to the required legal opinion and possibly incur costs for fees to check petition signatures.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill sponsor may wish to consider extending the November 16 deadline for notifying DOR of the imposition of a pending local option discretionary sales surtax, if possible; county canvassing boards may not be able to formally certify sales tax referenda election results until after the current deadline — depending on the speed and efficiency of the county's vote count/recount process and what calendar day the General Election falls on in November (first Tuesday after the first Monday; varies from year-to-year).

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

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 on March 26, 2019:

- Requires that a referendum to adopt or amend a local government discretionary surtax must be held at a general election.
- Requires the petition sponsor of a charter county and regional transportation system surtax to provide a copy of the final resolution or ordinance to OPPAGA 180 days prior to a referendum.
- Requires counties and school districts to provide a copy of the final resolution or ordinance to OPPAGA 180 days prior to a referendum for purposes of a performance audit.
- Changes the effective date to October 1, 2019.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2019	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (10) of section 212.055,
Florida Statutes, is redesignated as subsection (11) and
amended, a new subsection (10) is added to that section, and
paragraph (c) of subsection (1), paragraph (b) of subsection
(5), and paragraph (b) of subsection (8) are amended, to read:
212.055 Discretionary sales surtaxes; legislative intent;



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authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
SURTAX.—

(c)1. The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law and must be approved in a referendum held at a general election in accordance with subsection (10) ~~at a time to be set at the discretion of the governing body.~~

2. If the proposal to adopt a surtax is by initiative, the petition sponsor must, at least 180 days before the proposed referendum, comply with all of the following:

a. Obtain an independent written legal opinion from an attorney who is a member in good standing of The Florida Bar which verifies that the proposed referendum complies with state law, and provide the proposed referendum and legal opinion to the governing body of the county. The county shall make the proposed referendum and legal opinion available on its official



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website.

b. Provide a copy of the final resolution or ordinance to the Office of Program Policy Analysis and Government Accountability. The Office of Program Policy Analysis and Government Accountability shall procure a certified public accountant in accordance with subsection (10) for the performance audit.

c. File the initiative petition and its required valid signatures with the supervisor of elections. The supervisor of elections shall verify signatures and retain signature forms in the same manner as required for initiatives under s. 100.371(3).

3. The failure of an initiative sponsor to comply with the requirements of subparagraph 2. renders any referendum held void.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(b) If the ordinance is conditioned on a referendum, the proposal to adopt the county public hospital surtax shall be placed on the ballot in accordance with subsection (10) ~~law at a time to be set at the discretion of the governing body.~~ The referendum question on the ballot shall include a brief general



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description of the health care services to be funded by the surtax.

(8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

(b) Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The ordinance will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose. The referendum shall be placed on the ballot of a general ~~regularly scheduled~~ election. The ballot for the referendum must conform to the requirements of s. 101.161.

(10) DATES FOR REFERENDA.—A referendum to adopt or amend a local government discretionary sales surtax under this section must be held at a general election as defined in s. 97.021.

(11) ~~(10)~~ PERFORMANCE AUDIT.—

~~(a) For any referendum held on or after March 23, 2018, To adopt a discretionary sales surtax under this section, an independent certified public accountant licensed pursuant to chapter 473 shall conduct a performance audit of the program associated with the proposed surtax ~~adoption proposed by the county or school district.~~~~

(b)1. At least 180 days before the referendum is held, the county or school district shall provide a copy of the final resolution or ordinance to the Office of Program Policy Analysis and Government Accountability.

2. Within 30 days after receiving the final resolution or ordinance, the Office of Program Policy Analysis and Government Accountability shall procure the certified public accountant and may use carryforward funds to pay for the services of the



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certified public accountant.

~~3. (b)~~ At least 60 days before the referendum is held, the performance audit must ~~shall~~ be completed and the audit report, including any findings, recommendations, or other accompanying documents, must ~~shall~~ be made available on the official website of the county or school district.

4. The county or school district shall keep the information on its website for 2 years from the date it was posted.

5. The failure to comply with the requirements under subparagraph 1. or subparagraph 3. renders any referendum held to adopt a discretionary sales surtax void.

(c) For purposes of this subsection, the term "performance audit" means an examination of the program conducted according to applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies. At a minimum, a performance audit must include an examination of issues related to the following:

1. The economy, efficiency, or effectiveness of the program.

2. The structure or design of the program to accomplish its goals and objectives.

3. Alternative methods of providing program services or products.

4. Goals, objectives, and performance measures used by the program to monitor and report program accomplishments.

5. The accuracy or adequacy of public documents, reports, and requests prepared by the county or school district which relate to the program.

6. Compliance of the program with appropriate policies,



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rules, and laws.

(d) This subsection does not apply to a referendum held to adopt the same discretionary surtax that was in place during the month of December immediately before the date of the referendum.

Section 2. This act shall take effect October 1, 2019.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to discretionary sales surtaxes;
amending s. 212.055, F.S.; providing that a referendum
to adopt or amend a local discretionary sales surtax
must be held at a general election; requiring a
petition sponsor of an initiative to adopt a charter
county and regional transportation system surtax to
comply with specified requirements within a specified
timeframe before the proposed referendum; requiring a
county to make the proposed referendum and a specified
legal opinion available on its official website;
requiring the Office of Program Policy Analysis and
Government Accountability, upon receiving a certain
notice, to procure a certified public accountant for a
performance audit; requiring a supervisor of elections
to verify petition signatures and retain signature
forms in a specified manner; providing that an
initiative sponsor's failure to comply with the
specified requirements renders any referendum held



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156 void; revising requirements and procedures for
157 counties, school districts, and the office relating to
158 performance audits; providing that the failure to
159 comply with certain requirements renders any
160 referendum held to adopt a discretionary sales surtax
161 void; providing an effective date.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 3/26/19

Bill Number (if applicable) SB1040

Topic Discretionary Sales Surtaxes

Amendment Barcode (if applicable) _____

Name Gemma Sunnergren

Job Title Student

Address 1505 W Tharpe St, Apt 1133

Phone 954-304-3773

City Tallahassee State FL Zip 32303

Email gemma_sunnergren@gmail.com

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

Representing League of Women Voters of Florida

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

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

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

By Senator Lee

20-01045B-19

20191040__

1 A bill to be entitled
 2 An act relating to discretionary sales surtaxes;
 3 amending s. 212.055, F.S.; requiring a petition
 4 sponsor of an initiative to adopt a charter county and
 5 regional transportation system surtax to comply with
 6 specified requirements within a specified timeframe
 7 before the proposed referendum; requiring a county to
 8 make the proposed referendum and a specified legal
 9 opinion available on its official website; requiring
 10 the Office of Program Policy Analysis and Government
 11 Accountability, upon receiving a certain notice, to
 12 procure a certified public accountant for a
 13 performance audit; requiring a supervisor of elections
 14 to verify petition signatures and retain signature
 15 forms in a specified manner; providing that an
 16 initiative sponsor's failure to comply with the
 17 specified requirements renders any referendum held
 18 void; revising requirements and procedures for
 19 discretionary sales surtax performance audits;
 20 providing that the failure to comply with certain
 21 requirements renders any referendum held to adopt a
 22 discretionary sales surtax void; providing
 23 applicability; providing an effective date.
 24
 25 Be It Enacted by the Legislature of the State of Florida:
 26
 27 Section 1. Paragraph (c) of subsection (1) and subsection
 28 (10) of section 212.055, Florida Statutes, are amended to read:
 29 212.055 Discretionary sales surtaxes; legislative intent;

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30 authorization and use of proceeds.—It is the legislative intent
 31 that any authorization for imposition of a discretionary sales
 32 surtax shall be published in the Florida Statutes as a
 33 subsection of this section, irrespective of the duration of the
 34 levy. Each enactment shall specify the types of counties
 35 authorized to levy; the rate or rates which may be imposed; the
 36 maximum length of time the surtax may be imposed, if any; the
 37 procedure which must be followed to secure voter approval, if
 38 required; the purpose for which the proceeds may be expended;
 39 and such other requirements as the Legislature may provide.
 40 Taxable transactions and administrative procedures shall be as
 41 provided in s. 212.054.
 42 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
 43 SURTAX.—
 44 (c) 1. The proposal to adopt a discretionary sales surtax as
 45 provided in this subsection and to create a trust fund within
 46 the county accounts shall be placed on the ballot in accordance
 47 with law at a time to be set at the discretion of the governing
 48 body.
 49 2. If the proposal to adopt a surtax is by initiative, the
 50 petition sponsor must, at least 180 days before the proposed
 51 referendum, comply with all of the following:
 52 a. Obtain an independent written legal opinion from an
 53 attorney who is a member in good standing of The Florida Bar,
 54 verifying that the proposed referendum complies with state law,
 55 and provide the proposed referendum and legal opinion to the
 56 governing body of the county. The county shall make the proposed
 57 referendum and legal opinion available on its official website.
 58 b. Notify the Office of Program Policy Analysis and

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Government Accountability of the proposed referendum. The Office of Program Policy Analysis and Government Accountability shall procure a certified public accountant in accordance with subsection (10) for the performance audit.

c. File the initiative petition and its required valid signatures with the supervisor of elections. The supervisor of elections shall verify signatures and retain signature forms in the same manner as required for initiatives under s. 100.371(3).

3. The failure of an initiative sponsor to comply with the requirements of subparagraph 2. renders any referendum held void.

(10) PERFORMANCE AUDIT.—

(a) ~~For any referendum held on or after March 23, 2018,~~ To adopt a discretionary sales surtax under this section, an independent certified public accountant licensed pursuant to chapter 473 shall conduct a performance audit of the program associated with the proposed surtax ~~adoption proposed by the county or school district.~~

(b)1. At least 180 days before the referendum is held, the county or school district shall notify the Office of Program Policy Analysis and Government Accountability of the proposed referendum.

2. Within 30 days after receiving the notification under subparagraph 1., the Office of Program Policy Analysis and Government Accountability shall procure the certified public accountant and may use carryforward funds to pay for the services of the certified public accountant.

3. (b) At least 60 days before the referendum is held, the performance audit shall be completed and the audit report,

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including any findings, recommendations, or other accompanying documents, shall be made available on the official website of the county or school district.

4. The county or school district shall keep the information on its website for 2 years from the date it was posted.

5. The failure to comply with the requirements under subparagraph 1. or subparagraph 3. renders any referendum held to adopt a discretionary sales surtax void.

(c) For purposes of this subsection, the term "performance audit" means an examination of the program conducted according to applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies. At a minimum, a performance audit must include an examination of issues related to the following:

1. The economy, efficiency, or effectiveness of the program.

2. The structure or design of the program to accomplish its goals and objectives.

3. Alternative methods of providing program services or products.

4. Goals, objectives, and performance measures used by the program to monitor and report program accomplishments.

5. The accuracy or adequacy of public documents, reports, and requests prepared by the county or school district which relate to the program.

6. Compliance of the program with appropriate policies, rules, and laws.

(d) This subsection does not apply to a referendum held to adopt the same discretionary surtax that was in place during the

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117 month of December immediately before the date of the referendum.

118 Section 2. The amendment to s. 212.055, Florida Statutes,
119 made by this act applies to referenda to adopt discretionary
120 sales surtaxes held on or after January 1, 2020.

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 1040
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Building

FINAL VOTE		SENATORS	3/26/2019 Amendment 824748 ¹					
			Lee					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
X		Pizzo						
X		Simmons						
	X	Farmer, VICE CHAIR						
X		Flores, CHAIR						
4	1		RCS	-				
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

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 1054

INTRODUCER: Community Affairs Committee and Senator Lee

SUBJECT: Community Redevelopment Agencies

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ryon	Yeatman	CA	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1054 makes numerous changes to ch. 163, F.S., relating to Community Redevelopment Agencies (CRAs).

The bill increases accountability and transparency for CRAs by:

- Requiring the commissioners of a CRA to undergo 4 hours of ethics training annually;
- Requiring each CRA to use the same procurement and purchasing processes as the creating county or municipality;
- Expanding the annual reporting requirements for CRAs to include audit information and performance data and requiring the information and data to be published on the agency website;
- Providing that beginning October 1, 2019, moneys in the CRA redevelopment trust fund may only be expended pursuant to an annual budget adopted by the board of commissioners for the CRA and only for those purposes specified in current law, including overhead and administrative costs;
- Requiring a CRA created by a municipality to provide its proposed budget, and any amendments to the budget, to the board of county commissioners for the county in which the CRA is located 10 days after the adoption of such budget; and
- Requiring counties and municipalities to include CRA data in their annual financial report.

The bill also provides a process for the Department of Economic Opportunity (DEO) to declare a CRA inactive if it has no revenue, expenditures, and debt for 6 consecutive fiscal years, and

provides for the termination of existing CRAs at the earlier of the expiration date stated in the CRA's charter as of October 1, 2019, or on September 30, 2039. The governing board of the creating local government entity may prevent the termination of a CRA by a majority vote. Finally, the bill authorizes the local governing body that created the CRA to adjust the level of tax increment financing available to the CRA.

II. Present Situation:

The Community Redevelopment Act

The Community Redevelopment Act of 1969 (Act) authorizes a county or municipality to create a community redevelopment agency (CRA) as a means of redeveloping slums and blighted areas.¹ The Act defines a "blighted area" as an area in which there are a substantial number of deteriorated structures causing economic distress or endangerment to life or property and two or more of the factors listed in s. 163.340(8), F.S., are present. However, an area may also be classified as blighted if one factor is present and all taxing authorities with jurisdiction over the area agree that the area is blighted by interlocal agreement or by passage of a resolution by the governing bodies.²

The Act defines a "slum area" as "an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements" in poor states of repair with one of the following factors present:

- Inadequate provision for ventilation, light, air, sanitation, or open spaces;
- High density of population, compared to the population density of adjacent areas within the county or municipality, and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
- The existence of conditions that endanger life or property by fire or other causes.³

Creation of Community Redevelopment Agencies

Either a county or a municipal government may create a CRA.⁴ Before creating a CRA, a county or municipal government must adopt a resolution with a "finding of necessity."⁵ This resolution must make legislative findings "supported by data and analysis" that the area to be included in the CRA's jurisdiction is either blighted or a slum and that redevelopment of the area is necessary to promote "the public health, safety, morals, or welfare" of residents.

A county or municipality may create a CRA upon the adoption of a finding of necessity and a finding that a CRA is necessary for carrying out the community redevelopment goals embodied by the Act.⁶ A CRA created by a county may only operate within the boundaries of a

¹ Chapter 163, F.S., part III.

² Section 163.340(8), F.S.

³ Section 163.340(7), F.S.

⁴ See s. 163.355, F.S. (prohibiting counties and municipalities from exercising powers under the Act without a finding of necessity).

⁵ *Id.*

⁶ Section 163.356(1), F.S.

municipality when the municipality has concurred by resolution with the community redevelopment plan adopted by the county. A CRA created by a municipality may not include more than 80 percent of the municipality if it was created after July 1, 2006.⁷

The ability to create, expand, or modify a CRA is also determined by the county's status as a charter or non-charter county, as summarized below:

- If a CRA is created in a charter county after the adoption of the charter, the county possesses authority to create CRAs within the county, but may delegate authority to a municipality via interlocal agreement.⁸
- If a CRA is created in a charter county before the adoption of the charter, the county does not have authority over CRA operations, including modification of the redevelopment plan or expansion of CRA boundaries.⁹
- If a CRA is created in a non-charter county, the county does not have authority over CRA operations, including modification of the redevelopment plan or expansion of CRA boundaries.¹⁰

As of March 20, 2019, there are 227 CRAs in Florida, which is a 30 percent increase over the past decade.¹¹

Community Redevelopment Agency Boards

The Act allows the local governing body creating a CRA to choose between two structures for the agency governing board.

One option is to appoint a board of commissioners consisting of five to nine members serving 4-year terms.¹² The local governing body may appoint any person as a commissioner who lives in or is engaged in business in the agency's area of operation.¹³ The local governing body making the appointment selects the chair and vice chair of the commission.¹⁴ Commissioners are not entitled to compensation for their services, but may receive reimbursement for expenses incurred in the discharge of their official duties.¹⁵ Commissioners and employees of an agency are subject to the code of ethics for public officers and employees under ch. 112, F.S.¹⁶

⁷ Section 163.340(10), F.S.

⁸ Section 163.410, F.S.

⁹ *Id.*

¹⁰ Section 163.415, F.S.

¹¹ Compare Dept. of Economic Opportunity, Special District Accountability Program, Official List of Special Districts Online, <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited March 20, 2019) (227 active CRAs as of March 20, 2019) with Bill Analysis for HB 1583 (2006) (stating there were 171 CRAs in operation as of March 26, 2006).

¹² Section 163.356(2), F.S.

¹³ Section 163.356(3)(b), F.S. A person is "engaged in business" if he or she owns a business, performs services for compensation, or serves as an officer or director of a business that owns property or performs services in the agency's area of operation.

¹⁴ Section 163.356(3)(c), F.S.

¹⁵ Section 163.356(3)(a), F.S.

¹⁶ Section 163.367(1), F.S., but cf. s. 112.3142, F.S. (requiring ethics training for specific constitutional officers and elected municipal officers).

The second option is for the local governing body to appoint itself as the agency board of commissioners.¹⁷ If the local governing body consists of five members, the local governing body may appoint two additional members to 4-year terms.¹⁸ The additional members must meet the selection criteria for appointed board members under s. 163.356, F.S., or be representatives of another taxing authority within the agency's area of operation, subject to an interlocal agreement between the local governing body creating the CRA and the other taxing authority.¹⁹

As of March 20, 2019, the local governing body creating the CRA serves as the CRA board for 159 of the 227 active CRAs.²⁰

Community Redevelopment Agency Operations

The CRA board of commissioners is responsible for exercising the powers of the agency.²¹ A majority of the board's members are required for a quorum. An agency is authorized to employ an executive director, technical experts, legal counsel, and other agents and employees necessary to fulfill its duties.²²

A CRA exercising its powers under the Act must file an annual report to the governing body of the creating local government entity.²³ The report must contain a complete financial statement of the assets, liabilities, income, and operating expenses of the agency. The CRA must publish a notice in a newspaper of general circulation in the community that the report has been filed and is available for inspection during business hours in the office of the clerk of the city or county commission and the office of the agency.²⁴

Community Redevelopment Plans

A community redevelopment plan must be in place before a CRA can engage in operations.²⁵ Each community redevelopment plan must provide a time certain for completing all redevelopment financed by increment revenues.²⁶ The time certain must occur no later than 30 years after the fiscal year in which the plan is approved, adopted, or amended pursuant to s. 163.361(1), F.S.²⁷ However, for any agency created after July 1, 2002, the time certain for completing all redevelopment financed by increment revenues must occur within 40 years after the fiscal year in which the plan is approved or adopted.²⁸

¹⁷ Section 163.357(1)(a), F.S.

¹⁸ Section 163.357(1)(c), F.S.

¹⁹ Section 163.357(1)(c)-(d), F.S.

²⁰ Dept. of Economic Opportunity, Special District Accountability Program, Official List of Special Districts Online, <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited March, 20 2019).

²¹ Section 163.356(3)(b), F.S.

²² Section 163.356(3)(c), F.S.

²³ *Id.*

²⁴ *Id.*

²⁵ Section 163.360(1), F.S.

²⁶ Section 163.362(10), F.S.

²⁷ *Id.*

²⁸ *Id.*

The county, municipality, the CRA itself, or members of the public may submit the plan and the CRA then chooses which plan it will use as its community redevelopment plan.²⁹ Next, the CRA must submit the plan to the local planning agency for review before the plan can be considered.³⁰ The local planning agency must complete its review within 60 days.

The CRA must submit the community redevelopment plan to the governing body that created the CRA as well as each taxing authority that levies ad valorem taxes on taxable real property contained in the boundaries of the CRA.³¹ The local governing body that created the CRA must hold a public hearing before the plan is approved.³²

To approve the plan, the local governing body must make findings as specified in s. 163.360(7), F.S. The community redevelopment plan must also:

- Conform to the comprehensive plan for the county or municipality;
- Indicate land acquisition, demolition, and removal of structures; redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area; zoning and planning changes, if any; land uses; maximum densities; and building requirements; and
- Provide for the development of affordable housing in the area, or state the reasons for not addressing in the plan the development of affordable housing.³³

Redevelopment Trust Fund

CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF). The amount of TIF available to the agency in a given year is equal to 95 percent of the difference between:

- The amount of ad valorem taxes levied in the current year by each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area; and
- The amount of ad valorem taxes that would have been produced by levying the current year's millage rate for each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area at the total assessed value of the taxable real property prior to the effective rate of the ordinance providing for the redevelopment trust fund.³⁴

A CRA created by a certain county on or after July 1, 1994, may set the amount of funding provided at less than 95 percent, with a floor of 50 percent.

The TIF authority of a CRA may be limited in certain circumstances.³⁵

²⁹ Section 163.360(4), F.S.

³⁰ *Id.*

³¹ Section 163.360(5), F.S.

³² Section 163.360(6), F.S.

³³ Section 163.360(2), F.S.

³⁴ Section 163.387(1)(a), F.S.

³⁵ Section 163.387(1)(b)1. and 2., F.S.

Each taxing authority must transfer TIF funds to the redevelopment trust fund of the CRA by January 1 of each year.³⁶ For CRAs created before July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for the lesser of 60 years from when the community redevelopment plan was adopted or 30 years from when it was amended. For CRAs created on or after July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for 40 years from when the community redevelopment plan was adopted. If there are any outstanding loans, advances, or indebtedness at the conclusion of these time periods, the local governing body that created the CRA must continue transfers to the redevelopment trust fund until the debt has been paid.³⁷

If a taxing authority does not transfer the TIF funds to the redevelopment trust fund, the taxing authority is required to pay a penalty of 5 percent of the TIF amount to the trust fund as well as 1 percent interest per month for the outstanding amount.³⁸ A CRA may choose to waive these penalties in whole or in part.

Certain taxing authorities are exempt from contributing to the redevelopment trust fund.³⁹

Additionally, the local governing body creating the CRA may choose to exempt other special districts levying ad valorem taxes in the community redevelopment area.⁴⁰

Any revenue bonds issued by the CRA are payable from revenues pledged to and received by the CRA and deposited into the redevelopment trust fund.⁴¹ The lien created by the revenue bonds does not attach to the bonds until the revenues are deposited in the redevelopment trust fund and do not grant bondholders any right to require taxation in order to retire the bond. Revenue bonds issued by a CRA are not a liability of the state or any political subdivision of the state and this status must be made clear on the face of the bond.⁴²

A CRA may spend funds deposited in its redevelopment trust fund for purposes, including, but not limited to those listed in s. 163.387(6), F.S.

If any funds remain in the redevelopment trust fund on the last day of the fiscal year, the funds must be:

- Returned to each taxing authority on a pro rata basis;
- Used to reduce the amount of any indebtedness to which increment revenues are pledged;
- Deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or
- Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan and the project must be completed within 3 years from the date of such appropriation.⁴³

³⁶ Section 163.387(2)(a), F.S.

³⁷ Section 163.387(3)(a), F.S.

³⁸ Section 163.387(2)(b), F.S.

³⁹ Section 163.387(2)(c), F.S.

⁴⁰ Section 163.387(2)(d), F.S.

⁴¹ Section 163.387(4), F.S.

⁴² Section 163.387(5), F.S.

⁴³ Section 163.387(7), F.S.

Each CRA is required to provide for an annual audit of its redevelopment trust fund, conducted by an independent certified public accountant or firm.⁴⁴

CRA Oversight and Accountability

Miami-Dade County Grand Jury Report

A Miami-Dade County grand jury issued a report in 2016 after “learning of several examples of mismanagement of large amounts of public dollars” by CRAs.⁴⁵ The report found that some CRA boards were “spending large amounts of taxpayer dollars on what appeared to be pet projects of elected officials” and “there is a significant danger of CRA funds being used as a slush fund for elected officials.”⁴⁶ In the event funds were misused, the report found that the Act lacked any accountability and enforcement measures.

The report noted that while county and municipal governments may not pledge ad valorem tax proceeds to finance bonds without voter approval, the board of a CRA can pledge TIF funds to finance bonds without any public input.⁴⁷

The grand jury found that redevelopment trust fund money was often used “without the exercise of any process of due diligence, without justification and without recourse.”⁴⁸ The report notes that the Act does not provide guidelines for the proper use of CRA funds, resulting in questionable expenditures.⁴⁹ For example, one CRA highlighted in the report spent \$300,000 of its \$400,000 budget on administrative expenses. The report also found examples of the CRA funds being used to fund fairs, carnivals, and other community entertainment events.⁵⁰ Additionally, the report found that funds may have been misused as part of the CRA contracting process since there is no specified procurement process for CRAs.⁵¹

While the Act states affordable housing is one of the three primary purposes for the existence of CRAs, the report found that the provision of affordable housing by CRAs “appears to be the exception and not the rule.”⁵² The report stated that while CRAs cite prohibitive costs as a reason for not developing affordable housing, funds are often used for other purposes.⁵³ Some CRAs have requested that their boundaries be extended to include areas for low-income housing while not providing any affordable housing.⁵⁴ Some CRA board members have stated the agencies do not focus on affordable housing because it does not produce sufficient revenue.⁵⁵

⁴⁴ Section 163.387(8), F.S.

⁴⁵ Miami-Dade County Grand Jury, Final Report for Spring Term A.D. 2015, at 1, *available at*: https://www.miamisao.com/publications/grand_jury/2000s/gj2015s.pdf (filed Feb. 3, 2016).

⁴⁶ *Id.* at 7.

⁴⁷ *Id.* at 9.

⁴⁸ *Id.* at 14.

⁴⁹ *Id.* at 15.

⁵⁰ *Id.* at 16.

⁵¹ *Id.* at 17.

⁵² *Id.* at 19.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at 20.

Another area of concern for the grand jury was a focus on removing blight by improving the appearance of commercial areas, but leaving slum conditions in place, particularly in the form of multi-family housing that is “unsafe, unsanitary, and overcrowded.”⁵⁶ The grand jury points to news coverage of some apartment buildings with overflowing toilets and frequent losses of power due to the need for repairs. The report notes the contrast between these conditions and the use of some CRA proceeds to “fund ball stadiums, performing arts centers[,] and dog parks.”⁵⁷

The grand jury report also notes that while a finding of necessity is required for creating a CRA, there is no process for determining whether the mission of the CRA has been fulfilled.⁵⁸

The report concludes by making 29 recommendations for ensuring transparency and accountability in the operation of CRAs, including:

- Requiring all CRA boards to contain members of the community;
- Imposing a cap on annual CRA expenditures used for administrative costs;
- Requiring CRAs to adopt procurement guidelines that mirror those of the associated county or municipality;
- Requiring each CRA to submit its budget to the county commission with sufficient time for full consideration;
- Setting aside a percentage of TIF revenue for affordable housing; and
- Imposing ethics training requirements.⁵⁹

Broward County Inspector General Reports

The Broward County Office of the Inspector General has conducted two investigations into CRA operations in the past five years: Hallandale Beach CRA in 2013⁶⁰ and Margate CRA in 2014.⁶¹ The investigation into the Hallandale Beach CRA showed that the agency failed to create a trust fund and that the city commission failed to operate the CRA as an entity separate from the city.⁶² The former executive director of the CRA stated the city had “free reign” to use funds from the CRA’s account.⁶³ The report found over \$2 million of questionable expenditures by the Hallandale Beach CRA between 2007 and 2012, including \$125,000 in inappropriate loans and \$152,494 spent on “civic promotions such as festivals and fireworks displays.”⁶⁴ After some of these issues were brought to the attention of the city and the CRA, the CRA continued working on a funding plan that included spending \$5,347,000 on two parks outside of the boundaries of

⁵⁶ *Id.* at 22.

⁵⁷ *Id.*

⁵⁸ *Id.* at 32.

⁵⁹ *Id.* at 34-36.

⁶⁰ Broward Office of the Inspector Gen., Final Report Re: Gross Mismanagement of Public Funds by the City of Hallandale Beach and the Hallandale Beach Community Redevelopment Agency, OIG 11-020, *available at*: <http://www.broward.org/InspectorGeneral/PublicationsPress/Documents/OIG11020-201405219-BrownMemo.pdf> (April 18, 2013).

⁶¹ Broward Office of the Inspector Gen., Final Report Re: Misconduct by the Margate Community Redevelopment Agency in the Handling of Taxpayer Funds, OIG 13-015A, *available at*: <http://www.broward.org/InspectorGeneral/Documents/OIG13015AMargateCRAFinalReport.pdf> (July 22, 2014).

⁶² City of Hallandale Beach, *supra* note 60, at 1.

⁶³ *Id.* at 28.

⁶⁴ *Id.* at 1.

the CRA. The report also found that the CRA paid “substantially more than its appraised value” to purchase a property owned by a church whose pastor was a city commissioner at the time.⁶⁵

The investigation of the Margate CRA showed a failure to properly allocate TIF funds received from the county and other taxing authorities.⁶⁶ While the CRA stated unused funds were not returned because they were allocated for a specific project, the investigation showed the agency had a pattern of intentionally retaining excess unallocated funds for later use.⁶⁷ This pattern of misuse had resulted in a debt to the county of approximately \$2.7 million for fiscal years 2008-2012.⁶⁸

Auditor General Report

The Auditor General is required to conduct a performance audit of the local government financial information reporting system every 3 years.⁶⁹ As part of the most recent performance audit, the Auditor General made five findings concerning CRAs:

- Current law could be enhanced to be more specific as to the types of expenditures that qualify for undertakings of a CRA.
- Current law could be enhanced to provide county taxing authorities more control over expenditures of CRAs created by municipalities to help ensure that CRA trust fund moneys are used appropriately.
- Current law could be revised to require all CRAs, including those created before October 1, 1984, to follow the statutory requirements governing the specific authorized uses of CRA trust fund moneys.
- Current law could be enhanced to allow CRAs to provide for reserves of unexpended CRA trust fund balances to be used during financial downturns.
- Current law could be enhanced to promote compliance with the audit requirement in s. 163.387(8), F.S., and to require such audits to include a determination of compliance with laws pertaining to expenditure of, and disposition of unused, CRA trust fund moneys.⁷⁰

Ethics Training Requirements for Public Officials

Constitutional officers and all elected municipal officers must complete 4 hours of ethics training on an annual basis.⁷¹ The required ethics training must include instruction on Art. II, s. 8 of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws. This requirement may be met by attending a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

⁶⁵ *Id.* at 2.

⁶⁶ Margate Community Redevelopment Agency, *supra* note 61, at 1.

⁶⁷ *Id.*

⁶⁸ *Id.* at 2.

⁶⁹ Section 11.45(2)(g), F.S.

⁷⁰ Florida Auditor Gen., Report No. 2015-037, p. 1, *available at*: http://www.myflorida.com/audgen/pages/pdf_files/2015-037.pdf (Oct. 2014).

⁷¹ Section 112.3142, F.S. A “constitutional officer” is defined as the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.

Inactive Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO must declare that district inactive by following a specified process.⁷² The DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of the following criteria:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
 - Provides DEO with written notice that the district has taken no action for 2 or more years;
 - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years; or
 - Fails to respond to an inquiry by DEO within 21 days.⁷³
- Following statutory procedure,⁷⁴ DEO determines the district failed to file specified reports,⁷⁵ including required financial reports.⁷⁶
- For more than 1 year, no registered office or agent for the district was on file with DEO.⁷⁷
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.⁷⁸

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.⁷⁹ After declaring certain special districts inactive, DEO must send written notice of the declaration to the authorities that created the district. The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district and any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.⁸⁰

A district declared inactive may not collect taxes, fees, or assessments.⁸¹ This prohibition continues until the declaration of invalid status is withdrawn or revoked by DEO⁸² or invalidated

⁷² Section 189.062(1), F.S.

⁷³ Section 189.062(1)(a)1.-3., F.S.

⁷⁴ Section 189.067, F.S.

⁷⁵ Section 189.066, F.S.

⁷⁶ Section 189.062(1)(a)4., F.S. See, ss. 189.016(9), 218.32, 218.39, F.S.

⁷⁷ Section 189.062(1)(a)5., F.S.

⁷⁸ Section 189.062(1)(a)6., F.S.

⁷⁹ Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district's registered agent or chair of the district's governing body, if any.

⁸⁰ Section 189.062(2), F.S.

⁸¹ Section 189.062(5), F.S.

⁸² Section 189.062(5)(a), F.S.

in an administrative proceeding⁸³ or civil action⁸⁴ timely brought by the governing body of the special district.⁸⁵ Failure of the special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.⁸⁶

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature⁸⁷ or the entity that created the district.⁸⁸

Annual Financial Reports for Local Government Entities

Counties, municipalities, and special districts must submit an annual financial report for the previous fiscal year to the Department of Financial Services (DFS).⁸⁹ The report must include component units of the local government entity submitting the report. If a local government entity is required to conduct an audit under s. 218.39, F.S., for the fiscal year, the annual financial report, as well as a copy of the audit report, must be submitted to DFS within 45 days of completion of the audit report, but no later than 9 months after the end of the fiscal year. If the local government entity is not required to conduct an audit under s. 218.39, F.S., for the fiscal year, the annual financial report is due no later than 9 months after the end of the fiscal year. Each local government must provide a link to the annual audit report on its website.

III. Effect of Proposed Changes:

Section 1 amends s. 112.3142, F.S., to require each commissioner of a CRA to complete 4 hours of ethics training each calendar year beginning January 1, 2020. This requirement may be satisfied by the completion of a continuing legal education class or other continuing education professional education class, seminar, or presentation if the required subject material is covered by such class.

Section 2 amends s. 163.356, F.S., to delete the old annual report requirements and directs the reader to s. 163.371(1), F.S., which provides the new CRA annual report requirements.

Section 3 amends s. 163.367, F.S., to provide that commissioners of a CRA must comply with the ethics training requirements in s. 112.3142, F.S. The requirements include mandating that officers complete 4 hours of ethics training each calendar year.

Section 4 creates s. 163.371, F.S., to provide reporting requirements for CRAs. Specifically, the section requires each CRA to submit an annual report to the county or municipality that created

⁸³ Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

⁸⁴ Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

⁸⁵ The special district must initiate the legal challenge within 30 days after the date the written notice of DEO's declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.

⁸⁶ Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

⁸⁷ Sections 189.071(3), 189.072(3), F.S.

⁸⁸ Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

⁸⁹ Section 218.32, F.S.

the agency by March 31 of each year and to publish the report to the agency's website. The report must include the most recent complete audit report of the redevelopment trust fund and provide performance data for each community redevelopment plan authorized, administered, or overseen by the CRA. If a CRA's audit report is not complete by March 31, the CRA must publish the audit report on its website within 45 days of completion. The performance data report must include the following information as of December 31 of the year being reported:

- The total number of projects the CRA started and completed, and the estimated cost of each project;
- The total expenditures from the redevelopment trust fund;
- The original assessed real property values within the CRA's area of authority as of the day the agency was created;
- The total assessed real property values within the CRA's area of authority as of January 1 of the year being reported; and
- The total amount expended for affordable housing for low- and middle-income residents.

The report must also include a summary indicating if and to what extent the CRA has achieved the goals set out in its community redevelopment plan.

By January 1, 2020, each CRA must publish digital maps on its website depicting the geographic boundaries and the total acreage of the CRA. If any change is made to the boundaries or total acreage, the CRA must post the updated map files on its website within 60 days after the date such change takes effect.

Section 5 creates s. 163.3755, F.S., to provide for the termination of existing CRAs at the earlier of the expiration date stated in the CRA's charter as of October 1, 2019, or on September 30, 2039. However, the governing board of the creating local government entity may prevent the termination of a CRA by a majority vote. The bill does not provide a deadline by which such vote must occur.

If the governing board does not vote to continue a CRA with outstanding bond obligations as of October 1, 2019, and those bonds do not mature until after the termination date of the CRA or September 30, 2039, the bill provides that the CRA remains in existence until the bonds mature. A CRA in operation on or after September 30, 2039, may not extend the maturity date of its bonds. The bill requires a county or municipality operating an existing CRA to issue a new finding of necessity that is limited to meeting the remaining bond obligations of the CRA in a timely manner.

Section 6 creates s. 163.3756, F.S., relating to inactive CRAs. The section provides a legislative finding that a number of CRAs continue to exist despite reporting no revenues, no expenditures, and no outstanding debt in their annual report.

The Department of Economic Opportunity must declare inactive any CRA reporting no revenues, expenditures, and debt for 6 consecutive fiscal years with the calculation beginning on October 1, 2016. The DEO must notify the CRA of the declaration of inactive status. If the CRA has no board members and no agent, the DEO must notify the governing board or commission of the county or municipality that created the CRA. The governing board of a CRA declared

inactive by this procedure may seek to invalidate the declaration by initiating proceedings under s. 189.062(5), F.S., within 30 days after the date of receipt of the DEO notice.

A CRA declared inactive may only expend funds from its redevelopment trust fund as necessary to service outstanding bond debt. The CRA may not expend other funds without an ordinance of the governing body of the local government that created the CRA consenting to the expenditure of funds.

The provisions of s. 189.062(2) and (4), F.S., do not apply to a CRA that has been declared inactive under this section.

The bill further provides that the provisions of this section are cumulative to the provisions of s. 189.062, F.S., which provides special procedures for inactive special districts. However, if the provisions in this section conflict with s. 189.062, F.S., this section prevails.

The DEO must maintain on its website a separate list of CRAs declared inactive pursuant to this section.

Section 7 amends s. 163.387, F.S., relating to the redevelopment trust fund.

Beginning October 1, 2019, moneys in the redevelopment trust fund may be expended only for undertakings of the CRA as described in the community redevelopment plan pursuant to an annual budget adopted by the board of commissioners of the CRA and for the purposes specifically authorized in current law, including administrative and overhead expenses.

The bill removes a three-year time limitation on the rollover of redevelopment trust fund moneys appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan, but requires retained moneys to either be used for the appropriated project or re-appropriated pursuant to the next annual budget of the CRA (if the project is amended, redesigned, or delayed).

A CRA created by a municipality shall submit its annual budget to the board of county commissioners for the county in which the agency is located within 10 days after the adoption of the budget and submit amendments of its annual budget to the board of county commissioners within 10 days after the date the amended budget is adopted.

Except as provided in this section, the bill requires CRAs to comply with budgeting, auditing, and reporting requirements of s. 189.016, F.S.

Each CRA with revenues or a total of expenditures and expenses over \$100,000, as reported on the trust fund financial statements, shall provide for a financial audit each fiscal year.

The bill expands the current reporting requirements for the audit report of the redevelopment trust fund to include:

- A complete financial statement identifying all assets, liabilities, income, and operating expenses of the CRA as of the end of fiscal year; and

- A finding by the auditor determining whether the CRA complied with the authorized expenditure purposes and the requirements concerning remaining funds at the conclusion of the fiscal year.

The bill requires the audit report for the CRA to be included with the annual financial report submitted by the county or municipality that created the CRA to DFS, even if the CRA files a separate financial report under s. 218.32, F.S.

The bill also authorizes the local governing body that created the CRA to determine the amount of TIF available to the CRA. The local governing body may set the level of funding at any amount between 50 percent and 95 percent of the increment.

Section 8 amends s. 218.32, F.S., relating to annual financial reports. The section provides that the failure of a county or municipality to include in its annual report to the DFS the full audit required under s. 163.387(8), F.S., for each CRA created by that county or municipality constitutes a failure to report under s. 218.32, F.S.

By November 1 of each year, the DFS must provide the Special District Accountability Program of the DEO with a list of each CRA reporting no revenues, expenditures, or debt for the CRA's previous fiscal year.

Section 9 provides that the act takes effect on October 1, 2019.

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.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may require expenditures by DEO or DFS if additional staff are necessary to comply with the duties created by the bill.

The bill may have a fiscal impact on CRA expenditures due to the reporting requirements in the bill, including the requirement to post certain information on the agency's website.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.3142, 163.356, 163.367, 163.387, and 218.32.

This bill creates the following sections of the Florida Statutes: 163.371, 163.3755, and 163.3756.

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 on March 26, 2019:

The committee substitute makes the following changes to the bill:

- Removes CRA lobbyist registration and reporting requirements;
- Removes provision specifically prohibiting a CRA from funding activities related to festivals and street parties and grants to certain entity types;
- Removes provision that adds four factors to the definition of “blighted area;”
- Restores current law to allow an area to be declared blighted with the presence of only one factor with agreement of all TIF taxing authorities;
- Removes the 18 percent cap on CRA administrative and overhead expenses;
- Removes reference to specific projects a CRA may fund;

- Increases the duration in which DEO must declare a CRA inactive from 3 years to 6 years;
- Directs a CRA to post its audit online within 45 days of completion if the audit is not available by the March 31 annual report deadline; and
- Changes the effective date to October 1, 2019.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2019	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 112.3142, Florida Statutes, is amended
to read:

112.3142 Ethics training for specified constitutional
officers, ~~and~~ and elected municipal officers, and commissioners.—

(1) As used in this section, the term “constitutional
officers” includes the Governor, the Lieutenant Governor, the



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Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.

(2)(a) All constitutional officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(b) ~~Beginning January 1, 2015,~~ All elected municipal officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(c) Beginning January 1, 2020, each commissioner of a community redevelopment agency created under part III of chapter 163 must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a



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continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subject material is covered by the class.

(d) The commission shall adopt rules establishing minimum course content for the portion of an ethics training class which addresses s. 8, Art. II of the State Constitution and the Code of Ethics for Public Officers and Employees.

~~(e)~~ (d) The Legislature intends that a constitutional officer or elected municipal officer who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer or elected municipal officer assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.

(3) Each house of the Legislature shall provide for ethics training pursuant to its rules.

Section 2. Paragraphs (c) and (d) of subsection (3) of section 163.356, Florida Statutes, are amended to read:

163.356 Creation of community redevelopment agency.—

(3)

(c) The governing body of the county or municipality shall designate a chair and vice chair from among the commissioners. An agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as



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it requires, and determine their qualifications, duties, and compensation. For such legal service as it requires, an agency may employ or retain its own counsel and legal staff.

(d) An agency authorized to transact business and exercise powers under this part shall file with the governing body the report required pursuant to s. 163.371(1), ~~on or before March 31 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of such fiscal year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the county or municipality and that the report is available for inspection during business hours in the office of the clerk of the city or county commission and in the office of the agency.~~

(e) ~~(d)~~ At any time after the creation of a community redevelopment agency, the governing body of the county or municipality may appropriate to the agency such amounts as the governing body deems necessary for the administrative expenses and overhead of the agency, including the development and implementation of community policing innovations.

Section 3. Subsection (1) of section 163.367, Florida Statutes, is amended to read:

163.367 Public officials, commissioners, and employees subject to code of ethics.—

(1) The officers, commissioners, and employees of a community redevelopment agency created by, or designated pursuant to, s. 163.356 or s. 163.357 are ~~shall be~~ subject to



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~~the provisions and requirements of part III of chapter 112, and~~
~~commissioners also must comply with the ethics training~~
~~requirements as imposed in s. 112.3142.~~

Section 4. Section 163.371, Florida Statutes, is created to
read:

163.371 Reporting requirements.—

(1) By January 1, 2020, each community redevelopment agency
shall publish on its website digital maps that depict the
geographic boundaries and total acreage of the community
redevelopment agency. If any change is made to the boundaries or
total acreage, the agency shall post updated map files on its
website within 60 days after the date such change takes effect.

(2) Beginning March 31, 2020, and not later than March 31
of each year thereafter, a community redevelopment agency shall
file an annual report with the county or municipality that
created the agency and publish the report on the agency's
website. The report must include the following information:

(a) The most recent complete audit report of the
redevelopment trust fund as required in s. 163.387(8). If the
audit report for the previous year is not available by March 31,
a community redevelopment agency shall publish the audit report
on its website within 45 days after completion.

(b) The performance data for each plan authorized,
administered, or overseen by the community redevelopment agency
as of December 31 of the reporting year, including the:

1. Total number of projects started and completed and the
estimated cost for each project.

2. Total expenditures from the redevelopment trust fund.

3. Original assessed real property values within the



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community redevelopment agency's area of authority as of the day
the agency was created.

4. Total assessed real property values of property within
the boundaries of the community redevelopment agency as of
January 1 of the reporting year.

5. Total amount expended for affordable housing for low-
income and middle-income residents.

(c) A summary indicating to what extent, if any, the
community redevelopment agency has achieved the goals set out in
its community redevelopment plan.

Section 5. Section 163.3755, Florida Statutes, is created
to read:

163.3755 Termination of community redevelopment agencies.-

(1) A community redevelopment agency in existence on
October 1, 2019, shall terminate on the expiration date provided
in the agency's charter on October 1, 2019, or on September 30,
2039, whichever is earlier, unless the governing body of the
county or municipality that created the community redevelopment
agency approves its continued existence by a majority vote of
the members of the governing body.

(2) (a) If the governing body of the county or municipality
that created the community redevelopment agency does not approve
its continued existence by a majority vote of the governing body
members, a community redevelopment agency with outstanding bonds
as of October 1, 2019, that do not mature until after the
termination date of the agency or September 30, 2039, whichever
is earlier, remains in existence until the date the bonds
mature.

(b) A community redevelopment agency operating under this



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subsection on or after September 30, 2039, may not extend the maturity date of any outstanding bonds.

(c) The county or municipality that created the community redevelopment agency must issue a new finding of necessity limited to timely meeting the remaining bond obligations of the community redevelopment agency.

Section 6. Section 163.3756, Florida Statutes, is created to read:

163.3756 Inactive community redevelopment agencies.—

(1) The Legislature finds that a number of community redevelopment agencies continue to exist, but do not report any revenues, expenditures, or debt in the annual reports they file with the Department of Financial Services pursuant to s. 218.32.

(2)(a) A community redevelopment agency that has reported no revenue, no expenditures, and no debt under s. 189.016(9) or s. 218.32 for 6 consecutive fiscal years beginning no earlier than October 1, 2016, must be declared inactive by the Department of Economic Opportunity, which shall notify the agency of the declaration. If the agency does not have board members or an agent, the notice of the declaration of inactive status must be delivered to the county or municipal governing board or commission that created the agency.

(b) The governing board of a community redevelopment agency that is declared inactive under this section may seek to invalidate the declaration by initiating proceedings under s. 189.062(5) within 30 days after the date of the receipt of the notice from the Department of Economic Opportunity.

(3) A community redevelopment agency that is declared inactive under this section may expend funds from the



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redevelopment trust fund only as necessary to service
outstanding bond debt. The agency may not expend other funds in
the absence of an ordinance of the local governing body that
created the agency which consents to the expenditure of such
funds.

(4) The provisions of s. 189.062(2) and (4) do not apply to
a community redevelopment agency that has been declared inactive
under this section.

(5) The provisions of this section are cumulative to the
provisions of s. 189.062. To the extent the provisions of this
section conflict with the provisions of s. 189.062, this section
prevails.

(6) The Department of Economic Opportunity shall maintain
on its website a separate list of community redevelopment
agencies declared inactive under this section.

Section 7. Paragraph (a) of subsection (1), subsection (6),
paragraph (d) of subsection (7), and subsection (8) of section
163.387, Florida Statutes, are amended to read:

163.387 Redevelopment trust fund.—

(1)(a) After approval of a community redevelopment plan,
there may be established for each community redevelopment agency
created under s. 163.356 a redevelopment trust fund. Funds
allocated to and deposited into this fund shall be used by the
agency to finance or refinance any community redevelopment it
undertakes pursuant to the approved community redevelopment
plan. No community redevelopment agency may receive or spend any
increment revenues pursuant to this section unless and until the
governing body has, by ordinance, created the trust fund and
provided for the funding of the redevelopment trust fund until



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the time certain set forth in the community redevelopment plan as required by s. 163.362(10). Such ordinance may be adopted only after the governing body has approved a community redevelopment plan. The annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with the undertaking and carrying out of community redevelopment under this part. Such increment shall be determined annually and shall be that amount equal to 95 percent of the difference between:

1. The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area; and

2. The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund.

However, the governing body ~~of any county as defined in s. 125.011(1)~~ may, in the ordinance providing for the funding of a trust fund established with respect to any community redevelopment area ~~created on or after July 1, 1994~~, determine that the amount to be funded by each taxing authority annually



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shall be less than 95 percent of the difference between subparagraphs 1. and 2., but in no event shall such amount be less than 50 percent of such difference.

(6) Effective October 1, 2019, moneys in the redevelopment trust fund may be expended ~~from time to time~~ for undertakings of a community redevelopment agency as described in the community redevelopment plan only pursuant to an annual budget adopted by the board of commissioners of the community redevelopment agency and only for the following purposes specified in paragraph (c).⁷ ~~including, but not limited to:~~

(a) Except as otherwise provided in this subsection, a community redevelopment agency shall comply with the requirements of s. 189.016.

(b) A community redevelopment agency created by a municipality shall submit its annual budget to the board of county commissioners for the county in which the agency is located within 10 days after the adoption of such budget and submit amendments of its annual budget to the board of county commissioners within 10 days after the adoption date of the amended budget ~~Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.~~

(c) The annual budget of a community redevelopment agency may provide for payment of the following expenses:

1. Administrative and overhead expenses directly or indirectly necessary to implement a community redevelopment plan adopted by the agency.

2. ~~(b)~~ Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing



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body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.

~~3.(e)~~ The acquisition of real property in the redevelopment area.

~~4.(d)~~ The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.

~~5.(e)~~ The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.

~~6.(f)~~ All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

~~7.(g)~~ The development of affordable housing within the community redevelopment area.

~~8.(h)~~ The development of community policing innovations.

9. Expenses that are necessary to exercise the powers granted under s. 163.370, as delegated under s. 163.358.

(7) On the last day of the fiscal year of the community redevelopment agency, any money which remains in the trust fund after the payment of expenses pursuant to subsection (6) for such year shall be:

(d) Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan. The funds appropriated for such project may not be changed unless the



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project is amended, redesigned, or delayed, in which case the funds must be reappropriated pursuant to the next annual budget adopted by the board of commissioners of the community redevelopment agency ~~which project will be completed within 3 years from the date of such appropriation.~~

(8)(a) Each community redevelopment agency with revenues or a total of expenditures and expenses in excess of \$100,000, as reported on the trust fund financial statements, shall provide for a financial ~~an audit of the trust fund~~ each fiscal year ~~and a report of such audit to be prepared~~ by an independent certified public accountant or firm. Each financial audit conducted pursuant to this subsection must be conducted in accordance with rules for audits of local governments adopted by the Auditor General.

(b) The audit ~~Such~~ report must: ~~shall~~

1. Describe the amount and source of deposits into, and the amount and purpose of withdrawals from, the trust fund during such fiscal year and the amount of principal and interest paid during such year on any indebtedness to which increment revenues are pledged and the remaining amount of such indebtedness.

2. Include financial statements identifying the assets, liabilities, income, and operating expenses of the community redevelopment agency as of the end of such fiscal year.

3. Include a finding by the auditor as to whether the community redevelopment agency is in compliance with subsections (6) and (7).

(c) The audit report for the community redevelopment agency must accompany the annual financial report submitted by the county or municipality that created the agency to the Department



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of Financial Services as provided in s. 218.32, regardless of whether the agency reports separately under that section.

(d) The agency shall provide ~~by registered mail~~ a copy of the audit report to each taxing authority.

Section 8. Subsection (3) of section 218.32, Florida Statutes, is amended to read:

218.32 Annual financial reports; local governmental entities.—

(3)(a) The department shall notify the President of the Senate and the Speaker of the House of Representatives of any municipality that has not reported any financial activity for the last 4 fiscal years. Such notice must be sufficient to initiate dissolution procedures as described in s. 165.051(1)(a). Any special law authorizing the incorporation or creation of the municipality must be included within the notification.

(b) Failure of a county or municipality required under s. 163.387(8) to include with its annual financial report to the department a financial audit report for each community redevelopment agency created by that county or municipality constitutes a failure to report under this section.

(c) By November 1 of each year, the department must provide the Special District Accountability Program of the Department of Economic Opportunity with a list of each community redevelopment agency that does not report any revenues, expenditures, or debt for the community redevelopment agency's previous fiscal year.

Section 9. This act shall take effect October 1, 2019.

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

And the title is amended as follows:



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Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to community redevelopment agencies;
amending s. 112.3142, F.S.; requiring ethics training
for community redevelopment agency commissioners;
specifying requirements for such training; amending s.
163.356, F.S.; revising reporting requirements;
deleting provisions requiring certain annual reports;
amending s. 163.367, F.S.; requiring ethics training
for community redevelopment agency commissioners;
creating s. 163.371, F.S.; requiring a community
redevelopment agency to publish certain digital
boundary maps on its website; providing annual
reporting requirements; requiring a community
redevelopment agency to publish the annual reports on
its website; creating s. 163.3755, F.S.; providing
termination dates for certain community redevelopment
agencies; creating s. 163.3756, F.S.; providing
legislative findings; requiring the Department of
Economic Opportunity to declare inactive community
redevelopment agencies that have reported no financial
activity for a specified number of years; providing
hearing procedures; authorizing certain financial
activity by a community redevelopment agency that is
declared inactive; providing applicability; providing
construction; requiring the department to maintain a
list on its website identifying all inactive community
redevelopment agencies; amending s. 163.387, F.S.;



895662

specifying the level of tax increment financing that a governing body may establish for funding the redevelopment trust fund; effective on a specified date, revising requirements for the use of redevelopment trust fund proceeds; limiting allowed expenditures; revising requirements for the annual budget of a community redevelopment agency; revising requirements for use of moneys in the redevelopment trust fund for specific redevelopment projects; revising requirements for the annual audit; requiring the audit to be included with the financial report of the county or municipality that created the community redevelopment agency; amending s. 218.32, F.S.; revising criteria for finding that a county or municipality failed to file a report; requiring the Department of Financial Services to provide a report to the Department of Economic Opportunity concerning community redevelopment agencies reporting no revenues, expenditures, or debts; providing an effective date.

THE FLORIDA SENATE
APPEARANCE RECORD

03-25-2019

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

SB 1054

Meeting Date

Bill Number (if applicable)

Topic Community Redevelopment Agencies

Amendment Barcode (if applicable)

Name Jeff Burton

Job Title City of Palmetto CRA Director

Address 324 8th Avenue West Suite 103

Phone 941-264-5430

Street

Palmetto

FL

34221

City

State

Zip

Speaking: ☐ For ☒ Against ☒ Information

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

Representing City of Palmetto Community Redevelopment Agency

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 3/26/14

Bill Number (if applicable) SB 1054

Topic Community Redevelopment Agencies

Amendment Barcode (if applicable) _____

Name Cesar Grijales

Job Title Coalitions Director

Address 200 W College Ave

Phone 786-260-9283

Street Tallahassee State FL Zip 32301

Email Cgrijales@belibre.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans For Prosperity

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

1054

Topic

CRAs

Bill Number (if applicable)
895662

Amendment Barcode (if applicable)

Name

Kimberly Glas-Castro

Job Title

Vice Mayor

Address

Street
335 Park Ave

Phone

561-758-7551

City

Lake Park

State

FL

Zip

33403

Email

kcastro@lakesparkfl.net

Speaking:

☐ For

☐ Against

☐ Information

Waive Speaking:

☒ In Support

☐ Against

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

Representing

Town of Lake Park

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☐ Yes

☒ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 3/26/19

Bill Number (if applicable)
1054
895602

Topic CRAs

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Phone 701-3674

Street Tallahassee State FL Zip 32301

Email DavidCruz@cities.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date March 26, 2019

SB 1054

Bill Number (if applicable)

895662

Amendment Barcode (if applicable)

Topic CRA's

Name Michael O'Rourke

Job Title Mayor Town of Lake Park

Address 535 Park Ave

Phone (561) 252-5648

Street

Lake Park, FL 33403

Email mdrouke@lakeparkflorida.gov

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida League of Cities / Town of Lake Park / Lake Park CRA

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3/26/2019

Bill Number (if applicable)

1054

Amendment Barcode (if applicable)

89566Z

Topic Community Redevelopment Agencies

Name John A. Titkanyics

Job Title

City Manager

Address

1st Shore Street

Street

Locust

City

State

Zip

Phone (321) 433-8660

Email

jtitkanyics@cccafl.org

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

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

Representing

City of Cocoa

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.

By Senator Lee

20-00386E-19

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1 A bill to be entitled
 2 An act relating to community redevelopment agencies;
 3 creating s. 112.327, F.S.; defining terms; prohibiting
 4 a person from lobbying a community redevelopment
 5 agency until he or she has registered as a lobbyist
 6 with that agency; providing registration requirements;
 7 requiring an agency to make lobbyist registrations
 8 available to the public; requiring a database of
 9 currently registered lobbyists and principals to be
 10 available on certain websites; requiring a lobbyist to
 11 send a written statement to the agency canceling the
 12 registration for a principal that he or she no longer
 13 represents; authorizing an agency to remove the name
 14 of a lobbyist from the list of registered lobbyists
 15 under certain circumstances; authorizing an agency to
 16 establish an annual lobbyist registration fee, not to
 17 exceed a specified amount; requiring an agency to be
 18 diligent in ascertaining whether persons required to
 19 register have complied, subject to certain
 20 requirements; requiring the Commission on Ethics to
 21 investigate a lobbyist or principal under certain
 22 circumstances, subject to certain requirements;
 23 requiring the commission to provide the Governor with
 24 a report of its findings and recommendations in such
 25 investigations; authorizing the Governor to enforce
 26 the commission's findings and recommendations;
 27 authorizing community redevelopment agencies to adopt
 28 rules to govern the registration of lobbyists;
 29 amending s. 112.3142, F.S.; requiring ethics training

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30 for community redevelopment agency commissioners;
 31 specifying requirements for such training; amending s.
 32 163.340, F.S.; revising the definition of the term
 33 "blighted area"; amending s. 163.356, F.S.; revising
 34 reporting requirements; deleting provisions requiring
 35 certain annual reports; amending s. 163.367, F.S.;
 36 requiring ethics training for community redevelopment
 37 agency commissioners; amending s. 163.370, F.S.;
 38 revising the list of projects that are prohibited from
 39 being financed by increment revenues; requiring
 40 community redevelopment agencies to follow certain
 41 procurement procedures; creating s. 163.371, F.S.;
 42 requiring a community redevelopment agency to publish
 43 certain digital boundary maps on its website;
 44 providing annual reporting requirements; requiring a
 45 community redevelopment agency to publish the annual
 46 reports on its website; creating s. 163.3755, F.S.;
 47 providing termination dates for certain community
 48 redevelopment agencies; creating s. 163.3756, F.S.;
 49 providing legislative findings; requiring the
 50 Department of Economic Opportunity to declare inactive
 51 community redevelopment agencies that have reported no
 52 financial activity for a specified number of years;
 53 providing hearing procedures; authorizing certain
 54 financial activity by a community redevelopment agency
 55 that is declared inactive; providing applicability;
 56 providing for construction; requiring the department
 57 to maintain a website identifying all inactive
 58 community redevelopment agencies; amending s. 163.387,

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F.S.; specifying the level of tax increment financing that a governing body may establish for funding the redevelopment trust fund; effective on a specified date, revising requirements for the use of redevelopment trust fund proceeds; limiting allowed expenditures; revising requirements for the annual budget of a community redevelopment agency; revising requirements for use of moneys in the redevelopment trust fund for specific redevelopment projects; revising requirements for the annual audit; requiring the audit to be included with the financial report of the county or municipality that created the community redevelopment agency; amending s. 218.32, F.S.; revising criteria for finding that a county or municipality failed to file a report; requiring the Department of Financial Services to provide a report to the Department of Economic Opportunity concerning community redevelopment agencies reporting no revenues, expenditures, or debts; amending s. 163.524, F.S.; conforming a cross-reference; making technical changes; providing an effective date.

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

Section 1. Section 112.327, Florida Statutes, is created to read:

112.327 Lobbying before community redevelopment agencies; registration and reporting.-

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

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(a) "Agency" or "community redevelopment agency" means a public agency created by, or designated pursuant to, s. 163.356 or s. 163.357 and operating under the authority of part III of chapter 163.

(b) "Lobby" means to seek to influence an agency with respect to a decision of the agency in an area of policy or procurement or to attempt to obtain the goodwill of an agency official or employee on behalf of another person. The term must be interpreted and applied consistently with the rules of the commission adopted pursuant to s. 112.3215(15).

(c) "Lobbyist" has the same meaning as in s. 112.3215.

(d) "Principal" has the same meaning as in s. 112.3215.

(2) A person may not lobby an agency until he or she has registered as a lobbyist with that agency. Such registration is due upon the person initially being retained to lobby and is renewable on a calendar-year basis thereafter. Upon registration, the person shall provide a statement, signed by the principal or principal's representative, stating that the registrant is authorized to represent the principal and identifying and designating its main business pursuant to a classification system approved by the agency. Any changes to the information required by this section must be disclosed within 15 days by filing a new registration form. An agency may create its own lobbyist registration forms or may accept a completed legislative branch or executive branch lobbyist registration form. In completing the form required by the agency, the registrant shall disclose, under oath, the following:

(a) His or her name and business address.

(b) The name and business address of each principal

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117 represented.

118 (c) The existence of any direct or indirect business
 119 association, partnership, or financial relationship with any
 120 officer or employee of an agency with which he or she lobbies or
 121 intends to lobby.

122 (3) An agency shall make lobbyist registrations available
 123 to the public. If an agency maintains a website, a database of
 124 currently registered lobbyists and principals must be available
 125 on that website. If the agency does not maintain a website, the
 126 database of currently registered lobbyists and principals must
 127 be available on the website of the county or municipality that
 128 created the agency.

129 (4) Immediately upon a lobbyist's termination of his or her
 130 representation of a principal, the lobbyist shall send a written
 131 statement to the agency canceling the registration. If the
 132 principal notifies the agency that the lobbyist is no longer
 133 authorized to represent that principal, an agency may remove the
 134 name of a lobbyist from the list of registered lobbyists.

135 (5) An agency may establish an annual lobbyist registration
 136 fee, not to exceed \$40, for each principal represented. The
 137 agency may use registration fees only for the purpose of
 138 administering this section.

139 (6) An agency shall be diligent in ascertaining whether
 140 persons required to register under this section have complied.
 141 An agency may not knowingly authorize an unregistered person to
 142 lobby the agency.

143 (7) Upon receipt of a sworn complaint alleging that a
 144 lobbyist or principal has failed to register with an agency or
 145 has knowingly submitted false information in a report or

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146 registration required under this section, the commission shall
 147 investigate the lobbyist or principal pursuant to the procedures
 148 established in s. 112.324. The commission shall provide the
 149 Governor with a report of its findings and recommendations in
 150 any investigation conducted pursuant to this subsection, and the
 151 Governor may enforce them.

152 (8) Community redevelopment agencies may adopt rules to
 153 govern the registration of lobbyists, including rules governing
 154 the adoption of forms and the establishment of the lobbyist
 155 registration fee.

156 Section 2. Section 112.3142, Florida Statutes, is amended
 157 to read:

158 112.3142 Ethics training for specified constitutional
 159 officers, ~~and~~ elected municipal officers, and commissioners.-

160 (1) As used in this section, the term "constitutional
 161 officers" includes the Governor, the Lieutenant Governor, the
 162 Attorney General, the Chief Financial Officer, the Commissioner
 163 of Agriculture, state attorneys, public defenders, sheriffs, tax
 164 collectors, property appraisers, supervisors of elections,
 165 clerks of the circuit court, county commissioners, district
 166 school board members, and superintendents of schools.

167 (2) (a) All constitutional officers must complete 4 hours of
 168 ethics training each calendar year which addresses, at a
 169 minimum, s. 8, Art. II of the State Constitution, the Code of
 170 Ethics for Public Officers and Employees, and the public records
 171 and public meetings laws of this state. This requirement may be
 172 satisfied by completion of a continuing legal education class or
 173 other continuing professional education class, seminar, or
 174 presentation if the required subjects are covered.

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175 (b) ~~Beginning January 1, 2015,~~ All elected municipal
 176 officers must complete 4 hours of ethics training each calendar
 177 year which addresses, at a minimum, s. 8, Art. II of the State
 178 Constitution, the Code of Ethics for Public Officers and
 179 Employees, and the public records and public meetings laws of
 180 this state. This requirement may be satisfied by completion of a
 181 continuing legal education class or other continuing
 182 professional education class, seminar, or presentation if the
 183 required subjects are covered.

184 (c) Beginning October 1, 2019, each commissioner of a
 185 community redevelopment agency created under part III of chapter
 186 163 must complete 4 hours of ethics training each calendar year
 187 which addresses, at a minimum, s. 8, Art. II of the State
 188 Constitution, the Code of Ethics for Public Officers and
 189 Employees, and the public records and public meetings laws of
 190 this state. This requirement may be satisfied by completion of a
 191 continuing legal education class or other continuing
 192 professional education class, seminar, or presentation, if the
 193 required subject material is covered by the class.

194 (d) The commission shall adopt rules establishing minimum
 195 course content for the portion of an ethics training class which
 196 addresses s. 8, Art. II of the State Constitution and the Code
 197 of Ethics for Public Officers and Employees.

198 ~~(e)-(d)~~ The Legislature intends that a constitutional
 199 officer or elected municipal officer who is required to complete
 200 ethics training pursuant to this section receive the required
 201 training as close as possible to the date that he or she assumes
 202 office. A constitutional officer or elected municipal officer
 203 assuming a new office or new term of office on or before March

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204 31 must complete the annual training on or before December 31 of
 205 the year in which the term of office began. A constitutional
 206 officer or elected municipal officer assuming a new office or
 207 new term of office after March 31 is not required to complete
 208 ethics training for the calendar year in which the term of
 209 office began.

210 (3) Each house of the Legislature shall provide for ethics
 211 training pursuant to its rules.

212 Section 3. Subsection (8) of section 163.340, Florida
 213 Statutes, is amended to read:

214 163.340 Definitions.—The following terms, wherever used or
 215 referred to in this part, have the following meanings:

216 (8) "Blighted area" means an area in which there are a
 217 substantial number of deteriorated or deteriorating structures;
 218 in which conditions, as indicated by government-maintained
 219 statistics or other studies, endanger life or property or are
 220 leading to economic distress; and in which two or more of the
 221 following factors are present:

222 (a) Predominance of defective or inadequate street layout,
 223 parking facilities, roadways, bridges, or public transportation
 224 facilities.

225 (b) Aggregate assessed values of real property in the area
 226 for ad valorem tax purposes have failed to show any appreciable
 227 increase over the 5 years before ~~prior to~~ the finding of such
 228 conditions.

229 (c) Faulty lot layout in relation to size, adequacy,
 230 accessibility, or usefulness.

231 (d) Unsanitary or unsafe conditions.

232 (e) Deterioration of site or other improvements.

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- 233 (f) Inadequate and outdated building density patterns.
- 234 (g) Falling lease rates per square foot of office,
- 235 commercial, or industrial space compared to the remainder of the
- 236 county or municipality.
- 237 (h) Tax or special assessment delinquency exceeding the
- 238 fair value of the land.
- 239 (i) Residential and commercial vacancy rates higher in the
- 240 area than in the remainder of the county or municipality.
- 241 (j) Incidence of crime in the area higher than in the
- 242 remainder of the county or municipality.
- 243 (k) Fire and emergency medical service calls to the area
- 244 proportionately higher than in the remainder of the county or
- 245 municipality.
- 246 (l) A greater number of violations of the Florida Building
- 247 Code in the area than the number of violations recorded in the
- 248 remainder of the county or municipality.
- 249 (m) Diversity of ownership or defective or unusual
- 250 conditions of title which prevent the free alienability of land
- 251 within the deteriorated or hazardous area.
- 252 (n) Governmentally owned property with adverse
- 253 environmental conditions caused by a public or private entity.
- 254 (o) A substantial number or percentage of properties
- 255 damaged by sinkhole activity which have not been adequately
- 256 repaired or stabilized.
- 257 (p) Rates of unemployment higher in the area than in the
- 258 remainder of the county or municipality.
- 259 (q) Rates of poverty higher in the area than in the
- 260 remainder of the county or municipality.
- 261 (r) Rates of foreclosure higher in the area than in the

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- 262 remainder of the county or municipality.
- 263 (s) Rates of infant mortality higher in the area than in
- 264 the remainder of the county or municipality.
- 265
- 266 ~~However, the term "blighted area" also means any area in which~~
- 267 ~~at least one of the factors identified in paragraphs (a) through~~
- 268 ~~(e) is present and all taxing authorities subject to s.~~
- 269 ~~163.387(2)(a) agree, either by interlocal agreement with the~~
- 270 ~~agency or by resolution, that the area is blighted. Such~~
- 271 ~~agreement or resolution must be limited to a determination that~~
- 272 ~~the area is blighted. For purposes of qualifying for the tax~~
- 273 ~~credits authorized in chapter 220, the term "blighted area"~~
- 274 ~~means an area as defined in this subsection.~~
- 275 Section 4. Paragraphs (c) and (d) of subsection (3) of
- 276 section 163.356, Florida Statutes, are amended to read:
- 277 163.356 Creation of community redevelopment agency.—
- 278 (3)(c) The governing body of the county or municipality
- 279 shall designate a chair and vice chair from among the
- 280 commissioners. An agency may employ an executive director,
- 281 technical experts, and such other agents and employees,
- 282 permanent and temporary, as it requires, and determine their
- 283 qualifications, duties, and compensation. For such legal service
- 284 as it requires, an agency may employ or retain its own counsel
- 285 and legal staff.
- 286 (d) An agency authorized to transact business and exercise
- 287 powers under this part shall file with the governing body the
- 288 report required pursuant to s. 163.371(1), on or before March 31
- 289 of each year, a report of its activities for the preceding
- 290 fiscal year, which report shall include a complete financial

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~~statement setting forth its assets, liabilities, income, and operating expenses as of the end of such fiscal year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the county or municipality and that the report is available for inspection during business hours in the office of the clerk of the city or county commission and in the office of the agency.~~

~~(e)(d)~~ At any time after the creation of a community redevelopment agency, the governing body of the county or municipality may appropriate to the agency such amounts as the governing body deems necessary for the administrative expenses and overhead of the agency, including the development and implementation of community policing innovations.

Section 5. Subsection (1) of section 163.367, Florida Statutes, is amended to read:

163.367 Public officials, commissioners, and employees subject to code of ethics.—

(1) The officers, commissioners, and employees of a community redevelopment agency created by, or designated pursuant to, s. 163.356 or s. 163.357 ~~are shall be~~ subject to the provisions and requirements of part III of chapter 112, and commissioners also must comply with the ethics training requirements imposed in s. 112.3142.

Section 6. Paragraphs (d), (e), and (f) are added to subsection (3) of section 163.370, Florida Statutes, and subsection (5) is added to that section, to read:

163.370 Powers; counties and municipalities; community redevelopment agencies.—

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(3) The following projects may not be paid for or financed by increment revenues:

(d) Community redevelopment agency activities related to festivals or street parties designed to promote tourism.

(e) Grants to entities that promote tourism.

(f) Grants to nonprofit entities that provide socially beneficial programs.

(5) A community redevelopment agency shall procure all commodities and services under the same purchasing processes and requirements that apply to the county or municipality that created the agency.

Section 7. Section 163.371, Florida Statutes, is created to read:

163.371 Reporting requirements.—

(1) By January 1, 2020, each community redevelopment agency shall publish on its website digital maps that depict the geographic boundaries and total acreage of the community redevelopment agency. If any change is made to the boundaries or total acreage, the agency shall post updated map files on its website within 60 days after the date such change takes effect.

(2) Beginning March 31, 2020, and no later than March 31 of each year thereafter, a community redevelopment agency shall file an annual report with the county or municipality that created the agency and publish the report on the agency's website. The report must include the following information:

(a) The most recent complete audit report of the redevelopment trust fund as required in s. 163.387(8).

(b) The performance data for each plan authorized, administered, or overseen by the community redevelopment agency

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as of December 31 of the reporting year, including the:

1. Total number of projects started and completed and the estimated cost for each project.
2. Total expenditures from the redevelopment trust fund.
3. Original assessed real property values within the community redevelopment agency's area of authority as of the day the agency was created.
4. Total assessed real property values of property within the boundaries of the community redevelopment agency as of January 1 of the reporting year.
5. Total amount expended for affordable housing for low-income and middle-income residents.

(c) A summary indicating to what extent, if any, the community redevelopment agency has achieved the goals set out in its community redevelopment plan.

Section 8. Section 163.3755, Florida Statutes, is created to read:

163.3755 Termination of community redevelopment agencies; prohibition on future creation.—

(1) A community redevelopment agency in existence on October 1, 2019, shall terminate on the expiration date provided in the agency's charter on October 1, 2019, or on September 30, 2039, whichever is earlier, unless the governing body of the county or municipality that created the community redevelopment agency approves its continued existence by a majority vote of the members of the governing body.

(2)(a) If the governing body of the county or municipality that created the community redevelopment agency does not approve its continued existence by a majority vote of the governing body

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members, a community redevelopment agency with outstanding bonds as of October 1, 2019, that do not mature until after the termination date of the agency or September 30, 2039, whichever is earlier, remains in existence until the date the bonds mature.

(b) A community redevelopment agency operating under this subsection on or after September 30, 2039, may not extend the maturity date of any outstanding bonds.

(c) The county or municipality that created the community redevelopment agency must issue a new finding of necessity limited to timely meeting the remaining bond obligations of the community redevelopment agency.

Section 9. Section 163.3756, Florida Statutes, is created to read:

163.3756 Inactive community redevelopment agencies.—

(1) The Legislature finds that a number of community redevelopment agencies continue to exist, but do not report any revenues, expenditures, or debt in the annual reports they file with the Department of Financial Services pursuant to s. 218.32.

(2)(a) A community redevelopment agency that has reported no revenue, no expenditures, and no debt under s. 189.016(9) or s. 218.32 for 3 consecutive fiscal years beginning no earlier than October 1, 2016, must be declared inactive by the Department of Economic Opportunity, which shall notify the agency of the declaration. If the agency does not have board members or an agent, the notice of the declaration of inactive status must be delivered to the county or municipal governing board or commission that created the agency.

(b) The governing board of a community redevelopment agency

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that is declared inactive under this section may seek to invalidate the declaration by initiating proceedings under s. 189.062(5) within 30 days after the date of the receipt of the notice from the Department of Economic Opportunity.

(3) A community redevelopment agency that is declared inactive under this section may expend funds from the redevelopment trust fund only as necessary to service outstanding bond debt. The agency may not expend other funds in the absence of an ordinance of the local governing body that created the agency which consents to the expenditure of such funds.

(4) The provisions of s. 189.062(2) and (4) do not apply to a community redevelopment agency that has been declared inactive under this section.

(5) The provisions of this section are cumulative to the provisions of s. 189.062. To the extent the provisions of this section conflict with the provisions of s. 189.062, this section prevails.

(6) The Department of Economic Opportunity shall maintain on its website a separate list of community redevelopment agencies declared inactive under this section.

Section 10. Paragraph (a) of subsection (1), subsection (6), paragraph (d) of subsection (7), and subsection (8) of section 163.387, Florida Statutes, are amended to read:

163.387 Redevelopment trust fund.—

(1)(a) After approval of a community redevelopment plan, there may be established for each community redevelopment agency created under s. 163.356 a redevelopment trust fund. Funds allocated to and deposited into this fund shall be used by the

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agency to finance or refinance any community redevelopment it undertakes pursuant to the approved community redevelopment plan. No community redevelopment agency may receive or spend any increment revenues pursuant to this section unless and until the governing body has, by ordinance, created the trust fund and provided for the funding of the redevelopment trust fund until the time certain set forth in the community redevelopment plan as required by s. 163.362(10). Such ordinance may be adopted only after the governing body has approved a community redevelopment plan. The annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with the undertaking and carrying out of community redevelopment under this part. Such increment shall be determined annually and shall be that amount equal to 95 percent of the difference between:

1. The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area; and

2. The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund.

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465 However, the governing body ~~of any county as defined in s.~~
 466 ~~125.011(1)~~ may, in the ordinance providing for the funding of a
 467 trust fund established with respect to any community
 468 redevelopment area ~~created on or after July 1, 1994~~, determine
 469 that the amount to be funded by each taxing authority annually
 470 shall be less than 95 percent of the difference between
 471 subparagraphs 1. and 2., but in no event shall such amount be
 472 less than 50 percent of such difference.

474 (6) Effective October 1, 2019, moneys in the redevelopment
 475 trust fund may be expended ~~from time to time~~ for undertakings of
 476 a community redevelopment agency as described in the community
 477 redevelopment plan only pursuant to an annual budget adopted by
 478 the board of commissioners of the community redevelopment agency
 479 and only for the following purposes specified in paragraph (c).
 480 ~~including, but not limited to:~~

481 (a) Except as otherwise provided in this subsection, a
 482 community redevelopment agency shall comply with the
 483 requirements of s. 189.016.

484 (b) A community redevelopment agency created by a
 485 municipality shall submit its annual budget to the board of
 486 county commissioners for the county in which the agency is
 487 located within 10 days after the adoption of such budget and
 488 submit amendments of its annual budget to the board of county
 489 commissioners within 10 days after the adoption date of the
 490 amended budget ~~Administrative and overhead expenses necessary or~~
 491 ~~incidental to the implementation of a community redevelopment~~
 492 ~~plan adopted by the agency.~~

493 (c) The annual budget of a community redevelopment agency

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494 may provide for payment of the following expenses:

495 1. Administrative and overhead expenses directly or
 496 indirectly necessary to implement a community redevelopment plan
 497 adopted by the agency. However, administrative and overhead
 498 expenses may not exceed 18 percent of the total annual budget of
 499 the community redevelopment agency.

500 2. ~~(b)~~ Expenses of redevelopment planning, surveys, and
 501 financial analysis, including the reimbursement of the governing
 502 body or the community redevelopment agency for such expenses
 503 incurred before the redevelopment plan was approved and adopted.

504 3. ~~(e)~~ The acquisition of real property in the redevelopment
 505 area.

506 4. ~~(d)~~ The clearance and preparation of any redevelopment
 507 area for redevelopment and relocation of site occupants within
 508 or outside the community redevelopment area as provided in s.
 509 163.370.

510 5. ~~(e)~~ The repayment of principal and interest or any
 511 redemption premium for loans, advances, bonds, bond anticipation
 512 notes, and any other form of indebtedness.

513 6. ~~(f)~~ All expenses incidental to or connected with the
 514 issuance, sale, redemption, retirement, or purchase of bonds,
 515 bond anticipation notes, or other form of indebtedness,
 516 including funding of any reserve, redemption, or other fund or
 517 account provided for in the ordinance or resolution authorizing
 518 such bonds, notes, or other form of indebtedness.

519 7. ~~(g)~~ The development of affordable housing within the
 520 community redevelopment area.

521 8. ~~(h)~~ The development of community policing innovations.

522 9. Infrastructure improvement, building construction, and

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building renovation, including improvements, construction, and renovation related to parking lots, parking garages, and neighborhood parks.

10. Grants and loans to businesses for facade improvements, signage, sprinkler system upgrades, and other structural improvements.

(7) On the last day of the fiscal year of the community redevelopment agency, any money which remains in the trust fund after the payment of expenses pursuant to subsection (6) for such year shall be:

(d) Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan. The funds appropriated for such project may not be changed unless the project is amended, redesigned, or delayed, in which case the funds must be reappropriated pursuant to the next annual budget adopted by the board of commissioners of the community redevelopment agency which project will be completed within 3 years from the date of such appropriation.

(8) (a) Each community redevelopment agency with revenues or a total of expenditures and expenses in excess of \$100,000, as reported on the trust fund financial statements, shall provide for a financial ~~an~~ audit of the trust fund each fiscal year and a report of such audit to be prepared by an independent certified public accountant or firm. Each financial audit conducted pursuant to this subsection must be conducted in accordance with rules for audits of local governments adopted by the Auditor General.

(b) The audit Such report must: shall

1. Describe the amount and source of deposits into, and the

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amount and purpose of withdrawals from, the trust fund during such fiscal year and the amount of principal and interest paid during such year on any indebtedness to which increment revenues are pledged and the remaining amount of such indebtedness.

2. Include financial statements identifying the assets, liabilities, income, and operating expenses of the community redevelopment agency as of the end of such fiscal year.

3. Include a finding by the auditor as to whether the community redevelopment agency is in compliance with subsections (6) and (7).

(c) The audit report for the community redevelopment agency must accompany the annual financial report submitted by the county or municipality that created the agency to the Department of Financial Services as provided in s. 218.32, regardless of whether the agency reports separately under that section.

(d) The agency shall provide by registered mail a copy of the audit report to each taxing authority.

Section 11. Subsection (3) of section 218.32, Florida Statutes, is amended to read:

218.32 Annual financial reports; local governmental entities.—

(3) (a) The department shall notify the President of the Senate and the Speaker of the House of Representatives of any municipality that has not reported any financial activity for the last 4 fiscal years. Such notice must be sufficient to initiate dissolution procedures as described in s. 165.051(1)(a). Any special law authorizing the incorporation or creation of the municipality must be included within the notification.

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(b) Failure of a county or municipality required under s. 163.387(8) to include with its annual financial report to the department a financial audit report for each community redevelopment agency created by that county or municipality constitutes a failure to report under this section.

(c) By November 1 of each year, the department must provide the Special District Accountability Program of the Department of Economic Opportunity with a list of each community redevelopment agency that does not report any revenues, expenditures, or debt for the community redevelopment agency's previous fiscal year.

Section 12. Subsection (3) of section 163.524, Florida Statutes, is amended to read:

163.524 Neighborhood Preservation and Enhancement Program; participation; creation of Neighborhood Preservation and Enhancement Districts; creation of Neighborhood Councils and Neighborhood Enhancement Plans.—

(3) After the boundaries and size of the Neighborhood Preservation and Enhancement District have been defined, the local government shall pass an ordinance authorizing the creation of the Neighborhood Preservation and Enhancement District. The ordinance must ~~shall~~ contain a finding that the boundaries of the Neighborhood Preservation and Enhancement District comply with s. 163.340(7) or s. 163.340(8)(a)-(s) ~~(8)(a)-(e)~~ or do not contain properties that are protected by deed restrictions. Such ordinance may be amended or repealed in the same manner as other local ordinances.

Section 13. This act shall take effect July 1, 2019.

COMMITTEE: Community Affairs
ITEM: SB 1054
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate 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/CS/SB 1000

INTRODUCER: Community Affairs Committee; Innovation, Industry, and Technology Committee; and Senator Hutson

SUBJECT: Communications Services

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	Fav/CS
2.	Ryon	Yeatman	CA	Fav/CS
3.			FT	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1000 makes extensive changes to s. 337.401, F.S., which governs the use of public rights-of-way by providers of communications services. These changes include:

- Creating a civil cause of action for any person aggrieved by a violation of the right-of-way statute in a U.S. District Court or in any other court of competent jurisdiction for a temporary or permanent injunction and recovery of full costs and reasonable attorney fees to a prevailing party.
- Prohibiting a local government permitting authority from instituting, either expressly or de facto, a moratorium or other mechanism that would prohibit or delay permits for collocation of small wireless facilities or related poles.
- Deleting authority for a local government to require performance bonds and security funds and allowing them to require a construction bond limited to no more than 1 year after the construction is completed;
- Requiring a local government to accept a letter of credit or similar instrument issued by any financial institution authorized to do business within the U.S.;
- Allowing a provider of communications services to add a permitting authority to any existing bond, insurance policy, or other financial instrument, and requiring the authority to accept such coverage; and
- Providing additional requirements pertaining to a local government's permit registration and application process for communications services providers' use of public rights-of-way.

Additionally, the bill provides that municipalities and counties that, as of January 1, 2019, were not imposing permit fees for use of public rights-of-way by communications services providers cannot reverse this election and cannot impose such permit fees. In contrast, municipalities and counties that were imposing permit fees as of that date may continue to do so or may elect to no longer impose permit fees. The bill retains existing provisions on fees and changes to elections applicable only to this latter group.

The bill takes effect July 1, 2019.

II. Present Situation:

Communications Services Tax

Chapter 202, F.S., provides for the communication services tax (CST), including telecommunications and cable, taxed at a rate of 4.92 percent, and direct-to-home satellite, taxed at a rate of 9.07 percent.¹ A portion of the state taxes collected – including taxes collected on direct-to-home satellite service – are deposited into the General Revenue Fund and a portion is distributed to local governments.²

Local governments may also levy a local CST, which varies by jurisdiction.³ The maximum rate for municipalities or charter counties is 5.1 percent (or 4.98 percent if the municipality or charter county levies certain permit fees, which are discussed below).⁴ The maximum rate for non-charter counties is 1.6 percent.⁵ These maximum rates do not include add-ons of up to .12 percent for municipalities and charter counties or up to .24 percent for non-charter counties, which are discussed below.⁶ Further, temporary emergency rates may exceed the statutory maximum rates.⁷ The local CST does not apply to direct-to-home satellite services.⁸

Local Government Election to Impose Permit Fees for Use of Public Rights-of-Way by Communications Services Providers

Section 337.401(3)(c) and (j), F.S., allows local government to require and collect permit fees from any provider of communications services that uses or occupies municipal or county roads or rights-of-way. All fees must be reasonable and commensurate with the direct and actual cost of the regulatory activity, demonstrable, and equitable among users of the roads or rights-of-way. Fees may not: be offset against the communications services tax; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way; or exceed \$100.

¹ Section 202.12(1)(a) and (b), F.S.

² Section 202.18, F.S.

³ Section 202.19(1), F.S.

⁴ Section 202.19(2)(a), F.S.

⁵ Section 202.19(2)(b), F.S.

⁶ Section 202.19(2)(c), F.S.

⁷ *Id.*

⁸ Section 202.19(6), F.S.

Each local government was required to make an election on whether to charge permit fees before July 16, 2001, and the impacts on CST rates were different for municipalities and charter counties as compared to non-charter counties.

The options for a municipality or charter county were: to require and collect permit fees, but reduce its CST rate by 0.12 percent; or to elect not to charge permit fees and increase the CST rate by an amount not to exceed 0.12 percent. A municipality or charter county that did not make the required election was statutorily presumed to have elected not to require and collect permit fees.

In contrast, a non-charter county that elected to require and collect permit fees had no reduction in its CST rate, and a non-charter county that elected not to charge permit fees could increase its CST rate by an amount not to exceed a rate of 0.24 percent to replace the revenue the non-charter county would otherwise have received from permit fees for providers of communications services. A non-charter county that did not make the required election was statutorily presumed to have elected not to require and collect permit fees.

Section 337.401(3)(j), F.S., allows a local government to change a previously selected option, with no limitation on the number of times a local government makes such a change. If a municipality or charter county changes its election in order to require and collect permit fees, its CST rate would automatically be reduced by 0.12 percent plus the percentage, if any, by which the rate was previously increased due to the previous election. If a municipality or charter county changes its election in order to discontinue requiring and collecting permit fees, its CST rate could be increased by an amount not to exceed 0.24 percent.

If a non-charter county changes its election in order to require and collect permit fees, its CST rate would automatically be reduced by the percentage, if any, by which such rate was increased due to the previous election. If a non-charter county changes its election in order to discontinue requiring and collecting permit fees, its CST rate could be increased by an amount not to exceed 0.24 percent.

General Permitting for Use of Public Rights-of-Way by Communications Service Providers

Pursuant to s. 337.401, F.S., each local government that has jurisdiction and control of public roads or publicly owned rail corridors is authorized to prescribe and enforce reasonable rules or regulations with regard to the placement and maintenance of utility facilities across, on, or within the right-of-way limits of any road or publicly owned rail corridors under its jurisdiction. Each local government may authorize any person who is a resident of this state, or any corporation which is organized under the laws of this state or licensed to do business within this state, to use a right-of-way for a utility⁹ in accordance with the authority's rules or regulations. A utility may not be installed, located, or relocated within a right-of-way unless authorized by a written permit.

⁹ Section 337.401(1)(a), F.S., refers to "any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in this section and in ss. 337.402, 337.403, and 337.404" as a "utility."

Permitting for Small Wireless Facilities in the Public Rights-of-Way

In 2017, the Legislature passed the Advanced Wireless Infrastructure Deployment Act (Act), which established a process by which wireless providers may place certain “small wireless facilities”¹⁰ on, under, within, or adjacent to certain utility poles or wireless support structures within public rights-of-way under the jurisdiction and control of a local government.¹¹ The Act prescribes the specific terms and conditions under which an authority¹² must process and issue permits for collocation¹³ of small wireless facilities in the public rights-of-way. The impetus for the passage of the Act was to streamline local permitting regulations in order to facilitate the deployment of fifth generation, or 5G, wireless technology upgrades. As of June 2018, 20 states had enacted “small cell” legislation that streamlines regulations to facilitate the deployment of 5G small cells.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 337.401, F.S., to provide that municipalities and counties that, as of January 1, 2019, were not imposing permit fees for use of public rights-of-way by communications services providers cannot reverse this election and cannot impose such permit fees. In contrast, municipalities and counties that were imposing permit fees as of that date may continue to do so or may elect to no longer impose permit fees. The bill retains existing provisions on fees and changes to elections applicable only to this latter group. As of January 2019, three local governments – one municipality, one charter county, and one non-charter county – impose permit fees.¹⁵

Additionally, the bill makes extensive changes to s. 337.401(3) and (7), F.S., relating to the use of public rights-of-way and small and micro wireless infrastructure.¹⁶ For ease of the reader, the current law is described immediately prior to the discussion of each change proposed in the bill.

¹⁰ “Small wireless facility” is defined in s. 337.401(7)(b)10., F.S., to mean a wireless facility that meets the following qualifications:

Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and

All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

¹¹ Chapter 2017-136, Laws of Fla.

¹² Section 337.401(7)(b)5., F.S. “Authority” means a county or municipality having jurisdiction and control of the rights-of-way of any public road. The term does not include the Department of Transportation.

¹³ Section 337.401(7)(b)7., F.S. “Collocation” means to install, mount, maintain, modify, operate, or replace one or more wireless facilities, on, under, within, or adjacent to a wireless support structure or utility pole.

¹⁴ National Conference of State Legislatures. Legis Brief Vol. 26, No.22: 5G: *The Future of Wireless Technology* (June 2018), available at: http://www.ncsl.org/documents/legisbriefs/2018/june/LBJune2018_SmallCell_goID32451.pdf. (last visited March 23, 2019).

¹⁵ See Florida Department of Revenue, *Florida Communications Services Tax – Historical, Current and Upcoming Local Tax Rates*, http://floridarevenue.com/taxes/Documents/cst_rate_table.xlsx (last visited March 25, 2019).

¹⁶ “Wireless facility” means equipment at a fixed location which enables wireless communications between user equipment and a communications network. The term includes radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment. The term includes small wireless facilities.

Current Law: Current law contains a statement of legislative intent that local governments treat providers of communications services in a nondiscriminatory and competitively neutral manner.

Proposed Change: The bill requires local governments to take into account the distinct engineering, construction, operation, maintenance, public works and safety requirements of the provider's facilities when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way.

Current Law: Current law allows a municipality or county to require a provider of communications services that places or seeks to place facilities in its roads or rights-of-way to register with the municipality or county, and limits the types of information that may be required in registration to identification and location information and any required proof of insurance or self-insuring status adequate to defend and cover claims.

Proposed Change: The bill provides that a municipality or county may not require registration or renewal more frequently than every 5 years, but may request that a provider submit any updates during the period if any registration information changes. The bill also prohibits a local government from requiring the provision of an inventory of communications facilities, maps, locations of such facilities or other information as a condition of registration, renewal, or for any other purpose. It does allow a local government to require as part of a permit application that the applicant identify at-grade (ground level) communications facilities within 25 feet of the proposed installation location for the placement of at grade communications facilities. The bill also prohibits: requiring a provider to pay any fee, cost, or other charge for registration or renewal; adoption or enforcement of any ordinances, regulations, or requirements as to the placement or operation of communications facilities in a right of way by a communications services provider; or imposition or collection of any tax or charge for the provision of communications services over the communications services provider's communications facilities in a right of way.

Current Law: Current law prohibits imposition of permit fees for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

Proposed Change: The bill adds that this prohibition includes emergency repairs of existing facilities; extensions of existing facilities for providing communications services to customers; and the placement of micro wireless facilities suspended on cables between existing poles.

Current Law: Current law requires a local government to provide to the Secretary of State notice of a proposed ordinance governing a telecommunications company placing or maintaining facilities in its roads or rights-of-way within specified times. Failure to provide the notice does not render the ordinance invalid.

“Small wireless facility” means a wireless facility for which each associated antenna associated is located inside, or could fit within, an enclosure of no more than 6 cubic feet in volume, and all other associated wireless equipment is cumulatively no more than 28 cubic feet in volume.

“Micro wireless facility” means a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches. s. 337.401(7)(b)12., 10., and 9., F.S., respectively.

Proposed Change: The bill requires that, if notice was not provided, the ordinance must be suspended until 30 days after the municipality or county provides the required notice.

Current Law: Current law prohibits a local government from using its authority over the placement of facilities in its roads and rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission.

Proposed Change: The bill prohibits the local government from exercising control over equipment or technology used by a provider. The bill further prohibits a local government from requiring any permit for the maintenance, repair, replacement, or upgrade of existing aerial wireline communications facilities on utility poles or attachments on utility poles by a communications service provider. A local government may, however, require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane, unless the provider is making emergency restoration or repair work to existing facilities. Additionally, the bill prohibits a local government from requiring a permit or any charge for the maintenance, repair, replacement, or upgrade of existing aerial or underground communications facilities on private property outside the public rights-of-way.

Current Law: Current law does not specify a timeframe within which local governments must process a permit application for the placement of communications facilities in the public right-of-way by a communications services provider, except with respect to the permitting of small wireless facilities.¹⁷

Proposed Change: The bill provides that all permit applications required by a local government for the placement of communications facilities must be processed consistent with the timeframes established for small wireless facilities.

Current Law: Current law states that a local government may adopt or enforce reasonable rules or regulations concerning use of its rights-of-way.

Proposed Change: The bill requires that any such rules or regulations be in writing. It also requires that a local government give providers at least 60 days advance written notice before making any changes to the rules or regulations.

Current Law: For purposes of the Advanced Wireless Infrastructure Deployment Act, the definition of “applicable codes” includes provisions on “objective design standards,” or aesthetics. The significance of this is that an authority must approve a complete application unless it does not meet the authority’s applicable codes. If these aesthetic requirements are part of applicable codes, the aesthetic requirements must be met for approval of an application.

Proposed Change: The bill transfers the aesthetic requirements from the definition of “applicable codes” to subparagraph 337.401(7)(f)6. Currently, paragraph 337.401(7)(f) allows a permitting authority to deny a proposed collocation of a small wireless facility in the public rights-of-way if

¹⁷ See s. 337.401(7)(d)7.-9., F.S., for the timeframes applicable to small wireless facilities.

the proposed collocation meets one of a list of disqualifying criteria. The addition of objective design standards means that the permitting authority may deny a proposed collocation that does not meet these standards. The statute defines the term collocation” to mean “to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way.” Thus, a service provider would have to meet objective design standards to locate a wireless facility on or adjacent to an existing utility pole or wireless support structure, but not to install a facility on a new pole or support structure.

Current Law: The current definition of “application” means a request submitted by an applicant to an authority for a permit “to collocate small wireless facilities.”

Proposed Change: The bill adds a request for a permit “to place a new utility pole used to support a small wireless facility,” thus requiring local governments to permit new poles.

Proposed Change: The bill changes the definition of “wireless support structure” to include a “pedestal or other support structure for ground based equipment not mounted on a utility pole and less than 10 feet in height,” thus requiring a local government to permit these support structures.

Current Law: Current law prohibits an authority from prohibiting, regulating, or charging for the collocation of small wireless facilities in public rights-of-way.

Proposed Change: The bill adds to this prohibition “the installation, maintenance, modification, operation or replacement of utility poles used for the collocation of small wireless facilities,” allowing installation of a utility pole without regulation or charge.

Current Law: Current law provides that an applicant for a permit for placement of small wireless facilities may not be required to provide more information than is necessary to demonstrate the applicant’s compliance with applicable codes.

Proposed Change: The bill adds a prohibition against requiring an applicant to provide inventories, maps, or locations of communications facilities in the right-of-way other than as necessary to avoid interference with other at-grade facilities located at the specific location proposed for a small wireless facility or within 25 feet of such location.

Current Law: Current law prohibits a local government from requiring the placement of small wireless facilities on any specific utility pole or category of poles.¹⁸

Proposed Change: The bill adds additional prohibitions. Under the bill, a local government may not:

- Require a demonstration that collocation of a small wireless facility on an existing structure is not legally or technically possible as a condition for granting a permit for the collocation of a small wireless facility on a new utility pole;

¹⁸ Section 337.401(7)(d)3., F.S.

- Require compliance with an authority's provisions regarding placement of small wireless facilities or a new utility pole used to support a small wireless facility in rights-of-way under the control of the Department of Transportation;
- Require a meeting before filing an application;
- Require direct or indirect public notification or a public meeting for the placement of communication facilities in the right-of-way;
- Limit the size or configuration of a small wireless facility or any of its components, if the small wireless facility complies with the stated size limits;
- Prohibit the installation of a new utility pole used to support the collocation of a small wireless facility if the installation otherwise meets the requirements of the subsection;
- Require that any component of a small wireless facility be placed underground; or
- Require that any existing communication facility be placed underground.

Current Law: Current law provides for review, approval, and denial of an application for a permit to use rights-of-way.

Proposed Change: The bill provides that the availability of any subsequent review by the permitting authority does not bar review of a denial in a court of competent jurisdiction.

Current Law: Current law allows a local government to require insurance, indemnification, performance bonds, or security funds.

Proposed Change: The bill deletes performance bonds and security funds and allows requiring a construction bond limited to no more than one year after the construction is completed. It also requires the local government to accept a letter of credit or similar financial instrument issued by any financial institution that is authorized to do business within the United States. The bill states that a provider of communications services may add an authority to any existing bond, insurance policy, or other relevant financial instrument, and the authority is required to accept such proof of coverage without any conditions. Finally, an authority may not require a communications services provider to indemnify it for liabilities not caused by the provider, including liabilities arising from the authority's negligence, gross negligence, or willful conduct.

Current Law: Current law contains size limitations for micro wireless facilities.

Proposed Change: The bill provides that an authority may require an initial letter from or on behalf of a provider attesting that the micro wireless facility dimensions comply with the limits but after that filing, the authority may not require any additional filing or other information as long as the provider is deploying the same or a substantially similar or smaller size micro wireless facility equipment.

Proposed Change: The bill prohibits a local government permitting authority from instituting, either expressly or de facto, a moratorium, zoning-in-progress, or other mechanism that would prohibit or delay the filing, receiving, or processing of registrations, applications, or issuing of permits or other approvals for the collocation of small wireless facilities or the installation, modification, or replacement of utility poles used to support the collocation of small wireless facilities.

Proposed Change: The bill creates a cause of action for any person aggrieved by a violation of the right-of-way statute. Any such person may bring a civil action in a U.S. District Court or any other court of competent jurisdiction and the court may grant temporary or permanent injunctions to prevent or restrain violations and direct the recovery of full costs, including awarding reasonable attorney fees, to the party who prevails.

The bill also amends s. 202.20, F.S., to conform a cross-reference.

The bill takes effect on July 1, 2019.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the impact of the bill in its current form.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill removes the ability for a local government to elect to charge limited permit fees for communications services providers' use of public rights-of-way. However, local governments that do not impose such permit fees retain the authority to increase its local

CST rate by a capped percentage to replace the revenue it would have otherwise received from such fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 202.20 and 337.401..

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 on March 26, 2019:

The committee substitute makes the following changes to the bill:

- Removes the decrease in the state communications services tax rate.
- Allows a city or county to request updates from a communications services provider during the 5-year registration period if any registration information changes.
- Provides that if a city or county fails to notify the Department of State of a proposed ordinance governing a telecommunications providers' use of public roads or rights-of-ways, the ordinance must be suspended until 30 days after the city or county provides the required notice.
- Clarifies that a city or county may not require a permit for the maintenance, repair, replacement, or upgrade of existing aerial wireline communications facilities on utility poles or related attachments.
- Clarifies provisions prohibiting a city or county from requiring a permit or fee for the maintenance, repair, replacement, or upgrade of existing aerial or underground communications facilities on private property.
- Allows the prevailing party in a civil suit for a violation of the right-of-way statute to recover full costs, including reasonable attorney fees. The bill allowed this for the *aggrieved* prevailing party only.

CS by Innovation, Industry, and Technology on March 12, 2019:

The committee substitute revises the bill's provisions on to the election on permit fees and communications services taxes rates. Municipalities and counties that, as of January 1, 2019, were not imposing permit fees cannot reverse this election and cannot impose permit fees. In contrast, municipalities and counties that were imposing permit fees as of that date may continue to do so or may elect to no longer impose permit fees. The bill retains existing provisions on fees and changes to elections applicable only to this latter group.

The committee substitute adds to the bill extensive provisions on use of rights-of-way, including provisions on small and micro wireless infrastructure, including:

- Creating a civil cause of action for any person aggrieved by a violation of the right-of-way statute in a U.S. District Court or any other court of competent jurisdiction for a temporary or permanent injunction and recovery of full costs and reasonable attorney fees to a prevailing aggrieved party;
- Prohibiting a local government permitting authority from instituting, either expressly or de facto, a moratorium or other mechanism that would prohibit or delay permits for collocation of small wireless facilities or related poles;
- Deleting authority for a local government to require performance bonds and security funds and allowing them to require a construction bond limited to no more than one year after the construction is completed;
- Requiring a local government to accept a letter of credit or similar instrument issued by any financial institution authorized to do business within the U.S.;
- Allowing a provider of communications services to add a permitting authority to any existing bond, insurance policy, or other financial instrument, and requiring the authority to accept such coverage.

Finally, under the committee substitute, a local government may not:

- Prohibit, regulate, or charge for the installation, maintenance, modification, operation or replacement of utility poles used for the collocation of small wireless facilities;
- Require a demonstration that collocation of a small wireless facility on an existing structure is not legally or technically possible as a condition for granting a permit for collocation on a new utility pole;
- Require compliance with an authority's law regarding placement of small wireless facilities or a new utility pole used to support a small wireless facility in rights-of-way not controlled by the authority;
- Require a meeting before filing an application;
- Require direct or indirect public notification or a public meeting for the placement of communication facilities in the right-of-way;
- Limit the size or configuration of a small wireless facility or any of its components, if the small wireless facility complies with existing size limits;
- Require that any component of a small wireless facility be placed underground; or
- Require that any existing communication facility be placed underground.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2019	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (2) of section
202.20, Florida Statutes, is amended to read:

202.20 Local communications services tax conversion rates.—
(2)

(b) Except as otherwise provided in this subsection,
"replaced revenue sources," as used in this section, means the



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following taxes, charges, fees, or other impositions to the extent that the respective local taxing jurisdictions were authorized to impose them prior to July 1, 2000.

1. With respect to municipalities and charter counties and the taxes authorized by s. 202.19(1):

a. The public service tax on telecommunications authorized by former s. 166.231(9).

b. Franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

c. The public service tax on prepaid calling arrangements.

d. Franchise fees on dealers of communications services which use the public roads or rights-of-way, up to the limit set forth in s. 337.401. For purposes of calculating rates under this section, it is the legislative intent that charter counties be treated as having had the same authority as municipalities to impose franchise fees on recurring local telecommunication service revenues prior to July 1, 2000. However, the Legislature recognizes that the authority of charter counties to impose such fees is in dispute, and the treatment provided in this section is not an expression of legislative intent that charter counties actually do or do not possess such authority.

e. Actual permit fees relating to placing or maintaining facilities in or on public roads or rights-of-way, collected from providers of long-distance, cable, and mobile communications services for the fiscal year ending September 30, 1999; however, if a municipality or charter county elects the option to charge permit fees pursuant to s. 337.401(3)(c) ~~337.401(3)(c)1.a.~~, such fees shall not be included as a replaced revenue source.



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2. With respect to all other counties and the taxes authorized in s. 202.19(1), franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

Section 2. Subsection (3), paragraphs (e) and (f) of subsection (6), and paragraphs (b), (c), (d), (e), (f), (g), and (i) of subsection (7) of section 337.401, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(3)(a) Because of the unique circumstances applicable to providers of communications services, including, but not limited to, the circumstances described in paragraph (e) and the fact that federal and state law require the nondiscriminatory treatment of providers of telecommunications services, and because of the desire to promote competition among providers of communications services, it is the intent of the Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way. Rules or regulations imposed by a municipality or county relating to providers of communications services placing or maintaining communications facilities in its roads or rights-of-way must be generally applicable to all providers of communications services, taking into account the distinct engineering, construction, operation, maintenance, public works, and safety requirements of provider facilities, and, notwithstanding any other law, may not require a provider of communications services to apply for or enter into an



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individual license, franchise, or other agreement with the municipality or county as a condition of placing or maintaining communications facilities in its roads or rights-of-way. In addition to other reasonable rules or regulations that a municipality or county may adopt relating to the placement or maintenance of communications facilities in its roads or rights-of-way under this subsection or subsection (7), a municipality or county may require a provider of communications services that places or seeks to place facilities in its roads or rights-of-way to register with the municipality or county. To register, a provider of communications services only may be required to provide its name and to provide the name of the registrant; the name, address, and telephone number of a contact person for the registrant; the number of the registrant's current certificate of authorization issued by the Florida Public Service Commission, the Federal Communications Commission, or the Department of State; and any required proof of insurance or self-insuring status adequate to defend and cover claims. A municipality or county may not require registration renewal more frequently than every 5 years, but may request that a provider submit any updates during this period if the registration information provided pursuant to this subsection changes. A municipality or county may not require the provision of an inventory of communications facilities, maps, locations of such facilities, or other information by a registrant as a condition of registration, renewal, or for any other purpose; provided, however, that a municipality or county may require as part of a permit application that the applicant identify at-grade communications facilities within 25 feet of the proposed



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installation location for the placement of at-grade communications facilities. A municipality or county may not require a provider to pay any fee, cost, or other charge for registration or renewal thereof. It is the intent of the Legislature that the placement, operation, maintenance, upgrading, and extension of communications facilities not be unreasonably interrupted or delayed through the permitting or other local regulatory process. Except as provided in this chapter or otherwise expressly authorized by chapter 202, chapter 364, or chapter 610, a municipality or county may not adopt or enforce any ordinance, regulation, or requirement as to the placement or operation of communications facilities in a right-of-way by a communications services provider authorized by state or local law to operate in a right-of-way; regulate any communications services; or impose or collect any tax, fee, cost, charge, or exaction for the provision of communications services over the communications services provider's communications facilities in a right-of-way.

(b) Registration described in paragraph (a) does not establish a right to place or maintain, or priority for the placement or maintenance of, a communications facility in roads or rights-of-way of a municipality or county. Each municipality and county retains the authority to regulate and manage municipal and county roads or rights-of-way in exercising its police power, subject to the limitations imposed in this section and chapters 202 and 610. Any rules or regulations adopted by a municipality or county which govern the occupation of its roads or rights-of-way by providers of communications services must be related to the placement or maintenance of facilities in such



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roads or rights-of-way, must be reasonable and nondiscriminatory, and may include only those matters necessary to manage the roads or rights-of-way of the municipality or county.

(c) Any municipality or county that, as of January 1, 2019, elected to require permit fees from any provider of communications services that uses or occupy municipal or county road or rights-of-way pursuant to former paragraph (c) or paragraph (j), Florida Statutes 2018, may continue to require and collect such fees. A municipality or county that elected as of such date to require permit fees may elect to forego such fees as provided herein. A municipality or county that elected as of such date not to require permit fees may not elect to impose permit fees.

~~1. It is the intention of the state to treat all providers of communications services that use or occupy municipal or charter county roads or rights-of-way for the provision of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees. Certain providers of communications services have been granted by general law the authority to offset permit fees against franchise or other fees while other providers of communications services have not been granted this authority. In order to treat all providers of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees, each municipality and charter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and must inform the Department of Revenue of the election by certified mail by July 16, 2001. Such election shall take effect~~



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~~October 1, 2001.~~

~~a. (I) The municipality or charter county may require and collect permit fees from any providers of communications services that use or occupy municipal or county roads or rights-of-way. All fees authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~ must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~ may not~~ be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~, the prevailing party may recover court costs and attorney ~~attorney's~~ fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a municipality or charter county under this paragraph ~~sub-subparagraph~~ may not exceed \$100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5) ~~s. 556.108(5)(a)2.~~ or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way, including, but not limited to,



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any emergency repairs of existing facilities, extensions of such facilities for providing communications services to customers, and the placement of micro wireless facilities in accordance with subparagraph (7)(e)3.

~~(II) To ensure competitive neutrality among providers of communications services, for any municipality or charter county that elects to exercise its authority to require and collect permit fees under this sub-subparagraph, the rate of the local communications services tax imposed by such jurisdiction, as computed under s. 202.20, shall automatically be reduced by a rate of 0.12 percent.~~

~~b. Alternatively, the municipality or charter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal or charter county roads or rights-of-way for the provision of communications services; however, each municipality or charter county that elects to operate under this sub-subparagraph retains all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section.~~

1. If a municipality or charter county elects to not require permit fees ~~operate under this sub-subparagraph,~~ the total rate for the local communications services tax as computed under s. 202.20 for that municipality or charter county may be increased by ordinance or resolution by an amount not to exceed a rate of 0.12 percent. ~~If a municipality or charter county elects to increase its rate effective October 1, 2001, the municipality or charter county shall inform the department of such increased rate by certified mail postmarked on or before~~



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~~July 16, 2001.~~

~~e. A municipality or charter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.~~

~~2. Each noncharter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and shall inform the Department of Revenue of the election by certified mail by July 16, 2001. Such election shall take effect October 1, 2001.~~

~~a. The noncharter county may elect to require and collect permit fees from any providers of communications services that use or occupy noncharter county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this~~



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~~section, a fee levied by a noncharter county under this sub-
subparagraph may not exceed \$100. However, permit fees may not
be imposed with respect to permits that may be required for
service drop lines not required to be noticed under s.
556.108(5)(a)2. or for any activity that does not require the
physical disturbance of the roads or rights-of-way or does not
impair access to or full use of the roads or rights-of-way.~~

~~b. Alternatively, the noncharter county may elect not to
require and collect permit fees from any provider of
communications services that uses or occupies noncharter county
roads or rights-of-way for the provision of communications
services; however, each noncharter county that elects to operate
under this sub-subparagraph shall retain all authority to
establish rules and regulations for providers of communications
services to use or occupy roads or rights-of-way as provided in
this section.~~

~~2. If a noncharter county elects to not require permit fees
operate under this sub-subparagraph, the total rate for the
local communications services tax as computed under s. 202.20
for that noncharter county may be increased by ordinance or
resolution by an amount not to exceed a rate of 0.24 percent, to
replace the revenue the noncharter county would otherwise have
received from permit fees for providers of communications
services. If a noncharter county elects to increase its rate
effective October 1, 2001, the noncharter county shall inform
the department of such increased rate by certified mail
postmarked on or before July 16, 2001.~~

~~c. A noncharter county that does not make an election as
provided for in this subparagraph shall be presumed to have~~



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~~elected to operate under the provisions of sub-subparagraph b.~~

~~3. Except as provided in this paragraph, municipalities and
counties retain all existing authority to require and collect
permit fees from users or occupants of municipal or county roads
or rights-of-way and to set appropriate permit fee amounts.~~

(d) ~~After January 1, 2001,~~ In addition to any other notice
requirements, a municipality must provide to the Secretary of
State, at least 10 days prior to consideration on first reading,
notice of a proposed ordinance governing a telecommunications
company placing or maintaining telecommunications facilities in
its roads or rights-of-way. ~~After January 1, 2001,~~ In addition
to any other notice requirements, a county must provide to the
Secretary of State, at least 15 days prior to consideration at a
public hearing, notice of a proposed ordinance governing a
telecommunications company placing or maintaining
telecommunications facilities in its roads or rights-of-way. The
notice required by this paragraph must be published by the
Secretary of State on a designated Internet website. The failure
of a municipality or county to provide such notice does not
render the ordinance invalid, provided that enforcement of such
ordinance must be suspended until 30 days after the municipality
or county provides the required notice.

(e) The authority of municipalities and counties to require
franchise fees from providers of communications services, with
respect to the provision of communications services, is
specifically preempted by the state because of unique
circumstances applicable to providers of communications services
when compared to other utilities occupying municipal or county
roads or rights-of-way. Providers of communications services may



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provide similar services in a manner that requires the placement of facilities in municipal or county roads or rights-of-way or in a manner that does not require the placement of facilities in such roads or rights-of-way. Although similar communications services may be provided by different means, the state desires to treat providers of communications services in a nondiscriminatory manner and to have the taxes, franchise fees, and other fees, costs, and financial or regulatory exactions paid by or imposed on providers of communications services be competitively neutral. Municipalities and counties retain all existing authority, if any, to collect franchise fees from users or occupants of municipal or county roads or rights-of-way other than providers of communications services, and the provisions of this subsection shall have no effect upon this authority. The provisions of this subsection do not restrict the authority, if any, of municipalities or counties or other governmental entities to receive reasonable rental fees based on fair market value for the use of public lands and buildings on property outside the public roads or rights-of-way for the placement of communications antennas and towers.

(f) Except as expressly allowed or authorized by general law and except for the rights-of-way permit fees subject to paragraph (c), a municipality or county may not levy on a provider of communications services a tax, fee, or other charge or imposition for operating as a provider of communications services within the jurisdiction of the municipality or county which is in any way related to using its roads or rights-of-way. A municipality or county may not require or solicit in-kind compensation, except as otherwise provided in s. 202.24(2)(c)8.



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or s. 610.109, provided that the in-kind compensation is not a franchise fee under federal law. Nothing in this paragraph shall impair any ordinance or agreement in effect on May 22, 1998, or any voluntary agreement entered into subsequent to that date, which provides for or allows in-kind compensation by a telecommunications company.

(g) A municipality or county may not use its authority over the placement of facilities in its roads and rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission, including, but not limited to, the operations, systems, equipment, technology, qualifications, services, service quality, service territory, and prices of a provider of communications services. A municipality or county may not require any permit for the maintenance, repair, replacement, or upgrade of existing aerial wireline communications facilities on utility poles or for aerial wireline facilities between existing wireline communications facility attachments on utility poles by a communications services provider; provided, however, that a municipality or county may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane, unless the provider is making emergency restoration or repair work to existing facilities. Any permit application required by an authority under this section for the placement of communications facilities must be processed and acted upon consistent with the timeframes provided in subparagraphs (7)(d)7.-9. In addition, a municipality or county



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may not require any permit or other approval, fee, charge, or cost, or other exaction for the maintenance, repair, replacement, or upgrade of existing aerial or underground communications facilities located on private property outside of the public rights-of-way.

(h) A provider of communications services that has obtained permission to occupy the roads or rights-of-way of an incorporated municipality pursuant to s. 362.01 or that is otherwise lawfully occupying the roads or rights-of-way of a municipality or county shall not be required to obtain consent to continue such lawful occupation of those roads or rights-of-way; however, nothing in this paragraph shall be interpreted to limit the power of a municipality or county to adopt or enforce reasonable rules or regulations as provided in this section and consistent with chapters 202, 364, and 610. Any such rules or regulations must be in writing, and registered providers of communications services in the municipality or county must be given at least 60 days' advance written notice of any changes to the rules and regulations.

(i) Except as expressly provided in this section, this section does not modify the authority of municipalities and counties to levy the tax authorized in chapter 202 or the duties of providers of communications services under ss. 337.402-337.404. This section does not apply to building permits, pole attachments, or private roads, private easements, and private rights-of-way.

~~(j) Pursuant to this paragraph, any county or municipality may by ordinance change either its election made on or before July 16, 2001, under paragraph (c) or an election made under~~



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~~this paragraph.~~

~~1.a. If a municipality or charter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the sum of 0.12 percent plus the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)1.b.~~

~~b. If a municipality or charter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.~~

~~2.a. If a noncharter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)2.b.~~

~~b. If a noncharter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.~~

~~3.a. Any change of election pursuant to this paragraph and~~



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~~any tax rate change resulting from such change of election shall be subject to the notice requirements of s. 202.21; however, no such change of election shall become effective prior to January 1, 2003.~~

~~b. Any county or municipality changing its election under this paragraph in order to exercise its authority to require and collect permit fees shall, in addition to complying with the notice requirements under s. 202.21, provide to all dealers providing communications services in such jurisdiction written notice of such change of election by September 1 immediately preceding the January 1 on which such change of election becomes effective. For purposes of this sub-subparagraph, dealers providing communications services in such jurisdiction shall include every dealer reporting tax to such jurisdiction pursuant to s. 202.37 on the return required under s. 202.27 to be filed on or before the 20th day of May immediately preceding the January 1 on which such change of election becomes effective.~~

~~(k)~~ Notwithstanding the provisions of s. 202.19, when a local communications services tax rate is changed as a result of an election made or changed under this subsection, such rate may ~~shall~~ not be rounded to tenths.

(6)

(e) This subsection does not alter any provision of this section or s. 202.24 relating to taxes, fees, or other charges or impositions by a municipality or county on a dealer of communications services or authorize that any charges be assessed on a dealer of communications services, except as specifically set forth herein. A municipality or county may not charge a pass-through provider any amounts other than the



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charges under this subsection as a condition to the placement or maintenance of a communications facility in the roads or rights-of-way of a municipality or county by a pass-through provider, except that a municipality or county may impose permit fees on a pass-through provider consistent with paragraph (3)(c) ~~if the municipality or county elects to exercise its authority to collect permit fees under paragraph (3)(e).~~

(f) The charges under this subsection do not apply to communications facilities placed in a municipality's or county's rights-of-way prior to the effective date of this subsection with permission from the municipality or county, if any was required, except to the extent the facilities of a pass-through provider were subject to per linear foot or mile charges in effect as of October 1, 2001, in which case the municipality or county may only impose on a pass-through provider charges consistent with paragraph (b) or paragraph (c) for such facilities. Notwithstanding the foregoing, this subsection does not impair any written agreement between a pass-through provider and a municipality or county imposing per linear foot or mile charges for communications facilities placed in municipal or county roads or rights-of-way that is in effect prior to the effective date of this subsection. Upon the termination or expiration of any such written agreement, any charges imposed must shall be consistent with this section ~~paragraph (b) or paragraph (c). Notwithstanding the foregoing, until October 1, 2005, this subsection shall not affect a municipality or county continuing to impose charges in excess of the charges authorized in this subsection on facilities of a pass-through provider that is not a dealer of communications services in the state under~~



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~~chapter 202, but only to the extent such charges were imposed by
municipal or county ordinance or resolution adopted prior to
February 1, 2002. Effective October 1, 2005, any charges imposed
shall be consistent with paragraph (b) or paragraph (c).~~

(7)

(b) As used in this subsection, the term:

1. "Antenna" means communications equipment that transmits
or receives electromagnetic radio frequency signals used in
providing wireless services.

2. "Applicable codes" means uniform building, fire,
electrical, plumbing, or mechanical codes adopted by a
recognized national code organization or local amendments to
those codes enacted solely to address threats of destruction of
property or injury to persons, ~~or local codes or ordinances~~
~~adopted to implement this subsection. The term includes~~
~~objective design standards adopted by ordinance that may require~~
~~a new utility pole that replaces an existing utility pole to be~~
~~of substantially similar design, material, and color or that may~~
~~require reasonable spacing requirements concerning the location~~
~~of ground-mounted equipment. The term includes objective design~~
~~standards adopted by ordinance that may require a small wireless~~
~~facility to meet reasonable location context, color, stealth,~~
~~and concealment requirements; however, such design standards may~~
~~be waived by the authority upon a showing that the design~~
~~standards are not reasonably compatible for the particular~~
~~location of a small wireless facility or that the design~~
~~standards impose an excessive expense. The waiver shall be~~
~~granted or denied within 45 days after the date of the request.~~

3. "Applicant" means a person who submits an application



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and is a wireless provider.

4. "Application" means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities or to place a new utility pole used to support a small wireless facility.

5. "Authority" means a county or municipality having jurisdiction and control of the rights-of-way of any public road. The term does not include the Department of Transportation. Rights-of-way under the jurisdiction and control of the department are excluded from this subsection.

6. "Authority utility pole" means a utility pole owned by an authority in the right-of-way. The term does not include a utility pole owned by a municipal electric utility, a utility pole used to support municipally owned or operated electric distribution facilities, or a utility pole located in the right-of-way within:

a. A retirement community that:

(I) Is deed restricted as housing for older persons as defined in s. 760.29(4) (b);

(II) Has more than 5,000 residents; and

(III) Has underground utilities for electric transmission or distribution.

b. A municipality that:

(I) Is located on a coastal barrier island as defined in s. 161.053(1) (b)3.;

(II) Has a land area of less than 5 square miles;

(III) Has less than 10,000 residents; and

(IV) Has, before July 1, 2017, received referendum approval to issue debt to finance municipal-wide undergrounding of its



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utilities for electric transmission or distribution.

7. "Collocate" or "collocation" means to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way.

8. "FCC" means the Federal Communications Commission.

9. "Micro wireless facility" means a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

10. "Small wireless facility" means a wireless facility that meets the following qualifications:

a. Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and

b. All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

11. "Utility pole" means a pole or similar structure that



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is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less unless an authority grants a waiver for such pole.

12. "Wireless facility" means equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:

a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;

b. Wireline backhaul facilities; or

c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

13. "Wireless infrastructure provider" means a person who has been certificated under chapter 364 to provide telecommunications service in the state or under chapter 610 to provide cable or video services in this state, or that person's affiliate, and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.



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14. "Wireless provider" means a wireless infrastructure provider or a wireless services provider.

15. "Wireless services" means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

16. "Wireless services provider" means a person who provides wireless services.

17. "Wireless support structure" means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole, pedestal, or other support structure for ground-based equipment not mounted on a utility pole and less than 10 feet in height.

(c) Except as provided in this subsection, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way or for the installation, maintenance, modification, operation, or replacement of utility poles used for the collocation of small wireless facilities in the public rights-of-way.

(d) An authority may require a registration process and permit fees in accordance with subsection (3). An authority shall accept applications for permits and shall process and issue permits subject to the following requirements:

1. An authority may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority.



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2. An applicant may not be required to provide more information to obtain a permit than is necessary to demonstrate the applicant's compliance with applicable codes for the placement of small wireless facilities in the locations identified in the application. An applicant may not be required to provide inventories, maps, or locations of communications facilities in the right-of-way other than as necessary to avoid interference with other at-grade facilities located at the specific location proposed for a small wireless facility or within 25 feet of such location.

3. An authority may not:

a. Require the placement of small wireless facilities on any specific utility pole or category of poles; ~~or~~

b. Require the placement of multiple antenna systems on a single utility pole;

c. Require a demonstration that collocation of a small wireless facility on an existing structure is not legally or technically possible as a condition for granting a permit for the collocation of a small wireless facility on a new utility pole;

d. Require compliance with an authority's provisions regarding placement of small wireless facilities or a new utility pole used to support a small wireless facility in rights-of-way under the control of the department, unless the authority has received a delegation from the department for the location of the small wireless facility or utility pole; or require such compliance as a condition to receive a permit that is ancillary to the permit for collocation of a small wireless facility, including an electrical permit;



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649 e. Require a meeting before filing an application;
650 f. Require direct or indirect public notification or a
651 public meeting for the placement of communication facilities in
652 the right-of-way;
653 g. Limit the size or configuration of a small wireless
654 facility or any of its components, if the small wireless
655 facility complies with the size limits in this subsection;
656 h. Prohibit the installation of a new utility pole used to
657 support the collocation of a small wireless facility if the
658 installation otherwise meets the requirements of this
659 subsection;
660 i. Require that any component of a small wireless facility
661 be placed underground; or
662 j. Require that any existing communication facility be
663 placed underground, except as provided in ss. 337.403 and
664 337.404.
665 4. Subject to sub-subparagraph (f)6.b., an authority may
666 not limit the placement, by minimum separation distances, of
667 small wireless facilities, utility poles on which small wireless
668 facilities are or will be collocated, or other at-grade
669 communications facilities by minimum separation distances.
670 However, within 14 days after the date of filing the
671 application, an authority may request that the proposed location
672 of a small wireless facility be moved to another location in the
673 right-of-way and placed on an alternative authority utility pole
674 or support structure or placed on ~~may place~~ a new utility pole.
675 The authority and the applicant may negotiate the alternative
676 location, including any objective design standards and
677 reasonable spacing requirements for ground-based equipment, for



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30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the authority of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the authority of such nonagreement and the authority must grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

5. An authority shall limit the height of a small wireless facility to 10 feet above the utility pole or structure upon which the small wireless facility is to be collocated. Unless waived by an authority, the height for a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the authority shall limit the height of the utility pole to 50 feet.

6. ~~Except as provided in subparagraphs 4. and 5.,~~ The installation by a communications services provider of a utility pole in the public rights-of-way, other than a utility pole used ~~designed to support a small wireless facility, is shall be~~ subject to authority rules or regulations governing the placement of utility poles in the public rights-of-way and is



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707 ~~shall be~~ subject to the application review timeframes in this
708 subsection.

709 7. Within 14 days after receiving an application, an
710 authority must determine and notify the applicant by electronic
711 mail as to whether the application is complete. If an
712 application is deemed incomplete, the authority must
713 specifically identify the missing information. An application is
714 deemed complete if the authority fails to provide notification
715 to the applicant within 14 days.

716 8. An application must be processed on a nondiscriminatory
717 basis. A complete application is deemed approved if an authority
718 fails to approve or deny the application within 60 days after
719 receipt of the application. If an authority does not use the 30-
720 day negotiation period provided in subparagraph 4., the parties
721 may mutually agree to extend the 60-day application review
722 period. The authority shall grant or deny the application at the
723 end of the extended period. A permit issued pursuant to an
724 approved application shall remain effective for 1 year unless
725 extended by the authority.

726 9. An authority must notify the applicant of approval or
727 denial by electronic mail. An authority shall approve a complete
728 application unless it does not meet the authority's applicable
729 codes. If the application is denied, the authority must specify
730 in writing the basis for denial, including the specific code
731 provisions on which the denial was based, and send the
732 documentation to the applicant by electronic mail on the day the
733 authority denies the application. The applicant may cure the
734 deficiencies identified by the authority and resubmit the
735 application within 30 days after notice of the denial is sent to



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the applicant. The authority shall approve or deny the revised application within 30 days after receipt or the application is deemed approved. The review of a revised application is ~~Any subsequent review shall be~~ limited to the deficiencies cited in the denial. The availability of any subsequent review by the authority does not bar review of a denial in a court of competent jurisdiction.

10. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 30 small wireless facilities. If the application includes multiple small wireless facilities, an authority may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

11. An authority may deny a proposed collocation of a small wireless facility in the public rights-of-way if the proposed collocation:

a. Materially interferes with the safe operation of traffic control equipment.

b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.

c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

d. Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.

e. Fails to comply with applicable codes.



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f. Fails to comply with objective design standards
authorized under subparagraph (f)6.

12. An authority may adopt by ordinance provisions for insurance coverage, indemnification, ~~performance bonds, security funds,~~ force majeure, abandonment, authority liability, or authority warranties. Such provisions must be reasonable and nondiscriminatory. An authority may require a construction bond to secure restoration of the postconstruction rights-of-way to its preconstruction condition. However, such bond must be time-limited to no more than 1 year after the construction to which the bond applies is completed. For any financial obligation required by an authority allowed under this section, the authority shall accept a letter of credit or similar financial instrument issued by any financial institution that is authorized to do business within the United States, provided that a claim against the financial instrument may be made by electronic means, including by facsimile. A provider of communications services may add an authority to any existing bond, insurance policy, or other relevant financial instrument, and the authority must accept such proof of coverage without any conditions. An authority may not require a communications services provider to indemnify it for liabilities not caused by the provider, including liabilities arising from the authority's negligence, gross negligence, or willful conduct.

13. Collocation of a small wireless facility on an authority utility pole does not provide the basis for the imposition of an ad valorem tax on the authority utility pole.

14. An authority may reserve space on authority utility poles for future public safety uses. However, a reservation of



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space may not preclude collocation of a small wireless facility. If replacement of the authority utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

15. A structure granted a permit and installed pursuant to this subsection shall comply with chapter 333 and federal regulations pertaining to airport airspace protections.

(e) An authority may not require any permit or other approval or require fees, ~~or other~~ charges, costs, or other exactions for:

1. Routine maintenance or repair work, including, but not limited to, emergency repairs of existing facilities, or extensions of such facilities, for providing communications services to customers;

2. Replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or

3. Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202. An authority may require an initial letter from or on behalf of such provider, which is effective upon filing, attesting that the micro wireless facility dimensions comply with the limits of this subsection. The authority may not require any additional filing or other information as long as



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the provider is deploying the same, a substantially similar, or
a smaller size micro wireless facility equipment.

Notwithstanding this paragraph, an authority may require a
right-of-way permit for work that involves excavation, closure
of a sidewalk, or closure of a vehicular lane unless the
provider is making emergency restoration or repair work to
existing facilities.

(f) Collocation of small wireless facilities on authority
utility poles is subject to the following requirements:

1. An authority may not enter into an exclusive arrangement
with any person for the right to attach equipment to authority
utility poles.

2. The rates and fees for collocations on authority utility
poles must be nondiscriminatory, regardless of the services
provided by the collocating person.

3. The rate to collocate small wireless facilities on an
authority utility pole may not exceed \$150 per pole annually.

4. Agreements between authorities and wireless providers
that are in effect on July 1, 2017, and that relate to the
collocation of small wireless facilities in the right-of-way,
including the collocation of small wireless facilities on
authority utility poles, remain in effect, subject to applicable
termination provisions. The wireless provider may accept the
rates, fees, and terms established under this subsection for
small wireless facilities and utility poles that are the subject
of an application submitted after the rates, fees, and terms
become effective.

5. A person owning or controlling an authority utility pole



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shall offer rates, fees, and other terms that comply with this subsection. By the later of January 1, 2018, or 3 months after receiving a request to collocate its first small wireless facility on a utility pole owned or controlled by an authority, the person owning or controlling the authority utility pole shall make available, through ordinance or otherwise, rates, fees, and terms for the collocation of small wireless facilities on the authority utility pole which comply with this subsection.

a. The rates, fees, and terms must be nondiscriminatory and competitively neutral and must comply with this subsection.

b. For an authority utility pole that supports an aerial facility used to provide communications services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested collocation must include pole replacement if necessary.

c. For an authority utility pole that does not support an aerial facility used to provide communications services or electric service, the authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, an authority may require the applicant seeking to collocate a small wireless facility to provide a make-ready estimate at the



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applicant's expense for the work necessary to support the small wireless facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a utility pole that is substantially similar in color and composition. The authority may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the authority.

d. An authority may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to communications services providers other than wireless services providers for similar work and may not include any consultant fee or expense.

6. An authority may require wireless providers to comply with objective design standards adopted by ordinance. The ordinance may require:

a. A new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color;

b. Reasonable spacing requirements concerning the location of a ground-mounted component of a small wireless facility which does not exceed 15 feet from the associated support structure;
or

c. A small wireless facility to meet reasonable location



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context, color, camouflage, and concealment requirements,
subject to the limitations in this subsection.

Such design standards under this subparagraph may be waived by
the authority upon a showing that the design standards are not
reasonably compatible for the particular location of a small
wireless facility or are technically infeasible or that the
design standards impose an excessive expense. The waiver must be
granted or denied within 45 days after the date of the request.

(g) For any applications filed before the effective date of
ordinances implementing this subsection, an authority may apply
current ordinances relating to placement of communications
facilities in the right-of-way related to registration,
permitting, insurance coverage, indemnification, ~~performance~~
~~bonds, security funds,~~ force majeure, abandonment, authority
liability, or authority warranties. Permit application
requirements and small wireless facility placement requirements,
including utility pole height limits, that conflict with this
subsection must ~~shall~~ be waived by the authority. An authority
may not institute, either expressly or de facto, a moratorium,
zoning-in-progress, or other mechanism that would prohibit or
delay the filing, receiving, or processing of registrations,
applications, or issuing of permits or other approvals for the
collocation of small wireless facilities or the installation,
modification, or replacement of utility poles used to support
the collocation of small wireless facilities.

~~(i) A wireless provider shall, in relation to a small~~
~~wireless facility, utility pole, or wireless support structure~~
~~in the public rights-of-way, comply with nondiscriminatory~~



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~~undergrounding requirements of an authority that prohibit above-ground structures in public rights-of-way. Any such requirements may be waived by the authority.~~

(8)(a) Any person aggrieved by a violation of this section may bring a civil action in a United States District Court or in any other court of competent jurisdiction.

(b) The court may:

1. Grant temporary or permanent injunctions on terms as it may deem reasonable to prevent or restrain violations of this section; and

2. Direct the recovery of full costs, including awarding reasonable attorney fees, to the party who prevails.

Section 3. This act shall take effect July 1, 2019.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to communications services; amending
s. 202.20, F.S.; conforming a cross-reference;
amending s. 337.401, F.S.; revising legislative
intent; specifying limitations and prohibitions on
municipalities and counties relating to registrations
and renewals of communications services providers;
authorizing municipalities and counties to require
certain information as part of a permit application
and to request certain updates from providers;
prohibiting municipalities and counties from requiring



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a payment of fees, costs, or charges for provider registration or renewal; prohibiting municipalities and counties from adopting or enforcing certain ordinances, regulations, or requirements; specifying limitations on municipal and county authority to regulate and manage municipal and county roads or rights-of-way; prohibiting certain municipalities and counties from electing to impose permit fees; providing retroactive applicability; authorizing certain municipalities and counties to continue to require and collect such fees; deleting obsolete provisions; specifying activities for which permit fees may not be imposed; deleting certain provisions relating to municipality, charter county, and noncharter county elections to impose, or not to impose, permit fees; requiring that enforcement of certain ordinances must be suspended until certain conditions are met; revising legislative intent relating to the imposition of certain fees, costs, and exactions on providers; specifying a condition for certain in-kind compensation; specifying prohibited acts by municipalities and counties in the use of their authority over the placement of facilities for certain purposes; authorizing municipalities and counties to require a right-of-way permit for certain purposes; providing requirements for processing certain permit applications; prohibiting municipalities and counties from certain actions relating to certain aerial or underground



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997 communications facilities; specifying limitations and
998 requirements for certain municipal and county rules
999 and regulations; revising definitions under the
1000 Advanced Wireless Infrastructure Deployment Act;
1001 prohibiting certain actions by an authority relating
1002 to certain utility poles; prohibiting authorities from
1003 requiring permit applicants to provide certain
1004 information, except under certain circumstances;
1005 adding prohibited acts by authorities relating to
1006 small wireless facilities, application requirements,
1007 public notification and public meetings, and the
1008 placement of certain facilities; revising
1009 applicability of authority rules and regulations
1010 governing the placement of utility poles in the public
1011 rights-of-way; providing construction relating to
1012 judicial review of certain application denials; adding
1013 grounds for an authority's denial of a proposed
1014 collocation of a small wireless facility in the public
1015 rights-of-way; deleting an authority's authorization
1016 to adopt ordinances for performance bonds and security
1017 funds; authorizing an authority to require a
1018 construction bond, subject to certain conditions;
1019 requiring authorities to accept certain financial
1020 instruments for certain financial obligations;
1021 authorizing providers to add authorities to certain
1022 financial instruments; prohibiting an authority from
1023 requiring a provider to indemnify the authority for
1024 certain liabilities; prohibiting an authority from
1025 requiring a permit, approval, fees, charges, costs, or



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1026 exactions for certain activities; authorizing and
1027 limiting filings the authority may require relating to
1028 micro wireless facility equipment; providing an
1029 exception to a provision authorizing an authority to
1030 require a certain right-of-way permit; authorizing
1031 authorities to require wireless providers to comply
1032 with certain objective design standards adopted by
1033 ordinance; authorizing the authority to waive such
1034 design standards under certain circumstances;
1035 providing a requirement for the waiver; revising an
1036 authority's authorization to apply certain ordinances
1037 to applications filed before a certain timeframe;
1038 prohibiting authorities from certain actions relating
1039 to registrations, applications, permits, and approvals
1040 in relation to small wireless facilities; deleting a
1041 requirement for wireless providers to comply with
1042 certain undergrounding requirements; authorizing a
1043 civil action for violations; authorizing actions a
1044 court may take; providing an effective date.

APPEARANCE RECORD

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

3/26/19
Meeting Date

1000

Bill Number (if applicable)

281892

Amendment Barcode (if applicable)

Topic Communications / Lights of Way

Name Charles Dudley

Job Title General Counsel

Address 108 S. Monroe St.

Phone 681 0024

City Tallahassee FL 32301

State

Email caddyc@flahartw.com

Speaking: ☒ For ☐ Against ☒ Information

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

Representing FL Internet + Television Assoc.

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.

APPEARANCE RECORD

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

3/26/19

Meeting Date

1000

Bill Number (if applicable)

Topic Communication ServiceName Christopher EmmanuelJob Title Policy DirectorAddress B6 S. Bravouga Phone _____

Street

LA FL 36301 Email _____

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Chamber of CommerceAppearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

SB1000

Bill Number (if applicable)

Topic Communications Services

Name Cesar Grajales

Job Title Coalitions Director

Address 200 W College Ave

Street

Tallahassee

City

FL

State

32301

Zip

Phone 786-260-9283

Email

Cgrajales@belib.org

Speaking:

☐ For

☐ Against

☐ Information

Waive Speaking:

☒ In Support

☐ Against

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

Representing

Americans For Prosperity

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☒ Yes

☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19

Meeting Date

SB1000

Bill Number (if applicable)

Topic Communication Services Taxes

Amendment Barcode (if applicable)

Name Mrs. Logan Padgett

Job Title Director of Communications and Public Affairs

Address 100 N Duval Street

Phone 850-386-3131

Street

Tallahassee

FL

32301

City

State

Zip

Email lpadgett@jamesmadison.org

Speaking: ☐ For ☐ Against

☐ Information

☒ In Support

☐ Against

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

Representing The James Madison Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

Meeting Date

3/26

Bill Number (if applicable)

SB 1000

Topic

Wireless network

Name

Doug Mannheim

Job Title

Attny / Lobbyist

Address

215 S. Monroe St.

Phone

850 519 1916

Street

City

Tallahassee

State

Zip

32301

Email dm Mannheim@broadandcasel.com

Speaking:

☒ For

☐ Against

☐ Information

Waive Speaking:

☐ In Support

☐ Against

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

Representing

Sprint

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☒ Yes

☐ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking:

☐ For

☒ Against

☐ Information

Waive Speaking:

☐ In Support

☐ Against

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

Representing

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☒ Yes

☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-26-19

Meeting Date

1000

Bill Number (if applicable)

Topic Communications Services Tax

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough

Street

Tallahassee

City

FL

State

32301

Zip

Phone 222-5052

Email kwenner@floridataxwatch.org

Speaking: ☐ For ☐ Against

☐ Information

Waive Speaking: ☐ In Support ☐ Against

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

Representing Florida TaxWatch

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

APPEARANCE RECORD

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

3/26/19

Meeting Date

1000

Bill Number (if applicable)

Topic Communication ServicesName CORY GUZZOJob Title LobbyistAddress 108 S Monroe StPhone 850-212-2117

Street

Tallahassee32301FL

City

State

Zip

Email Cory@flapartners.comSpeaking: ☐ For ☐ Against☐ InformationWaive Speaking: ☒ In Support ☐ Against

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

Representing Associated Industries of FloridaAppearing 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.

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S-001 (10/14/14)

APPEARANCE RECORD

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

3/26/2019

Meeting Date

1000

Bill Number (if applicable)Topic Communications Services TaxesAmendment Barcode (if applicable)Name Christie PontisJob Title Director of Government AffairsAddress 315 S. Calhoun Street, Suite 500Phone 850-599-1073StreetTallahasseeFL32309CityStateZipEmail Christie.A.Pontis@centurylink.comSpeaking: ☐ For ☐ Against☐ Information☒ In Support☐ AgainstWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing CenturyLinkAppearing 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.**

APPEARANCE RECORD

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

3/26/19

Meeting Date

SB 1000

Bill Number (if applicable)Topic Communications ServicesName Laura LenhartJob Title Manager, Government & Regulatory AffairsAddress 610 E. Zack St.Phone 9042078352StreetCity TampaState FLZip 33602City State ZipEmail laura.lenhart@ftr.comSpeaking:☐ For☐ Against☐ Information☐ Information☒ In Support☐ Against☒ In Support☐ Against

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

Representing Frontier CommunicationsAppearing 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.

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APPEARANCE RECORD

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

3/26/19

Meeting Date

SB1000

Bill Number (if applicable)

Topic COMMUNICATIONS SERVICES

Name ROBERT REDMOND

Job Title TECHNICIAN

Address 1811 IRONWOOD CT W
Street

Phone

City OLDSMAR

Zip 34677

State FL

Email

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

Representing SELF

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.

APPEARANCE RECORD

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

9/26/2016
Meeting DateSB1000
Bill Number (if applicable)Topic Communications Services
Name Jason
Job Title Construction
Address 18375 Chase Way Phone _____
Trinity City FL State 33616 Zip _____
Email _____Speaking: ☐ For ☐ Against ☐ Information ☐ Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)Representing SelfAppearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/2019
Meeting Date

Topic	COMMUNICATIONS	Bill Number	CS/SB 1000	(if applicable)
Name	TRACY HATCH	Amendment Barcode		(if applicable)
Job Title	SENIOR LEGAL COUNSEL			
Address	150 S. MONROE SUITE 400	Phone	850-597-5505	
	TALLAHASSEE FL 32301	E-mail	th9467@aatt.com	
	City State Zip			
Speaking:	<input checked="" type="checkbox"/> For	<input type="checkbox"/> Against	<input type="checkbox"/> Information	
Representing	ATT			
Appearing at request of Chair:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Lobbyist registered with Legislature:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

SB 1000

Bill Number (if applicable)

Topic

Name

BARRY COLLINS

Job Title

TECHNICIAN

Address

16003 DAWNVIEW DR

Phone

Street

Tampa

33624

Email

City

State

Zip

Speaking:

☐ For

☒ Against

☐ Information

Waive Speaking:

☐ In Support

☒ Against

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

Representing

SELF

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☐ Yes

☒ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

03/26/2014

Meeting Date

SB 1000

Bill Number (if applicable)

Topic TELECOMM INFRASTRUCTUREName MICHAEL BEEDIEJob Title CITY MANAGERAddress 107 MARQUE STREET PENNA SU, ~~FOUR GREENS~~

Street

Phone (850) 461-2607FVB

City

FL

State

32548

Zip

Email MBEEDIE@FVB.ORGSpeaking: ☐ For☒ Against

Information

☐ In Support☐ AgainstWaive Speaking:
 (The Chair will read this information into the record.)Representing CITY OF FORT WASHINGTON BEREAAppearing 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.

APPEARANCE RECORD

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

3/26/19
Meeting Date1000

Bill Number (if applicable)

Topic COMMUNICATION SERVICESName DOMINICK MONTANAROJob Title COUNCILMANAddress 565 CASSIA BLVD
StreetPhone 321-501-4346City SATELLITE BEACH State Zip
CityEmail DMONTANARO@SATELLITEBEACH.ORGSpeaking: ☐ For ☐ Against☐ InformationWaive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)Representing SATELLITE BEACHAppearing 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19
Meeting Date

1000
Bill Number (if applicable)

Topic Communications Services

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 850-701-3621

Street

Tallahassee

City

FL

State

32302

Zip

Email ahughes@grahffiles.com

Speaking: ☐ For ☒ Against

☐ Information

Waive Speaking: ☐ In Support ☐ Against

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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)

Meeting Date
2/26/14

Bill Number (if applicable)
1000

Topic
Communication Services

Name
Corinne Nixon

Job Title
Lobbyist

Address
511 N. Adams

Phone
766-5795

City
Tallahassee

State
FL

Zip
32301

Email
Corinnemixon@gmail.com

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

Representing
T-Mobile

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

1000

Bill Number (if applicable)

Topic CST PRESENTATION SMALL COL

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

33128

Email JMM2@MIAMIDADE.GOV

City

State

Zip

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)

APPEARANCE RECORD

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

March 26, 2019

1000

Meeting DateBill Number (if applicable)Topic Communications Services TaxAmendment Barcode (if applicable)Name Sal NuzzoJob Title Vice President of PolicyAddress 100 N Duval StreetPhone 850-322-9941StreetTallahasseeFL32301CityStateZipSpeaking: ☒ For☐ Against☐ InformationWaive Speaking: ☐ In Support☐ Against
(The Chair will read this information into the record.)Representing The James Madison InstituteAppearing 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.

APPEARANCE RECORD

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

3-26-19

Meeting Date

1000

Bill Number (if applicable)

281892

Topic Communications Services TaxAmendment Barcode (if applicable)Name Kurt WennerJob Title Vice PresidentAddress 106 N. BronoughPhone 222-5052Street

Tallahassee

FL

32301

CityStateZipEmail kwenner@floridatxwatch.orgSpeaking: ☐ For☐ Against☐ InformationWaive Speaking: ☐ In Support☐ Against

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

Representing Florida TaxWatchAppearing 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.

By the Committee on Innovation, Industry, and Technology; and
Senator Hutson

580-02954-19

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1 A bill to be entitled
2 An act relating to communications services; amending
3 s. 202.12, F.S.; reducing the rates of certain
4 communications services taxes; amending s. 202.20,
5 F.S.; conforming a cross-reference; amending s.
6 337.401, F.S.; revising legislative intent; specifying
7 limitations and prohibitions on municipalities and
8 counties relating to registrations and renewals of
9 communications services providers; authorizing
10 municipalities and counties to require certain
11 information as part of a permit application;
12 prohibiting municipalities and counties from requiring
13 a payment of fees, costs, or charges for provider
14 registration or renewal; prohibiting municipalities
15 and counties from adopting or enforcing certain
16 ordinances, regulations, or requirements; specifying
17 limitations on municipal and county authority to
18 regulate and manage municipal and county roads or
19 rights-of-way; prohibiting certain municipalities and
20 counties from electing to impose permit fees;
21 providing retroactive applicability; authorizing
22 certain municipalities and counties to continue to
23 require and collect such fees; deleting obsolete
24 provisions; specifying activities for which permit
25 fees may not be imposed; deleting certain provisions
26 relating to municipality, charter county, and
27 noncharter county elections to impose, or not to
28 impose, permit fees; requiring that enforcement of
29 certain ordinances must be suspended until certain

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

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30 conditions are met; revising legislative intent
31 relating to the imposition of certain fees, costs, and
32 exactions on providers; specifying a condition for
33 certain in-kind compensation; specifying prohibited
34 acts by municipalities and counties in the use of
35 their authority over the placement of facilities for
36 certain purposes; authorizing municipalities and
37 counties to require a right-of-way permit for certain
38 purposes; providing requirements for processing
39 certain permit applications; prohibiting
40 municipalities and counties from certain actions
41 relating to certain aerial or underground
42 communications facilities; specifying limitations and
43 requirements for certain municipal and county rules
44 and regulations; revising definitions under the
45 Advanced Wireless Infrastructure Deployment Act;
46 prohibiting certain actions by an authority relating
47 to certain utility poles; prohibiting authorities from
48 requiring permit applicants to provide certain
49 information, except under certain circumstances;
50 adding prohibited acts by authorities relating to
51 small wireless facilities, application requirements,
52 public notification and public meetings, and the
53 placement of certain facilities; revising
54 applicability of authority rules and regulations
55 governing the placement of utility poles in the public
56 rights-of-way; providing construction relating to
57 judicial review of certain application denials; adding
58 grounds for an authority's denial of a proposed

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

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59 collocation of a small wireless facility in the public
 60 rights-of-way; deleting an authority's authorization
 61 to adopt ordinances for performance bonds and security
 62 funds; authorizing an authority to require a
 63 construction bond, subject to certain conditions;
 64 requiring authorities to accept certain financial
 65 instruments for certain financial obligations;
 66 authorizing providers to add authorities to certain
 67 financial instruments; prohibiting an authority from
 68 requiring a provider to indemnify the authority for
 69 certain liabilities; prohibiting an authority from
 70 requiring a permit, approval, fees, charges, costs, or
 71 exactions for certain activities; authorizing and
 72 limiting filings the authority may require relating to
 73 micro wireless facility equipment; providing an
 74 exception to a provision authorizing an authority to
 75 require a certain right-of-way permit; authorizing
 76 authorities to require wireless providers to comply
 77 with certain objective design standards adopted by
 78 ordinance; authorizing the authority to waive such
 79 design standards under certain circumstances;
 80 providing a requirement for the waiver; revising an
 81 authority's authorization to apply certain ordinances
 82 to applications filed before a certain timeframe;
 83 prohibiting authorities from certain actions relating
 84 to registrations, applications, permits, and approvals
 85 in relation to small wireless facilities; deleting a
 86 requirement for wireless providers to comply with
 87 certain undergrounding requirements; authorizing a

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88 civil action for violations; authorizing actions a
 89 court may take; providing applicability; providing an
 90 effective date.
 91

92 Be It Enacted by the Legislature of the State of Florida:
 93

94 Section 1. Paragraphs (a) and (b) of subsection (1) of
 95 section 202.12, Florida Statutes, are amended to read:

96 202.12 Sales of communications services.—The Legislature
 97 finds that every person who engages in the business of selling
 98 communications services at retail in this state is exercising a
 99 taxable privilege. It is the intent of the Legislature that the
 100 tax imposed by chapter 203 be administered as provided in this
 101 chapter.

102 (1) For the exercise of such privilege, a tax is levied on
 103 each taxable transaction and is due and payable as follows:

104 (a) Except as otherwise provided in this subsection, at the
 105 rate of 3.92 ~~4.92~~ percent applied to the sales price of the
 106 communications service that:

107 1. Originates and terminates in this state, or

108 2. Originates or terminates in this state and is charged to
 109 a service address in this state,
 110

111 when sold at retail, computed on each taxable sale for the
 112 purpose of remitting the tax due. The gross receipts tax imposed
 113 by chapter 203 shall be collected on the same taxable
 114 transactions and remitted with the tax imposed by this
 115 paragraph. If no tax is imposed by this paragraph due to the
 116 exemption provided under s. 202.125(1), the tax imposed by

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chapter 203 shall nevertheless be collected and remitted in the manner and at the time prescribed for tax collections and remittances under this chapter.

(b) At the rate of ~~8.07~~ 9.07 percent applied to the retail sales price of any direct-to-home satellite service received in this state. The proceeds of the tax imposed under this paragraph shall be accounted for and distributed in accordance with s. 202.18(2). The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

Section 2. Paragraph (b) of subsection (2) of section 202.20, Florida Statutes, is amended to read:

202.20 Local communications services tax conversion rates.—

(2)

(b) Except as otherwise provided in this subsection, "replaced revenue sources," as used in this section, means the following taxes, charges, fees, or other impositions to the extent that the respective local taxing jurisdictions were authorized to impose them prior to July 1, 2000.

1. With respect to municipalities and charter counties and the taxes authorized by s. 202.19(1):

a. The public service tax on telecommunications authorized by former s. 166.231(9).

b. Franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

c. The public service tax on prepaid calling arrangements.

d. Franchise fees on dealers of communications services which use the public roads or rights-of-way, up to the limit set forth in s. 337.401. For purposes of calculating rates under

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this section, it is the legislative intent that charter counties be treated as having had the same authority as municipalities to impose franchise fees on recurring local telecommunication service revenues prior to July 1, 2000. However, the Legislature recognizes that the authority of charter counties to impose such fees is in dispute, and the treatment provided in this section is not an expression of legislative intent that charter counties actually do or do not possess such authority.

e. Actual permit fees relating to placing or maintaining facilities in or on public roads or rights-of-way, collected from providers of long-distance, cable, and mobile communications services for the fiscal year ending September 30, 1999; however, if a municipality or charter county elects the option to charge permit fees pursuant to s. 337.401(3)(c) ~~337.401(3)(e)1.a.~~, such fees shall not be included as a replaced revenue source.

2. With respect to all other counties and the taxes authorized in s. 202.19(1), franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

Section 3. Subsection (3), paragraphs (e) and (f) of subsection (6), and paragraphs (b), (c), (d), (e), (f), (g), and (i) of subsection (7) of section 337.401, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(3)(a) Because of the unique circumstances applicable to providers of communications services, including, but not limited to, the circumstances described in paragraph (e) and the fact that federal and state law require the nondiscriminatory

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175 treatment of providers of telecommunications services, and
 176 because of the desire to promote competition among providers of
 177 communications services, it is the intent of the Legislature
 178 that municipalities and counties treat providers of
 179 communications services in a nondiscriminatory and competitively
 180 neutral manner, taking into account the distinct engineering,
 181 construction, operation, maintenance, public works, and safety
 182 requirements of the provider's facilities, when imposing rules
 183 or regulations governing the placement or maintenance of
 184 communications facilities in the public roads or rights-of-way.
 185 Rules or regulations imposed by a municipality or county
 186 relating to providers of communications services placing or
 187 maintaining communications facilities in its roads or rights-of-
 188 way must be generally applicable to all providers of
 189 communications services and, notwithstanding any other law, may
 190 not require a provider of communications services to apply for
 191 or enter into an individual license, franchise, or other
 192 agreement with the municipality or county as a condition of
 193 placing or maintaining communications facilities in its roads or
 194 rights-of-way. In addition to other reasonable rules or
 195 regulations that a municipality or county may adopt relating to
 196 the placement or maintenance of communications facilities in its
 197 roads or rights-of-way under this subsection or subsection (7),
 198 a municipality or county may require a provider of
 199 communications services that places or seeks to place facilities
 200 in its roads or rights-of-way to register with the municipality
 201 or county. To register, a provider of communications services
 202 only may be required to provide its name and to provide the name
 203 of the registrant; the name, address, and telephone number of a

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204 contact person for the registrant; the number of the
 205 registrant's current certificate of authorization issued by the
 206 Florida Public Service Commission, the Federal Communications
 207 Commission, or the Department of State; and any required proof
 208 of insurance or self-insuring status adequate to defend and
 209 cover claims. A municipality or county may not require the
 210 provision of an inventory of communications facilities, maps,
 211 locations of such facilities, or other information by a
 212 registrant as a condition of registration, renewal, or for any
 213 other purpose; provided, however, that a municipality or county
 214 may require as part of a permit application that the applicant
 215 identify at-grade communications facilities within 25 feet of
 216 the proposed installation location for the placement of at-grade
 217 communications facilities. A municipality or county may not
 218 require registration renewal more frequently than every 5 years.
 219 A municipality or county may not require a provider to pay any
 220 fee, cost, or other charge for registration or renewal thereof.
 221 It is the intent of the Legislature that the placement,
 222 operation, maintenance, upgrading, and extension of
 223 communications facilities not be unreasonably interrupted or
 224 delayed through the permitting or other local regulatory
 225 process. Except as provided in this chapter or otherwise
 226 expressly authorized by chapter 202, chapter 364, or chapter
 227 610, a municipality or county may not adopt or enforce any
 228 ordinance, regulation, or requirement as to the placement or
 229 operation of communications facilities in a right-of-way by a
 230 communications services provider authorized by state or local
 231 law to operate in a right-of-way; regulate any communications
 232 services; or impose or collect any tax, fee, cost, charge, or

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233 exaction for the provision of communications services over the
 234 communications services provider's communications facilities in
 235 a right-of-way.

236 (b) Registration described in paragraph (a) does not
 237 establish a right to place or maintain, or priority for the
 238 placement or maintenance of, a communications facility in roads
 239 or rights-of-way of a municipality or county. Each municipality
 240 and county retains the authority to regulate and manage
 241 municipal and county roads or rights-of-way in exercising its
 242 police power, subject to the limitations imposed in this section
 243 and chapters 202 and 610. Any rules or regulations adopted by a
 244 municipality or county which govern the occupation of its roads
 245 or rights-of-way by providers of communications services must be
 246 related to the placement or maintenance of facilities in such
 247 roads or rights-of-way, must be reasonable and
 248 nondiscriminatory, and may include only those matters necessary
 249 to manage the roads or rights-of-way of the municipality or
 250 county.

251 (c) Any municipality or county that, as of January 1, 2019,
 252 elected to require permit fees from any provider of
 253 communications services that uses or occupy municipal or county
 254 road or rights-of-way pursuant to former paragraph (c) or
 255 paragraph (j), Florida Statutes 2018, may continue to require
 256 and collect such fees. A municipality or county that elected as
 257 of such date to require permit fees may elect to forego such
 258 fees as provided herein. A municipality or county that elected
 259 as of such date not to require permit fees may not elect to
 260 impose permit fees.

261 ~~1. It is the intention of the state to treat all providers~~

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262 ~~of communications services that use or occupy municipal or~~
 263 ~~charter county roads or rights-of-way for the provision of~~
 264 ~~communications services in a nondiscriminatory and competitively~~
 265 ~~neutral manner with respect to the payment of permit fees.~~
 266 ~~Certain providers of communications services have been granted~~
 267 ~~by general law the authority to offset permit fees against~~
 268 ~~franchise or other fees while other providers of communications~~
 269 ~~services have not been granted this authority. In order to treat~~
 270 ~~all providers of communications services in a nondiscriminatory~~
 271 ~~and competitively neutral manner with respect to the payment of~~
 272 ~~permit fees, each municipality and charter county shall make an~~
 273 ~~election under either sub-subparagraph a. or sub-subparagraph b.~~
 274 ~~and must inform the Department of Revenue of the election by~~
 275 ~~certified mail by July 16, 2001. Such election shall take effect~~
 276 ~~October 1, 2001.~~

277 ~~a. (I) The municipality or charter county may require and~~
 278 ~~collect permit fees from any providers of communications~~
 279 ~~services that use or occupy municipal or county roads or rights-~~
 280 ~~of-way. All fees authorized permitted under this paragraph sub-~~
 281 ~~subparagraph must be reasonable and commensurate with the direct~~
 282 ~~and actual cost of the regulatory activity, including issuing~~
 283 ~~and processing permits, plan reviews, physical inspection, and~~
 284 ~~direct administrative costs; must be demonstrable; and must be~~
 285 ~~equitable among users of the roads or rights-of-way. A fee~~
 286 ~~authorized permitted under this paragraph sub-subparagraph may~~
 287 ~~not be offset against the tax imposed under chapter 202;~~
 288 ~~include the costs of roads or rights-of-way acquisition or roads~~
 289 ~~or rights-of-way rental; include any general administrative,~~
 290 ~~management, or maintenance costs of the roads or rights-of-way;~~

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or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~, the prevailing party may recover court costs and attorney ~~attorney's~~ fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a municipality or charter county under this paragraph ~~sub-subparagraph~~ may not exceed \$100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5) ~~s. 556.108(5)(a)2.~~ or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way, including, but not limited to, any emergency repairs of existing lawfully placed facilities, extensions of such facilities for providing communications services to customers, and the placement of micro wireless facilities in accordance with subparagraph (7)(e)3.

~~(II) To ensure competitive neutrality among providers of communications services, for any municipality or charter county that elects to exercise its authority to require and collect permit fees under this sub-subparagraph, the rate of the local communications services tax imposed by such jurisdiction, as computed under s. 202.20, shall automatically be reduced by a rate of 0.12 percent.~~

~~b. Alternatively, the municipality or charter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal or charter county roads or rights-of-way for the provision of~~

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~~communications services; however, each municipality or charter county that elects to operate under this sub-subparagraph retains all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights of way as provided in this section.~~

1. If a municipality or charter county elects to ~~not~~ require permit fees ~~operate under this sub-subparagraph~~, the total rate for the local communications services tax as computed under s. 202.20 for that municipality or charter county may be increased by ordinance or resolution by an amount not to exceed a rate of 0.12 percent. ~~If a municipality or charter county elects to increase its rate effective October 1, 2001, the municipality or charter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.~~

~~c. A municipality or charter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.~~

2. Each noncharter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and shall inform the Department of Revenue of the election by certified mail by July 16, 2001. Such election shall take effect October 1, 2001.

a. The noncharter county may elect to require and collect permit fees from any providers of communications services that use or occupy noncharter county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory

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activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs, must be demonstrable, and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not be effect against the tax imposed under chapter 202, include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental, include any general administrative, management, or maintenance costs of the roads or rights-of-way, or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a noncharter county under this sub-subparagraph may not exceed \$100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(a)2. or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

b. Alternatively, the noncharter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies noncharter county roads or rights-of-way for the provision of communications services; however, each noncharter county that elects to operate under this sub-subparagraph shall retain all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in

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~~this section.~~

2. If a noncharter county elects to not require permit fees operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20 for that noncharter county may be increased by ordinance or resolution by an amount not to exceed a rate of 0.24 percent, to replace the revenue the noncharter county would otherwise have received from permit fees for providers of communications services. If a noncharter county elects to increase its rate effective October 1, 2001, the noncharter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.

c. A noncharter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

3. Except as provided in this paragraph, municipalities and counties retain all existing authority to require and collect permit fees from users or occupants of municipal or county roads or rights-of-way and to set appropriate permit fee amounts.

(d) After January 1, 2001, In addition to any other notice requirements, a municipality must provide to the Secretary of State, at least 10 days prior to consideration on first reading, notice of a proposed ordinance governing a telecommunications company placing or maintaining telecommunications facilities in its roads or rights-of-way. After January 1, 2001, In addition to any other notice requirements, a county must provide to the Secretary of State, at least 15 days prior to consideration at a public hearing, notice of a proposed ordinance governing a telecommunications company placing or maintaining

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telecommunications facilities in its roads or rights-of-way. The notice required by this paragraph must be published by the Secretary of State on a designated Internet website. The failure of a municipality or county to provide such notice does not render the ordinance invalid, provided that enforcement of such ordinance must be suspended until the municipality or county provides the required notice and duly considers amendments from affected persons.

(e) The authority of municipalities and counties to require franchise fees from providers of communications services, with respect to the provision of communications services, is specifically preempted by the state because of unique circumstances applicable to providers of communications services when compared to other utilities occupying municipal or county roads or rights-of-way. Providers of communications services may provide similar services in a manner that requires the placement of facilities in municipal or county roads or rights-of-way or in a manner that does not require the placement of facilities in such roads or rights-of-way. Although similar communications services may be provided by different means, the state desires to treat providers of communications services in a nondiscriminatory manner and to have the taxes, franchise fees, and other fees, costs, and financial or regulatory exactions paid by or imposed on providers of communications services be competitively neutral. Municipalities and counties retain all existing authority, if any, to collect franchise fees from users or occupants of municipal or county roads or rights-of-way other than providers of communications services, and the provisions of this subsection shall have no effect upon this authority. The

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provisions of this subsection do not restrict the authority, if any, of municipalities or counties or other governmental entities to receive reasonable rental fees based on fair market value for the use of public lands and buildings on property outside the public roads or rights-of-way for the placement of communications antennas and towers.

(f) Except as expressly allowed or authorized by general law and except for the rights-of-way permit fees subject to paragraph (c), a municipality or county may not levy on a provider of communications services a tax, fee, or other charge or imposition for operating as a provider of communications services within the jurisdiction of the municipality or county which is in any way related to using its roads or rights-of-way. A municipality or county may not require or solicit in-kind compensation, except as otherwise provided in s. 202.24(2)(c)8. or s. 610.109, provided that the in-kind compensation is not a franchise fee under federal law. Nothing in this paragraph shall impair any ordinance or agreement in effect on May 22, 1998, or any voluntary agreement entered into subsequent to that date, which provides for or allows in-kind compensation by a telecommunications company.

(g) A municipality or county may not use its authority over the placement of facilities in its roads and rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission, including, but not limited to, the operations, systems, equipment, technology, qualifications, services, service quality, service territory,

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and prices of a provider of communications services. A municipality or county may not require any permit for the installation, placement, maintenance, or replacement of aerial wireline communications facilities on or between existing utility poles by a communications services provider; provided, however, that a municipality or county may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane, unless the provider is making emergency restoration or repair work to existing lawfully placed facilities. Any permit application required by an authority under this section for the placement of communications facilities must be processed and acted upon consistent with the timeframes provided in subparagraphs (7)(d)7.-9. In addition, a municipality or county may not require any permit or other approval, fee, charge, or cost, or other exaction for the extension, routine maintenance and repair, or replacement and upgrade of existing aerial or underground communications facilities located on private property outside of the public rights-of-way.

(h) A provider of communications services that has obtained permission to occupy the roads or rights-of-way of an incorporated municipality pursuant to s. 362.01 or that is otherwise lawfully occupying the roads or rights-of-way of a municipality or county shall not be required to obtain consent to continue such lawful occupation of those roads or rights-of-way; however, nothing in this paragraph shall be interpreted to limit the power of a municipality or county to adopt or enforce reasonable rules or regulations as provided in this section and consistent with chapters 202, 364, and 610. Any such rules or

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regulations must be in writing, and providers of communications services in the municipality or county must be given at least 60 days advance written notice of any changes to the rules and regulations.

(i) Except as expressly provided in this section, this section does not modify the authority of municipalities and counties to levy the tax authorized in chapter 202 or the duties of providers of communications services under ss. 337.402-337.404. This section does not apply to building permits, pole attachments, or private roads, private easements, and private rights-of-way.

(j) Pursuant to this paragraph, any county or municipality may by ordinance change either its election made on or before July 16, 2001, under paragraph (c) or an election made under this paragraph.

1.a. If a municipality or charter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the sum of 0.12 percent plus the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)1.b.

b. If a municipality or charter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.

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2.a. If a noncharter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)2.b.

b. If a noncharter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.

3.a. Any change of election pursuant to this paragraph and any tax rate change resulting from such change of election shall be subject to the notice requirements of s. 202.21; however, no such change of election shall become effective prior to January 1, 2003.

b. Any county or municipality changing its election under this paragraph in order to exercise its authority to require and collect permit fees shall, in addition to complying with the notice requirements under s. 202.21, provide to all dealers providing communications services in such jurisdiction written notice of such change of election by September 1 immediately preceding the January 1 on which such change of election becomes effective. For purposes of this sub-subparagraph, dealers providing communications services in such jurisdiction shall include every dealer reporting tax to such jurisdiction pursuant to s. 202.37 on the return required under s. 202.27 to be filed

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on or before the 20th day of May immediately preceding the January 1 on which such change of election becomes effective.

(~~k~~) Notwithstanding the provisions of s. 202.19, when a local communications services tax rate is changed as a result of an election made or changed under this subsection, such rate may ~~shall~~ not be rounded to tenths.

(6)

(e) This subsection does not alter any provision of this section or s. 202.24 relating to taxes, fees, or other charges or impositions by a municipality or county on a dealer of communications services or authorize that any charges be assessed on a dealer of communications services, except as specifically set forth herein. A municipality or county may not charge a pass-through provider any amounts other than the charges under this subsection as a condition to the placement or maintenance of a communications facility in the roads or rights-of-way of a municipality or county by a pass-through provider, except that a municipality or county may impose permit fees on a pass-through provider consistent with paragraph (3)(c) ~~if the municipality or county elects to exercise its authority to collect permit fees under paragraph (3)(c).~~

(f) The charges under this subsection do not apply to communications facilities placed in a municipality's or county's rights-of-way prior to the effective date of this subsection with permission from the municipality or county, if any was required, except to the extent the facilities of a pass-through provider were subject to per linear foot or mile charges in effect as of October 1, 2001, in which case the municipality or county may only impose on a pass-through provider charges

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consistent with paragraph (b) or paragraph (c) for such facilities. Notwithstanding the foregoing, this subsection does not impair any written agreement between a pass-through provider and a municipality or county imposing per linear foot or mile charges for communications facilities placed in municipal or county roads or rights-of-way that is in effect prior to the effective date of this subsection. Upon the termination or expiration of any such written agreement, any charges imposed must ~~shall~~ be consistent with this section ~~paragraph (b) or paragraph (c)~~. Notwithstanding the foregoing, until October 1, 2005, this subsection shall not affect a municipality or county continuing to impose charges in excess of the charges authorized in this subsection on facilities of a pass through provider that is not a dealer of communications services in the state under chapter 202, but only to the extent such charges were imposed by ~~municipal or county ordinance or resolution adopted prior to February 1, 2002. Effective October 1, 2005, any charges imposed shall be consistent with paragraph (b) or paragraph (c).~~

(7)

(b) As used in this subsection, the term:

1. "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

2. "Applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, ~~or local codes or ordinances adopted to implement this subsection. The term includes~~

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~~objective design standards adopted by ordinance that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground mounted equipment. The term includes objective design standards adopted by ordinance that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived by the authority upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.~~

3. "Applicant" means a person who submits an application and is a wireless provider.

4. "Application" means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities or to place a new utility pole used to support a small wireless facility.

5. "Authority" means a county or municipality having jurisdiction and control of the rights-of-way of any public road. The term does not include the Department of Transportation. Rights-of-way under the jurisdiction and control of the department are excluded from this subsection.

6. "Authority utility pole" means a utility pole owned by an authority in the right-of-way. The term does not include a utility pole owned by a municipal electric utility, a utility pole used to support municipally owned or operated electric distribution facilities, or a utility pole located in the right-

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639 of-way within:

640 a. A retirement community that:

641 (I) Is deed restricted as housing for older persons as
642 defined in s. 760.29(4)(b);

643 (II) Has more than 5,000 residents; and

644 (III) Has underground utilities for electric transmission
645 or distribution.

646 b. A municipality that:

647 (I) Is located on a coastal barrier island as defined in s.
648 161.053(1)(b)3.;

649 (II) Has a land area of less than 5 square miles;

650 (III) Has less than 10,000 residents; and

651 (IV) Has, before July 1, 2017, received referendum approval
652 to issue debt to finance municipal-wide undergrounding of its
653 utilities for electric transmission or distribution.

654 7. "Collocate" or "collocation" means to install, mount,
655 maintain, modify, operate, or replace one or more wireless
656 facilities on, under, within, or adjacent to a wireless support
657 structure or utility pole. The term does not include the
658 installation of a new utility pole or wireless support structure
659 in the public rights-of-way.

660 8. "FCC" means the Federal Communications Commission.

661 9. "Micro wireless facility" means a small wireless
662 facility having dimensions no larger than 24 inches in length,
663 15 inches in width, and 12 inches in height and an exterior
664 antenna, if any, no longer than 11 inches.

665 10. "Small wireless facility" means a wireless facility
666 that meets the following qualifications:

667 a. Each antenna associated with the facility is located

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668 inside an enclosure of no more than 6 cubic feet in volume or,
669 in the case of antennas that have exposed elements, each antenna
670 and all of its exposed elements could fit within an enclosure of
671 no more than 6 cubic feet in volume; and

672 b. All other wireless equipment associated with the
673 facility is cumulatively no more than 28 cubic feet in volume.
674 The following types of associated ancillary equipment are not
675 included in the calculation of equipment volume: electric
676 meters, concealment elements, telecommunications demarcation
677 boxes, ground-based enclosures, grounding equipment, power
678 transfer switches, cutoff switches, vertical cable runs for the
679 connection of power and other services, and utility poles or
680 other support structures.

681 11. "Utility pole" means a pole or similar structure that
682 is used in whole or in part to provide communications services
683 or for electric distribution, lighting, traffic control,
684 signage, or a similar function. The term includes the vertical
685 support structure for traffic lights but does not include a
686 horizontal structure to which signal lights or other traffic
687 control devices are attached and does not include a pole or
688 similar structure 15 feet in height or less unless an authority
689 grants a waiver for such pole.

690 12. "Wireless facility" means equipment at a fixed location
691 which enables wireless communications between user equipment and
692 a communications network, including radio transceivers,
693 antennas, wires, coaxial or fiber-optic cable or other cables,
694 regular and backup power supplies, and comparable equipment,
695 regardless of technological configuration, and equipment
696 associated with wireless communications. The term includes small

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wireless facilities. The term does not include:

- a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
- b. Wireline backhaul facilities; or
- c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

13. "Wireless infrastructure provider" means a person who has been certificated under chapter 364 to provide telecommunications service in the state or under chapter 610 to provide cable or video services in this state, or that person's affiliate, and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

14. "Wireless provider" means a wireless infrastructure provider or a wireless services provider.

15. "Wireless services" means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

16. "Wireless services provider" means a person who provides wireless services.

17. "Wireless support structure" means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole, pedestal, or other support structure for ground-based equipment not mounted on a utility pole and less than 10 feet in height.

(c) Except as provided in this subsection, an authority may

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not prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way or for the installation, maintenance, modification, operation, or replacement of utility poles used for the collocation of small wireless facilities in the public rights-of-way.

(d) An authority may require a registration process and permit fees in accordance with subsection (3). An authority shall accept applications for permits and shall process and issue permits subject to the following requirements:

1. An authority may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority.

2. An applicant may not be required to provide more information to obtain a permit than is necessary to demonstrate the applicant's compliance with applicable codes for the placement of small wireless facilities in the locations identified in the application. An applicant may not be required to provide inventories, maps, or locations of communications facilities in the right-of-way other than as necessary to avoid interference with other at-grade facilities located at the specific location proposed for a small wireless facility or within 25 feet of such location.

3. An authority may not:

a. Require the placement of small wireless facilities on any specific utility pole or category of poles; ~~or~~

b. Require the placement of multiple antenna systems on a single utility pole;

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c. Require a demonstration that collocation of a small wireless facility on an existing structure is not legally or technically possible as a condition for granting a permit for the collocation of a small wireless facility on a new utility pole;

d. Require compliance with an authority's provisions regarding placement of small wireless facilities or a new utility pole used to support a small wireless facility in rights-of-way not under the control of the authority pursuant to a delegation from the department, or require such compliance as a condition to receive a permit that is ancillary to the permit for collocation of a small wireless facility, including an electrical permit;

e. Require a meeting before filing an application;

f. Require direct or indirect public notification or a public meeting for the placement of communication facilities in the right-of-way;

g. Limit the size or configuration of a small wireless facility or any of its components, if the small wireless facility complies with the size limits in this subsection;

h. Prohibit the installation of a new utility pole used to support the collocation of a small wireless facility if the installation otherwise meets the requirements of this subsection;

i. Require that any component of a small wireless facility be placed underground; or

j. Require that any existing communication facility be placed underground, except as provided in ss. 337.403 and 337.404.

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4. Subject to sub-subparagraph (f)6.b., an authority may not limit the placement, by minimum separation distances, of small wireless facilities, utility poles on which small wireless facilities are or will be collocated, or other at-grade communications facilities by minimum separation distances.

However, within 14 days after the date of filing the application, an authority may request that the proposed location of a small wireless facility be moved to another location in the right-of-way and placed on an alternative authority utility pole or support structure or placed on ~~may place~~ a new utility pole. The authority and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the authority of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the authority of such nonagreement and the authority must grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

5. An authority shall limit the height of a small wireless facility to 10 feet above the utility pole or structure upon which the small wireless facility is to be collocated. Unless waived by an authority, the height for a new utility pole is

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limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the authority shall limit the height of the utility pole to 50 feet.

6. ~~Except as provided in subparagraphs 4. and 5.,~~ The installation by a communications services provider of a utility pole in the public rights-of-way, other than a utility pole used designed to support a small wireless facility, ~~is shall be~~ subject to authority rules or regulations governing the placement of utility poles in the public rights-of-way and is ~~shall be~~ subject to the application review timeframes in this subsection.

7. Within 14 days after receiving an application, an authority must determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the authority must specifically identify the missing information. An application is deemed complete if the authority fails to provide notification to the applicant within 14 days.

8. An application must be processed on a nondiscriminatory basis. A complete application is deemed approved if an authority fails to approve or deny the application within 60 days after receipt of the application. If an authority does not use the 30-day negotiation period provided in subparagraph 4., the parties may mutually agree to extend the 60-day application review period. The authority shall grant or deny the application at the

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end of the extended period. A permit issued pursuant to an approved application shall remain effective for 1 year unless extended by the authority.

9. An authority must notify the applicant of approval or denial by electronic mail. An authority shall approve a complete application unless it does not meet the authority's applicable codes. If the application is denied, the authority must specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the authority denies the application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days after notice of the denial is sent to the applicant. The authority shall approve or deny the revised application within 30 days after receipt or the application is deemed approved. The review of a revised application is ~~Any subsequent review shall be~~ limited to the deficiencies cited in the denial. The availability of any subsequent review by the authority does not bar review of a denial in a court of competent jurisdiction.

10. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 30 small wireless facilities. If the application includes multiple small wireless facilities, an authority may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

11. An authority may deny a proposed collocation of a small

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871 wireless facility in the public rights-of-way if the proposed
 872 collocation:

873 a. Materially interferes with the safe operation of traffic
 874 control equipment.

875 b. Materially interferes with sight lines or clear zones
 876 for transportation, pedestrians, or public safety purposes.

877 c. Materially interferes with compliance with the Americans
 878 with Disabilities Act or similar federal or state standards
 879 regarding pedestrian access or movement.

880 d. Materially fails to comply with the 2010 edition of the
 881 Florida Department of Transportation Utility Accommodation
 882 Manual.

883 e. Fails to comply with applicable codes.

884 f. Fails to comply with objective design standards
 885 authorized under subparagraph (f)6.

886 12. An authority may adopt by ordinance provisions for
 887 insurance coverage, indemnification, ~~performance bonds, security~~
 888 ~~funds~~, force majeure, abandonment, authority liability, or
 889 authority warranties. Such provisions must be reasonable and
 890 nondiscriminatory. An authority may require a construction bond
 891 to secure restoration of the postconstruction rights-of-way to
 892 its preconstruction condition. However, such bond must be time-
 893 limited to no more than 1 year after the construction to which
 894 the bond applies is completed. For any financial obligation
 895 required by an authority allowed under this section, the
 896 authority shall accept a letter of credit or similar financial
 897 instrument issued by any financial institution that is
 898 authorized to do business within the United States, provided
 899 that a claim against the financial instrument may be made by

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900 electronic means, including by facsimile. A provider of
 901 communications services may add an authority to any existing
 902 bond, insurance policy, or other relevant financial instrument,
 903 and the authority must accept such proof of coverage without any
 904 conditions. An authority may not require a communications
 905 services provider to indemnify it for liabilities not caused by
 906 the provider, including liabilities arising from the authority's
 907 negligence, gross negligence, or willful conduct.

908 13. Collocation of a small wireless facility on an
 909 authority utility pole does not provide the basis for the
 910 imposition of an ad valorem tax on the authority utility pole.

911 14. An authority may reserve space on authority utility
 912 poles for future public safety uses. However, a reservation of
 913 space may not preclude collocation of a small wireless facility.
 914 If replacement of the authority utility pole is necessary to
 915 accommodate the collocation of the small wireless facility and
 916 the future public safety use, the pole replacement is subject to
 917 make-ready provisions and the replaced pole shall accommodate
 918 the future public safety use.

919 15. A structure granted a permit and installed pursuant to
 920 this subsection shall comply with chapter 333 and federal
 921 regulations pertaining to airport airspace protections.

922 (e) An authority may not require any permit or other
 923 approval or require fees, ~~or other~~ charges, costs, or other
 924 exactions for:

925 1. Routine maintenance or repair work, including, but not
 926 limited to, emergency repairs of existing lawfully placed
 927 facilities, or extensions of such facilities, for providing
 928 communications services to customers;

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2. Replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or

3. Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202. An authority may require an initial letter from or on behalf of such provider, which is effective upon filing, attesting that the micro wireless facility dimensions comply with the limits of this subsection. The authority may not require any additional filing or other information as long as the provider is deploying the same, a substantially similar, or a smaller size micro wireless facility equipment.

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane unless the provider is making emergency restoration or repair work to existing lawfully placed facilities.

(f) Collocation of small wireless facilities on authority utility poles is subject to the following requirements:

1. An authority may not enter into an exclusive arrangement with any person for the right to attach equipment to authority utility poles.

2. The rates and fees for collocations on authority utility poles must be nondiscriminatory, regardless of the services provided by the collocating person.

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3. The rate to collocate small wireless facilities on an authority utility pole may not exceed \$150 per pole annually.

4. Agreements between authorities and wireless providers that are in effect on July 1, 2017, and that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on authority utility poles, remain in effect, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and terms established under this subsection for small wireless facilities and utility poles that are the subject of an application submitted after the rates, fees, and terms become effective.

5. A person owning or controlling an authority utility pole shall offer rates, fees, and other terms that comply with this subsection. By the later of January 1, 2018, or 3 months after receiving a request to collocate its first small wireless facility on a utility pole owned or controlled by an authority, the person owning or controlling the authority utility pole shall make available, through ordinance or otherwise, rates, fees, and terms for the collocation of small wireless facilities on the authority utility pole which comply with this subsection.

a. The rates, fees, and terms must be nondiscriminatory and competitively neutral and must comply with this subsection.

b. For an authority utility pole that supports an aerial facility used to provide communications services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to

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support the requested collocation must include pole replacement if necessary.

c. For an authority utility pole that does not support an aerial facility used to provide communications services or electric service, the authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, an authority may require the applicant seeking to collocate a small wireless facility to provide a make-ready estimate at the applicant's expense for the work necessary to support the small wireless facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a utility pole that is substantially similar in color and composition. The authority may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the authority.

d. An authority may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or

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the amount charged to communications services providers other than wireless services providers for similar work and may not include any consultant fee or expense.

6. An authority may require wireless providers to comply with objective design standards adopted by ordinance. The ordinance may require:

a. A new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color;

b. Reasonable spacing requirements concerning the location of a ground-mounted component of a small wireless facility which does not exceed 15 feet from the associated support structure;

or

c. A small wireless facility to meet reasonable location context, color, camouflage, and concealment requirements, subject to the limitations in this subsection.

Such design standards under this subparagraph may be waived by the authority upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or are technically infeasible or that the design standards impose an excessive expense. The waiver must be granted or denied within 45 days after the date of the request.

(g) For any applications filed before the effective date of ordinances implementing this subsection, an authority may apply current ordinances relating to placement of communications facilities in the right-of-way related to registration, permitting, insurance coverage, indemnification, ~~performance bonds, security funds,~~ force majeure, abandonment, authority liability, or authority warranties. Permit application

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requirements and small wireless facility placement requirements, including utility pole height limits, that conflict with this subsection must ~~shall~~ be waived by the authority. An authority may not institute, either expressly or de facto, a moratorium, zoning-in-progress, or other mechanism that would prohibit or delay the filing, receiving, or processing of registrations, applications, or issuing of permits or other approvals for the collocation of small wireless facilities or the installation, modification, or replacement of utility poles used to support the collocation of small wireless facilities.

~~(i) A wireless provider shall, in relation to a small wireless facility, utility pole, or wireless support structure in the public rights of way, comply with nondiscriminatory undergrounding requirements of an authority that prohibit above-ground structures in public rights-of-way. Any such requirements may be waived by the authority.~~

(8) (a) Any person aggrieved by a violation of this section may bring a civil action in a United States District Court or in any other court of competent jurisdiction.

(b) The court may:

1. Grant temporary or permanent injunctions on terms as it may deem reasonable to prevent or restrain violations of this section; and

2. Direct the recovery of full costs, including awarding reasonable attorney fees, to an aggrieved party who prevails.

Section 4. The taxes imposed by s. 202.12, Florida Statutes, as amended by this act, on communications services shall be applied to communications services reflected on bills dated on or after October 1, 2020.

580-02954-19

20191000c1

1074 Section 5. This act shall take effect July 1, 2019.

COMMITTEE: Community Affairs
ITEM: CS/SB 1000
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate 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: SB 1616

INTRODUCER: Senator Baxley

SUBJECT: Local Government Financial Reporting

DATE: March 23, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 1616 specifies periods for which budget documents must appear on county and municipal websites and requires annual reporting of final budget and economic status information to the Office Economic and Demographic Research. Information to report includes government spending and debt per resident, median income, average local government employee salaries, percentage of budget spent on employee salaries and benefits, and the number of taxing districts within the local government's jurisdiction. Annual reporting of information must begin on October 15, 2019.

II. Present Situation:

County Budget Systems and Information

Chapter 129, F.S., establishes a budget system that controls the finances of the boards of county commissioners of Florida counties. Pursuant to s. 129.01, F.S., each county is required to prepare, approve, adopt, and execute an annual budget each fiscal year. The budget must show for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit.¹ The budget is approved by the board of county commissioners and must be balanced so that the total of the estimated receipts, including balances brought forward, equals the total of the appropriations and reserves.² Notwithstanding other provisions of law, the budgets of all county officers must be in sufficient detail and contain such information as the board of county commissioners may require in furtherance of their powers and responsibilities.³

¹ Section 129.01(1), F.S. The level of detail for the budget must meet level of detail requirements for annual financial reports under s. 218.32, F.S.

² Section 129.01(2), F.S.

³ Section 129.021, F.S. See ss. 125.01(1)(q), (r), and (v), and (6) and 129.01(2)(b), F.S., for more on these county powers and responsibilities.

Preparation and Adoption of County Budgets

On or before June 1 of each year, the sheriff, the clerk of the circuit court and county comptroller, the tax collector, and the supervisor of elections each submit to the board of county commissioners a tentative budget for their respective offices for the ensuing fiscal year.⁴ Upon receipt of the tentative budgets and any revisions, the board prepares a summary of the adopted tentative budgets.⁵ Public hearings are held to explain tentative and final budgets and to entertain community requests and complaints prior to budget adoption.⁶ The tentative budget must be posted on the county's official website at least two days before a public hearing. The final budget must be posted on the website within 30 days after adoption. The tentative budgets, adopted tentative budgets, and final budgets are filed in the office of the county auditor as a public record.

Municipal Budget Requirements

The preparation, adoption, and website posting of municipal budgets follows a similar process to that of counties. Section 166.241(2), F.S., provides that each municipality must annually adopt a budget by ordinance or resolution unless the municipality has a charter that specifies another method for adoption. The funds available from taxation and other sources must equal the total appropriations for expenditures and reserves.⁷ Officers of a municipal government may not expend funds except according to the budgeted appropriations. The tentative budget must be posted on the municipality's official website at least two days before a public hearing.⁸ The final budget must be posted on the website within 30 days after adoption.⁹

Local Government Financial Reporting

Florida Statutes provide a number of local government financial reporting requirements including:

- Section 29.0085, F.S., requires each county to annually submit to the State Chief Financial Officer (CFO) a statement of revenues and expenditures in the form and manner prescribed by the CFO. By January 31 of each year, each county must submit to the CFO a statement of compliance from its independent certified public accountant engaged to conduct its annual financial audit indicating that the certified statement of expenditures was in accordance with state law.
- Section 218.32(1), F.S., requires local governmental entities to submit to the Department of Financial Services (DFS) an annual financial report (AFR) and, if the local governmental entities meet the audit threshold specified in state law, a copy of their audit report. Each local

⁴ Section 129.03(2), F.S. Section 195.087(1) F.S., outlines the budget process for property appraisers in the state.

⁵ Section 129.03(3)(b), F.S.

⁶ Section 129.03(3)(c), F.S., also outlines public hearing practices and subsequent budget website posting and public record requirements.

⁷ Section 166.241(2), F.S.

⁸ Section 166.241 (3), F.S.

⁹ *Id.* If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the tentative budget and final budget to the manager or administrator of such county or counties who shall post the budgets on the county's website.

governmental entity's website must provide a link to the DFS website to view the entity's submitted AFRs.¹⁰

- Section 218.32(2), F.S., requires the DFS to annually file, by December 1, a verified report with certain statutorily specified entities¹¹ showing the total revenues, expenditures, and outstanding long-term debt of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation entity that is required to submit an AFR.
- Section 218.39, F.S., requires an annual financial audit of accounts and records be completed within nine months after the end of the fiscal year¹² for counties, district school boards, charter schools and charter technical career centers, and certain municipalities and special districts.

III. Effect of Proposed Changes:

Section 1 amends s. 129.03, F.S., to require that a county's tentative budget must remain posted on the county's website for 45 days and the final budget must remain posted on the website for two years.

In addition, by October 15, 2019, and annually thereafter, the county budget officer must electronically submit the following final budget and economic status information to the Office of Economic and Demographic Research (EDR):

- Government spending per resident for at least the previous five years;
- Government debt per resident for at least the previous five years;
- Median income within the county;
- Average county employee salary;
- Percent of budget spent on salaries and benefits for county employees; and
- Number of special taxing districts within the county.

Section 2 amends s. 166.241, F.S., to require that a municipality's tentative budget must remain posted on the municipality's website for 45 days and the final budget must remain posted on the website for two years.

In addition, by October 15, 2019, and annually thereafter, the municipal budget officer must electronically submit the following final budget and economic status information to the EDR:

- Government spending per resident for at least the previous five years;
- Government debt per resident for at least the previous five years;
- Median income within the municipality;
- Average municipal employee salary;
- Percent of budget spent on salaries and benefits for municipal employees; and
- Number of special taxing districts within the municipality.

¹⁰ Section 218.32(g), F.S. If the local governmental entity does not have an official website, the county government's website must provide the required link for the local governmental entity.

¹¹ These entities are the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity.

¹² Section 218.33, F.S., provides that each local governmental entity shall begin its fiscal year on October 1 of each year and end it on September 30.

Section 3 creates an undesignated section of law requiring the EDR, by July 15, 2019, to establish the format and forms for use by counties and municipalities to submit information required by the bill.

Section 4 provides that the bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Subsection (a) of section 18 of the Florida Constitution, provides that cities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

The bill requires cities and counties to incur costs related to the collection, reporting and submission of information to EDR. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2018-2019 is forecast at slightly over \$2 million.^{13,14,15}

If such costs were determined to exceed \$2 million, paragraph (a) of section 18 would require the bill to contain a finding of important state interest and meet one of the exceptions specified in that paragraph (e.g., provision of funding or a funding mechanism, or enactment by vote of two-thirds of the membership of each house).

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.

¹³ FLA. CONST. art. VII, s. 18(d).

¹⁴ 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 Jan. 9, 2019).

¹⁵ Based on the Florida Demographic Estimating Conference's November 5, 2018 population forecast for 2019 of 21,170,399. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 18, 2019).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Counties, municipalities, and the EDR may incur costs related to the collection, reporting, and formatting of the bill's required information gathering.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 129.03 and 166.241
This bill creates an undesignated section 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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 3/26/19

Bill Number (if applicable) 1616

Topic Local Financial Reporting

Amendment Barcode (if applicable) _____

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1756

Phone 701-3621

City Tallahassee State FL Zip 32302

Email ahughes@flcities

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida League of Cities

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 03/26/2019

Bill Number (if applicable) SB 1616

Topic LOCAL GOVERNMENT FINANCIAL Amendment Barcode (if applicable) _____

Name CESAR GRAYLES

Job Title DIRECTOR OF COALITIONS

Address 200 W. COLLEGE AVE

City TALLAHASSEE State FL. Zip _____

Email cgrayles@belibee.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing AMERICANS FOR PROSPERITY

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.

By Senator Baxley

12-01393-19

20191616__

A bill to be entitled

An act relating to local government financial reporting; amending ss. 129.03 and 166.241, F.S.; requiring county and municipal budget officers, respectively, to submit certain information to the Office of Economic and Demographic Research within a specified timeframe; requiring adopted budget amendments and final budgets to remain posted on each entity's official website for a specified period of time; requiring the Office of Economic and Demographic Research to create a form for certain purposes by a specified date; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 129.03, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

129.03 Preparation and adoption of budget.—

(3) The county budget officer, after tentatively ascertaining the proposed fiscal policies of the board for the next fiscal year, shall prepare and present to the board a tentative budget for the next fiscal year for each of the funds provided in this chapter, including all estimated receipts, taxes to be levied, and balances expected to be brought forward and all estimated expenditures, reserves, and balances to be carried over at the end of the year.

(c) The board shall hold public hearings to adopt tentative and final budgets pursuant to s. 200.065. The hearings shall be

Page 1 of 4

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

12-01393-19

20191616__

primarily for the purpose of hearing requests and complaints from the public regarding the budgets and the proposed tax levies and for explaining the budget and any proposed or adopted amendments. The tentative budget must be posted on the county's official website at least 2 days before the public hearing to consider such budget and must remain on the website for at least 45 days. The final budget must be posted on the website within 30 days after adoption and must remain on the website for at least 2 years. The tentative budgets, adopted tentative budgets, and final budgets shall be filed in the office of the county auditor as a public record. Sufficient reference in words and figures to identify the particular transactions must ~~shall~~ be made in the minutes of the board to record its actions with reference to the budgets.

(d) By October 15, 2019, and each October 15 annually thereafter, the county budget officer shall electronically submit the following information regarding the final budget and the county's economic status to the Office of Economic and Demographic Research in the format specified by the office:

1. Government spending per resident, including, at a minimum, the spending per resident for the previous 5 fiscal years.

2. Government debt per resident, including, at a minimum, the debt per resident for the previous 5 fiscal years.

3. Median income within the county.

4. The average county employee salary.

5. Percent of budget spent on salaries and benefits for county employees.

6. Number of special taxing districts, wholly or partially,

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

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59 within the county.

60 Section 2. Present subsections (4) and (5) of section
61 166.241, Florida Statutes, are redesignated as subsections (5)
62 and (6), respectively, subsection (3) and present subsection (5)
63 are amended, and a new subsection (4) is added to that section,
64 to read:

65 166.241 Fiscal years, budgets, and budget amendments.—

66 (3) The tentative budget must be posted on the
67 municipality's official website at least 2 days before the
68 budget hearing, held pursuant to s. 200.065 or other law, to
69 consider such budget and must remain on the website for at least
70 45 days. The final adopted budget must be posted on the
71 municipality's official website within 30 days after adoption
72 and must remain on the website for at least 2 years. If the
73 municipality does not operate an official website, the
74 municipality must, within a reasonable period of time as
75 established by the county or counties in which the municipality
76 is located, transmit the tentative budget and final budget to
77 the manager or administrator of such county or counties who
78 shall post the budgets on the county's website.

79 (4) Beginning October 15, 2019, and each October 15
80 thereafter, the municipal budget officer shall electronically
81 submit the following information regarding the final budget and
82 the municipality's economic status to the Office of Economic and
83 Demographic Research in the format specified by the office:

84 (a) Government spending per resident, including, at a
85 minimum, the spending per resident for the previous 5 fiscal
86 years.

87 (b) Government debt per resident, including, at a minimum,

12-01393-19

20191616__

88 the debt per resident for the previous 5 fiscal years.

89 (c) Average municipal employee salary.

90 (d) Median income within the municipality.

91 (e) Number of special taxing districts, wholly or
92 partially, within the municipality.

93 (f) Percent of budget spent on salaries and benefits for
94 municipal employees.

95 (6)-(5) If the governing body of a municipality amends the
96 budget pursuant to paragraph (5)(c) ~~(4)-(e)~~, the adopted
97 amendment must be posted on the official website of the
98 municipality within 5 days after adoption and must remain on the
99 website for at least 2 years. If the municipality does not
100 operate an official website, the municipality must, within a
101 reasonable period of time as established by the county or
102 counties in which the municipality is located, transmit the
103 adopted amendment to the manager or administrator of such county
104 or counties who shall post the adopted amendment on the county's
105 website.

106 Section 3. By July 15, 2019, the Office of Economic and
107 Demographic Research shall establish the format and forms for
108 use by counties and municipalities for purposes of submitting
109 the information required by this act.

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

COMMITTEE: Community Affairs
ITEM: SB 1616
FINAL ACTION: Favorable
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
	X	Pizzo						
X		Simmons						
X		Farmer, VICE CHAIR						
X		Flores, CHAIR						
4	1	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

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

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
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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 428

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Growth Management

DATE: March 28, 2019

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 428 requires a comprehensive plan adopted by a municipality to recognize the terms of development orders. The bill requires local land development regulations to provide for existing development orders identified in municipal comprehensive plans. The bill amends s. 163.3177(6), F.S., adding a required property rights element to local comprehensive plans. The added element requires local governments to consider certain property rights, including a property owner's right to quiet enjoyment, in their decision-making. The bill provides a model statement of rights acknowledging private property rights but allows local governments to create their own provision that does not conflict with the model. The bill requires local governments to adopt a property rights element by July 1, 2020.

II. Present Situation:

The Bert J. Harris, Jr., Private Property Rights Protection Act

The "Bert Harris Jr., Private Property Rights Protection Act" (Harris Act)¹ entitles private property owners to relief when a specific action of a governmental entity inordinately burdens the owner's existing use of real property or a vested right to a specific use of real property.² The Harris Act recognizes that the inordinate burden, restriction, or limitation on private property

¹ Section 70.001(1), F.S.

² Section 70.001(2), F.S.

rights as applied may fall short of a taking under the State Constitution or the U.S. Constitution.³ The law is not applicable to the U.S. government, federal agencies, or state or local government entities exercising formally delegated U.S. or federal agency powers.⁴

In addition to action that inordinately burdens a property right, an owner may seek relief when a government entity's development order or enforcement action is unreasonable or unfairly burdens the use of the owner's real property,⁵ or when a government entity imposes a condition on the proposed use of the real property that amounts to a prohibited exaction.⁶ A prohibited exaction occurs when an imposed condition lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the governmental entity seeks to avoid, minimize, or mitigate.⁷

The Community Planning Act

The Harris Act is balanced against the state's need to effectively and efficiently plan, coordinate, and deliver government services amid the state's continued growth and development.⁸ Statutes govern how the state and local governments direct land development⁹ with the State Comprehensive Plan and local comprehensive plans adopted by counties and municipalities as required by statute.¹⁰

The State Comprehensive Plan must provide long-range policy guidance for the orderly social, economic, and physical growth of the state.¹¹ The goals and policies of the State Comprehensive Plan must be consistent with the protection of private property rights.¹² The State Comprehensive Plan must be reviewed every two years by the Legislature and legislative action is required to implement its policies unless specifically authorized otherwise in the Constitution or law.¹³

Adopted in 1985, the Local Government Comprehensive Planning and Land Development Regulation Act, also known as Florida's Growth Management Act, was significantly revised in 2011, becoming the Community Planning Act.¹⁴ The Community Planning Act governs how local governments create and adopt their local comprehensive plans. The Legislature intended for all governmental entities in the state to recognize and respect judicially acknowledged or constitutionally protected private property rights.¹⁵ Authority under the Community Planning Act must be exercised with sensitivity for private property rights, without undue restriction, and

³ Section 70.001(1), F.S.

⁴ Section 70.001(3)(c), F.S.

⁵ Section 70.51(3), F.S.

⁶ Section 70.45(2), F.S.

⁷ Section 70.45(1)(c), F.S.

⁸ See s. 186.002(1)(b), F.S.

⁹ See chs. 186, 187, and 163, part II, F.S.

¹⁰ Section 163.3167(1)(b), F.S.

¹¹ Section 187.101(1), F.S.

¹² Section 187.101(3), F.S. The plan's goals and policies must also be reasonably applied where they are economically and environmentally feasible and not contrary to the public interest.

¹³ Section 187.101(1), F.S.

¹⁴ See ch. 2011-139, s. 4, Laws of Fla.

¹⁵ Section 163.3161(10), F.S.

leave property owners free from actions by others which would harm their property or constitute an inordinate burden on property rights under the Harris Act.¹⁶

Local Comprehensive Plan Elements

Local comprehensive plans must include principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements.¹⁷ Plans also are required to identify procedures for monitoring, evaluating, and appraising implementation of the plan.¹⁸ Plans may include optional elements,¹⁹ but must include the following nine elements:

- Capital improvements;²⁰
- Future land use plan;²¹
- Intergovernmental coordination;²²
- Conservation;²³
- Transportation;²⁴
- Sanitary sewer, solid waste, drainage, potable water and aquifer recharge;²⁵
- Recreation and open space;²⁶
- Housing;²⁷ and
- Coastal management (for coastal local governments).²⁸

All local government land development regulations must be consistent with the local comprehensive plan.²⁹ Additionally, all public and private development, including special district projects, must be consistent with the local comprehensive plan.³⁰ However, plans cannot require any special district to undertake a public facility project which would impair the district's bond covenants or agreements.³¹

¹⁶ *Id.*

¹⁷ Section 163.3177(1), F.S.

¹⁸ Section 163.3177(1)(d), F.S.

¹⁹ Section 163.3177(1)(a), F.S.

²⁰ Section 163.3177(3)(a), F.S. The capital improvements element must be reviewed by the local government on an annual basis.

²¹ Section 163.3177(6)(a), F.S.

²² Section 163.3177(6)(h), F.S.

²³ Section 163.3177(6)(d), F.S.

²⁴ Section 163.3177(6)(b), F.S.

²⁵ Section 163.3177(6)(c), F.S.

²⁶ Section 163.3177(6)(e), F.S.

²⁷ Section 163.3177(6)(f), F.S.

²⁸ Section 163.3177(6)(g), F.S.

²⁹ Section 163.3194(1)(b), F.S.

³⁰ See ss. 163.3161(6) and 163.3194(1)(a), F.S.

³¹ Section 189.081(1)(b), F.S.

Amendments to a Local Comprehensive Plan

Local governments must review and amend their comprehensive plans every 7 years to reflect any changes in state requirements.³² Within a year of any such amendments, local governments must adopt or amend local land use regulations consistent with the amended plan.³³ A local government is not required to review its comprehensive plan before its regular review period unless the law specifically requires otherwise.³⁴

Generally, a local government amending its comprehensive plan must follow an expedited state review process.³⁵ Certain plan amendments, including amendments required to reflect a change in state requirements, must follow the state coordinated review process for the adoption of comprehensive plans.³⁶ Under the state process, the state land planning agency is responsible for plan review, coordination, and preparing and transmitting comments to the local government.³⁷ The Department of Economic Opportunity (DEO) is designated as the state land planning agency.³⁸

Under the state coordinated review process, local governments must hold a properly noticed public hearing³⁹ about the proposed amendment before sending it for comment from several reviewing agencies,⁴⁰ including DEO, the Department of Environmental Protection, the appropriate regional planning council, and the Department of Transportation.⁴¹ Local governments or government agencies within the state filing a written request with the governing body are also entitled to copies of the amendment.⁴² Comments on the amendment must be received within 30 days after DEO receives the proposed plan amendment.⁴³

DEO must provide a written report within 60 days of receipt of the proposed amendment if it elects to review the amendment.⁴⁴ The report must state the agency's objections, recommendations, and comments with certain specificity, and must be based on written, not oral, comments.⁴⁵ Within 180 days of receiving the report from DEO, the local government must review the report and any written comments and hold a second properly noticed public hearing on the adoption of the amendment.⁴⁶ Adopted plan amendments must be sent to DEO and any

³² Section 163.3191(1), F.S.

³³ Section 163.3191(2), F.S.

³⁴ Section 163.3161(12), F.S.

³⁵ Section 163.3184(3)(a), F.S.

³⁶ Section 163.3184(2)(c), F.S.

³⁷ Section 163.3184(4)(a), F.S.

³⁸ Section 163.3164(44), F.S.

³⁹ Sections 163.3184(4)(b) and (11)(b)1., F.S.

⁴⁰ See s. 163.3184(1)(c), F.S., for complete list of all reviewing agencies.

⁴¹ Sections 163.3184(4)(b) and (c), F.S.

⁴² Section 163.3184(4)(b), F.S.

⁴³ Section 163.3184(4)(c), F.S.

⁴⁴ Section 163.3184(4)(d)1., F.S.

⁴⁵ Section 163.3184(4)(d)1., F.S. All written communication the agency received or generated regarding a proposed amendment must be identified with enough information to allow for copies of documents to be requested. See s. 163.3184(4)(d)2., F.S.

⁴⁶ Sections 163.3184(4)(e)1. and (11)(b)2., F.S. If the hearing is not held within 180 days of receipt of the report, the amendment is deemed withdrawn absent an agreement and notice to DEO and all affected persons that provided comments. See s. 163.3184(4)(e)1., F.S.

agency or government that provided timely comments within 10 working days after the second public hearing.⁴⁷

Once DEO receives the adopted amendment and determines it is complete, it has 45 days to determine if the adopted plan amendment complies with the law⁴⁸ and to issue on its website a notice of intent finding whether or not the amendment is compliant.⁴⁹ A compliance review is limited to the findings identified in DEO's original report unless the adopted amendment is substantially different from the reviewed amendment.⁵⁰ Unless the local comprehensive plan amendment is challenged, it may go into effect pursuant to the notice of intent.⁵¹ If there is a timely challenge then the plan amendment will not take effect until DEO, or the Administration Commission,⁵² enters a final order determining the adopted amendment is in compliance with the law.⁵³

Establishment of Municipalities

The Florida Constitution provides that “municipalities may be established or abolished and their charters amended pursuant to general or special law.”⁵⁴ Chapter 165 of the Florida Statutes lays out the local government formation process and provides standards, direction, and procedures for the formation of municipalities in the state.⁵⁵ The provisions of this act are the exclusive procedure for forming or dissolving municipalities in Florida, except in those counties operating under a home rule charter which provides for an exclusive method as authorized by Article VIII, section 6(e) of the Florida Constitution.⁵⁶ A charter for incorporation of a municipality shall be adopted only by a special act of the Legislature upon determination that the standards provided in ch. 165, F.S., are met.⁵⁷ To inform the Legislature on the feasibility of a proposed incorporation of a municipality, a feasibility study shall be completed and submitted to the Legislature.⁵⁸

A municipality established after the effective date of the Community Planning Act must within 1 year after incorporation, establish a local planning agency⁵⁹ pursuant to s. 163.3174, F.S., and prepare and adopt a comprehensive plan within 3 years after the date of incorporation.⁶⁰ A

⁴⁷ Section 163.3184(4)(e)2., F.S.

⁴⁸ Sections 163.3184(4)(e)3. and 4., F.S.

⁴⁹ Section 163.3184(4)(e)4., F.S.

⁵⁰ *Id.*

⁵¹ Section 163.3184(4)(e)5., F.S.

⁵² Section 14.202, F.S., provides that the Administration Commission is composed of the Governor and the Cabinet (Section 20.03, F.S., provides that “Cabinet” means the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture).

⁵³ *Id.*

⁵⁴ FLA. CONST. art. VIII, s. 2.

⁵⁵ Section 165.021, F.S.

⁵⁶ Section 165.022, F.S.

⁵⁷ Section 165.041(1)(a), F.S. The procedure for a municipal incorporation by merger is also included in this section.

⁵⁸ Section 165.041(1)(b), F.S. The study must be submitted no later than the first Monday after September 1 of the year before the regular session of the Legislature during which the municipal charter would be enacted.

⁵⁹ Section 163.3164(30), F.S., defines “local planning agency” as the agency designated to prepare the comprehensive plan or plan amendments required by the Community Planning Act.

⁶⁰ Section 163.3167(3), F.S.

county comprehensive plan is deemed controlling until the municipality adopts a comprehensive plan.⁶¹

Land Development Regulations

Counties and municipalities are required to adopt or amend land development regulations within 1 year after submitting its comprehensive or revised comprehensive plan for review.⁶² Section 163.3202(2), F.S., outlines the minimum provisions that counties and municipalities should include in their local government land development regulations. These provisions include:

- Regulating the subdivision of land;
- Regulating the use of land and water;
- Providing for protection of potable water wellfields;
- Regulating areas subject to seasonal and periodic flooding and provide for drainage and stormwater management;
- Ensuring the protection of environmentally sensitive lands designated in the comprehensive plan;
- Regulating signage;
- Addressing concurrency;
- Ensuring safe and convenient onsite traffic flow; and
- Maintaining the existing density of residential properties or recreational vehicle parks.

Under certain circumstances, the DEO may require a local government to submit one or more land development regulations for the agency's review.⁶³ The DEO is required to adopt rules for review and schedules for adoption of land development regulations.⁶⁴

III. Effect of Proposed Changes:

Section 1 amends s. 163.3167, F.S., to provide that a municipal comprehensive plan effective after January 1, 2019, and all land development regulations adopted to implement the plan, must recognize a development order in existence as of the comprehensive plan's effective date. Such comprehensive plan may not impair a party's ability to complete development in accordance with the development order, and, notwithstanding whether future amendments to the development order are sought, must vest the density⁶⁵ and intensity⁶⁶ approved by such a development order.

Section 2 amends s. 163.3202, F.S., to require local land development regulations to provide for existing development orders identified in municipal comprehensive plans.

⁶¹ *Id.*

⁶² Section 163.3202(1), F.S.

⁶³ Section 163.3202(4), F.S.

⁶⁴ Section 163.3202(5), F.S.

⁶⁵ Section 163.3164(12), F.S., defines "density" as an objective measure of the number of people or residential units allowed per unit of land, such as residents or employees per acre.

⁶⁶ Section 163.3164(22), F.S., defines "intensity" as an objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on, or below the ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services.

Section 3 amends s. 163.3177(6), F.S., to require local governments to incorporate a private property rights element into their comprehensive plans.

A model property rights element form is included in the new paragraph that local governments may use. The form lists the following five property rights that must be considered in local government decision-making:

- Physical possession and control of the property owner's interests in the property, including easements, leases, or mineral rights
- Quiet enjoyment of the property, to the exclusion of all others;
- Use, maintenance, development, and improvement of the property for personal use or the use of any other person, subject to state law and local ordinances;
- Privacy and exclusion of others from the property to protect the owner's possessions and property; and
- Disposal of the property owner's property through sale or gift.

Local governments may use their own property rights element form if it does not conflict with the statutory form. Local governments are required to adopt a property rights element by July 1, 2020.

Section 4 provides the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, paragraph (a) of section 18 of the Florida Constitution, provides that cities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

The bill will require cities and counties to incur costs to amend their comprehensive plans in order to add a private property rights element by July 1, 2020. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2018-2019 is forecast at slightly over \$2 million.^{67,68,69}

The cost for cities and counties to amend their comprehensive plans to comply with the provisions of the bill is unknown at this time. However, the Village of Palm Springs

⁶⁷ FLA. CONST. art. VII, s. 18(d).

⁶⁸ 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 Jan. 9, 2019).

⁶⁹ Based on the Florida Demographic Estimating Conference's November 5, 2018 population forecast for 2019 of 21,170,399. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 18, 2019).

estimates their costs may range from \$25,000 to \$40,000 in consulting fees and \$350 to \$700 for public noticing fees in local newspapers.⁷⁰

If the cumulative cost for cities and counties is determined to exceed \$2 million, paragraph (a) of section 18 would require the bill to contain a finding of important state interest and meet one of the exceptions specified in that paragraph (e.g., provision of funding or a funding mechanism, or enactment by vote of two-thirds of the membership in each house).

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Section 163.3184, F.S. requires DEO to conduct a review of any proposed amendment to a comprehensive plan after a public meeting is held, and prior to adoption by a local government. DEO is then required to review the adopted amendment after a second public meeting is held. These reviews will be conducted in addition to scheduled/anticipated comprehensive plan reviews that are conducted at least every seven years as required by s. 163.3191, F.S. There are 467 local governments that would be subject to the changes required by this bill, which would require a maximum of 934 reviews be conducted by 7/1/2020, in addition to the already scheduled reviews. This represents a

⁷⁰ E-mail correspondence from the Village of Palm Springs to the Florida League of Cities (March 21, 2019) (on file with the Senate Committee on Community Affairs)

workload increase for the Division of Community Development of approximately \$50,000 to \$100,000.⁷¹

Local governments will also incur costs due to the development of new comprehensive plan elements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 163.3167, 163.3177, and 163.3202 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 on March 26, 2019:

The committee substitute:

- Amends s. 163.3167, F.S., to require a comprehensive plan adopted by a municipality recognize the terms of existing development orders; and
- Amends s. 163.3202, F.S., to require local land development regulations to provide for existing development orders identified in municipal comprehensive plans.

B. Amendments:

None.

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

⁷¹ Department of Economic Opportunity, *2019 Agency Legislative Bill Analysis for SB 428* (Feb. 4, 2019) (on file with the Senate Committee on Community Affairs)



138184

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2019	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Before line 14

insert:

Section 1. Subsection (3) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(3) A municipality established after the effective date of this act shall, within 1 year after incorporation, establish a local planning agency, pursuant to s. 163.3174, and prepare and



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11 adopt a comprehensive plan of the type and in the manner set out
12 in this act within 3 years after the date of such incorporation.
13 A county comprehensive plan is ~~shall be deemed~~ controlling until
14 the municipality adopts a comprehensive plan in accordance
15 ~~accord~~ with this act. A comprehensive plan that is effective
16 after January 1, 2019, pursuant to this part, and all land
17 development regulations adopted to implement such a plan, must
18 recognize a development order in existence as of the
19 comprehensive plan's effective date, may not impair a party's
20 ability to complete development in accordance with the
21 development order, and, notwithstanding whether future
22 amendments to the development order are sought, must vest the
23 density and intensity approved by such a development order.

24 Section 2. Paragraph (j) is added to subsection (2) of
25 section 163.3202, Florida Statutes, to read:

26 163.3202 Land development regulations.—

27 (2) Local land development regulations shall contain
28 specific and detailed provisions necessary or desirable to
29 implement the adopted comprehensive plan and shall at a minimum:

30 (j) Provide for existing development orders identified
31 pursuant to s. 163.3167(3).

32
33 ===== T I T L E A M E N D M E N T =====

34 And the title is amended as follows:

35 Between lines 2 and 3
36 insert:

37 163.3167, F.S.; requiring certain comprehensive plans
38 to recognize the terms of existing development orders;
39 amending s. 163.3202, F.S.; requiring local land



138184

40 development regulations to provide for certain
41 existing development orders; amending s.



2019 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: DEPARTMENT OF ECONOMIC OPPORTUNITY

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 428
BILL TITLE:	Growth Management
BILL SPONSOR:	Sen. Perry
EFFECTIVE DATE:	July 1, 2019

<u>COMMITTEES OF REFERENCE</u>
1) Community Affairs
2) Judiciary
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>CURRENT COMMITTEE</u>
Click or tap here to enter text.

<u>SIMILAR BILLS</u>	
BILL NUMBER:	HB 291
SPONSOR:	Rep. McClain

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	SB 362
SPONSOR:	Sen. Perry
YEAR:	2018
LAST ACTION:	Died in Community Affairs

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

<u>Is this bill part of an agency package?</u>
Click or tap here to enter text.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	2/4/2019
LEAD AGENCY ANALYST:	Sherry Spiers
ADDITIONAL ANALYST(S):	Alma Valencia
LEGAL ANALYST:	Rebekah Davis
FISCAL ANALYST:	Will Currie

POLICY ANALYSIS

1. **EXECUTIVE SUMMARY**

The bill requires that local governments amend their comprehensive plans to add a property rights element so that private property rights are considered in local decision-making. The bill includes a statutory statement of rights which can be adopted by each local government or the local government may adopt its own property rights element. The bill's specific statement of property rights must be considered. Each local government that adopts its own property rights element cannot conflict with the statutory statement of rights.

The bill requires that a property rights element be adopted by local governments by July 1, 2020.

This act will take effect on July 1, 2019.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

The Community Planning Act requires that local governments adopt and maintain comprehensive plans to guide future growth and development in their jurisdictions. The following elements are required:

- 1) Future land use;
- 2) Conservation;
- 3) Transportation;
- 4) Capital improvements;
- 5) Public facilities;
- 6) Intergovernmental coordination;
- 7) Housing;
- 8) Recreation and Open Space; and
- 9) Coastal management.

Section 163.3161(10), Florida Statutes, includes a legislative intent statement that "all governmental entities in this state recognize and respect judicially acknowledged or constitutionally protected private property rights."

2. **EFFECT OF THE BILL:**

Section 1. The bill amends subsection (6) of section 163.3177, Florida Statutes, to add a new subsection (i) that requires property right elements in comprehensive plans so that private property rights are considered in local decision-making. The local government may adopt its own property rights element or use the statement of rights in the bill, which requires consideration of the following rights of a property owner:

- 1) Property owner has the right to possess physically and control his or her interests in the property, which includes easements, leases, or mineral rights.
- 2) Property owner has the right to the quiet enjoyment of the property, to the exclusion of others.
- 3) Property owner has the right to use, maintain, develop and improve his or her property for personal use or use of other person, subject to state law or local ordinance.
- 4) Property owner has the right to privacy and to exclude others from the property
- 5) Property owner has the right to dispose of his or her property through sale or gift.

Section 2. The bill requires that a property rights element be adopted by local governments by July 1, 2020. If a local government adopts its own property rights element, it may not conflict with the statement of rights provided under section 1 of the bill.

Section 3. The act will take effect on July 1, 2019.

3. **DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?** Y ☐ N ☒

If yes, explain:

Click or tap here to enter text.

Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	None known.
Opponents and summary of position:	None known.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?

Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Local governments will need to add a private property rights element in the comprehensive plan. This may result in minimal additional expenditures.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local	Click or tap here to enter text.

governing body public vote prior to implementation of the tax or fee increase?	
--	--

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Sec. 163.3184, F.S. requires DEO to conduct a review of any proposed amendment to a comprehensive plan after a public meeting is held, and prior to adoption by a local government. DEO is then required to review the adopted amendment after a second public meeting is held. These reviews will be conducted in addition to scheduled/ anticipated comprehensive plan reviews that are conducted at least every seven years as required by sec. 163.3191, F.S. There are 467 local governments that would be subject to the changes required by this bill, which would require a maximum of 934 reviews be conducted by 7/1/2020, in addition to the already scheduled reviews. This represents a workload increase for the Division of Community Development of approximately \$50,000 to \$100,000.
Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	Click or tap here to enter text.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

1. **DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

Click or tap here to enter text.

FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.

Click or tap here to enter text.

ADDITIONAL COMMENTS

Click or tap here to enter text.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

None. Rebekah Davis

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 03/26/2019

Bill Number (if applicable) SB 428

Topic GROWTH MANAGEMENT

Amendment Barcode (if applicable)

Name CESAR GRAYLES

Job Title DIRECTOR OF COALITIONS

Address 200 W College Ave

Phone 786.260.9283

City TALAHASSEE State FL

Email care-jules@belibre.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing AMERICANS FOR PROSECUTORY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Phone 701-3676

Street

Tallahassee

City

State

Zip

Email dcruz@fccities.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Bill Number (if applicable)

428

Meeting Date

3/26/19

Amendment Barcode (if applicable)

Growth Mg +

✓

Topic

Name

ERIC POOL

Job Title

Leg Rep

Address

Street

700 Maple

Phone

972-4500

City

State

Zip

7011 FL 32311

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3/26

Bill Number (if applicable)

428

Amendment Barcode (if applicable)

Topic Growth Mgt.

Name Dan Peterson

Job Title President

Address PO Box 1875

Phone 407-758-2411

Street

Mineola

City

State

Zip

FL

34755

Email danpeterson@epcfl.org

Speaking:

☒ For

☐ Against

☐ Information

Waive Speaking:

☐ In Support

☐ Against

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

Representing

Coalition for Reproductive Rights

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☐ Yes

☒ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 03/26/2019

Bill Number (if applicable) 50-128

Topic Revenue Reform

Amendment Barcode (if applicable) ✓

Name Michael Beene

Job Title City Manager

Address 101 Narbonne Street Pens

Phone (850) 461-2687

City FOB State FL Zip 32549

Email mbeene@fwb.org

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

Representing City of Fort Walton Beach

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic Private Property Element

Amendment Barcode (if applicable)

Name Robert Glas-Castro

Job Title WCA Party

Address 335 Park Avenue

Phone 5617587551

Street

Lake Park

City

FL

State

33403

Zip

Email

rglascastro@bellcastro.net

Speaking:

☐ For

☒ Against

☐ Information

Waive Speaking:

☐ In Support

☐ Against

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

Representing

Town of Lake Park

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☐ Yes

☒ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3/22

Bill Number (if applicable)

428

Amendment Barcode (if applicable)

188184

Topic

Growth Mgt.

Name

Jan Peterson

Job Title

Address

P.O. Box 1875

Phone 407-758-2491

Street

Minneola

City

State

FL

Zip

34755

Email danpeterson@cpv-fl.org

Speaking:

☐ For

☐ Against

☐ Information

Waive Speaking:

☒ In Support

☐ Against

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

Representing

Coalition for Property Rights

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.

By Senator Perry

8-00799A-19

2019428__

A bill to be entitled

An act relating to growth management; amending s. 163.3177, F.S.; requiring a local government's comprehensive plan to include a property rights element; providing a statement of rights that a local government may use; requiring each local government to adopt a property rights element by a specified date; providing that a local government's property rights element may not conflict with the statutorily provided statement of rights; providing an effective date.

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

Section 1. Paragraph (i) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(i) In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3), that governmental entities must respect judicially acknowledged and constitutionally protected private property rights, a property rights element to ensure that private property rights are considered in local decisionmaking.

1. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local

Page 1 of 2

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

8-00799A-19

2019428__

decisionmaking:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

2. The right of the property owner to the quiet enjoyment of the property, to the exclusion of all others.

3. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or the use of any other person, subject to state law and local ordinances.

4. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

5. The right of a property owner to dispose of his or her property through sale or gift.

2. Each local government must adopt a property rights element in its comprehensive plan by July 1, 2020. If a local government adopts its own property rights element, it may not conflict with the statement of rights provided in subparagraph 1.

Section 2. This act shall take effect July 1, 2019.

Page 2 of 2

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

COMMITTEE: Community Affairs
ITEM: SB 428
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate 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: SB 1494

INTRODUCER: Senator Perry

SUBJECT: Small-scale Comprehensive Plan Amendments

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	Favorable
2.			IS	
3.			RC	

I. Summary:

Under the Community Planning Act, a comprehensive plan amendment may be classified as a small-scale amendment if the amendment meets certain criteria, involves less than 10 acres of land, and the local government has not adopted a cumulative total of 120 acres of small-scale amendments in the current calendar year. SB 1494 repeals the 120-acre cumulative annual limit on small-scale development amendments that may be approved by a local government.

II. Present Situation:

Community Planning Act

The Community Planning Act provides counties and municipalities the power to plan for future development by the adoption of comprehensive plans.¹ Each county and municipality must maintain a comprehensive plan.² Municipal comprehensive plans cover the total area of the municipality's jurisdiction, as well as any unincorporated areas adjacent to the municipality that the municipality and the county have agreed should be covered by the municipality's plan.³ County comprehensive plans cover the total unincorporated area of the county, but may include municipalities in charter counties.⁴ Counties and municipalities may also enter into interlocal agreements with other counties and/or municipalities to exercise their planning powers.⁵

¹ Section 163.3167(1), F.S.

² Section 163.3167(2), F.S. The Ready Creek Improvement District, an independent special district created by ch. 67-764, Laws of Fla., may exercise the powers of the act as if it were a municipality. Section 163.3167(6), F.S.

³ Section 163.3171(1), F.S.

⁴ Section 163.3171(2), F.S.

⁵ Section 163.3171(3), F.S.

Each county and municipality must establish a local planning agency.⁶ The local planning agency is responsible for managing the comprehensive planning program.⁷ The duties of the local planning agency include:⁸

- Preparing the comprehensive plan and plan amendments;
- Monitoring the effectiveness and status of the comprehensive plan and recommending changes to the local governing body, including periodic evaluation and appraisal of the plan as required by s. 163.3191, F.S.;
- Reviewing proposed land development regulations and land development codes for consistency with the adopted comprehensive plans; and
- Performing any other functions, duties, and responsibilities assigned by local governing body, general law, or special law.

The local governing body may designate itself as the local planning agency or assign the powers to a local planning commission, a planning department, or another body.⁹

The Department of Economic Opportunity serves as the state land planning agency.¹⁰

Comprehensive Plans and Plan Amendments

Comprehensive plans are intended to provide for “orderly and balanced future economic, social, physical, environmental, and fiscal development” in a county or municipality.¹¹ A comprehensive plan must take into account:¹²

- Projected seasonal and permanent population growth;
- Current and existing public facilities needs;
- Coordination with the local comprehensive plans of adjacent municipalities and counties;
- Consideration of two planning periods, one covering at least 5 years and another covering at least 10 years; and
- A future land use plan element.

Comprehensive plan amendments fit into one of three categories based on both the size and nature of the area impacted by the proposed amendment. These categories include:¹³

- General amendments subject to the expedited state review process;
- Small-scale development amendments subject to the small-scale review process; and
- Amendments subject to the state coordinated review process.¹⁴

⁶ Section 163.3174(1), F.S. If a county or municipality has entered into an interlocal agreement under s. 163.3171, F.S. to exercise its planning powers under the Community Planning Act, those counties and municipalities may establish a joint local planning agency.

⁷ Section 163.3174(4), F.S.

⁸ Section 163.3174(4)(a)-(d), F.S.

⁹ Section 163.3174(1), F.S.

¹⁰ Section 163.3164(44), F.S.

¹¹ Section 163.3177(1), F.S.

¹² Section 163.3177(1), (3)-(6), F.S.

¹³ Section 163.3184(2), F.S.

¹⁴ Section 163.3184(2)(c), F.S. The amendments include amendments which are in areas of critical state concern pursuant to s. 380.05, F.S., propose a rural land stewardship area pursuant to s. 163.3248, F.S., propose or amend a sector plan pursuant to s. 163.3245, F.S., update a comprehensive plan based on evaluation and appraisal pursuant to s. 163.3191, F.S., propose a

Small-Scale Comprehensive Plan Amendments

A small-scale comprehensive plan amendment must meet four criteria:¹⁵

- The proposed amendment involves a use of 10 acres of land or fewer (20 acres in a rural area of opportunity);¹⁶
- The cumulative annual effect for all small-scale development amendments adopted by the local government does not exceed 120 acres in a calendar year;
- The changes are limited to Future Land Use Map (FLUM) changes, with no text changes to the comprehensive plan except those that related directly to and were adopted with the small scale FLUM change;
- The property is not located in an area of critical state concern, unless the project involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), F.S., and is located within an area of critical state concern designated by s. 380.0552, F.S., (the Florida Keys) or by the Administrative Commission¹⁷ pursuant to s. 380.05(1), F.S.; and
- The amendment must preserve the internal consistency of the overall local comprehensive plan.

Small-scale comprehensive plan amendments require only a single hearing before the governing body of the county or municipality for approval.¹⁸ Small-scale comprehensive plan amendments do not require review by DEO or other state agencies.¹⁹

Any affected person may challenge the amendment by filing a petition with the Division of Administrative Hearings.²⁰ The challenge must be filed within 30 days of the local government's adoption of the amendment. The challenge is heard in the affected jurisdiction by an administrative law judge (ALJ) between 30 to 60 days after the petition is filed. The local government's determination that the small-scale amendment is in compliance with the overall comprehensive plan is subject to the "fairly debatable" standard of review.²¹

If the ALJ finds that the amendment is in compliance, the ALJ sends a recommended order to DEO. Upon receipt of the recommended order, DEO may issue a final order within 30 days or send the matter to the Administration Commission (if DEO thinks the amendment is not in compliance).²² If the ALJ does not find that the amendment is in compliance, the ALJ must send

development that is subject to state coordinated review pursuant to s. 380.06, F.S., and plans for newly incorporated municipalities adopted pursuant to s. 163.3167, F.S.

¹⁵ Section 163.3187(1)(a)-(d), (4), F.S. *See also* Department of Economic Opportunity, Small Scale Amendments Defined; Adoption; Challenge; Effective Date, available at <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/small-scale-amendments-defined-adoption-challenge-effective-date> (last visited March 11, 2019).

¹⁶ Section 163.3187(3), F.S.

¹⁷ The Administration Commission is composed of the Governor and Cabinet (The cabinet is composed of the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. Section 20.03(1), F.S.). Section 14.202, F.S.

¹⁸ Section 163.3187(2), F.S.

¹⁹ Compare s. 163.3187, F.S. (small-scale plan amendments are only reviewed by DEO if the plan is challenged) with s. 163.3184(3)-(4), F.S. (expedited state review process and state coordinated review process for comprehensive plan amendments requires review by DEO and other state agencies).

²⁰ Section 163.3187(5)(a), F.S.

²¹ *Id.*

²² Section 163.3187(5)(b), F.S.

the recommended order directly to the Administration Commission, which has 90 days to issue a final order upon receipt.²³

A small-scale comprehensive plan amendment may not become effective until 31 days after adoption by the governing body of the county or municipality.²⁴ If the amendment is challenged, the amendment may not become effective until DEO or the Administration Commission issues a final order determining that the amendment is in compliance with the overall comprehensive plan.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3187, F.S., to repeal the 120-acre cumulative annual limit on small-scale development amendments that may be approved by a local government.

Section 2 provides that the bill takes effect July 1, 2019.

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.

²³ Section 120.569, F.S. *Also, see* s. 120.57, F.S.

²⁴ Section 163.3187(5)(c), F.S.

B. Private Sector Impact:

The provisions of the bill would expedite the granting of small-scale development amendments, to the extent local governments are currently limited by the annual acreage cap, potentially reducing costs for developers.

C. Government Sector Impact:

The bill will enable local governments to process more small-scale comprehensive plan amendments per year, increasing revenue to the extent additional applications are filed. The bill would increase expenditures by local governments to the extent additional staff may be needed to review the increase in applications for small-scale comprehensive plan amendments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.3187 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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 3-26-19

Bill Number (if applicable) 1494

Topic Small-Scale Comp plan amnts Amendment Barcode (if applicable) _____

Name Robin Erb

Job Title Lobbyist

Address 2400 Centennial Place Phone 402-1851

Street Valdosta FL 32308
City State Zip

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

Representing Florida Home Builders 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.

By Senator Perry

8-01235-19

20191494__

A bill to be entitled

An act relating to small-scale comprehensive plan amendments; amending s. 163.3187, F.S.; removing the acreage limitations that apply to small-scale comprehensive plan amendments; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Process for adoption of small-scale comprehensive plan amendment.—

(1) A small scale development amendment may be adopted under the following conditions:

~~(b) The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government does not exceed a maximum of 120 acres in a calendar year.~~

Section 2. This act shall take effect July 1, 2019.

COMMITTEE: Community Affairs
ITEM: SB 1494
FINAL ACTION: Favorable
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Building

[illegible]

CODES: FAV=Favorable
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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: CS/SB 564

INTRODUCER: Community Affairs Committee and Senator Hooper

SUBJECT: Pilot Program for Truth in Millage Notices

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 564 establishes the Web-based TRIM Notice Pilot Program in Pinellas, Pasco and Hernando counties. The pilot program, which would expire on December 31, 2023, authorizes property appraisers in these counties to post notices of proposed property taxes, commonly known as TRIM notices, on their websites rather than sending them to taxpayers by mail. If choosing to post notices electronically, a property appraiser must present the website plan at a public meeting of the board of county commissioners. Beginning January 1, 2020, a property appraiser participating in the pilot program must mail each taxpayer a notification of the website posting of TRIM notices, extend the opportunity for a taxpayer to continue receiving notices by mail, and provide the option for e-mail notifications about notices. By December 1, 2022, the Office of Program Policy Analysis and Government Accountability (OPPAGA) will submit a report and recommendations for possibly implementing a statewide web-based TRIM notice program.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Determination of Ad Valorem Millage

Each property appraiser must complete an assessment of the value of all property within the appraiser’s jurisdiction and certify to the taxing authorities the taxable value of such property no later than July 1 of each year, unless extended for good cause by the Department of Revenue.¹¹ The property appraiser also ensures that all real property is listed on the real property assessment roll.¹² The property appraiser’s certification of tax value to each taxing authority must include the procedure for calculating the “rolled-back rate”¹³ as well as the maximum millage rate.¹⁴

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art. VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ Section 193.023(1), F.S.

¹² Section 193.085(1), F.S.

¹³ *See* s. 200.065(1), F.S. In general terms, the “rolled-back rate” represents the rate that would generate the same amount of property tax revenues as approved for the prior year subject to certain calculations.

¹⁴ *Id.* *See* s. 200.065(5), F.S., for maximum millage limitation requirements.

Each taxing authority uses the taxable value provided by the property appraiser to prepare a proposed millage rate that is levied on each parcel's taxable value.¹⁵

The following timeline summarizes major steps in the millage determination process, from certification of value to adoption of final millage.

- The first day of the process is July 1 or the date of certification of taxable value, whichever is later.¹⁶
- Within 35 days (early August), each taxing authority must inform the property appraiser of its prior year millage rate, its current year proposed millage rate, its current year rolled-back rate, and the date, time, and location of the public hearing to be held to consider the proposed millage rate and tentative budget.¹⁷ This information is used by the property appraiser to prepare notices of proposed property taxes commonly referred to as truth-in-millage (TRIM) notices.¹⁸
- Within 55 days (late August), the property appraiser must mail TRIM notices pursuant to s. 200.069, F.S.¹⁹
- Between 65 and 80 days (early to mid-September), the governing body of each taxing authority must hold a public hearing on the tentative budget and proposed millage rate.²⁰ This hearing is published on the TRIM notice the property appraiser mails.
- Within 15 days of the hearing on the tentative budget and proposed millage rate (mid-September to early October), the governing body of each taxing authority must advertise its intent to adopt a final millage and budget.²¹
- Two to five days after its advertisement (early October), a public hearing must be held to finalize the budget and adopt a millage rate.²²

TRIM Notices

As noted above, the property appraiser must provide TRIM notices by first class mail to each taxpayer listed on the current year's assessment roll within 55 days of certifying the taxable value of a jurisdiction.²³ TRIM notices are prepared using a standardized form specified in s. 200.069, F.S.²⁴

The first page of the TRIM notice states that it is a notice of proposed property taxes and that the notice is not a bill.²⁵ The notice must inform the taxpayer that the taxing authorities which levy property taxes on property will soon hold public hearings to adopt budgets and tax rates for the following year.²⁶ The notice must also include a brief legal description of the property, the name

¹⁵ Section 200.065(2)(a)1., F.S.

¹⁶ *See supra* note 11.

¹⁷ Section 200.065(2)(b), F.S.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 200.065(2)(c), F.S.

²¹ Section 200.065(2)(d), F.S.

²² *Id.*

²³ Section 200.069, F.S.

²⁴ A county officer may use a form other than that provided by the Department of Revenue (DOR) if her or his office pays the related expenses and she or he obtains prior written permission from the executive director of the DOR.

²⁵ Section 200.069(1), F.S.

²⁶ *Id.*

and mailing address of the owner of record, and the tax information applicable to the specific parcel in question.²⁷

The notice must include seven columns labeled as:²⁸

- “Taxing Authority;”
- “Your Property Taxes Last Year;”
- “Last Year’s Adjusted Tax Rate (Millage);”
- “Your Taxes This Year IF NO Budget Change Is Adopted;”
- “Tax Rate This Year IF PROPOSED Budget Is Adopted (Millage);”
- “Your Taxes This Year IF PROPOSED Budget Change Is Adopted;” and
- “A Public Hearing on the Proposed Taxes and Budget Will Be Held.”²⁹

The “taxing authority” column contains the brief, commonly used name for each taxing authority or its governing body.³⁰ The “public hearing” column states the times and places for local government board meetings at which tentative budgets and proposed tax rates are to be considered, prior to final approval.³¹ The bottom of the notice contains a final entry labeled “Total Property Taxes,” listing the total amount of taxes due to all taxing authorities levying ad valorem taxes on the property for the present year.³²

The second page of the TRIM notice states the property’s market value, value of exemptions, and taxable values for the previous and current year for each taxing authority that is levying ad valorem tax against the property.³³ The second page also provides the taxpayer notice of how to challenge the assessed value of the property.³⁴ A taxpayer wishing to challenge the assessed value in front of the Value Adjustment Board (VAB) must submit a petition to the VAB no later than the 25th day following the mailing of the TRIM notice by the property appraiser.³⁵ The deadline date by which a taxpayer must file a VAB petition is printed on the TRIM notice.³⁶

If a local governing board is levying non-ad valorem assessments against the property, this information may be included in the notice, but must be clearly delineated from information concerning proposed property taxes.³⁷

²⁷ Section 200.069(2)(a), F.S.

²⁸ *Id.*

²⁹ Section 200.069(3), F.S., further specifies notice formatting entries for the county, school district levies, the municipality or municipal service taxing unit (if any), the water management district, any independent special districts, and all voted levies for debt service (if any).

³⁰ Section 200.069(4)(a), F.S.

³¹ Section 200.069(4)(g), F.S.

³² Section 200.069(5), F.S.

³³ Section 200.069(6)(a), F.S.

³⁴ Section 200.069(7), F.S.

³⁵ Section 194.011(3)(d), F.S. Chapter 194, F.S., provides for VABs in each county to hear property assessment appeals. Following a hearing decision by a VAB, the property appraiser submits a revised certified tax roll to each taxing authority. If the taxpayer does not agree with the VAB’s final decision, he or she may appeal the decision within 60 days to the circuit court pursuant to the provisions in s. 194.171(2), F.S.

³⁶ Section 200.069(7), F.S. While the VAB may not extend the time for filing a petition, nor set a deadline for late-filed petitions, the VAB is not barred from considering a petition filed after the statutory deadline (*see* Rule 12D-9.015(11), F.A.C.).

³⁷ Section 200.069(10), F.S.

Existing Provisions on Electronic Transmission of Documents

Section 192.048, F.S., provides that the following documents may be transmitted electronically rather than by regular mail:

- TRIM notices;
- Tax exemption renewals;
- Notifications of an intent to deny tax exemptions; and
- Decisions of a value adjustment board.

Electronic transmission is authorized only under the following conditions:

- The recipient consents in writing to the electronic submission;
- The form used to obtain consent for electronic transmission contains a statement that e-mail addresses are public records;
- A sender-recipient response verification of the electronic address;
- Documents comply with the same timing and form requirements as if sent by mail; and
- The sender renews consent and verification requirements every five years.³⁸

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of law establishing the Web-based TRIM Notice Pilot Program in Pinellas, Pasco and Hernando counties. The pilot program authorizes property appraisers in these counties to post TRIM notices required under s. 200.069, F.S., on their websites rather than sending them to taxpayers by mail. For property appraisers electing to participate in the pilot, the requirements and procedures of the program supersede those for electronic transmission under s. 192.048, F.S., until the end of the pilot on December 31, 2023. If the property appraiser elects to post notices electronically in lieu of mailing notices, a presentation of the website plan is required at a public meeting of the board of county commissioners. Also required are:

- Website options and instructions for taxpayers to receive an e-mail notification of TRIM notice postings and their ability to continue receiving TRIM notices via first class mail.
- Beginning January 1, 2020, assessment roll notices mailed to taxpayers:
 - Notifying them that TRIM notices will be posted rather than mailed unless the taxpayer elects to continue receiving TRIM notices by mail.
 - A notice containing information, similar to that found in s. 200.069 F.S., on the process for appealing a property's valuation, classification or exemption status to the VAB.
- For changes in ownership of property, new property owners must be mailed the same above information related to the pilot program's procedures and options.

By December 1, 2022, OPPAGA must create a report and provide recommendations for potentially implementing a statewide web-based TRIM notice program. The report is to be submitted to the Governor, the President of the Senate, and the Speaker of the House. Citizens, property appraisers, the DOR, and other relevant stakeholders must be consulted. At a minimum, the report and recommendations must include the number of online TRIM notices sent, any cost

³⁸ Section 192.048(2)(a)-(f), F.S. If an electronic document is returned as undeliverable, the sender must send the document by regular mail, as required by law.

reductions from online posting, and the number of VAB petitions filed before and after the start of the program.

Section 2 provides an effective date of October 1, 2019.

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Participating property appraiser offices in the three counties may initially incur additional costs associated with providing both mail and electronic versions of property tax notifications. In the longer term, a transition away from the paper and postage needs for TRIM notices will likely save money.

In an earlier statewide version of the bill, the Department of Revenue (DOR) cited a need to amend several agency rules and forms to accommodate the bill provisions.³⁹ It is unclear if the pilot program would require a similar amending of rules and forms.

³⁹ Florida Department of Revenue, *2019 Agency Legislative Bill Analysis for SB 564* (Feb. 21, 2019) (on file with the Senate Committee on Community Affairs)

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOR identified potential implementation and administration issues connected with an earlier statewide version of the bill.⁴⁰ It is unclear if the pilot program would have similar issues.

VIII. Statutes Affected:

This bill creates an undesignated section of the Florida Statutes.

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 on March 26, 2019:

The committee substitute:

- Establishes the Web-based TRIM Notice Pilot Program in Pinellas, Pasco and Hernando counties. The pilot program would expire on December 31, 2023; and
- Requires OPPAGA to create a report and recommendations for possible implementation of statewide web-based TRIM noticing based on results of the pilot.

B. Amendments:

None.

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

⁴⁰ *Id.*



732174

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2019	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Web-based TRIM Notice Pilot Program.-

(1) The Web-based TRIM Notice Pilot Program is established in Pinellas, Pasco, and Hernando Counties. The purpose of the pilot program is to provide property appraisers in those counties the option to provide taxpayers notices of proposed property taxes as required under s. 200.069, Florida Statutes,



732174

11 via the property appraiser's website in lieu of mailing such
12 notices. For a county in which the property appraiser elects to
13 participate in the pilot program, the procedures of this section
14 supersede the requirements and procedures for electronic
15 transmission as provided under s. 192.048, Florida Statutes,
16 until December 31, 2023, for notices of proposed property taxes.
17 The pilot program expires December 31, 2023.

18 (2) If the property appraiser elects to post the notices on
19 the property appraiser's website in lieu of mailing the notices
20 pursuant to s. 200.069, Florida Statutes, all of the following
21 requirements apply:

22 (a) Before posting the notices, the property appraiser must
23 present the plan to make notices available on the property
24 appraiser's website at a public meeting of the board of county
25 commissioners. The presentation is for informational purposes
26 only and the plan does not require prior approval by the board.

27 (b) The website must provide an option for a taxpayer to
28 request and receive an e-mail notification within 3 business
29 days after the most recent notices are posted on the website.
30 The website must also provide an option for the taxpayer to
31 elect to continue receiving notices via first-class mail by
32 contacting the property appraiser's office by telephone or mail.

33 (c) Beginning January 1, 2020, the property appraiser shall
34 prepare and mail to each taxpayer who is listed on the current
35 year's assessment roll a notice containing all of the following
36 information:

37 1. Notification that notices of proposed property taxes are
38 posted on the property appraiser's website and will no longer be
39 delivered by first-class mail unless the taxpayer elects to



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continue receiving the notices by mail.

2. Notification that the website allows the taxpayer to request and receive an e-mail notification and provides an option for the taxpayer to elect to continue receiving notices by first-class mail.

3. Instructions as to how the taxpayer may elect to continue to receive notices by mail by contacting the property appraiser's office by telephone or mail.

4. The following notice:

APPEALING YOUR VALUATION, CLASSIFICATION, OR EXEMPTION STATUS

If you feel the market value of your property is inaccurate or does not reflect fair market value, or if you feel you are entitled to an exemption or classification that is not reflected in your notice of proposed property taxes, contact your county property appraiser at ...(phone number)... or ...(location)....

If the property appraiser's office is unable to resolve the matter as to market value, classification, or an exemption, you may file a petition for adjustment with the Value Adjustment Board. Petition forms are available from the county property appraiser and must be filed ON OR BEFORE ...(date)....

If you FAIL to file a petition with the Value Adjustment Board on or before that date, you will be PROHIBITED FROM CONTESTING YOUR ASSESSMENT with the Value Adjustment Board.

(d) For changes in ownership of property, the property appraiser must send each new property owner, via first-class mail, a notice that includes the following information:

1. Notification that notices of proposed property taxes are



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available on the property appraiser's website.

2. Notification that the property appraiser's website allows the taxpayer to request and receive an e-mail notification and provides an option for the taxpayer to elect to receive notices delivered by first-class mail.

3. Instructions as to how the taxpayer may elect to continue receiving notices by mail by contacting the property appraiser's office by telephone or mail.

4. The following notice:

APPEALING YOUR VALUATION, CLASSIFICATION, OR EXEMPTION STATUS

If you feel the market value of your property is inaccurate or does not reflect fair market value, or if you feel you are entitled to an exemption or classification that is not reflected in your notice of proposed property taxes, contact your county property appraiser at ...(phone number)... or ...(location)....

If the property appraiser's office is unable to resolve the matter as to market value, classification, or an exemption, you may file a petition for adjustment with the Value Adjustment Board. Petition forms are available from the county property appraiser and must be filed ON OR BEFORE ...(date)....

If you FAIL to file a petition with the Value Adjustment Board on or before that date, you will be PROHIBITED FROM CONTESTING YOUR ASSESSMENT with the Value Adjustment Board.

(3) By December 1, 2022, the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report and recommendations for



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implementing a statewide program which addresses the legislative purpose under subsection (1). In consultation with the identified property appraisers and the Department of Revenue, OPPAGA shall develop the report and recommendations with input from other state agencies, local governments, and interest groups. OPPAGA shall also solicit citizen input from citizens in the affected areas and consult with the affected local government and stakeholder groups. Additionally, OPPAGA shall review local and state actions and correspondence relating to the pilot program to identify issues of process and substance in recommending changes to the pilot program. At a minimum, the report and recommendations must include:

(a) The number of property appraisers participating in the pilot program;

(b) The number of notices of proposed property taxes provided via website under the pilot program;

(c) Cost reductions from the online posting of such notices;

(d) The number of filed petitions before and after the start of the pilot program; and

(e) Recommended changes to the pilot program, including whether the program should be implemented statewide.

Section 2. This act shall take effect October 1, 2019.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled



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An act relating to a pilot program for truth-in-millage notices; establishing the Web-based TRIM Notice Pilot Program in specified counties; providing the purpose of the program; providing that certain procedures relating to electronic transmission are superseded in certain counties for a certain timeframe; providing for expiration of the pilot program; specifying requirements for public notices and meetings, property appraiser websites, and taxpayer notices if a property appraiser elects to participate in the pilot program; specifying a required notice relating to appeals of valuation, classification, or exemption status; requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a specified report and recommendations to the Governor and Legislature by a certain date; requiring OPPAGA to consult with property appraisers and the Department of Revenue and solicit input from certain persons in developing the report and recommendations; providing an effective date.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3/26/19

Bill Number (if applicable)

564

Topic

Amendment Barcode (if applicable)

Name Robbie McDowell

Job Title Vice Mayor

Address 1331 Reynolds Rd

Phone 941.429-7020

Street 1331 Reynolds Rd
City North Port State FL Zip 34286

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing City of North Port

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 3.26.19

Bill Number (if applicable) 564

Topic Tuth in Millge Offices

Amendment Barcode (if applicable) _____

Name Albert Ballido

Job Title ^

Address 201 W Park Dr #100

Phone 8802513440

Street Fall City FL State 32308 Zip

Email Albert@ballido.com

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

Representing Florida Association of Property Appraisers

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/26/2019
Meeting Date

SB 564
Bill Number (if applicable)

Topic TRUTH IN MLLAGE NOTICES

Amendment Barcode (if applicable)

Name CESAR GREALES

Job Title DIRECTOR OF COALITIONS

Address 200 W COLLEGE AVE

Phone 786.260.9283

Street

CITY TALAHASSEE FL

State

Zip

Email

cgreales@belibre.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

AMERICANS FOR PROSECUTORY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19
Meeting Date

SB 564
Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Lora Levy

Job Title General Counsel, Property Appraisers' Assoc of Fla (PAAF)

Address 1828 Duggins Rd Phone 850-219-0220

Street Tallahassee FL 32308
City State Zip

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

Representing PAAF

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

3-26-19

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

564

Meeting Date

Bill Number (if applicable)

Topic TRIM Notices

Amendment Barcode (if applicable)

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough

Phone 222-5052

Street

Tallahassee

FL

32301

Email kwenner@floridataxwatch.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida TaxWatch

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.

By Senator Hooper

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A bill to be entitled

An act relating to truth in millage notices; amending s. 200.069, F.S.; authorizing property appraisers to make notices of proposed property taxes available on their websites in lieu of mailing the notices; authorizing property appraisers to use electronic technology and devices for certain formatting purposes; requiring a property appraiser electing to post such notices on the website to present a plan to the board of county commissioners; providing construction; requiring such websites to provide certain options for receiving notices to taxpayers; requiring such property appraisers, for a specified timeframe, to mail notices containing specified information to taxpayers listed on assessment rolls; requiring such property appraisers to mail a notification containing specified information to new property owners; amending ss. 192.0105, 193.073, 193.114, and 193.1142, F.S.; conforming provisions to changes made by the act; amending s. 194.011, F.S.; revising timeframes for filing petitions with the value adjustment board as to valuation issues; providing an effective date.

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

Section 1. Section 200.069, Florida Statutes, is amended to read:
200.069 Notice of proposed property taxes and non-ad

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valorem assessments.—Pursuant to s. 200.065(2)(b), the property appraiser, in the name of the taxing authorities and local governing boards levying non-ad valorem assessments within his or her jurisdiction and at the expense of the county, shall in accordance with subsection (1) prepare and make available on the property appraiser's website or deliver by first-class mail to each taxpayer to be listed on the current year's assessment roll a notice of proposed property taxes, which must ~~notice shall~~ contain the elements and use the format provided in the ~~following~~ form specified in this section. Notwithstanding the provisions of s. 195.022, no county officer shall use a form other than that provided herein. The Department of Revenue may adjust the spacing and placement on the form of the elements listed in this section as it considers necessary based on changes in conditions necessitated by various taxing authorities. If the elements are in the order listed, the placement of the listed columns may be varied at the discretion and expense of the property appraiser, and the property appraiser may use printing or electronic technology and devices to complete the form, the spacing, and the placement of the information in the columns. A county officer may use a form other than that provided by the department for purposes of this part, but only if his or her office pays the related expenses and he or she obtains prior written permission from the executive director of the department; however, a county officer may not use a form the substantive content of which is at variance with the form prescribed by the department. The county officer may continue to use such an approved form until the law that specifies the form is amended or repealed or until the

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officer receives written disapproval from the executive director.

(1) If the property appraiser elects to post the notices on the property appraiser's website in lieu of mailing the notices, the following requirements apply:

(a) Before posting the notices, the property appraiser must present the plan to make notices available on the property appraiser's website at a public meeting of the board of county commissioners. The presentation is for informational purposes only, and the plan does not require prior approval by the board.

(b) The website must provide an option for a taxpayer to request and receive an e-mail notification within 3 business days after the most recent notices are posted on the website. The website must also provide an option for the taxpayer to continue receiving notices via first-class mail by contacting the property appraiser's office by telephone or mail.

(c) Beginning in the year in which a property appraiser implements a web-based noticing system and for 2 years thereafter, the property appraiser must prepare and mail to each taxpayer who is listed on the current year's assessment roll a notice containing all of the following information:

1. Notification that notices of proposed property taxes are posted on the property appraiser's website and will no longer be delivered by first-class mail unless the taxpayer elects to continue receiving the notices by mail.

2. Notification that the website allows the taxpayer to request and receive an e-mail notification and provides an option for the taxpayer to elect to continue receiving notices by first-class mail.

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3. Instructions as to how the taxpayer may elect to continue to receive notices by mail by contacting the property appraiser's office by telephone or mail.

4. The following notice:

APPEALING YOUR VALUATION OR EXEMPTION STATUS

If you feel the market value of your property is inaccurate or does not reflect fair market value, or if you feel you are entitled to an exemption or classification that is not reflected in your notice of proposed property taxes, contact your county property appraiser at ...(phone number)... or ...(location)....

If the property appraiser's office is unable to resolve the matter as to market value, classification, or an exemption, you may file a petition for adjustment with the Value Adjustment Board. Petition forms are available from the county property appraiser and must be filed ON OR BEFORE ...(date)....

If you FAIL to file a petition with the Value Adjustment Board on or before that date, you will be PROHIBITED FROM CONTESTING YOUR ASSESSMENT with the Value Adjustment Board.

(d) For changes in ownership of property, the property appraiser must send each new property owner, via first-class mail, a notice that includes the following information:

1. Notification that notices of proposed property taxes are available on the property appraiser's website.

2. Notification that the property appraiser's website allows the taxpayer to request and receive an e-mail notification and provides an option for the taxpayer to elect to

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receive notices delivered by first-class mail.

3. Instructions as to how the taxpayer may elect to continue receiving notices by mail by contacting the property appraiser's office by telephone or mail.

4. The following notice:

APPEALING YOUR VALUATION OR EXEMPTION STATUS

If you feel the market value of your property is inaccurate or does not reflect fair market value, or if you feel you are entitled to an exemption or classification that is not reflected in your notice of proposed property taxes, contact your county property appraiser at ...(phone number)... or ...(location)....

If the property appraiser's office is unable to resolve the matter as to market value, classification, or an exemption, you may file a petition for adjustment with the Value Adjustment Board. Petition forms are available from the county property appraiser and must be filed ON OR BEFORE ...(date)....

If you FAIL to file a petition with the Value Adjustment Board on or before that date, you will be PROHIBITED FROM CONTESTING YOUR ASSESSMENT with the Value Adjustment Board.

(2) (a) The first page of the notice of proposed property taxes must ~~shall~~ read:

NOTICE OF PROPOSED PROPERTY TAXES

DO NOT PAY--THIS IS NOT A BILL

The taxing authorities which levy property taxes against your property will soon hold PUBLIC HEARINGS to adopt budgets and tax rates for the next year.

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The purpose of these PUBLIC HEARINGS is to receive opinions from the general public and to answer questions on the proposed tax change and budget PRIOR TO TAKING FINAL ACTION.

Each taxing authority may AMEND OR ALTER its proposals at the hearing.

~~(b) (2) (a)~~ The notice shall include a brief legal description of the property, the name and mailing address of the owner of record, and the tax information applicable to the specific parcel in question. The information shall be in columnar form. There shall be seven column headings which shall read: "Taxing Authority," "Your Property Taxes Last Year," "Last Year's Adjusted Tax Rate (Millage)," "Your Taxes This Year IF NO Budget Change Is Adopted," "Tax Rate This Year IF PROPOSED Budget Is Adopted (Millage)," "Your Taxes This Year IF PROPOSED Budget Change Is Adopted," and "A Public Hearing on the Proposed Taxes and Budget Will Be Held:."

~~(c) (b)~~ As used in this section, the term "last year's adjusted tax rate" means the rolled-back rate calculated pursuant to s. 200.065(1).

(3) There shall be under each column heading an entry for the county; the school district levy required pursuant to s. 1011.60(6); other operating school levies; the municipality or municipal service taxing unit or units in which the parcel lies, if any; the water management district levying pursuant to s. 373.503; the independent special districts in which the parcel lies, if any; and for all voted levies for debt service applicable to the parcel, if any.

(4) For each entry listed in subsection (3), there shall appear on the notice the following:

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175 (a) In the first column, a brief, commonly used name for
 176 the taxing authority or its governing body. The entry in the
 177 first column for the levy required pursuant to s. 1011.60(6)
 178 shall be "By State Law." The entry for other operating school
 179 district levies shall be "By Local Board." Both school levy
 180 entries shall be indented and preceded by the notation "Public
 181 Schools:". For each voted levy for debt service, the entry shall
 182 be "Voter Approved Debt Payments."

183 (b) In the second column, the gross amount of ad valorem
 184 taxes levied against the parcel in the previous year. If the
 185 parcel did not exist in the previous year, the second column
 186 shall be blank.

187 (c) In the third column, last year's adjusted tax rate or,
 188 in the case of voted levies for debt service, the tax rate
 189 previously authorized by referendum.

190 (d) In the fourth column, the gross amount of ad valorem
 191 taxes which will apply to the parcel in the current year if each
 192 taxing authority levies last year's adjusted tax rate or, in the
 193 case of voted levies for debt service, the amount previously
 194 authorized by referendum.

195 (e) In the fifth column, the tax rate that each taxing
 196 authority must levy against the parcel to fund the proposed
 197 budget or, in the case of voted levies for debt service, the tax
 198 rate previously authorized by referendum.

199 (f) In the sixth column, the gross amount of ad valorem
 200 taxes that must be levied in the current year if the proposed
 201 budget is adopted.

202 (g) In the seventh column, the date, the time, and a brief
 203 description of the location of the public hearing required

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204 pursuant to s. 200.065(2)(c).

205 (5) Following the entries for each taxing authority, a
 206 final entry shall show: in the first column, the words "Total
 207 Property Taxes:" and in the second, fourth, and sixth columns,
 208 the sum of the entries for each of the individual taxing
 209 authorities. The second, fourth, and sixth columns shall,
 210 immediately below said entries, be labeled Column 1, Column 2,
 211 and Column 3, respectively. Below these labels shall appear, in
 212 boldfaced type, the statement: SEE REVERSE SIDE FOR EXPLANATION.

213 (6) (a) The second page of the notice shall state the
 214 parcel's market value and for each taxing authority that levies
 215 an ad valorem tax against the parcel:

216 1. The assessed value, value of exemptions, and taxable
 217 value for the previous year and the current year.

218 2. Each assessment reduction and exemption applicable to
 219 the property, including the value of the assessment reduction or
 220 exemption and tax levies to which they apply.

221 (b) The reverse side of the second page shall contain
 222 definitions and explanations for the values included on the
 223 front side.

224 (7) The following statement shall appear after the values
 225 listed on the front of the second page:

226
 227 If you feel that the market value of your property is
 228 inaccurate or does not reflect fair market value, or if you are
 229 entitled to an exemption or classification that is not reflected
 230 above, contact your county property appraiser at ...(phone
 231 number)... or ...(location)....

232 If the property appraiser's office is unable to resolve the

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233 matter as to market value, classification, or an exemption, you
 234 may file a petition for adjustment with the Value Adjustment
 235 Board. Petition forms are available from the county property
 236 appraiser and must be filed ON OR BEFORE ...(date)....

237 (8) The reverse side of the first page of the form shall
 238 read:

EXPLANATION

241
 242 *COLUMN 1—"YOUR PROPERTY TAXES LAST YEAR"

243 This column shows the taxes that applied last year to your
 244 property. These amounts were based on budgets adopted last year
 245 and your property's previous taxable value.

246 *COLUMN 2—"YOUR TAXES IF NO BUDGET CHANGE IS ADOPTED"

247 This column shows what your taxes will be this year IF EACH
 248 TAXING AUTHORITY DOES NOT CHANGE ITS PROPERTY TAX LEVY. These
 249 amounts are based on last year's budgets and your current
 250 assessment.

251 *COLUMN 3—"YOUR TAXES IF PROPOSED BUDGET CHANGE IS ADOPTED"

252 This column shows what your taxes will be this year under the
 253 BUDGET ACTUALLY PROPOSED by each local taxing authority. The
 254 proposal is NOT final and may be amended at the public hearings
 255 shown on the front side of this notice. The difference between
 256 columns 2 and 3 is the tax change proposed by each local taxing
 257 authority and is NOT the result of higher assessments.

258
 259 *Note: Amounts shown on this form do NOT reflect early payment
 260 discounts you may have received or may be eligible to receive.
 261 (Discounts are a maximum of 4 percent of the amounts shown on

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262 this form.)

263 (9) The bottom portion of the notice shall further read in
 264 bold, conspicuous print:

265
 266 "Your final tax bill may contain non-ad valorem
 267 assessments which may not be reflected on this notice
 268 such as assessments for roads, fire, garbage,
 269 lighting, drainage, water, sewer, or other
 270 governmental services and facilities which may be
 271 levied by your county, city, or any special district."

272
 273 (10) (a) If requested by the local governing board levying
 274 non-ad valorem assessments and agreed to by the property
 275 appraiser, the notice specified in this section may contain a
 276 notice of proposed or adopted non-ad valorem assessments. If so
 277 agreed, the notice shall be titled:

278 NOTICE OF PROPOSED PROPERTY TAXES
 279 AND PROPOSED OR ADOPTED
 280 NON-AD VALOREM ASSESSMENTS
 281 DO NOT PAY—THIS IS NOT A BILL
 282

283
 284 There must be a clear partition between the notice of proposed
 285 property taxes and the notice of proposed or adopted non-ad
 286 valorem assessments. The partition must be a bold, horizontal
 287 line approximately 1/8-inch thick. By rule, the department shall
 288 provide a format for the form of the notice of proposed or
 289 adopted non-ad valorem assessments which meets the following
 290 minimum requirements:

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1. There must be subheading for columns listing the levying local governing board, with corresponding assessment rates expressed in dollars and cents per unit of assessment, and the associated assessment amount.

2. The purpose of each assessment must also be listed in the column listing the levying local governing board if the purpose is not clearly indicated by the name of the board.

3. Each non-ad valorem assessment for each levying local governing board must be listed separately.

4. If a county has too many municipal service benefit units or assessments to be listed separately, it shall combine them by function.

5. A brief statement outlining the responsibility of the tax collector and each levying local governing board as to any non-ad valorem assessment must be provided on the form, accompanied by directions as to which office to contact for particular questions or problems.

(b) If the notice includes all adopted non-ad valorem assessments, the provisions contained in subsection (9) shall not be placed on the notice.

Section 2. Paragraph (a) of subsection (1) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but

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comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. Additional rights afforded to payors of taxes and assessments imposed under the revenue laws of this state are provided in s. 213.015. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(1) THE RIGHT TO KNOW.—

(a) The right to be provided ~~sent~~ a notice of proposed property taxes and proposed or adopted non-ad valorem assessments (see ss. 194.011(1), 200.065(2)(b) and (d) and (13)(a), and 200.069). The notice must also inform the taxpayer that the final tax bill may contain additional non-ad valorem assessments (see s. 200.069(9)).

Notwithstanding the right to information contained in this subsection, under s. 197.122 property owners are held to know that property taxes are due and payable annually and are charged with a duty to ascertain the amount of current and delinquent taxes and obtain the necessary information from the applicable governmental officials.

Section 3. Paragraph (a) of subsection (1) of section 193.073, Florida Statutes, is amended to read:

193.073 Erroneous returns; estimate of assessment when no

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return filed.—

(1) (a) Upon discovery that an erroneous or incomplete statement of personal property has been filed by a taxpayer or that all the property of a taxpayer has not been returned for taxation, the property appraiser shall mail a notice informing the taxpayer that an erroneous or incomplete statement of personal property has been filed. Such notice shall be mailed at any time before the mailing or posting of the notice required in s. 200.069. The taxpayer has 30 days after the date the notice is mailed to provide the property appraiser with a complete return listing all property for taxation.

Section 4. Paragraphs (a) and (b) of subsection (4) of section 193.114, Florida Statutes, are amended to read:

193.114 Preparation of assessment rolls.—

(4) (a) For every change made to the assessed or taxable value of a parcel on an assessment roll subsequent to the mailing or posting of the notice provided for in s. 200.069, the property appraiser shall document the reason for such change in the public records of the office of the property appraiser in a manner acceptable to the executive director or the executive director's designee.

(b) For every change that decreases the assessed or taxable value of a parcel on an assessment roll between the time of complete submission of the tax roll pursuant to s. 193.1142(3) and the mailing or posting of the notice provided for in s. 200.069, the property appraiser shall document the reason for such change in the public records of the office of the property appraiser in a manner acceptable to the executive director or the executive director's designee.

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Section 5. Paragraph (b) of subsection (4) of section 193.1142, Florida Statutes, is amended to read:

193.1142 Approval of assessment rolls.—

(4) The department is authorized to issue a review notice to a county property appraiser within 30 days of a complete submission of the assessment rolls of that county. Such review notice shall be in writing; shall set forth with specificity all reasons relied on by the department as a basis for issuing the review notice; shall specify all supporting data, surveys, and statistical compilations for review; and shall set forth with particularity remedial steps which the department requires the property appraiser to take in order to obtain approval of the tax roll. In the event that such notice is issued:

(b) The notice required pursuant to s. 200.069 shall not be issued or posted on a website prior to approval of an assessment roll for the county or prior to institution of interim roll procedures under s. 193.1145.

Section 6. Paragraph (d) of subsection (3) of section 194.011, Florida Statutes, is amended, and subsection (1) of that section is republished, to read:

194.011 Assessment notice; objections to assessments.—

(1) Each taxpayer whose property is subject to real or tangible personal ad valorem taxes shall be notified of the assessment of each taxable item of such property, as provided in s. 200.069.

(3) A petition to the value adjustment board must be in substantially the form prescribed by the department. Notwithstanding s. 195.022, a county officer may not refuse to accept a form provided by the department for this purpose if the

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taxpayer chooses to use it. A petition to the value adjustment board must be signed by the taxpayer or be accompanied at the time of filing by the taxpayer's written authorization or power of attorney, unless the person filing the petition is listed in s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a petition with a value adjustment board without the taxpayer's signature or written authorization by certifying under penalty of perjury that he or she has authorization to file the petition on behalf of the taxpayer. If a taxpayer notifies the value adjustment board that a petition has been filed for the taxpayer's property without his or her consent, the value adjustment board may require the person filing the petition to provide written authorization from the taxpayer authorizing the person to proceed with the appeal before a hearing is held. If the value adjustment board finds that a person listed in s. 194.034(1)(a) willfully and knowingly filed a petition that was not authorized by the taxpayer, the value adjustment board shall require such person to provide the taxpayer's written authorization for representation to the value adjustment board clerk before any petition filed by that person is heard, for 1 year after imposition of such requirement by the value adjustment board. A power of attorney or written authorization is valid for 1 assessment year, and a new power of attorney or written authorization by the taxpayer is required for each subsequent assessment year. A petition shall also describe the property by parcel number and shall be filed as follows:

(d) The petition may be filed, as to valuation issues, at any time during the taxable year on or before the 25th day following the later of the mailing of notice by the property

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

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appraiser or, if the property appraiser has opted to provide the notice under subsection (1), the posting of notice on the property appraiser's website or the e-mail notification of the posting of notice on the property appraiser's website as provided in subsection (1). With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173, or s. 196.193 or notice by the tax collector under s. 197.2425.

Section 7. This act shall take effect July 1, 2019.

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

The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 564
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate 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: SB 658

INTRODUCER: Senator Albritton

SUBJECT: Property Assessment Administration

DATE: March 23, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.			AEG	
3.			AP	

I. Summary:

SB 658 requires the Department of Revenue to pay the costs of furnishing ad valorem tax-related aerial photographs and maps to property appraisers from fiscally constrained counties for the purposes of ensuring accuracy in property assessments. Florida Statutes currently require the Department of Revenue to pay the costs of furnishing such items to property appraisers in the 16 counties of the state with populations of 25,000 or fewer. The provisions of SB 658 would add 13 more counties entitled to such gratis aerial photographs and maps.

II. Present Situation:

Aerial Photography of Real Property

Chapter 195, F.S., entrusts the Department of Revenue (DOR) with general supervision of the assessment and valuation of property in the state. This supervision consists primarily of aiding and assisting county officers in the assessing and collection functions, with particular emphasis on the more technical aspects.¹ Rule 12D-1.009, F.A.C., requires each property appraiser to maintain aerial photography suitable for appraisal needs. Section 195.022, F.S., requires the DOR to furnish aerial photographs of each county to property appraisers at least once every three years to help assure that all real property is listed on assessment rolls.

According to the DOR, aerial photography is useful for locating and analyzing real property, especially vacant land, and can be used to identify previously undiscovered improved property by comparing recent photographs with those of a prior period.² For field inspections and appraisal research, it is helpful to have aerial photographs accurately overlaid with property

¹ Section 195.002(1), F.S.

² See Florida Department of Revenue Property Tax Administration Program, *The Florida Real Property Appraisal Guidelines*, 16-25 (Nov. 26, 2002) available at <http://floridarevenue.com/property/Documents/FLrpg.pdf> (last visited Mar. 23, 2019).

ownership maps.³ Section 195.022, F.S., directs the DOR to prescribe ad valorem tax forms used by county property appraisers including the triennial prescription and provision of aerial photographs and non-property ownership maps to insure that all properties are correctly listed on the county tax rolls. Through established flight schedules, approximately one-third of the state is flown once every three years for photography and mapping purposes.⁴

Pursuant to Florida Statutes, the costs for aerial photographs and maps furnished to counties with a population of 25,000 or fewer are paid for by the DOR.⁵ In counties with a population greater than 25,000, the DOR furnishes these items at the property appraiser's expense.⁶ Funds the DOR collects for providing aerial photographs and maps to the larger counties are deposited into the Certification Program Trust Fund.⁷

The most recent Office of Economic and Demographic Research county population estimates as of April 1, 2018, identifies 16 Florida counties with populations of less than 25,000.⁸ The 16 counties are:

Bradford
Calhoun
Dixie
Franklin
Gilchrist
Glades

Gulf
Hamilton
Holmes
Jefferson
Lafayette
Liberty

Madison
Taylor
Union
Washington

In four of the last five General Appropriations Acts, non-recurring funds have been appropriated from General Revenue to provide aerial photographs and maps for counties with a population of 50,000 or less.⁹ In 2017, the non-recurring funds were specified for counties with a population of 25,000 or less, pursuant to s. 195.022, F.S.

Local Government Half-Cent Sales Tax and Fiscally Constrained Counties

Authorized in 1982,¹⁰ the Local Government Half-cent Sales Tax Program generates the largest amount of revenue for local governments among the state-shared revenue sources currently

³ *Id.* Property ownership maps are known as cadastral maps, scale maps showing the legal description boundary, parcel identifier, and related information on each parcel of real property in each county for assessment purposes.

⁴ Florida Department of Revenue, *Presentation for the Florida House of Representatives Government Operations and Technology Appropriations Subcommittee* (Feb. 21, 2019) (on file with the Senate Committee on Community Affairs). The DOR has qualified 11 aerial photography and mapping vendors that are available for DOR and county use.

⁵ Section 195.022, F.S. DOR requests funds to pay for these smaller counties each year in its Legislative Budget Request.

⁶ *Id.* The DOR may incur reasonable expenses for aerial photographs and maps which may then be translated into a fee equal to the cost incurred. According to the DOR, property appraisers can elect to use one of the qualified vendors or secure their own vendor.

⁷ See s. 195.022, F.S. Created in 1990, this trust fund was formed for the purpose of paying the DOR's expenses to upgrade assessment and collection skills for local government officials at training schools and programs..

⁸ See Florida Legislature, Office of Economic and Demographic Research, *Florida Population Estimates for Counties and Municipalities* (April 1, 2018) available at http://edr.state.fl.us/Content/population-demographics/data/2018_Pop_Estimates_Revised.pdf (last visited Mar. 23, 2019).

⁹ See chs. 2018-9 (line 3014), 2017-70 (line 3034), 2016-66 (line 3000), 2015-232 (line 3015), 2014-51 (line 3028), and 2013-40 (line 3004D), Laws of Fla. There are currently 26 counties with populations of 50,000 or less.

¹⁰ Chapter 82-154, Laws of Fla.

authorized by the Legislature.¹¹ It distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.¹²

Section 218.67, F.S., outlines procedures for an additional distribution of the half-cent sales tax to participating "fiscally constrained counties." A fiscally constrained county is 1) one that is entirely within a rural area of opportunity¹³ as designated by the Governor pursuant to the Rural Economic Development Initiative in s. 288.0656, F.S., or 2) one for which the value of a mill will raise no more than \$5 million in revenue, based on the taxable value certified pursuant to the required local effort for school districts in s. 1011.62(4)(a)1.a., F.S., from the previous July 1.¹⁴ The DOR currently identifies 29 fiscally constrained counties pursuant to s. 218.67(1), F.S. (counties listed in *italics* have populations of less than 25,000):¹⁵

Baker	<i>Gulf</i>	<i>Liberty</i>
<i>Bradford</i>	<i>Hamilton</i>	<i>Madison</i>
<i>Calhoun</i>	Hardee	Okeechobee
Columbia	Hendry	Putnam
Desoto	Highlands	Suwannee
<i>Dixie</i>	<i>Holmes</i>	<i>Taylor</i>
<i>Franklin</i>	Jackson	<i>Union</i>
Gadsden	<i>Jefferson</i>	Wakulla
<i>Gilchrist</i>	<i>Lafayette</i>	<i>Washington</i>
<i>Glades</i>	Levy	

III. Effect of Proposed Changes:

Section 1 amends s. 195.022, F.S., to require the DOR to pay the costs of furnishing ad valorem tax-related aerial photographs and maps to property appraisers from fiscally constrained counties. A fiscally constrained county is defined as a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1.

Section 2 provides that the act will take effect on July 1, 2019.

¹¹ See Florida Legislature, Office of Economic and Demographic Research, *2018 Local Government Financial Information Handbook*, 56-72, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih18.pdf> (last visited Feb. 26, 2019).

¹² *Id.*

¹³ See s. 288.0656(1), F.S. A rural area of opportunity is a rural community or region (generally, a county with a population of 75,000 or fewer) that has been adversely affected by an extraordinary economic event, severe distress, natural disaster or that presents a unique economic development opportunity of regional impact, as designated by the Governor

¹⁴ Section 218.67(1), F.S.

¹⁵ See Florida Department of Revenue, Property Tax Oversight, *Map of Fiscally Constrained Counties*, available at <http://floridarevenue.com/property/Documents/fcco081210.pdf> (last visited Mar. 23, 2019). Columbia, Highlands, and Putnam counties have populations greater than 50,000.

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.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The 13 fiscally constrained counties with populations above 25,000 will no longer incur costs related to aerial photographs and maps provided by the DOR for assessment purposes. The DOR estimates total expenditures to accomplish this of \$1,174,040 for Fiscal Year 2018-2019, \$448,477 for Fiscal Year 2019-2020, \$167,441 for Fiscal Year 2020-2021, and \$1,255,381 for Fiscal Year 2021-2022.¹⁶

V. Technical Deficiencies:

None.

¹⁶ The cost estimates are based on current schedules and pricing for the accepted industry standard of 6 inch resolution photography. See Florida Department of Revenue *2019 Agency Legislative Bill Analysis: SB 658* (March 5, 2019) (on file with the Senate Committee on Community Affairs).

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends s. 195.022 of the Florida Statutes:

VIII. 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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

SB 658

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Loren Levy

Job Title General Counsel, Property Appraisers' Ass'n of Fla. (PAAF)

Address 1828 Piggas Rd Phone 850-219-0220

Street City State Zip Email
Tallahassee FL 32308 paf@comcast.net

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

Representing PAAF

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.

By Senator Albritton

26-02047-19

2019658__

A bill to be entitled

An act relating to property assessment administration; amending s. 195.022, F.S.; requiring the Department of Revenue to pay for aerial photographs and nonproperty ownership maps furnished to fiscally constrained counties; defining the term "fiscally constrained county"; providing an effective date.

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

Section 1. Section 195.022, Florida Statutes, is amended to read:

195.022 Forms, aerial photographs, and nonproperty ownership maps to be prescribed by Department of Revenue.—

(1) The Department of Revenue shall prescribe all forms to be used by property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards in administering and collecting ad valorem taxes. The department shall prescribe a form for each purpose. The county officer shall reproduce forms for distribution at the expense of his or her office. A county officer may use a form other than the form prescribed by the department upon obtaining written permission from the executive director of the department; however, a county officer may not use a form if the substantive content of the form varies from the form prescribed by the department for the same or a similar purpose. If the executive director finds good cause to grant such permission he or she may do so. The county officer may continue to use the approved form until the law that specifies the form is amended or repealed or until the officer receives

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written disapproval from the executive director. Otherwise, all such officers and their employees shall use the forms, and follow the instructions applicable to the forms, which are prescribed by the department.

(2) (a) Upon the request of any property appraiser or, ~~in any event,~~ at least once every 3 years, the department shall prescribe and furnish such aerial photographs and nonproperty ownership maps to the property appraisers as necessary to ensure that all real property within the state is properly listed on the roll.

(b) All aerial photographs and maps furnished to fiscally constrained counties or to counties with a population of 25,000 or fewer must ~~shall~~ be paid for by the department as provided by law. As used in this subsection, the term "fiscally constrained county" means a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656 or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1.

(c) For all other counties ~~with a population greater than 25,000,~~ the department shall furnish such aerial photographs and maps ~~items~~ at the property appraiser's expense. The department may incur reasonable expenses for procuring aerial photographs and nonproperty ownership maps and may charge a fee to the respective property appraiser equal to the cost incurred.

(d) The department shall deposit such fees into the Certification Program Trust Fund created pursuant to s. 195.002. There shall be a separate account in the trust fund for the aid

26-02047-19

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and assistance activity of providing aerial photographs and nonproperty ownership maps to property appraisers. The department shall use money in the fund to pay such expenses.

(3) All forms and maps and instructions relating to their use must be substantially uniform throughout the state. An officer may employ supplemental forms and maps, at the expense of his or her office, which he or she deems expedient for the purpose of administering and collecting ad valorem taxes. The forms required in ss. 193.461(3)(a) and 196.011(1) for renewal purposes must require sufficient information for the property appraiser to evaluate the changes in use since the prior year. If the property appraiser determines, in the case of a taxpayer, that he or she has insufficient current information upon which to approve the exemption, or if the information on the renewal form is inadequate for him or her to evaluate the taxable status of the property, he or she may require the resubmission of an original application.

Section 2. This act shall take effect July 1, 2019.

COMMITTEE: Community Affairs
ITEM: SB 658
FINAL ACTION: Favorable
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate 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 1420

INTRODUCER: Community Affairs Committee and Senator Gruters

SUBJECT: Insulation Products

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.			CM	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1420 requires manufacturers seeking to have interior building insulation products approved under the Florida Building Code to provide specified testing data and reports, and comply with certain industry standards and federal regulations. Testing labs providing the data must be accredited by designated national organizations. The bill also requires manufacturers to provide the testing data to building officials and homeowners upon request and specifies that a failure to comply with the bill's provisions is a violation of the Florida Deceptive and Unfair Trade Practices Act.

II. Present Situation:

The Florida Building Code

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code. The system provided four separate model codes that local governments could consider and adopt to establish minimum standards of health and life safety for the public. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they saw fit.¹

¹ See The Florida Building Commission, *Annual Report FY 2017-2018*, available at https://www.floridabuilding.org/fbc/commission/FBC_0618/Commission/FBC_FY_2017-2018_Annual_Report.pdf (last visited Mar. 11, 2019).

In 1996 a study commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and an enhanced oversight role for the state in local code enforcement. The same legislation created the Commission to develop and maintain the Florida Building Code and related programs and processes. The 2000 Legislature authorized implementation of the Florida Building Code, and the first edition replaced all local codes on March 1, 2002. There have been six editions to date, and the Commission initiated the development of the 7th Edition (2020) Florida Building Code in October of 2017.²

The Florida Building Commission

The Commission, which is housed within the Florida Department of Business and Professional Regulation (DBPR), is a 27-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code. The Commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the Florida Building Code.³

Florida Building Code Enforcement

Section 553.73(1)(e), F.S., designates that the responsibility for enforcement, interpretation, and regulation of the Florida Building Code be vested in a specified local board or agency. These responsibilities include reviews of building plans, building inspections, and building permitting. Each enforcement district is governed by a board whose composition is determined by the affected localities.⁴ Day-to-day functions are typically carried out through municipal and county building departments and building officials.⁵

Product Evaluation and Approval

Section 553.842, F.S., provides the Commission with the authority to adopt rules to develop a product evaluation and approval system that applies statewide to operate in coordination with the Florida Building Code.⁶ The system must rely on national and international consensus standards whenever such standards are adopted into the Florida Building Code to demonstrate compliance with code standards.⁷ Other standards which meet or exceed state requirements must also be considered.⁸

² *Id.*

³ Section 553.74, F.S.

⁴ Section 553.80(3)(a), F.S.

⁵ The definition of "building official" in s. 468.603 F.S., references a person charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting.

⁶ See rule 61G20-3, F.A.C.

⁷ Section 553.842(2), F.S.

⁸ *Id.* Equivalence of standards for product approval are standards for products which meet or exceed the standards referenced in the Florida Building Code, and which are certified as equivalent for purposes of determining code compliance (Rule 61G20-3.015 F.A.C.).

Subsection (5) of section 553.842, F.S., provides the methods that must be used by the Commission for the statewide approval process.⁹ The categories of products subject to statewide approval are limited to the following:

- Panel walls
- Exterior doors
- Roofing
- Skylights
- Windows
- Shutters
- Impact protective systems
- Structural components.¹⁰

The Commission is required to maintain a list of the state-approved products, product evaluation entities, testing laboratories, quality assurance agencies, certification agencies, and validation entities.¹¹

Section 553.8425, F.S., governs approvals for products not identified as part of the statewide product approval program. Generally, products bearing a certification mark, label, or listing by an approved certification agency require no further documentation to establish compliance with the Florida Building Code.¹² Upon review of the compliance documentation, and a finding that a product complies with the Florida Building Code, the authority having jurisdiction or a local building official deems products approved for use in accordance with its approval and limitation of use.¹³

Florida Deceptive and Unfair Trade Practices¹⁴

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA or Act) broadly declares unlawful any unfair or deceptive acts or practices committed in the conduct of any trade or commerce. The Act is a separate cause of action intended to be an additional remedy, and it is aimed toward making consumers whole for losses caused by fraudulent consumer practices. The Act protects consumers from deceptive acts that mislead consumers, and protects the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.

⁹ See s. 553.842(5)(a)-(b), F.S.

¹⁰ *Id.*

¹¹ Section 553.842(13), F.S.

¹² Section 553.8425(5), F.S. Specific methods are provided for local approval of products or systems to demonstrate compliance with the structural windload requirements of the Florida Building Code in s. 553.8425(1), F.S.

¹³ Section 553.8425(6), F.S.

¹⁴ See ss. 501.201-213, F.S.

Labeling and Advertising of Home Insulation

Federal regulations on the labeling and advertising of home insulation are governed by 16 CFR Part 460.¹⁵ This regulation deals with home insulation labels, fact sheets, ads, and other promotional materials in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act.¹⁶ Home insulation is defined as:

any material mainly used to slow down heat flow. It may be mineral or organic, fibrous, cellular, or reflective (aluminum foil). It may be in rigid, semirigid, flexible, or loose-fill form. Home insulation is for use in old or new homes, condominiums, cooperatives, apartments, modular homes, or mobile homes. It does not include pipe insulation. It does not include any kind of duct insulation except for duct wrap.¹⁷

The regulation covers members of the home insulation industry including individuals, firms, partnerships, corporations, manufacturers, distributors, franchisors, installers, retailers, utility companies, and trade associations.¹⁸

Building Thermal Envelope

The Florida Building Code: Energy Conservation (2017) defines the “building thermal envelope” as the basement walls, exterior walls, floor, roof and any other building elements that enclose *conditioned space*. “Thermal envelope” is defined as the primary insulation layer of a building; that part of the envelope that provides the greatest resistance to heat flow to or from the building. “Continuous insulation” refers to insulating material that is continuous across all structural members without thermal bridges other than fasteners and service openings. It is installed on the interior or exterior or is integral to any opaque surface of the building envelope.

Thermal Insulation Standards and Laboratory Accreditation

ASTM¹⁹ provides thermal insulation standards widely used in specifying and evaluating the materials and methods used to reduce the rate of heat transfer. These thermal insulation standards help laboratories, device and equipment manufacturers, construction companies, and industrial firms, and other groups of people that deal with thermal insulating materials and procedures in examining these respective materials for efficiency.²⁰

¹⁵ See <https://www.law.cornell.edu/cfr/text/16/part-460> (last visited Mar. 23, 2019). Chapter 553, part V, F.S., Florida Building Code, makes no references to insulation. While the term insulation is used within thermal efficiency standards ss. 553.902, 553.905 and 553.906, F.S., the references do not directly define insulation or its manufacture. Section 202, Florida Building Code: Energy Conservation (2017) defines insulation as a material mainly used to retard the flow of heat.

¹⁶ 16 CFR § 460.1. If covered by this regulation, breaking any of its rules is an unfair and deceptive act or practice or an unfair method of competition subject to fine.

¹⁷ 16 CFR § 460.2

¹⁸ 16 CFR § 460.3 Advertisers and advertising agencies as well as labs doing tests for industry members are also covered.

¹⁹ ASTM is an international testing organization that develops and publishes technical standards that are arrived at through consensus and used on a voluntary basis for a wide variety of products, materials, systems and services.

²⁰ See ASTM, *International, Thermal Insulation Standards*, available at <https://www.astm.org/Standards/thermal-insulation-standards.html#C16.94> (last visited Mar. 23, 2019).

The American Association for Laboratory Accreditation (A2LA) is a nonprofit, non-governmental, public service, membership society. A2LA provides services in laboratory accreditation and laboratory-related training.²¹ The National Institute of Standards and Technology administers the National Voluntary Laboratory Accreditation Program (NVLAP). NVLAP provides accreditation services through various laboratory accreditation programs.²²

III. Effect of Proposed Changes:

Section 1 creates s. 553.843, F.S., pertaining to the approval of interior building envelope insulation products. In order for interior building envelope insulation products not subject to s. 553.842, F.S., to be approved under the Florida Building Code, manufacturers must provide current testing data which must include the name of the testing lab, the date of the test, and the test report number. The testing data must conform to the standards for insulation products in the Florida Building Code, meet ASTM International standards, and comply with the Federal Trade Commission requirements of 16 C.F.R. 460.

A manufacturer must provide test data to building officials and homeowners upon request. Evaluation reports may only be used as supporting documentation to the test data. The report must be for a single product and must contain the name of the testing lab, the date of the test, and the test report number. The test lab must be accredited by a national organization such as the American Association for Laboratory Accreditation or the National Voluntary Laboratory Accreditation Program of the National Institute of Standards and Technology. Failure to comply with this section of law constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act.

Section 2 provides an effective date of July 1, 2019.

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.

²¹ See American Association for Laboratory Accreditation (A2LA) website, available at <https://www.a2la.org/> (last visited Mar. 27, 2019).

²² See National Voluntary Laboratory Accreditation on Program website, available at <https://www.nist.gov/nvlap/about-nvlap> (last visited Mar. 27, 2019).

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A Department of Business and Professional Regulation analysis of SB 1420 stated that because insulation products are currently not within the scope of the Florida Building Commission's statewide product approval program, these products are currently approved by the local authority having jurisdiction pursuant to s. 553.8425, F.S. The bill, as written, does not change this.²³

VIII. Statutes Affected:

This bill creates section 553.843 of the Florida Statutes.

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 on March 26, 2019:

The committee substitute:

- Changes the bill title to an act relating to insulation products;
- Creates a new section of law on the approval of interior building envelope insulation products; and
- Specifies national accrediting organizations for insulation testing labs.

²³ Florida Department of Business and Professional Regulation, *2019 Agency Legislative Bill Analysis for SB 1420* (March 14, 2019) (on file with the Senate Committee on Community Affairs).

B. Amendments:

None.

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



372712

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2019	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 553.843, Florida Statutes, is created to
read:

553.843 Approval of interior building envelope insulation
products.—

(1) In order for interior building envelope insulation
products that are not subject to s. 553.842 to be approved under



372712

the Florida Building Code, manufacturers must provide current testing data, which includes the test lab where a product was tested, the test report number, and the date on which the testing took place. This testing data must conform to the current Florida Building Code as it relates to the standards for individual insulation products, must meet standards set forth by the American Society for Testing and Materials, and must comply with the Federal Trade Commission's regulations in 16 C.F.R. part 460.

(2) Such testing data must be provided to building code officials and building professionals upon request. Evaluation reports may only be used as supporting documentation to the testing data. The report must be for a single product and must contain the test lab where a product was tested, the test report number, and the date on which the testing took place. The test lab must be accredited by a national organization such as the American Association for Laboratory Accreditation (A2LA) or the National Voluntary Laboratory Accreditation Program of the National Institute of Standards and Technology.

(3) Failure to comply with this section constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act under part II of chapter 501.

Section 2. This act shall take effect July 1, 2019.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled



372712

An act relating to insulation products; creating s.
553.843, F.S.; requiring manufacturers to provide
certain testing data for approval of certain
insulation products under the Florida Building Code;
requiring the manufacturer to provide the testing data
to certain persons upon request; specifying that
evaluation reports may only be used for certain
purposes; providing requirements for evaluation
reports; requiring the testing lab to have a certain
accreditation; specifying that failure to provide the
testing data is a violation of the Florida Deceptive
and Unfair Trade Practices Act; providing an effective
date.



ANALYSIS

2019 AGENCY LEGISLATIVE BILL

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 1420</u>
BILL TITLE:	<u>Florida Building Code</u>
BILL SPONSOR:	<u>Sen. Gruters</u>
EFFECTIVE DATE:	<u>7/1/19</u>

COMMITTEES OF REFERENCE

1) Community Affairs
2) Commerce & Tourism
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Community Affairs

SIMILAR BILLS

BILL NUMBER:	HB 777 (similar)
SPONSOR:	Rep. Killibrew

PREVIOUS LEGISLATION

BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A
LAST ACTION:	N/A

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	N/A

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	March 14, 2019
LEAD AGENCY ANALYST:	Thomas Campbell, Executive Director, Florida Building Commission
ADDITIONAL ANALYST(S):	W. Justin Vogel, FBC Counsel Tracy Dixon, Service Operations Thomas Izzo, OGC Rules Tom Coker, Technology
LEGAL ANALYST:	Tom Thomas, Deputy General Counsel

FISCAL ANALYST:	Raleigh Close, AFM
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POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill requires a manufacturer seeking to have an insulation product approved under the Florida Building Commission's (Commission) statewide product approval program to provide additional testing data, reports, and proof of compliance with certain standards to the Florida Building Commission.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 553.842, F.S., describes the scope and procedures of the Florida Building Commission's statewide product approval program which are detailed further in Rule 61G20-3, F.A.C.

Rule 61G20-3.001, F.A.C., limits the scope of the Florida Building Commission's statewide product approval program to the following types of products:

- (a) Panel Walls
- (b) Exterior Doors
- (c) Roofing Products
- (d) Skylights
- (e) Windows
- (f) Shutters
- (g) Structural Components
- (h) Impact Protective Systems

Insulation products are currently not within the scope of the Florida Building Commission's statewide product approval program. Therefore, insulation products are currently approved by the local authority having jurisdiction pursuant to 553.8425, F.S.

Subsection 553.842(5), F.S., describes the methods that must be used in order for the Commission to approve a product, method, or system of construction.

2. EFFECT OF THE BILL:

Section 1

The bill creates s. 553.842(11)(a), F.S., which provides that a manufacturer seeking approval for an insulation product must provide test data to the Florida Building Commission. The test data must include the name of the testing lab, the date of the test, and the test report number. The manufacturer must also show that the insulation product conforms to the standards for insulation products in the Florida Building Code, ASTM International standards, and the requirements of 16 C.F.R. 460.

The bill creates s. 553.842(11)(b), F.S., which provides that a manufacturer may submit evaluation reports from a testing lab as supporting documentation to the test data. An evaluation report must be for a single product and must include the name of the testing lab, date the product was tested, and the test report number.

The bill creates s. 553.842(11)(c), F.S., which provides that a testing lab must be accredited by a nationally recognized accrediting agency.

The bill creates s. 553.842(11)(d), F.S., which states that a manufacturer must provide test data to building officials and homeowners upon request. Failure by a manufacturer to provide such data is a deceptive and unfair trade practice and constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act.

Section 2

The bill makes stylistic changes and conforming changes consistent with Section 1 of the bill.

Section 3

The bill's effective date is July 1, 2019.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	N/A
Opponents and summary of position:	N/A

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☐ N ☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local	N/A

referendum or local governing body public vote prior to implementation of the tax or fee increase?	
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2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation contain a State Government appropriation?	N/A
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	The Florida Building Commission uses a standalone online system for product approvals that is supported and maintained by a contracted vendor. Therefore, this bill will not impact the department's technology resources.
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	N/A
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ADDITIONAL COMMENTS

Florida Building Commission: The bill would not currently require any significant implementation because insulation products do not currently fall under the scope of the Florida Building Commission's statewide product approval program. If at some point in the future insulation products were included in the Commission's statewide product approval program, the requirements outlined in the bill would be added to the other requirements of the Commission's statewide product approval program to form the basis of approval for insulation products. The change would require rulemaking by the Commission and updates to the online system, and would likely take up to six months.

Division of Service Operations: No impact.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	<p>OGC Rules: No additional comments.</p> <p>OGC: No additional comments.</p>
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APPEARANCE RECORD

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

2/26/19

Meeting Date

1420

Bill Number (if applicable)

372712

Amendment Barcode (if applicable)

Topic Insulation ProductsName Dermot EnnisJob Title CEO, President HP, LLCAddress 103 Central Florida Hwy Ste 105

Street

Orlando

City

State

Zip

Phone 678-646-1251Email dermot@uproducts.comSpeaking: ☐ For ☐ Against☐ InformationWaive Speaking: ☒ In Support ☐ Against

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

Representing SelfAppearing at request of Chair: ☐ Yes ☒ No☐ 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.

APPEARANCE RECORD

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

3/26/19
Meeting Date

1420

Bill Number (if applicable)

372717

Amendment Barcode (if applicable)

Topic Ha Bldg Code

Name Deborah Lawson

Job Title

Address P.O. Box 12277

Phone

850-570-0033

Street

City Tallahassee

State

Zip

Email deborah.e.lawson@outlook.com

Speaking: ☐ For ☐ Against

☒ Information

Waive Speaking: ☐ In Support ☐ Against

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

Representing Ha Roof Deck Assn.

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.

By Senator Gruters

23-01676-19

20191420__

A bill to be entitled

An act relating to the Florida Building Code; amending s. 553.842, F.S.; requiring a manufacturer to submit certain information when seeking to have an insulation product approved by the Florida Building Commission; authorizing the manufacturer to submit certain evaluation reports to supplement the test data; requiring the testing lab to have certain accreditation; requiring the manufacturer to provide test data to certain persons upon request; specifying that the failure to provide the test data is a violation of the Florida Deceptive and Unfair Trade Practices Act; amending s. 553.8425, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Present subsections (11) through (16) of section 553.842, Florida Statutes, are redesignated as subsections (12) through (17), respectively, a new subsection (11) is added to that section, and paragraph (a) of subsection (5) of that section is amended, to read:

553.842 Product evaluation and approval.—

(5) Statewide approval of products, methods, or systems of construction may be achieved by one of the following methods. One of these methods must be used by the commission to approve the following categories of products: panel walls, exterior doors, roofing, skylights, windows, shutters, impact protective systems, and structural components as established by the

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

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commission by rule. A product may not be advertised, sold, offered, provided, distributed, or marketed as hurricane, windstorm, or impact protection from wind-borne debris from a hurricane or windstorm unless it is approved pursuant to this section or s. 553.8425. Any person who advertises, sells, offers, provides, distributes, or markets a product as hurricane, windstorm, or impact protection from wind-borne debris without such approval is subject to the Florida Deceptive and Unfair Trade Practices Act under part II of chapter 501 brought by the enforcing authority as defined in s. 501.203.

(a) Products for which the code establishes standardized testing or comparative or rational analysis methods shall be approved by submittal and validation of one of the following reports or listings indicating that the product or method or system of construction was in compliance with the Florida Building Code and that the product or method or system of construction is, for the purpose intended, at least equivalent to that required by the Florida Building Code:

1. A certification mark or listing of an approved certification agency, which may be used only for products for which the code designates standardized testing;

2. A test report from an approved testing laboratory;

3. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, from an approved product evaluation entity; or

4. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, developed and signed and sealed by a professional engineer or architect, licensed in this state.

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

23-01676-19

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A product evaluation report or a certification mark or listing of an approved certification agency which demonstrates that the product or method or system of construction complies with the Florida Building Code for the purpose intended is equivalent to a test report and test procedure referenced in the Florida Building Code. An application for state approval of a product under subparagraph 1. or subparagraph 3. must be approved by the department after the commission staff or a designee verifies that the application and related documentation are complete. This verification must be completed within 10 business days after receipt of the application. Upon approval by the department, the product shall be immediately added to the list of state-approved products maintained under subsection (14) ~~(13)~~. Approvals by the department shall be reviewed and ratified by the commission's program oversight committee except for a showing of good cause that a review by the full commission is necessary. The commission shall adopt rules providing means to cure deficiencies identified within submittals for products approved under this paragraph.

(11) (a) A manufacturer seeking to have an insulation product approved under this section must provide test data to the commission. The test data must include the name of the testing lab that performed the test, the date of the test, and the test report number and must show that the insulation product conforms to the standards for insulation products set by the Florida Building Code and ASTM International and complies with 16 C.F.R. 460.

(b) The manufacturer may submit evaluation reports from a

23-01676-19

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testing lab as supporting documentation to the test data. An evaluation report must be for a single product and must include the name of the testing lab, the date the product was tested, and the test report number.

(c) The testing lab must be accredited by a nationally recognized accrediting agency.

(d) The manufacturer must provide the test data to building officials and homeowners upon request. Failure to provide such data is a deceptive and unfair trade practice and constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act.

Section 2. Section 553.8425, Florida Statutes, is amended to read:

553.8425 Local product approval.—

(1) For local product approval, products or systems of construction shall demonstrate compliance with the structural windload requirements of the Florida Building Code through one of the following methods:

(a) A certification mark, listing, or label from a commission-approved certification agency indicating that the product complies with the code.~~+~~

(b) A test report from a commission-approved testing laboratory indicating that the product tested complies with the code.~~+~~

(c) A product-evaluation report based upon testing, comparative or rational analysis, or a combination thereof, from a commission-approved product evaluation entity which indicates that the product evaluated complies with the code.~~+~~

(d) A product-evaluation report or certification based upon

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117 testing or comparative or rational analysis, or a combination
118 thereof, developed and signed and sealed by a Florida
119 professional engineer or Florida registered architect, which
120 indicates that the product complies with the code.

121 (e) A statewide product approval issued by the Florida
122 Building Commission.

123 (f) Designation of compliance with a prescriptive, material
124 standard adopted by the commission by rule under s. 553.842(16)
125 ~~s. 553.842(15)~~.

126 Section 3. This act shall take effect July 1, 2019.

COMMITTEE: Community Affairs
ITEM: SB 1420
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate 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 1792

INTRODUCER: Community Affairs Committee and Senator Gruters

SUBJECT: Towing and Immobilizing of Vehicles and Vessels

DATE: March 27, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	Fav/CS
2.			IS	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1792 requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well as placing a cap on the maximum rate for immobilizing a vessel. The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on an authorized wrecker operator, a towing business, or a vehicle immobilization service. The bill does not impact the ability of a county or municipality to impose a reasonable administrative fee on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel to cover the cost of enforcement actions on public property. The bill provides that an authorized wrecker operator, a towing business, or vehicle immobilization service may impose and collect the administrative fee and is only required to remit the fee to the county or municipality after it has been collected.

The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose additional fees on the registered owner or lienholder of a vehicle or vessel when the vehicle or vessel is towed by an authorized wrecker operator. The bill provides that the reasonable administrative fee or charge imposed by the county or municipality must be included as part of the lien on the vehicle or vessel by the towing operator. The bill creates s. 715.08, F.S., regarding vehicle immobilization services. Additionally, CS/SB 1792 provides exemptions to bill requirements for ordinances enacted by a charter county with a population exceeding 1.3 million on or before January 1, 2019.

II. Present Situation:

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.¹ After the establishment of such contract(s), the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.² Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”³

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.⁴ If the owner or operator initiates contact, the unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s or operator’s insurance company or lienholder;
- Whether he or she has an insurance policy providing at least \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.⁵

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.⁶ It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.⁷ An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.⁸ In either instance, the unauthorized wrecker operator’s wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.⁹ Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.¹⁰

¹ Section 323.002(1)(c), F.S. The definition of “vehicle” does not include a vessel or trailer intended for the transport on land of a vessel. *See s. 320.01(20)*, F.S. (defining “motor vehicle” for the purpose of issuance of motor vehicle licenses and separately defining a “marine boat trailer dealer” as a person engaged in “business of buying ... trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.”)

² Section 323.002(1)(c), F.S.

³ Section 323.002(1)(a)-(b), F.S.

⁴ Section 323.002(2)(b), F.S.

⁵ Section 323.002(2)(c), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 323.002(2)(d), F.S.

⁹ Section 323.002(2)(c) and (d), F.S.

¹⁰ Section 323.002(2)(a), F.S.

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or where the vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.¹¹ A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.¹²

Vehicle Holds, Wrecker Operator Storage Facilities, and Liens

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.¹³ A hold may be applied where the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act¹⁴ or ch. 379, F.S.;¹⁵
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.¹⁶

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 (driving under the influence) or 322.34 (driving while license suspended, revoked, canceled, or disqualified), F.S., and when the officer is complying with a court order.¹⁷ The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle (including its color, make, model, body style, and year; VIN (Vehicle Identification Number); registration license plate number, state, year; and validation sticker number, state and year), the specific reason for placing the hold, the condition of the vehicle, the location where the vehicle is being held, and the name, address, and telephone number of the wrecker operator and storage facility.¹⁸

The investigating agency must inform the wrecker operator in writing within the five day holding period if the agency intends to hold the vehicle for a longer period of time.¹⁹ The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle will be held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.²⁰

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for

¹¹ Sections 125.0103(1)(c) and 166.043(1)(c), F.S.

¹² Compare 125.0103(1)(c), F.S., (requiring a county to establish maximum rates for towing of vehicles) with s. 715.07, F.S. (towing of vehicles or vessels parked on private property).

¹³ Section 323.001(1), F.S.

¹⁴ Sections 932.701-932.7062, F.S.

¹⁵ Chapter 379, F.S., includes multiple instances when a vehicle or vessel may be forfeited due to unlawful acts committed with such vehicle or vessel concerning fish and wildlife conservation.

¹⁶ Section 323.001(4)(a)-(e), F.S.

¹⁷ Section 323.001(4)(f)-(g), F.S.

¹⁸ Section 323.001(5), F.S.

¹⁹ Section 323.001(2), F.S.

²⁰ Section 323.001(2)(a)-(b), F.S.

a reasonable towing fee and storage fee, if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner or lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed in compliance with s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy (and the removal is performed pursuant to ss. 83.806 or 715.104, F.S.); or
- Any law enforcement agency.²¹

Authority for Local Governments to Charge Fees

Counties and municipalities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.²² However, local governments possess the authority to impose user fees or assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.²³ The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by others in the public.²⁴ On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”²⁵ Usually a fee is applied for the use of a service and is tied directly to the cost of maintaining the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.²⁶

Fees Related to Towing, Storage, and Wrecker Operators

Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The administrative fee is collected by the towing company on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the vehicle is released to the registered owner or lienholder.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.²⁷ The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty (\$500), hearing costs

²¹ Section 713.78(2), F.S.

²² FLA. CONST., art. VII, s. 1(a).

²³ *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

²⁴ *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

²⁵ *Id.*

²⁶ See *Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

²⁷ Sarasota Police Department, *Vehicle Seizure Program*, available at <https://www.sarasotapd.org/about-us/vehicle-seizure-program> (last visited March 22, 2019).

(\$50), and towing and storage fees to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees; or

- The registered owner may waive the right to a hearing and pay the civil penalty (\$500).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses a similar process and rate structure.²⁸

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.²⁹

The City of Winter Springs imposes an administrative fee for impoundment arising from twelve offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.³⁰ The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee (\$550). If the registered owner waives the right to hearing, the administrative fee is reduced to \$250.

By contract, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for “the opportunity to provide” wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.³¹

Additionally, a county or municipality may require a fee from a towing business in order to be licensed to operate within that county or municipality. For example, to operate a towing business in Miami-Dade County a person or corporation must apply to be a registered towing business with the county, which includes a \$412 annual fee, a vehicle safety inspection with a \$94 decal fee, proof of insurance requirements, and background checks (\$24 fee) of the owners of the towing business.³²

²⁸ Bradenton, Fla. Code of Ordinances, ch. 54, art. IV, *available at* https://library.municode.com/fl/bradenton/codes/code_of_ordinances?nodeId=PTIICOOR_CH54OFMIPR_ARTIVIMMOVE_USFAPDRRECR (last visited March 22, 2019).

²⁹ Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c), *available at* https://library.municode.com/fl/sweetwater/codes/code_of_ordinances?nodeId=PTIICOOR_CH42MOVETR_ARTIINGE_S_42-1IMMOVE (last visited March 22, 2019).

³⁰ Winter Springs, Fla. Code of Ordinances, ch. 12, art. V., s. 12-100, *available at* https://library.municode.com/fl/winter_springs/codes/code_of_ordinances?nodeId=PTIICOOR_CH12MOVETR_ARTVIMMOVE_S12-100IMMOVEUSFACEMICRPATRRE (last visited March 22, 2019).

³¹ City of Sarasota, *Agreement for Wrecker Towing and Storage Services* (May 5, 2010) (on file with the Senate Community Affairs Committee).

³² Miami-Dade County, *Towing License*, *available at* <http://www.miamidade.gov/licenses/towing.asp> (last visited March 22, 2019).

III. Effect of Proposed Changes:

Sections 1 and 3 amend ss. 125.0103 and 166.043, F.S., to authorize a county or municipality to regulate the rates for the towing or immobilization of vessels. A county or municipality is required to establish a maximum rate that may be charged for the towing, immobilization or storage of vessels. The bill defines the term “immobilize” as the act of rendering a vehicle or vessel inoperable by the use of a device such as a “boot,” “club,” “barnacle,” or any other device that renders a vehicle or vessel inoperable.

Sections 2 and 4 create ss. 125.01047 and 166.04465, F.S., to prohibit a county or municipality from enacting a rule or ordinance that imposes a fee or charge on an authorized wrecker operator, a towing business for towing, impounding, or storing a vehicle or vessel, or a vehicle immobilization service. The term “towing business” means a business that provides towing services for monetary gain.

The prohibition does not affect the county or municipality’s ability to levy a business tax under ss. 205.0315, 205.033, 205.043, or 205.0535, F.S., or to impose and collect a reasonable administrative fee or charge from the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, to cover the cost of enforcement, including parking enforcement, by the county when the vehicle or vessel is towed from or immobilized on public property. The reasonable administrative fee may not exceed 25 percent of the maximum towing or immobilization rate.

The bill authorizes an authorized wrecker operator, towing business, or vehicle immobilization service to impose and collect the administrative fee or charge on behalf of the county or municipality, but only remit such fee or charge after it is collected.

The bill provides that s. 125.0147, F.S., does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which relates to the towing, immobilization, removal, or storage of vehicles or vessels, including any amendment or revision made to such ordinance, resolution, or regulation after July 1, 2019.

An ordinance enacted by such charter county on or before January 1, 2019, would be exempt from imposing a fee on an authorized wrecker operator and from imposing an administrative fee of up to a 25 percent on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel owner.

Section 5 amends s. 332.002, F.S., to prohibit a county or municipality from adopting or maintaining an ordinance or rule that imposes a charge, cost, expense, fine, fee, or penalty, on a registered owner or other legally authorized person in custody or in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator.

A county or municipality may adopt or maintain an ordinance or rule that imposes a reasonable administrative fee or charge on the registered owner or other legally authorized person in control

of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator.

The fee or charge may not exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public property. The authorized wrecker operator or towing business is authorized to collect the administrative fee or charge on behalf of the county and municipality and must remit such fee or charge to the county or municipality after it is collected.

The bill provides that s. 323.002, F.S., does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which imposes a charge, cost, expense, fine, fee, or penalty on a registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator under ch. 323, F.S.

An ordinance enacted by such charter county on or before January 1, 2019, would be exempt from imposing a fee on a registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator and from imposing an administrative fee of up to a 25 percent on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel owner.

Section 6 amends s. 713.78, F.S., to provide that a reasonable administrative fee or charge imposed by a county or municipality must be included as part of the lien on the vehicle or vessel held by the towing operator.

Section 7 amends s. 715.07, F.S., to revise notice requirements for towing a vehicle from private property.

Section 8 creates s. 715.08, F.S., regarding vehicle immobilization services.

The bill defines the following terms:

- “Immobilize” means the act of rendering a vehicle or a vessel inoperable by the use of a vehicle immobilization device.
- “License” means a license, a permit, or other similar grant of authority to operate issued to an operator by a local government.
- “Operator” means any person, as defined in s. 1.01(3)³³, F.S., individual, or entity, including, but not limited to, a sole proprietor, an independent contractor, a partnership, or a similar business entity, offering or operating a vehicle immobilization service.
- “Vehicle immobilization device” means any mechanical device that is designed or used to be attached to a wheel, a tire, or other part of a parked motor vehicle which includes, but is not

³³ Section 1.01(3), F.S., provides that “person” includes individuals, children, firms, associations, joint adventurers, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

limited to, a “boot” or “club,” the “Barnacle,” or any other device that renders a vehicle or vessel inoperable.

- “Vehicle immobilization service” means any service in which vehicles are immobilized.

The bill establishes requirements for businesses engaged in vehicle immobilization operations. A business engaged in vehicle immobilization operations must be licensed by the local government where the operator will provide services. The operator may not provide immobilization services on any property or lot in which the operator has an ownership or other interest of value if that property or lot is used for the business of parking, including as a parking lot or valet parking operation, or if the parking of motor vehicles has otherwise been allowed.

The bill requires each operator to conduct vehicle immobilization services using a name that is distinguishable from any other existing operator.

An operator must issue all individuals under the operator’s employment, or who are acting on behalf of the operator, including the operator himself or herself, or partners, members, or officers of the operator, a photo identification with the name of the operator. Such individual must carry this operator-issued identification with him or her at all times while performing vehicle immobilization services.

All individuals under an operator’s employment, or who are acting on behalf of the operator, including the operator himself or herself, or partners, members, or officers of the operator, are required to wear a uniform that clearly identifies the name of the operator while performing vehicle immobilization services.

All vehicles being used by operators or individuals under an operator’s employment to perform vehicle immobilization services must have prominently displayed on both sides of each vehicle the name of the operator and that the operator performs vehicle immobilization services, the address from which the operator conducts business, and the telephone number of the operator. The lettering must be in a contrasting color to the color of the vehicle, or if a vehicle magnet or decal is used, the lettering must be in a contrasting color to the color of the magnet or decal. The lettering must be at least one and one-half inches in height.

The bill authorizes an operator to conduct vehicle immobilization services 24 hours per day, 7 days per week, and 365 days per year. The operator must maintain a telephone number that is staffed by a live individual 24 hours per day and 365 days per year to communicate immediately with a driver or owner of an immobilized vehicle.

An operator who has immobilized a vehicle is required to immediately affix a notice to the driver’s side window containing, at minimum, the following information:

- A warning that any attempt to move the vehicle may result in damage to the vehicle; and
- The fee required to remove the immobilization device, the name of the operator, and the telephone number to call to have the immobilization device removed.

It is unlawful for a vehicle immobilization service or operator to:

- Immobilize vehicles on any private property without having entered into a valid written contract for vehicle immobilization services with the private property owner, the lawful

lessee, the managing agent, or other person in control of the property;

- Fail to arrive on the site where a vehicle was immobilized within 1 hour of being contacted by the owner, the driver, or the person in custody or in control of the vehicle;
- Fail to release a vehicle from immobilization within 1 hour after receipt of payment from the owner, the driver, or the person in charge of a vehicle that has been immobilized; and
- Fail to provide a receipt of payment of the immobilization fee to the owner, the driver, or the person in custody or in control of an immobilized vehicle. The receipt must have the name, address, and telephone number of the operator; the name of the individual under the operator's employment or the partner, member, or officer of such operator who removed the immobilization device; and the operator's license number as issued by the department.

An operator is liable for the cost of repairing damages to a vehicle caused by an immobilization device, but is not liable for any damages resulting from a the vehicle owner attempting to operate the vehicle with the device attached or to remove the device. If the owner of a vehicle attempts to operate the vehicle with the device attached or remove the device, the vehicle owner is liable to the operator for damages to the device.

An operator is required to maintain minimum insurance coverage in the amount of \$1 million in commercial general liability, \$1 million in commercial automobile liability, \$1 million in garage liability, \$1 million in professional liability, and \$1 million in umbrella coverage and must have workers' compensation coverage on all employees.

The bill prohibits an operator from doing the following:

- Procure a license issued by a local government by fraudulent conduct or by a false statement of a material fact.
- Pay, in the form of a gratuity or any other valuable consideration, any person who does not have ownership in property or in a lot being used for the business of parking, or allowing for the parking of, motor vehicles for information as to illegally parked vehicles.
- Make any payment or other valuable consideration to an owner, an employee, an agent, or a person in possession of property or a lot that is being used for the business of parking, or allowing for the parking of, motor vehicles in excess of the reasonable and customary fee ordinarily charged by such person in possession of such property or lot for parking thereon.
- Charge fees in excess of those provided for in the bill.
- Impound any vehicle located on any portion of a public way within this state, unless such operator is contracted to do so by a governmental agency.

The bill establishes signage requirements. An operator is prohibited from installing or attaching a device to any motor vehicle without posting signs that meet the following requirements:

- The operator must install signs at each designated entrance to a parking lot or parking area where parking prohibitions are in effect. If there is no designated entrance, the operator shall erect the signs so they are clearly visible from every parking space;
- Signs must be a minimum of 18 inches by 24 inches, or if not allowed in such size, the maximum allowable size, with lettering a minimum height of one and one-half inches; and
- Sign lettering must be in a solid color that contrasts with the sign's background.

An operator's signs must clearly state the following, at a minimum:

- WARNING: IMMOBILIZATION ENFORCED 24/7.
- UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED AT OWNER'S RISK AND EXPENSE.
- THE IMMOBILIZATION OPERATOR IS ...(insert name of vehicle immobilization service)....
- THE TELEPHONE NUMBER FOR IMMOBILIZATION REMOVAL IS ...(insert operator's telephone number). . . .

The sign may not contain abbreviations.

Local governments are authorized to fine operators and revoke, suspend, or not renew a license for due cause. A local government intending to take adverse action against an operator must first provide notice and conduct a hearing. The hearing notice must be in writing, served on the operator at least 30 days before the hearing date, state the grounds of the complaint, and designate a time and place for the hearing. The notice must be served upon the license holder by certified mail, signature required, at the address on the operator's current license application.

Any operator whose license has been revoked is disqualified from reapplying to the local government for another license for 12 months immediately following the revocation. The violation of any provision of this section by any person with any ownership interest in the vehicle immobilization service may result in the revocation of the operator's license.

The maximum fine for any violation is \$1,000. The maximum suspension of a license for any one violation is 30 days.

The bill provides that s. 715.08, F.S., does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which relates to the towing, immobilization, removal, or storage of vehicles or vessels, including any amendment or revision made to such ordinance, resolution, or regulation after July 1, 2019.

An ordinance enacted by such charter county on or before January 1, 2019, would be exempt from the vehicle immobilization services requirements and regulation.

Section 9 provides the bill takes effect July 1, 2019.

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.

B. Private Sector Impact:

The bill will reduce expenses for towing companies that are located in counties or municipalities currently charging a fee on authorized wrecker operators.

C. Government Sector Impact:

The bill will have an indeterminate impact on local government revenue. The bill prohibits counties and municipalities from charging certain fees to authorized wrecker operators and towing companies which are currently charged by some jurisdictions, while authorizing the collection of administrative fees for the cost of enforcement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.0103, 166.043, 323.002, 713.78, and 715.07 of the Florida Statutes.

This bill creates sections 125.01047, 166.04465, and 715.08 of the Florida Statutes.

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 on March 26, 2019:

The committee substitute provides that certain provisions in the bill do not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019 by a charter county with a population exceeding 1.3 million.

- B. **Amendments:**

None.



128966

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2019	.	
	.	
	.	
	.	

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

Senate Amendment

Between lines 120 and 121
insert:

(3) This section does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which relates to the towing, immobilization, removal, or storage of vehicles or vessels, including any amendment or revision made to such ordinance,



128966

11 resolution, or regulation after July 1, 2019.



320918

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2019	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 207 and 208
insert:

(c) This subsection does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which imposes a charge, cost, expense, fine, fee, or penalty on a registered owner or other legally authorized person in control of a vehicle



320918

or vessel, or the lienholder of a vehicle or vessel, when the
vehicle or vessel is towed by an authorized wrecker operator
under this chapter.

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

And the title is amended as follows:

Delete lines 19 - 20

and insert:

vessels under certain conditions; providing
exceptions; amending s. 713.78, F.S.; authorizing



630976

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2019	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 593 and 594
insert:

(6) COUNTY ORDINANCES NOT AFFECTED.—This section does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which relates to the towing, immobilization, removal, or storage of vehicles or vessels, including any amendment or



630976

revision made to such ordinance, resolution, or regulation after
July 1, 2019.

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

And the title is amended as follows:

 Delete line 55

and insert:

 violations; providing an exception; providing an
 effective date.

APPENDIX B

AGREEMENT FOR WRECKER TOWING AND STORAGE SERVICES

THIS AGREEMENT FOR WRECKER TOWING AND STORAGE SERVICES, made and entered into this 5 day of MAY, 2010 by and between the CITY OF SARASOTA, FLORIDA, a municipal corporation, hereinafter referred to as "CITY," and J & G WPR, INC. DBA DIRECT TOWING, a Florida corporation, hereinafter referred to as "DIRECT".

WITNESSETH:

WHEREAS, CITY has publicly announced an invitation to Bid to obtain annual wrecker towing and storage services on an as needed basis pursuant to invitation to Bid No. 10-08MK; and

WHEREAS, DIRECT has submitted a responsive bid which has been accepted by CITY to provide the CITY with the annual wrecker towing and storage services on an as needed basis; and

WHEREAS, CITY and DIRECT desire to formalize the terms and conditions of DIRECT's performance of such services as set forth herein; and

WHEREAS, the City Manager, pursuant to Sarasota City Code Section 2-5 (3) v. is authorized to administratively approve and execute this Agreement on behalf of CITY so long as the total compensation paid to DIRECT during the entire term of this Agreement, as may be extended, does not exceed Two Hundred Thousand Dollars (\$200,000.00).

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS AGREED AS FOLLOWS:

1. Definitions. The following terms shall have the meanings herein ascribed to them:

A. *City Manager* shall mean the City manager of the City of Sarasota, Florida, or his designee.

B. *Police Chief* shall mean the Chief of Police of the City of Sarasota, Florida, or his designee.

C. *Project* shall mean the Scope of Services to be performed by DIRECT in furtherance of this Agreement. The Scope of Services shall include all labor, materials, tools, equipment, insurance and the like required to perform vehicle and vessel towing and storage services within the boundaries of the towing area on an as needed basis for CITY. A more detailed description of the Scope of Services is set forth in the City of Sarasota Police Department Vehicle and Vessel Towing and Storage Services section found on pages 13 through 20, inclusive, of invitation to Bid No. 10-08MK. A copy of invitation to Bid No. 10-08MK, as well as the Bid Form submitted by DIRECT in response thereto, are on file in the offices of

the Financial Administration Purchasing Division of CITY. Invitation to Bid No. 10-08MK, as well as DIRECT's Bid Form submitted in response thereto are deemed incorporated by reference into this Agreement. DIRECT covenants to strictly comply with all of the terms and conditions of Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto. In the event of any conflict between the terms set forth in the main body of this Agreement and Invitation to Bid No. 10-08MK, the terms and conditions set forth in the main body of this Agreement shall control.

2. Scope of Services: DIRECT shall diligently and timely provide all labor, material and equipment required for the Scope of Services for the Project in strict conformance with Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto and in strict conformance with all the terms and conditions of this Agreement. The parties hereby agree to be bound by the terms and conditions set forth in Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto. The Police Chief will notify DIRECT when an assignment within the Project Scope of Services may be available. DIRECT covenants to provide the Project Scope of Services within the time limits set forth in Invitation to Bid No. 10-08MK.

3. Payment: In consideration for CITY providing DIRECT the opportunity to provide the Scope of Services, DIRECT agrees to pay CITY a fee in the amount of Ten Thousand One Hundred Fifty One and 00/100 Dollars (\$10,151.00) per month. Said payment shall be submitted to the CITY prior to the 10th day of each month. This monthly payment shall be due and payable by DIRECT to CITY in advance for each month during the term of this Agreement. Furthermore, in consideration of the CITY not placing, attempting to foreclose or foreclosing a vehicle impoundment lien upon a vehicle impounded pursuant to Section 35-271 of the Sarasota City Code, DIRECT agrees to waive any and all storage charges to which the CITY would be obligated to pay as a result of the operation of any provision of Chapter 823, Florida Statutes, on any vehicles impounded by the City and stored by DIRECT. As further

consideration, DIRECT shall pay CITY Five Hundred Dollars (\$500.00) for each sale by DIRECT of a vehicle that was sold subsequent to a seizure initiated by the police department of CITY. Said payment shall be made to CITY within thirty (30) days of DIRECT'S sale of a vehicle which had been seized.

4. Term: This Agreement shall be effective upon complete execution by each of the parties hereto. The initial term of this Agreement shall expire one year thereafter. This Agreement may be extended upon mutual agreement of the parties for up to two additional one year periods under the same terms and conditions pursuant to an amendment to this Agreement.

5. Public Records: DIRECT acknowledges that it shall be responsible to totally and fully comply with the Florida Public Records Law as set forth in Chapter 119, Florida Statutes and all other relevant laws, rules and regulations regarding public records.

6. Termination Without Default: The City Manager shall have the right at any time upon fifteen (15) days written notice to DIRECT to terminate the services of DIRECT hereunder for any reason whatsoever. If the City Manager terminates this Agreement pursuant to this Section 6, DIRECT shall be entitled to a pro-rated refund of the monthly payment required by Section 3 above. The amount of the refund shall be pro-rated based upon the number of days remaining in the calendar month starting with the day after the effective date of termination.

7. Termination With Default: DIRECT acknowledges that the conditions, covenants and requirements on its part to be kept, as set forth herein, are material inducements to CITY entering into this Agreement. Should DIRECT fail to perform any of the conditions, covenants and requirements on its part to be kept, the City Manager shall give written notice thereof to DIRECT specifying those acts or things which must occur in order to cure said default, including the time within which such cure shall occur. DIRECT shall have seventy two (72) hours measured from the date and time of the written notice within which to cure the default.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3/26/19

Bill Number (if applicable)

SB 1792

Amendment Barcode (if applicable)

Topic TOWING

Name Sam Brewer

Job Title professional wrecker

Address

Street

Phone

City

State

Zip

Email

Speaking:



☐ Against

☐ Information

Waive Speaking:



☐ Against

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

Representing

PWOLF

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☐ Yes

☒ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3-26-19

1792

Bill Number (if applicable)

630976/128966/320918

Amendment Barcode (if applicable)

Topic

Towing + investigation of vehicle

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

33128

Email JMM2@MIAMIDADE.GOV

City

State

Zip

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3/26/19

Bill Number (if applicable)

1792

Topic

Towing + Immobilization of Vehicles

Vessel

10309710

Amendment Barcode (if applicable)

Name

Rebeca De la Rosa

Job Title

Governor's Office

Address

301 N. Olive Ave

Phone

850-284-7235

Street

Palm Beach County FL 33401

City

State

Zip

Email

delarosa@pb.gov

Speaking:



Waive Speaking:



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

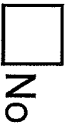
Representing

Palm Beach County

Appearing at request of Chair:



Lobbyist registered with Legislature:



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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

3/26/19

Bill Number (if applicable)

1792

Topic

Towing + Impoundment of Whitefish Vessels

Amendment Barcode (if applicable)

630976

Name

Eddy Labrador

Job Title

General Council Govt Affairs

Address

100 S. Andrews Ave

Phone

954-826-1155

Street

Fort Lauderdale FL 33332

Email

elabrador@broward.

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.

By Senator Gruters

23-00775B-19

20191792__

1 A bill to be entitled
 2 An act relating to towing and immobilizing of vehicles
 3 and vessels; amending ss. 125.0103 and 166.043, F.S.;
 4 specifying that local governments may enact rates to
 5 tow or immobilize vessels on private property and to
 6 remove and store vessels under specified
 7 circumstances; defining the term "immobilize";
 8 creating ss. 125.01047 and 166.04465, F.S.;
 9 prohibiting counties and municipalities, respectively,
 10 from enacting certain ordinances or rules that impose
 11 fees or charges on authorized wrecker operators,
 12 towing businesses, or vehicle immobilization services;
 13 defining the term "towing business"; providing
 14 exceptions; amending s. 323.002, F.S.; prohibiting
 15 counties or municipalities from imposing charges,
 16 costs, expenses, fines, fees, or penalties on
 17 registered owners, other legally authorized persons in
 18 custody or in control, or lienholders of vehicles or
 19 vessels under certain conditions; providing an
 20 exception; amending s. 713.78, F.S.; authorizing
 21 certain persons to place liens on vehicles or vessels
 22 to recover specified fees or charges; amending s.
 23 715.07, F.S.; revising certain notice requirements;
 24 revising requirements relating to towing and to
 25 removing vehicles or vessels to include persons who
 26 are in custody of a vehicle or of a vessel; deleting a
 27 requirement related to liability for improper removal
 28 of a vehicle or of a vessel; creating s. 715.08, F.S.;
 29 defining terms; authorizing vehicle immobilization

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

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30 devices to be used on trespassing motor vehicles;
 31 prohibiting persons from acting as operators of a
 32 vehicle immobilization service in this state unless
 33 specified requirements are met; providing requirements
 34 for such operators and persons acting on behalf of
 35 such operators; authorizing an operator to conduct
 36 vehicle immobilization at any time; providing notice
 37 requirements for immobilization of a vehicle;
 38 prohibiting a vehicle immobilization service or
 39 operator from taking specified actions; providing
 40 requirements for a certain receipt of payment;
 41 providing liability requirements under certain
 42 circumstances; providing insurance requirements for
 43 the operator; prohibiting the operator from engaging
 44 in specified activities; providing signage
 45 requirements; authorizing a certain local government
 46 to impose a fine upon an operator and to revoke,
 47 suspend, or not renew an operator's license for due
 48 cause; providing notice and hearing requirements for
 49 adverse actions regarding certain licenses; requiring
 50 disqualification from reapplying for a certain license
 51 for a specified period under certain circumstances;
 52 authorizing the revocation of an operator's license
 53 under certain circumstances; providing maximum
 54 specified fines and suspension of license for certain
 55 violations; providing an effective date.

57 Be It Enacted by the Legislature of the State of Florida:
 58

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Section 1. Paragraphs (b) and (c) of subsection (1) of section 125.0103, Florida Statutes, are amended to read:

125.0103 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) ~~The provisions of~~ This section does shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles or vessels from, or immobilization of vehicles or vessels on, private property, or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

(c) Counties must establish maximum rates that which may be charged for on the towing of vehicles or vessels from, or immobilization of vehicles or vessels on, private property, the removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates fees for the towing or immobilization of vehicles or vessels as described in paragraph

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(b), the county's ordinance does shall not apply within such municipality. For purposes of this paragraph, the term "immobilize" means the act of rendering a vehicle or vessel inoperable by the use of a device such as a "boot" or "club," the "Barnacle," or any other device that renders a vehicle or vessel inoperable.

Section 2. Section 125.01047, Florida Statutes, is created to read:

125.01047 Rules and ordinances relating to towing and to vehicle immobilization services.—

(1) A county may not enact an ordinance or rule that would impose a fee or charge on an authorized wrecker operator as defined in s. 323.002(1); a towing business for towing, impounding, or storing a vehicle or vessel; or a vehicle immobilization service as defined in s. 715.08. As used in this section, the term "towing business" means a business that provides towing services for monetary gain.

(2) The prohibition imposed in subsection (1) does not affect a county's authority to:

(a) Levy a reasonable business tax under s. 205.0315, s. 205.033, or s. 205.0535.

(b) Impose on and collect from the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, a reasonable administrative fee or charge not to exceed 25 percent of the maximum towing or of the immobilization rate, to cover the cost of enforcement, including parking enforcement, by the county when the vehicle or vessel is towed from or immobilized on public property. However, an authorized wrecker operator, towing

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business, or vehicle immobilization service may impose and collect the administrative fee or charge on behalf of the county and shall remit such fee or charge to the county after it is collected.

Section 3. Paragraphs (b) and (c) of subsection (1) of section 166.043, Florida Statutes, are amended to read:

166.043 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) ~~The provisions of~~ This section does ~~shall~~ not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles or vessels from, or immobilization of vehicles or vessels on, private property, or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

(c) Counties must establish maximum rates that ~~which~~ may be charged ~~for~~ ~~on~~ the towing of vehicles or vessels from, or immobilization of vehicles or vessels on, private property, the removal and storage of wrecked or disabled vehicles or vessels from an accident scene or ~~for~~ the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or

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otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates ~~fees~~ for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance established under s. 125.0103 does ~~shall~~ not apply within such municipality. For purposes of this paragraph, the term "immobilize" means the act of rendering a vehicle or a vessel inoperable by the use of a device such as a "boot" or "club," the "Barnacle," or any other device that renders the vehicle or the vessel inoperable.

Section 4. Section 166.04465, Florida Statutes, is created to read:

166.04465 Rules and ordinances relating to towing or to vehicle immobilization services.—

(1) A municipality may not enact an ordinance or rule that would impose a fee or charge on an authorized wrecker operator as defined in s. 323.002(1); on a towing business for towing, impounding, or storing a vehicle or vessel; or a vehicle immobilization service as defined in s. 715.08. As used in this section, the term "towing business" means a business that provides towing services for monetary gain.

(2) The prohibition imposed in subsection (1) does not affect a municipality's authority to:

(a) Levy a reasonable business tax under s. 205.0315, s. 205.043, or s. 205.0535.

(b) Impose on and collect from the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, a reasonable administrative fee or charge not to exceed 25 percent of the

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maximum towing or immobilization rate, to cover the cost of enforcement, including parking enforcement, by the municipality when the vehicle or vessel is towed from or immobilized on public property. However, an authorized wrecker operator, towing business, or vehicle immobilization service may impose and collect the administrative fee or charge on behalf of the municipality and shall remit such fee or charge to the municipality after it is collected.

Section 5. Present subsection (4) of section 323.002, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

323.002 County and municipal wrecker operator systems; penalties for operation outside of system.—

(4) (a) Except as provided in paragraph (b), a county or municipality may not adopt or maintain an ordinance or rule that imposes a charge, cost, expense, fine, fee, or penalty on a registered owner or other legally authorized person in custody or in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator under this chapter.

(b) A county or municipality may adopt or maintain an ordinance or rule that imposes a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator. The fee or charge may not exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public

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property. However, an authorized wrecker operator or towing business may impose and collect the administrative fee or charge on behalf of the county or municipality and shall remit such fee or charge to the county or municipality after it is collected.

Section 6. Subsection (2) of section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle or vessel upon instructions from:

(a) The owner thereof;

(b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle or vessel is wrongfully parked, and the removal is done in compliance with s. 715.07;

(c) The landlord or a person authorized by the landlord, when such motor vehicle or vessel remained on the premises after the tenancy terminated and the removal is done in compliance with s. 83.806 or s. 715.104; or

(d) Any law enforcement agency,

she or he shall have a lien on the vehicle or vessel for a reasonable towing fee, for a reasonable administrative fee or charge imposed by a county or a municipality, and for a reasonable storage fee; except that a no storage fee may not ~~shall~~ be charged if the vehicle or the vessel is stored for less than 6 hours.

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Section 7. Subsection (2) and present subsection (4) of section 715.07, Florida Statutes, are amended, and present subsection (5) of that section is redesignated as subsection (4), to read:

715.07 Vehicles or vessels parked on private property; towing.—

(2) The owner or lessee of real property, or any person authorized by the owner or lessee, which person may be the designated representative of the condominium association if the real property is a condominium, may cause any vehicle or vessel parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles or vessels, without liability for the costs of removal, transportation, or storage or damages caused by such removal, or storage, under any of the following circumstances:

(a) The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel is subject to strict compliance with the following conditions and restrictions:

1.a. Any towed or removed vehicle or vessel must be stored at a site within a 10-mile radius of the point of removal in any county of 500,000 population or more, and within a 15-mile radius of the point of removal in any county of less than 500,000 population. That site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle or vessel is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently

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posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the operator shall return to the site within 1 hour or she or he will be in violation of this section.

b. If no towing business providing such service is located within the area of towing limitations set forth in subparagraph a., the following limitations apply: any towed or removed vehicle or vessel must be stored at a site within a 20-mile radius of the point of removal in any county of 500,000 population or more, and within a 30-mile radius of the point of removal in any county of less than 500,000 population.

2. The person or firm towing or removing the vehicle or vessel shall, within 30 minutes after completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff, of such towing or removal, the storage site, the time the vehicle or vessel was towed or removed, and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

3. A person in the process of towing or removing a vehicle or vessel from the premises or parking lot in which the vehicle or vessel is not lawfully parked must stop when a person seeks the return of the vehicle or vessel. The vehicle or vessel must be returned upon the payment of a reasonable service fee of not more than one-half of the posted rate for the towing or removal service as provided in subparagraph 6. The vehicle or vessel may

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be towed or removed if, after a reasonable opportunity, the owner or legally authorized person in control of the vehicle or vessel is unable to pay the service fee. If the vehicle or vessel is redeemed, a detailed signed receipt must be given to the person redeeming the vehicle or vessel.

4. A person may not pay or accept money or other valuable consideration for the privilege of towing or removing vehicles or vessels from a particular location.

5. Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle or vessel that the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or vessels and that the vehicle or vessel is subject to being removed at the owner's or operator's expense, any property owner or lessee, or person authorized by the property owner or lessee, prior to towing or removing any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel, must post a notice meeting the following requirements:

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, ~~within 5 feet from the public right-of-way line.~~ If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, ~~in not less than 2-inch high, light reflective letters on a contrasting background,~~ that unauthorized vehicles will be towed away at the owner's

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expense. The words "tow-away zone" must be included on the sign ~~in not less than 4-inch high letters.~~

c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles or vessels.

d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" ~~not less than 3 feet and not more than 6 feet above ground level~~ and must be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles or vessels.

e. The local government may require permitting and inspection of these signs prior to any towing or removal of vehicles or vessels being authorized.

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign that clearly states ~~stating~~ "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense." ~~in not less than 4-inch high, light reflective letters on a contrasting background.~~

g. A property owner towing or removing vessels from real property must post notice, consistent with the requirements in sub-subparagraphs a.-f., which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the owner's expense.

A business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when the vehicle or vessel is parked in such a manner that restricts the normal operation of business; and if a vehicle or vessel parked on a public

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right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

6. Any person or firm that tows or removes vehicles or vessels and proposes to require an owner, operator, or person in custody or control of a vehicle or vessel to pay the costs of towing and storage prior to redemption of the vehicle or vessel must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles or vessels as provided in this section.

7. Any person or firm towing or removing any vehicles or vessels from private property without the consent of the owner or other legally authorized person in custody or control of the vehicles or vessels shall, on any trucks, wreckers as defined in s. 713.78(1)(c), or other vehicles used in the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed ~~in contrasting colors~~ on the driver and passenger sides of the vehicle. ~~The name shall be in at least 3-inch permanently affixed letters, and the address and telephone number shall be in at least 1-inch permanently affixed letters.~~

8. Vehicle entry for the purpose of removing the vehicle or vessel shall be allowed with reasonable care on the part of the person or firm towing the vehicle or vessel. Such person or firm

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shall be liable for any damage occasioned to the vehicle or vessel if such entry is not in accordance with the standard of reasonable care.

9. When a vehicle or vessel has been towed or removed pursuant to this section, it must be released to its owner or to the person in custody or control ~~custodian~~ within one hour after requested. Any vehicle or vessel owner or the person in custody or control ~~agent~~ shall have the right to inspect the vehicle or vessel before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle or vessel from liability for damages noted by the owner or by the person in custody or control ~~other legally authorized person~~ at the time of the redemption may be required from any vehicle or vessel owner, ~~custodian~~, or person in custody or control ~~agent~~ as a condition of release of the vehicle or vessel to its owner. A detailed, signed receipt showing the legal name of the company or person towing or removing the vehicle or vessel must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

(b) These requirements are minimum standards and do not preclude enactment of additional regulations by any municipality or county, including the right to regulate rates when vehicles or vessels are towed from private property.

~~(4) When a person improperly causes a vehicle or vessel to be removed, such person shall be liable to the owner or lessee of the vehicle or vessel for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle or vessel; attorney's fees; and court costs.~~

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407 Section 8. Section 715.08, Florida Statutes, is created to
 408 read:
 409 715.08 Vehicle immobilization services.—
 410 (1) DEFINITIONS.—As used in this section, the term:
 411 (a) "Immobilize" means the act of rendering a vehicle or a
 412 vessel inoperable by the use of a vehicle immobilization device.
 413 (b) "License" means a license, a permit, or other similar
 414 grant of authority to operate issued to an operator by a local
 415 government.
 416 (c) "Operator" means any person, as defined in s. 1.01(3),
 417 individual, or entity, including, but not limited to, a sole
 418 proprietor, an independent contractor, a partnership, or a
 419 similar business entity, offering or operating a vehicle
 420 immobilization service.
 421 (d) "Vehicle immobilization device" means any mechanical
 422 device that is designed or used to be attached to a wheel, a
 423 tire, or other part of a parked motor vehicle which includes,
 424 but is not limited to, a "boot" or "club," the "Barnacle," or
 425 any other device that renders a vehicle or vessel inoperable.
 426 (e) "Vehicle immobilization service" means any service in
 427 which vehicles are immobilized.
 428 (2) VEHICLE IMMOBILIZATION OPERATIONS; REQUIREMENTS.—
 429 (a) Vehicle immobilization devices may be used on
 430 trespassing motor vehicles as provided for under this section.
 431 (b) It is unlawful for any person to act as an operator
 432 within this state unless the person is properly licensed or
 433 approved by a local government.
 434 (c) It is unlawful for any person to act as an operator if
 435 the person also has ownership or any other valuable

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436 consideration in property or a lot being used for the business
 437 of parking, or allowing for the parking of, motor vehicles or is
 438 engaged in the business of parking lot or valet parking
 439 operations.
 440 (d) Each operator shall conduct vehicle immobilization
 441 services using a name that is distinguishable from any other
 442 existing operator.
 443 (e)1. An operator shall issue all individuals under the
 444 operator's employment, or who are acting on behalf of the
 445 operator, including the operator himself or herself, or
 446 partners, members, or officers of the operator, a photo
 447 identification with the name of the operator. Such an individual
 448 shall carry this operator-issued identification with him or her
 449 at all times while performing vehicle immobilization services.
 450 2. All individuals under an operator's employment, or who
 451 are acting on behalf of the operator, including the operator
 452 himself or herself, or partners, members, or officers of the
 453 operator, shall wear a uniform that clearly identifies the name
 454 of the operator while performing vehicle immobilization
 455 services.
 456 3. All vehicles being used by operators or individuals
 457 under an operator's employment to perform vehicle immobilization
 458 services must have prominently displayed on both sides of each
 459 vehicle the name of the operator and that the operator performs
 460 vehicle immobilization services, the address from which the
 461 operator conducts business, and the telephone number of the
 462 operator. The lettering must be in a contrasting color to the
 463 color of the vehicle, or if a vehicle magnet or decal is used,
 464 the lettering must be in a contrasting color to the color of the

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magnet or decal. The lettering must be at least one and one-half inches in height.

(f)1. An operator may conduct vehicle immobilization services 24 hours per day, 7 days per week, and 365 days per year.

2. An operator shall maintain a telephone number that is staffed by a live individual 24 hours per day and 365 days per year to communicate immediately with a driver or owner of an immobilized vehicle.

(g) An operator who has immobilized a vehicle shall immediately affix a notice to the driver's side window containing, at minimum, the following information:

1. A warning that any attempt to move the vehicle may result in damage to the vehicle; and

2. The fee required to remove the immobilization device, the name of the operator, and the telephone number to call to have the immobilization device removed.

(h) It is unlawful for a vehicle immobilization service or operator to:

1. Immobilize vehicles on any private property without having entered into a valid written contract for vehicle immobilization services with the private property owner, the lawful lessee, the managing agent, or other person in control of the property;

2. Fail to arrive on the site where a vehicle was immobilized within 1 hour of being contacted by the owner, the driver, or the person in custody or in control of the vehicle;

3. Fail to release a vehicle from immobilization within 1 hour after receipt of payment from the owner, the driver, or the

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person in charge of a vehicle that has been immobilized; and

4. Fail to provide a receipt of payment of the immobilization fee to the owner, the driver, or the person in custody or in control of an immobilized vehicle. The receipt must have the name, address, and telephone number of the operator; the name of the individual under the operator's employment or the partner, member, or officer of such operator who removed the immobilization device; and the operator's license number as issued by the department.

(i)1. If the application of a vehicle immobilization device damages a vehicle, the operator shall pay the cost of repairs for that damage.

2. If the owner, the driver, or the person in charge of a motor vehicle to which an immobilization device has been installed attempts to operate such motor vehicle or to remove the device, then the operator is not liable for any damage to the vehicle resulting from such attempt. In such an instance, the owner, the driver, or the person in charge of the immobilized vehicle is liable to the operator for the cost of damage to the vehicle immobilization device.

(j) An operator shall maintain minimum insurance coverage in the amount of \$1 million in commercial general liability, \$1 million in commercial automobile liability, \$1 million in garage liability, \$1 million in professional liability, and \$1 million in umbrella coverage and shall have workers' compensation coverage on all employees.

(3) PROHIBITED ACTIVITIES.—An operator may not do any of the following:

(a) Procure a license issued by a local government by

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fraudulent conduct or by a false statement of a material fact.

(b) Pay, in the form of a gratuity or any other valuable consideration, any person who does not have ownership in property or in a lot being used for the business of parking, or allowing for the parking of, motor vehicles for information as to illegally parked vehicles.

(c) Make any payment or other valuable consideration to an owner, an employee, an agent, or a person in possession of property or a lot that is being used for the business of parking, or allowing for the parking of, motor vehicles in excess of the reasonable and customary fee ordinarily charged by such person in possession of such property or lot for parking thereon.

(d) Charge fees in excess of those provided for in this section.

(e) Impound any vehicle located on any portion of a public way within this state, unless such operator is contracted to do so by a governmental agency.

(4) SIGNAGE; REQUIREMENTS.—

(a) It is unlawful for any operator to install or to attach a device to any motor vehicle without posting signs meeting the following requirements:

1. The operator shall install signs at each designated entrance to a parking lot or parking area where parking prohibitions are in effect. If there is no designated entrance, the operator shall erect the signs so they are clearly visible from every parking space;

2. Signs must be a minimum of 18 inches by 24 inches, or if not allowed in such size, the maximum allowable size, with

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lettering a minimum height of one and one-half inches; and

3. Sign lettering must be in a solid color that contrasts with the sign's background.

(b) An operator's signs must clearly state the following, at a minimum:

1. WARNING: IMMOBILIZATION ENFORCED 24/7.

2. UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED AT OWNER'S RISK AND EXPENSE.

3. THE IMMOBILIZATION OPERATOR IS ...(insert name of vehicle immobilization service)....

4. THE TELEPHONE NUMBER FOR IMMOBILIZATION REMOVAL IS ...(insert operator's telephone number)....

(c) No abbreviations may be used on signs required under this subsection.

(5) ADMINISTRATIVE ACTIONS; OPERATOR RIGHTS.—

(a) A local government that has jurisdiction over, and that issued a license to, an operator may impose a fine upon the operator and may revoke, suspend, or not renew the operator's license for due cause.

(b) Adverse actions may not be taken regarding any license issued pursuant to this section until and after notice has been provided and a hearing has been held by the local government. Notice of such hearing must be given in writing and served at least 30 days before the date of a hearing. The notice must state the grounds of the complaint against the holder of such license and must designate the time and place where such hearing will be held. The notice must be served upon the license holder

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581 via certified mail, signature required, addressed to the license
582 holder at the address provided on the operator's current
583 application.

584 (c) Any operator whose license has been revoked pursuant to
585 this section is disqualified from reapplying to the local
586 government for another license for 12 months immediately
587 following the revocation. The violation of any provision of this
588 section by any person with any ownership interest in the vehicle
589 immobilization service may result in the revocation of the
590 operator's license.

591 (d) The maximum fine for any violation of this section is
592 \$1,000. The maximum suspension of a license for any one
593 violation of this section is 30 days.

594 Section 9. This act shall take effect July 1, 2019.

COMMITTEE: Community Affairs
ITEM: SB 1792
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, March 26, 2019
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate 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: 3/26/2019 4:04:15 PM
Ends: 3/26/2019 6:13:05 PM **Length:** 02:08:51

4:04:15 PM Meeting Called to Order
4:04:20 PM Roll Call
4:04:23 PM Quorum is Present
4:04:33 PM Tab 9 SB 1420
4:04:49 PM Senator Gruters Explains Strike-All Amendment Barcode 372712
4:05:05 PM No Questions on Amendment
4:05:33 PM Dermot Ennis Waives in Support of the Amendment
4:05:45 PM Deborah Lawson Representing the Florida Rood Deck Association Speaks about the Amendment
4:05:49 PM No Debate on the Amendment
4:06:22 PM No Objection to the Amendment
4:06:25 PM Amendment Barcode 372712 is Adopted
4:06:28 PM Back on Bill as Amended
4:06:33 PM No Questions or Debate
4:06:37 PM Senator Gruters Waives Close on CS/SB 1420
4:06:38 PM Roll Call on CS/SB 1420
4:06:47 PM CS/SB 1420 is reported favorably
4:06:55 PM Tab 10 SB 1792
4:06:59 PM Senator Gruters Explains SB 1792
4:07:07 PM Amendment Barcode 128966
4:07:37 PM No Questions on the Amendment
4:07:55 PM Jess McCarty Representing Miami-Dade County Waives in Support of the Amendment
4:07:58 PM Rebecca De Larosa Representing Palm Beach County Waives in Support of the Amendment
4:08:00 PM Eddy Labrador Representing Broward County Waives in Support of the Amendment
4:08:03 PM No Objection to the Amendment
4:08:07 PM Amendment Barcode 128966 is Adopted
4:08:09 PM Amendment Barcode 320918 Explained by Senator Gruters
4:08:18 PM Eddy Labrador, Rebecca De Larosa, and Jess McCarty Waive in Support of the Amendment
4:08:28 PM No Objection to the Amendment
4:08:35 PM Amendment Barcode 320918 is Adopted
4:08:41 PM Amendment Barcode 630976 is Explained by Senator Gruters
4:08:46 PM Eddy Labrador, Rebecca De Larosa, and Jess McCarty Waive in Support of the Amendment
4:08:52 PM No Objection to the Amendment
4:09:03 PM Amendment Barcode 630976 is Adopted
4:09:07 PM Back on the Bill as Amended
4:09:13 PM Sam Brewer Representing PWOFF Waives in Support of SB 1792
4:09:26 PM No Debate on SB 1792
4:09:28 PM Senator Gruters Waives Close on SB 1792
4:09:30 PM Roll Call on CS/SB 1792
4:09:36 PM CS/SB 1792 is Reported Favorably
4:09:47 PM Tab 6 SB 1494
4:10:03 PM Explained by Senator Perry
4:10:47 PM Senator Farmer Takes Over as Chair
4:10:53 PM No Questions on SB 1494
4:10:55 PM Robin Erb from Florida Home Builders Association Waives in Support of SB 1494
4:11:09 PM No Debate on SB 1494
4:11:17 PM Senator Perry Waives Close on SB 1494
4:11:19 PM Roll Call on SB 1494
4:11:24 PM SB 1494 is Reported Favorably
4:11:33 PM Tab 5 SB 428
4:11:45 PM Senator Perry Explains SB 428
4:11:50 PM Late-Filed Amendment Barcode 138184 is Introduced and Explained by Senator Perry
4:12:33 PM No Questions on the Amendment

4:12:55 PM Dan Peterson from the Coalition for Property Rights Waives in Support of the Amendment
 4:13:02 PM No Debate on the Amendment
 4:13:13 PM No Objection to the Amendment
 4:13:16 PM Amendment Barcode 138184 is Adopted
 4:13:19 PM Back on Bill as Amended
 4:13:22 PM No Questions on SB 428
 4:13:27 PM Cesar Grajales Representing Americans for Prosperity Waives in Support of SB 428
 4:13:40 PM David Cruz from the Florida League of Cities Speaks in Opposition of SB 428
 4:13:51 PM Question from Senator Pizzo
 4:14:51 PM Response from David Cruz
 4:14:55 PM No Further Questions
 4:15:36 PM Eric Poole from the Florida Association of Counties Waives in Opposition of SB 428
 4:15:43 PM Dan Peterson from the Coalition for Property Rights Speaks in Support of SB 428
 4:17:40 PM Michael Beedie Representing the City of Fort Walton Waives in Opposition of SB 428
 4:18:40 PM Kimberly Glas-Castro Representing the Town of Lake Park Speaks in Opposition of SB 428
 4:18:52 PM Comments from Chair Farmer
 4:19:00 PM Senator Pizzo in Debate
 4:19:44 PM Senator Perry Closes on CS/SB 428
 4:20:37 PM Roll Call on CS/SB 428
 4:21:38 PM CS/SB 428 is Reported Favorably
 4:22:02 PM Tab 2 SB 1054
 4:22:22 PM Senator Simmons Explains SB 1054
 4:22:28 PM Strike-All Amendment Barcode 895662 Explained by Senator Simmons
 4:24:52 PM No Questions on Amendment
 4:25:52 PM John A. Titkanics Representing the City of Cocoa Speaks in Support of the Amendment
 4:26:20 PM Chair Flores Resumes as Chair
 4:27:17 PM Michael O'Rourke, Mayor of Lake Park, Speaks in Support of the Amendment
 4:29:28 PM David Cruz from the Florida League of Cities Waives in Support of the Amendment
 4:29:33 PM Kimberly Glas-Castro Representing the Town of Lake Park Waives in Support of the Amendment
 4:29:39 PM Senator Farmer in Debate
 4:29:45 PM No further Debate
 4:30:14 PM No Objection to the Amendment
 4:30:15 PM Amendment Barcode 895662 is Adopted
 4:30:19 PM Back on Bill as Amended
 4:30:21 PM Cesar Grajales Representing Americans for Prosperity Waives in Support in SB 1054
 4:30:26 PM Jeff Burton Representing the City of Palmetting Community Redevelopment Agency Waives in Support
 SB 1054
 4:30:30 PM Senator Pizzo in Debate
 4:30:51 PM Response from Senator Simmons
 4:31:57 PM No Further Debate
 4:32:56 PM Senator Simmons Waives Close on CS/SB 1054
 4:33:03 PM Roll Call on CS/SB 1054
 4:33:13 PM CS/SB 1054 is Reported Favorably
 4:33:21 PM Tab 3 CS/SB 1000
 4:33:31 PM Senator Hutson Explains Amendment Barcode 281892 and CS/SB 1000
 4:34:03 PM Question from Senator Farmer on Amendment
 4:35:02 PM Response from Senator Hutson
 4:35:18 PM No Further Questions
 4:35:28 PM Charles Dudley Representing the Florida Internet and Television Assoc. in Support of the Amendment
 4:35:39 PM No Objection to the Amendment
 4:35:43 PM Amendment Barcode 281892 is Adopted
 4:35:47 PM Christopher Emmanuel Representing the Florida Chamber of Commerce Waives in Support of CS/SB
 1000
 4:35:52 PM Cesar Grajales Representing the Americans for Prosperity Waives in Support of CS/SB 1000
 4:35:58 PM Logan Padgett Representing the James Madison Institute Waives in support of CS/SB 1000
 4:36:04 PM Doug Mannheimer Representing Sprint Waives in Support of CS/SB 1000
 4:36:08 PM Eric Poole Representing the Florida Association of Counties Speaks Against CS/SB 1000
 4:36:44 PM Kurt Wenner from Florida TaxWatch Speaks Against the Amendment
 4:37:10 PM Cory Guzzo Representing Associated Industries of Florida Waives in Support of CS/SB 1000
 4:37:41 PM Christie Pontis Representing CenturyLink Waives in Support of CS/SB 1000
 4:37:46 PM Laura Lenhart Representing Frontier Communications Waives in Support of CS/SB 1000
 4:37:48 PM Robert Redmond from Oldsmar, FL Waives in Opposition of CS/SB 1000

4:37:56 PM Jason from Trinity, Florida Waives in Opposition of CS/SB 1000
4:38:12 PM Tracey Hatch from AT&T Speaks in aSupport of CS/SB 1000
4:39:28 PM Question from Senator Pizzo
4:40:47 PM Response from Tracey Hatch
4:41:47 PM Follow-up from Question from Senator Pizzo
4:42:30 PM Response from Tracey Hatch
4:42:56 PM Barry Collins from Tampa, FL Waives Against CS/SB 1000
4:43:52 PM Michael Beedie Representing the City of Fort Walton Beach Speaks Against CS/SB 1000
4:46:09 PM Dominick Montanaro, Councilman from Satellite Beach, Waives Against CS/SB 1000
4:46:17 PM Amber Hughes Representing the Florida League of Cities Speaks Against CS/SB 1000
4:49:51 PM Corrine Mixon Representing T-Mobile Waives in Support of CS/SB 1000
4:50:02 PM Jess McCarty Representing Miami-Dade County Waives in Opposition of CS/SB 1000
4:50:06 PM Sal Nuzzo Representing the James Madison Institute Waives in Support of CS/SB 1000
4:50:13 PM Charlie Dudley Representing FL Internet and Television Assoc. Speaks in Support of CS/SB 1000
4:51:45 PM Senator Farmer in Debate
4:52:31 PM Senator Pizzo in Debate
4:53:31 PM Senator Broxson in Debate
4:54:31 PM Senator Hutson Closes on CS/SB 1000
4:55:32 PM Roll Call on CS/SB 1000
4:56:32 PM CS/SB 1000 is Reported Favorably
4:56:43 PM Tab 8 SB 658
4:56:51 PM Senator Albritton Explains SB 658
4:57:45 PM No Questions on SB 658
4:58:44 PM Loren Levy from PAAF Waives in Support
4:58:57 PM No Debate on SB 658
4:59:01 PM Senator Albritton Waives Close on SB 658
4:59:09 PM Roll Call on SB 658
4:59:10 PM SB 658 is Reported Favorably
4:59:21 PM Tab 1 SB 1040
4:59:30 PM Senator Simmons Explains Amendment Barcode 824748
5:01:21 PM Question from Senator Broxson
5:01:45 PM Response from Senator Simmons
5:02:51 PM Amendment Barcode 824748 is Adopted
5:03:10 PM Gemma Sunnergren Representing the League of Women Voters of Florida Waives in Opposition of SB
1040
5:03:20 PM Senator Farmer in Debate
5:04:33 PM Senator Broxson in Debate
5:05:01 PM No Further Debate
5:05:04 PM Senator Simmons Waives Close on CS/SB 1040
5:05:09 PM Roll Call on CS/SB 1040
5:05:19 PM CS/SB 1040 is Reported Favorably
5:05:23 PM Tab 7 SB 564
5:05:36 PM Senator Hooper Explains SB 564 and Amendment Barcode 732174
5:07:14 PM Late-Filed Amendment Barcode 732174 is Introduced
5:08:51 PM Comments from Chair Flores
5:09:47 PM No Objection to the Amendment
5:09:48 PM Amendment Barcode 732174 is Adopted
5:09:48 PM Back on the Bill as Amended
5:09:54 PM Albat Balido Representing the FL Assoc. of Property Appraisers Waives in Support of SB 564
5:10:00 PM Cesar Grajales Representing Americans for Prosperity Waives in Support of SB 564
5:10:03 PM Loren Levy Representing PAAF Waives in Support of SB 564
5:10:16 PM Kurt Wenner Representing Florida TaxWatch Speaks Against SB 564
5:10:47 PM Question from Senator Pizzo
5:10:59 PM Response from Kurt Wenner
5:11:32 PM Debbie McDowell Representing the City of North Park Speaks Against SB 564
5:12:13 PM No Debate on SB 564
5:12:18 PM Comments from Chair Flores
5:13:05 PM Senator Hooper Closes on CS/SB 564
5:14:14 PM Roll Call on CS/SB 564
5:14:24 PM CS/SB 564 is Reported Favorably
5:14:49 PM Tab 4 SB 1616
5:15:01 PM Senator Broxson Explains SB 1616

5:15:26 PM No Questions on SB 1616
5:15:31 PM Cesar Grajales Representing Americans for Prosperity Waives in Support
5:15:39 PM Amber Hughes from the Florida League of Cities Waives in Opposition
5:16:00 PM Senator Broxson Waives Close on SB 1616
5:16:04 PM Roll Call on SB 1616
5:16:16 PM SB 1616 is Reported Favorably
5:16:18 PM Chair Flores motions that she be shown as voting favorably for matters on tabs 5 and 6
5:16:30 PM Motion Adopted
5:16:37 PM President Simmons Moves to Adjourn
5:16:47 PM Meeting Adjourned