The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Brandes, Vice Chair

MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Simpson, Chair; Senator Brandes, Vice Chair; Senators Abruzzo, Bradley, Dean, Diaz de la Portilla, Hutson, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 826** Latvala (Similar CS/H 743)	Mobile Homes; Revising certain notice requirements for written complaints; authorizing a mobile home park owner to pass on non-ad valorem assessments to a tenant under certain circumstances; authorizing a mobile home purchaser to cancel or rescind the contract to purchase under certain circumstances; revising the rights that mobile home owners exercise if they form an association; specifying voting requirements for homeowners' associations, etc. RI 01/13/2016 Favorable CA 01/26/2016 Fav/CS FP	Fav/CS Yeas 7 Nays 0
2	**SB 1480** Sobel (Similar H 1213)	Conveyance of Property Taken by Eminent Domain; Authorizing a condemning authority to convey, without restriction, lands condemned for specific noise mitigation or noise compatibility programs at certain large hub airports to a person or private entity, etc. CA 01/26/2016 Temporarily Postponed JU RC	Temporarily Postponed
3	**SB 1664** Stargel (Identical H 773)	Special Assessments on Agricultural Lands; Prohibiting counties and municipalities from levying or collecting special assessments on certain agricultural lands for the provision of fire protection services, etc. CA 01/26/2016 Favorable FT FP	Favorable Yeas 7 Nays 0
4	**SB 1426** Stargel (Similar H 1155)	Membership Associations; Requiring membership associations to file an annual report with the Legislature; prohibiting a membership association from using public funds for certain litigation; requiring the Auditor General to conduct certain audits annually, etc. CA 01/26/2016 Fav/CS ED AP	Fav/CS Yeas 6 Nays 2

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	**SB 1534** Simmons (Similar H 1235)	Housing Assistance; Requiring that the State Office on Homelessness coordinate among certain agencies and providers to produce a statewide consolidated inventory for the state's entire system of homeless programs which incorporates regionally developed plans; directing the office to create a task force to make recommendations regarding the implementation of a statewide Homeless Management Information System (HMIS), subject to certain requirements; providing a Rapid ReHousing methodology; prohibiting a county or an eligible municipality from expending its portion of the local housing distribution to provide ongoing rent subsidies, etc. CA 01/26/2016 Favorable ATD AP	Favorable Yeas 8 Nays 0
6	**SB 1652** Bradley / Bean (Identical H 1297)	Discretionary Sales Surtaxes; Authorizing a county to apply proceeds of a pension liability surtax toward reducing the unfunded liability of a defined benefit retirement plan or system; requiring that surtax proceeds be used to reduce or amortize the unfunded liability of the system or plan, etc. CA 01/26/2016 Fav/CS FT FP	Fav/CS Yeas 7 Nays 1
7	**SB 1190** Diaz de la Portilla (Similar H 1361, Compare CS/S 7000)	Growth Management; Specifying that persons do not lose the right to complete developments of regional impact upon certain changes to those developments; revising the comprehensive plan amendments that must follow the state coordinated review process; authorizing specified parties to amend certain agreements without the submission, review, or approval of a notification of proposed change when a project has been essentially built out; authorizing the exchange of one approved land use for another under certain conditions, etc. CA 01/26/2016 Fav/CS ATD FP	Fav/CS Yeas 8 Nays 0
8	**SB 1174** Diaz de la Portilla (Compare CS/H 885)	Residential Facilities; Specifying applicability of siting requirements for community residential homes; providing applicability with respect to local land use and zoning, etc. CA 01/26/2016 Fav/CS CF FP	Fav/CS Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	**SB 1202** Abruzzo (Similar H 1321)	Discounts on Public Park Entrance Fees and Transportation Fares; Requiring counties and municipalities to provide a partial or a full discount on park entrance fees to military members, veterans, and the spouse and parents of certain deceased military members, law enforcement officers, firefighters, emergency medical technicians, and paramedics; requiring certain regional transportation authorities to provide a partial or a full discount on fares for certain disabled veterans, etc. MS 01/19/2016 Favorable CA 01/26/2016 Favorable FP	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	CS/SB 826
INTRODUCER:	Community Affairs Committee and Senator Latvala
SUBJECT:	Mobile Homes
DATE:	January 26, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Favorable**
2.	Cochran	Yeatman	CA	**Fav/CS**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 826 requires the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (department) to notify a person who filed a complaint involving a mobile home park of the status of the investigation within 30 days of receipt of the complaint. The bill also requires the division to notify the complainant of the status of the investigation within 90 days after receipt of a written complaint. The division must also notify the complainant and the party complained against about the results of the investigation and disposition of the complaint.

The bill permits mobile home park owners to pass on to the tenant, at any time during the term of the rental agreement, non-ad valorem assessments, or increases of non-ad valorem assessments, if the passing on of this charge was disclosed prior to the tenancy. The bill also requires the park owner to give the tenant notice of a rent increase 90 days before the renewal date of the rental agreement. If the 90-day notice is not provided the rental amount will remain with the same terms until a 90-day notice of increase in lot rental amount is given.

Next, the purchaser of a mobile home is permitted to cancel or rescind a contract if the tenancy has not been approved by the park owner 5 days before the closing of the purchase.

Additionally, the bill provides that upon incorporation of an association, all consenting mobile home owners in the park may become members or shareholders, and they consent to be bound by the articles of incorporation, bylaws, and policies of the incorporated homeowners' association.

All the successors of the consenting homeowner are no longer bound to the articles of incorporation, the bylaws, and restrictions of the homeowners' association.

Finally, the bill provides that the joint owner of a mobile home or subdivision lot must be counted as one when determining the number of votes required for a majority and that only one vote may be counted per mobile home or subdivision lot. It permits association members to vote by secret ballot, including an absentee ballot.

II. Present Situation:

Mobile Home Act

Chapter 723, F.S., is known as the "Florida Mobile Home Act" (act) and provides for the regulation of mobile homes by the Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation.

The act was enacted in 1984.[1] The act was created to address the unique relationship between a mobile home owner and a mobile home park owner. The act provides in part that:

> Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.[2]

The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.[3]

Section 723.003(12), F.S., defines the term "mobile home park" or "park" as:

> A use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.

Section 723.003(14), F.S., defines the term "mobile home subdivision" as:

[1] Chapter 84-80, L.O.F. Formerly ch. 720, F.S.
[2] Section 723.004(1), F.S.; *see also Mobile Home Relocation*, Interim Report No. 2007-106, Florida Senate Committee on Community Affairs, October 2006.
[3] Section 723.002(1), F.S.

> A subdivision of mobile homes where individual lots are owned by owners and where a portion of the subdivision or the amenities exclusively serving the subdivision are retained by the subdivision developer.

The terms "mobile home park," "park," and "mobile home subdivision" have remained unchanged since the enactment of the Florida Mobile Home Act in 1984.[4]

Complaints

Section 723.006(6), F.S., requires the division to give periodic, written notice to a person who files a written complaint that alleges a violation of ch. 723, F.S., or rule of the division. The notice must inform the complainant whether probable cause has been found and the status of any administrative action, civil action, or appellate action. However, current law does not provide a timeframe for this notification. If the division has found that probable cause exists, the division must notify, in writing, the party complained against of the results of the investigation and disposition of the complaint.[5]

Prospectus or Offering Circular

The prospectus in a mobile home park is the document that governs the landlord-tenant relationship between the park owner and the mobile home owner.[6] The prospectus or offering circular, together with its attached exhibits, is a disclosure document intended to afford protection to the homeowners and prospective homeowners in the mobile home park.[7] The purpose of the document is to disclose the representations of the mobile home park owner concerning the operations of the mobile home park.[8]

In a mobile home park containing 26 or more lots, the park owner must file a prospectus with the division for approval.[9] Prior to entering into an enforceable rental agreement for a mobile home lot, the park owner must deliver to the homeowner a prospectus that has been approved by the division. [10] The division maintains copies of each prospectus and all amendments to each prospectus that it has approved. The division must also provide copies of documents within 10 days of receipt of a written request.[11]

The park owner must furnish a copy of the prospectus with all the attached exhibits to each prospective lessee prior to the execution of the lot rental agreement or at the time of occupancy, whichever occurs first.[12] Upon delivery of a prospectus to a prospective lessee, the lot rental agreement is voidable by the lessee for a period of 15 days.[13]

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[4] *See* ch. 84-80, L.O.F. The definitions in s. 723.003, were formerly in s. 720.103, F.S. (1984).
[5] Section 723.006(6), F.S.
[6] Section 723.012, F.S.
[7] *Id*.
[8] Section 723.011(3), F.S.
[9] Section 723.011(1)(a), F.S.
[10] *Id*.
[11] Section 723.011(1)(d), F.S.
[12] Section 723.011(2), F.S.
[13] *Id*.

If a prospectus is not provided to the prospective lessee before the execution of a lot agreement or prior to occupancy, the rental agreement is voidable by the lessee until 15 days after the lessee receives the prospectus.[14] If the homeowner cancels the rental agreement, he or she is entitled to a refund of any deposit together with relocation costs for the mobile home, or the market value thereof including any appurtenances thereto paid for by the mobile home owner, from the park owner.[15]

The prospectus distributed to a home owner or prospective home owner is binding for the length of the tenancy, including any assumptions of that tenancy, and may not be changed except in certain specified circumstances.[16]

Written Notification in the Absence of a Prospectus

Section 723.013, F.S., provides that when a park owner does not give a prospectus prior to the execution of a rental agreement or prior to the purchaser's occupancy, the park owner must give written notification of specified information prior to the purchaser's occupancy, including zoning information, the name and address of the mobile home park owner or a person authorized to receive notices and demands on his or her behalf, and all fees and charges, assessments, or other financial obligations not included in the rental agreement and a copy of the rules and regulations in effect.

This provision only applies to mobile home parks containing at least 10 lots but no more than 25 lots.[17] Section 723.011, F.S., requires mobile home park owners to provide a prospectus to all prospective lessees in mobile home parks containing 26 lots or more.[18]

Rental Agreements

Rental agreements in a mobile home park must be consistent with ch. 723, F.S.[19] The provisions of ch. 723, F.S., are deemed to apply to every tenancy in a mobile home park whether or not a tenancy is covered by a valid written rental agreement.[20]

Park owners are prohibited from offering a rental agreement for a term of less than 1 year.[21] If there is no written rental agreement, the rental term may not be less than 1 year from the date of initial occupancy, but the initial term may be less than 1 year in order to permit the park owner to have all rental agreements within the park commence at the same time. Thereafter, all terms must be for a minimum of 1 year.[22] Currently, s. 723.031(4), F.S., allows a rental term for less than a year only for the initial term so that all rental agreements start at the same time.

[14] Section 723.014(1), F.S.
[15] Section 723.014(2), F.S.
[16] *See* rule 61B-31.001, F.A.C.
[17] Section 723.002(1), F.S.
[18] Section 723.011(1)(a), F.S.
[19] Section 723.031(1), F.S.
[20] Section 723.031(2), F.S.
[21] Section 723.031(4), F.S.
[22] *Id.*

Mobile Home Park Rent Increases

The mobile home park owner has the right to increase rents "in an amount deemed appropriate by the mobile home park owner."[23] The park owner must give affected mobile home owners and the board of directors of the homeowners' association, if one has been formed, at least a 90-day notice of a lot rental increase.[24]

The amount of the lot rental increase must be disclosed to the purchaser of a mobile home and agreed to in writing by the purchaser.[25] Lot rental increases may not be arbitrary or discriminatory between similarly situated tenants in the park,[26] and may not increase during the term of the rental agreement. However, the mobile home park owner may pass on, at any time during the term of the rental agreement, ad valorem property taxes and utility charges, or increases of either, if the passing on of these costs was disclosed prior to the tenancy.[27]

A committee of up to five people, designated by a majority of the owners or by the board of directors of the homeowners' association (if formed), and the park owner must meet no later than 60 days before the effective date of the change to discuss the reasons for the change.[28] At the meeting, the park owner or subdivision developer must in good faith disclose and explain all material factors resulting in the decision to increase the lot rental amount, reduce services or utilities, or change rules and regulations, including how those factors justify the specific change proposed.[29]

If the meeting does not resolve the issue, then additional meetings may be requested. If subsequent meetings are unsuccessful, within 30 days of the last scheduled meeting, the homeowners may petition the division to initiate mediation.[30] If the mediation does not successfully resolve the dispute, then the parties may file an action in circuit court to challenge the rental increase as unreasonable.[31]

Unreasonable lot rental agreements and unreasonable rent increases are unenforceable.[32] A lot rental amount that exceeds market rent shall be considered unreasonable.[33] Market rent is defined as rent which would result from market forces absent an unequal bargaining position between mobile home park owners and mobile home owners.[34]

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[23] *See* s. 723.059, F.S., concerning the rights of purchasers. A purchaser of a mobile home has the right to assume the remainder of the term of any rental agreement in effect between the mobile home park owner and seller. The mobile home park owner may increase the rental amount upon the expiration of the assumed rental agreement.
[24] Section 723.037(1), F.S.
[25] Section 723.031(5), F.S.
[26] *Id.*
[27] Section 723.031(5)(c), F.S.
[28] Section 723.037(4)(a), F.S.
[29] Section 723.037(4)(b), F.S.
[30] Section 723.037(5)(a), F.S.
[31] Section 723.0381, F.S.
[32] Section 723.033(1), F.S.
[33] Section 723.033(5), F.S.
[34] Section 723.033(4), F.S.

In determining market rent, the court may consider "rents charged by comparable mobile home parks in its competitive area. To be comparable, a mobile home park must offer similar facilities, services, amenities, and management."[35] In determining whether a rent increase or resulting lot rental amount is unreasonable, the court may consider "economic or other factors, including, but not limited to, increases or decreases in the consumer price index, published by the Bureau of Labor Statistics of the Department of Labor; increases or decreases in operating costs or taxes; and prior disclosures."[36] These same standards are to be employed by the arbitrator or mediator in any arbitration or mediation under ch. 723, F.S.[37]

Homeowners' Associations

If a mobile home park owner offers a mobile home park for sale, s. 723.071, F.S., requires him or her to notify the officers of the mobile homeowners' association who have the right to purchase the park under the provisions of that section.

Section 723.075, F.S., provides that in order for a mobile homeowners' association to exercise the right to purchase the mobile home park pursuant to s. 723.071, F.S., the association's bylaws must contain a number of statutory provisions. Two-thirds consent of the mobile home owners is required to form the association.[38] All the members of the association who consent to the formation of the homeowners' association and their successors are bound to the articles of incorporation, the bylaws, and restrictions that may be promulgated pursuant to the articles or bylaws.[39]

Quorum; Voting Requirements; and Proxies

Section 723.078(2)(b)(1), F.S., provides that unless otherwise provided in the bylaws, 30 percent of the total membership is required to constitute a quorum. Section 723.078(2)(b)(2), F.S., provides that a member may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Regarding voting by proxy:

- Limited proxies and general proxies may be used to establish a quorum; and
- Limited proxies may be used for votes taken to amend the articles of incorporation or bylaws, and any other matters that ch. 723, F.S., requires or permits a vote of members, except that no proxy may be used in the election of board members.

Members may vote in person at member meetings.[40] Current law does not provide whether members may vote by secret ballot or by absentee ballot.

III. Effect of Proposed Changes:

Section 1 amends s. 723.006(6), F.S., to require the division to notify a complainant of the status of the investigation within 30 days of receipt of the complaint. The bill also requires the division

[35] Section 723.033(5), F.S.
[36] Section 723.033(6), F.S.
[37] Section 723.033(7), F.S.
[38] Section 723.075(1), F.S.
[39] *Id*.
[40] Section 723.078(2)(b)(2), F.S.

to notify the complainant of the status of the investigation within 90 days after receipt of a written complaint. Upon completion of the investigation, the bill requires that the division notify the complainant and the party complained against about the results of the investigation and disposition of the complaint. The bill adds s. 723.006(15), F.S., requiring the division to adopt rules to implement the board member training requirements for educational programs as provided in ch. 723. The department shall publish a notice of proposed rule by October 1, 2016.

Section 2 amends s. 723.031(5), F.S., to permit mobile home park owners to pass on, at any time during the term of the rental agreement, non-ad valorem assessments, or increases of non-ad valorem assessments, if the passing on of this charge was disclosed prior to the tenancy. The bill provides that the park owner is deemed to have been disclosed the passing on of ad valorem taxes and non-ad valorem assessments are deemed if these charges were disclosed as a factor for increasing the lot rental amount in the prospectus or rental agreement. Additionally, this section requires the park owner to give the tenant notice of a rent increase 90 days before the renewal date of the rental agreement. If the 90-day notice is not provided the rental amount will remain the same terms until a 90-day notice of increase in lot rental amount is given. The bill permits the notice to provide for a rental term shorter than 1 year in order to maintain the same renewal date.

Section 3 amends s. 723.059(1), F.S., to permit the purchaser of a mobile home to cancel or rescind a contract if the tenancy has not been approved by the park owner 5 days before the closing of the purchase.

Section 4 amends s. 723.075(1), F.S., to provide that the mobile home owners must form the association in order to exercise their rights under ch. 723, F.S. It deletes the provision that the association is formed to exercise the right to purchase the mobile home park pursuant to s. 723.071, F.S.[41] The bill provides that membership in the association is voluntary for consenting members by providing that all consenting members of the association may become members or shareholders of the association. It defines the term "member" or "shareholder" to mean a mobile homeowner who consents to be bound by the association. The bill deletes the provision that all the successors of the consenting homeowner are also bound to the articles of incorporation, the bylaws, and restrictions that may be promulgated pursuant to the articles or bylaws. The bill also provides that the association is the representative for all the mobile home owners in all matters relating to ch. 723, F.S., upon incorporation and notice to the mobile home park owner, and regardless if the homeowner is a member of the association.

Section 5 amends s. 723.078(2), F.S., to provide that the joint owner of a mobile home or subdivision lot must be counted as one when determining the number of votes required for a majority. It further provided that only one vote may be counted per mobile home or subdivision lot. The bill provides that a majority is any number greater than 50 percent of the total number of votes. Members may vote in person at member meetings, or by secret ballot, including absentee ballots, as defined by the division. Additionally, any member may tape record or videotape meetings of the board of directors and its committees, except meetings between the board of directors or its appointed homeowners' committee and the park owner.

[41] Section 723.071, F.S., are the provisions relating to the sale of a mobile home park.

Section 6 amends s. 723.0781, F.S., adding subsection (5), providing that the section becomes effective on October 1, 2016. Any member of the board of directors of homeowners' association not in compliance with the requirements of the section may not be considered in violation of this section until after October 1, 2017.

Section 7 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 723.006, 723.031, 723.059, 723.075, 723.078, and 723.0781.

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 January 26, 2016:
Provides a reference for the definition of "non-ad valorem assessments;" clarifies that all mobile home owners will be represented by the mobile homeowners' association, regardless if they are a member of the association; provides a reference for secret and absentee ballots; provides that any member may tape record meetings of the board of directors and its committees, except meetings between the board of directors or its appointed homeowners' committee and the park owner; and adds a subsection providing an effective date for s. 723.0781, F.S.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2016	.	
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The Committee on Community Affairs (Abruzzo) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (6) of section 723.006, Florida Statutes, is amended, and subsection (15) is added to that section, to read:

723.006 Powers and duties of division.—In performing its duties, the division has the following powers and duties:

(6) With regard to any written complaint alleging a

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violation of any provision of this chapter or any rule adopted ~~promulgated~~ pursuant thereto, the division shall, within 30 days after receipt of a written complaint, ~~periodically~~ notify, in writing, the person who filed the complaint of the status of the complaint. Thereafter, the division shall notify the complainant of the status of the investigation within 90 days after receipt of the written complaint. Upon completion of the investigation, the division ~~investigation, whether probable cause has been found, and the status of any administrative action, civil action, or appellate action, and if the division has found that probable cause exists, it~~ shall notify, in writing, the complainant and the party complained against of the results of the investigation and disposition of the complaint.

(15) The division shall adopt rules to implement the board member training requirements for educational programs as provided in this chapter. The Department of Business and Professional Regulation shall publish a notice of proposed rule pursuant to s. 120.54(3)(a) by October 1, 2016. Such rules shall include the requirements for content and notice of the board member training program to assure that providers meet minimum training requirements.

Section 2. Subsection (5) of section 723.031, Florida Statutes, is amended to read:

723.031 Mobile home lot rental agreements.—

(5) The rental agreement shall contain the lot rental amount and services included. An increase in lot rental amount upon expiration of the term of the lot rental agreement shall be in accordance with ss. 723.033 and 723.037 or s. 723.059(4), whichever is applicable, provided that, pursuant to s.

723.059(4), the amount of the lot rental increase is disclosed and agreed to by the purchaser, in writing. An increase in lot rental amount shall not be arbitrary or discriminatory between similarly situated tenants in the park. A ~~No~~ lot rental amount may not be increased during the term of the lot rental agreement, except:

(a) When the manner of the increase is disclosed in a lot rental agreement with a term exceeding 12 months and which provides for such increases not more frequently than annually.

(b) For pass-through charges as defined in s. 723.003.

(c) That a ~~no~~ charge may not be collected which ~~that~~ results in payment of money for sums previously collected as part of the lot rental amount. The provisions hereof notwithstanding, the mobile home park owner may pass on, at any time during the term of the lot rental agreement, ad valorem property taxes, non-ad valorem assessments, and utility charges, or increases of either, provided that the ad valorem property taxes, non-ad valorem assessments, and ~~the~~ utility charges are not otherwise being collected in the remainder of the lot rental amount and provided further that the passing on of such ad valorem taxes, non-ad valorem assessments, or utility charges, or increases of either, was disclosed prior to tenancy, was being passed on as a matter of custom between the mobile home park owner and the mobile home owner, or such passing on was authorized by law. A park owner is deemed to have disclosed the passing on of ad valorem property taxes and non-ad valorem assessments if ad valorem property taxes or non-ad valorem assessments were disclosed as a factor for increasing the lot rental amount in the prospectus or rental agreement. Such ad

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valorem taxes, non-ad valorem assessments, and utility charges shall be a part of the lot rental amount as defined by this chapter. The term "non-ad valorem assessments" has the same meaning as provided in s. 197.3632(1)(d). Other provisions of this chapter notwithstanding, pass-on charges may be passed on only within 1 year of the date a mobile home park owner remits payment of the charge. A mobile home park owner is prohibited from passing on any fine, interest, fee, or increase in a charge resulting from a park owner's payment of the charge after the date such charges become delinquent. Nothing herein shall prohibit a park owner and a homeowner from mutually agreeing to an alternative manner of payment to the park owner of the charges.

(d) If a notice of increase in lot rental amount is not given 90 days before the renewal date of the rental agreement, the rental agreement must remain under the same terms until a 90-day notice of increase in lot rental amount is given. The notice may provide for a rental term shorter than 1 year in order to maintain the same renewal date.

Section 3. Subsection (1) of section 723.059, Florida Statutes, is amended to read:

723.059 Rights of purchaser.—

(1) The purchaser of a mobile home within a mobile home park may become a tenant of the park if such purchaser would otherwise qualify with the requirements of entry into the park under the park rules and regulations, subject to the approval of the park owner, but such approval may not be unreasonably withheld. The purchaser of the mobile home may cancel or rescind the contract for purchase of the mobile home if the purchaser's

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tenancy has not been approved by the park owner 5 days before the closing of the purchase.

Section 4. Subsection (1) of section 723.075, Florida Statutes, is amended to read:

723.075 Homeowners' associations.—

(1) In order to exercise the rights provided in this chapter ~~s. 723.071~~, the mobile home owners shall form an association in compliance with this section and ss. 723.077, 723.078, and 723.079, which shall be a corporation for profit or not for profit and of which not less than two-thirds of all of the mobile home owners within the park shall have consented, in writing, to become members or shareholders. Upon incorporation of the association ~~such consent by two-thirds of the mobile home owners~~, all consenting mobile home owners in the park may become members or shareholders. The term "member" or "shareholder" means a mobile home owner who consents to be bound by the articles of incorporation, bylaws, and policies of the incorporated homeowners' association ~~and their successors shall become members of the association and shall be bound by the provisions of the articles of incorporation, the bylaws of the association, and such restrictions as may be properly promulgated pursuant thereto~~. The association may not ~~shall~~ have a ~~no~~ member or shareholder who is not a bona fide owner of a mobile home located in the park. Upon incorporation and service of the notice described in s. 723.076, the association shall become the representative of all the mobile home owners in all matters relating to this chapter, regardless of whether the homeowner is a member of the association.

Section 5. Paragraphs (b) and (c) of subsection (2) of


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section 723.078, Florida Statutes, are amended to read:

723.078 Bylaws of homeowners' associations.—

(2) The bylaws shall provide and, if they do not, shall be deemed to include, the following provisions:

(b) *Quorum; voting requirements; proxies.*—

1. Unless otherwise provided in the bylaws, 30 percent of the total membership is required to constitute a quorum. Decisions shall be made by a majority of members represented at a meeting at which a quorum is present.

2. A member may not vote by general proxy but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies may be used for votes taken to amend the articles of incorporation or bylaws pursuant to this section, and any other matters for which this chapter requires or permits a vote of members, except that no proxy, limited or general, may be used in the election of board members. If a mobile home or subdivision lot is owned jointly, the owners of the mobile home or subdivision lot must be counted as one for the purpose of determining the number of votes required for a majority. Only one vote per mobile home or subdivision lot shall be counted. Any number greater than 50 percent of the total number of votes constitutes a majority. Notwithstanding ~~the provisions of~~ this section, members may vote in person at member meetings or by secret ballot, including absentee ballots, as defined by the division.

3. A proxy is effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period

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longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the member executing it.

4. A member of the board of directors or a committee may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

(c) *Board of directors' and committee meetings.*—

1. Meetings of the board of directors and meetings of its committees at which a quorum is present shall be open to all members. Notwithstanding any other provision of law, the requirement that board meetings and committee meetings be open to the members does not apply to board or committee meetings held for the purpose of discussing personnel matters or meetings between the board or a committee and the association's attorney, with respect to potential or pending litigation, where the meeting is held for the purpose of seeking or rendering legal advice, and where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notice of meetings shall be posted in a conspicuous place upon the park property at least 48 hours in advance, except in an emergency. Notice of any meeting in which assessments against members are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of such assessments.

2. A board or committee member's participation in a meeting via telephone, real-time videoconferencing, or similar real-time

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telephonic, electronic, or video communication counts toward a quorum, and such member may vote as if physically present. A speaker shall be used so that the conversation of those board or committee members attending by telephone may be heard by the board or committee members attending in person, as well as by members present at a meeting.

3. Members of the board of directors may use e-mail as a means of communication but may not cast a vote on an association matter via e-mail.

4. The right to attend meetings of the board of directors and its committees includes the right to speak at such meetings with reference to all designated agenda items. The association may adopt reasonable written rules governing the frequency, duration, and manner of members' statements. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. Any member may tape record or videotape meetings of the board of directors and its committees, except meetings between the board of directors or its appointed homeowners' committee and the park owner. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting.

5. Except as provided in paragraph (i), a vacancy occurring on the board of directors may be filled by the affirmative vote of the majority of the remaining directors, even though the remaining directors constitute less than a quorum; by the sole remaining director; if the vacancy is not so filled or if no director remains, by the members; or, on the application of any

person, by the circuit court of the county in which the registered office of the corporation is located.

6. The term of a director elected or appointed to fill a vacancy expires at the next annual meeting at which directors are elected. A directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors, but only for the term of office continuing until the next election of directors by the members.

7. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date, may be filled before the vacancy occurs. However, the new director may not take office until the vacancy occurs.

8.a. The officers and directors of the association have a fiduciary relationship to the members.

b. A director and committee member shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the corporation.

9. In discharging his or her duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

a. One or more officers or employees of the corporation who the director reasonably believes to be reliable and competent in the matters presented;

b. Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the persons' professional or expert competence; or

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c. A committee of the board of directors of which he or she is not a member if the director reasonably believes the committee merits confidence.

10. A director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subparagraph 9. unwarranted.

11. A director is not liable for any action taken as a director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with this section.

Section 6. Section 723.0781, Florida Statutes, is amended to read:

723.0781 Board member training programs.—

(1) Within 90 days after being elected or appointed to the board, a newly elected or appointed director shall certify by an affidavit in writing to the secretary of the association that he or she has read the association's current articles of incorporation, bylaws, and the mobile home park's prospectus, rental agreement, rules, regulations, and written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members.

(2) In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum approved by the division within 1 year before or 90 days after the date of election or appointment. The educational certificate is valid

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and does not have to be resubmitted as long as the director serves on the board without interruption.

(3) A director who fails to timely file the written certification or educational certificate is suspended from service on the board until he or she complies with this section. The board may temporarily fill the vacancy during the period of suspension.

(4) The secretary of the association shall retain a director's written certification or educational certificate for inspection by the members for 5 years after the director's election or the duration of the director's uninterrupted tenure, whichever is longer. Failure to have such written certification or educational certificate on file does not affect the validity of any board action.

(5) This section becomes effective on October 1, 2016. Any member of the board of directors of a homeowners' association not in compliance with the requirements of this section may not be considered in violation of this section until after October 1, 2017.

Section 7. This act shall take effect July 1, 2016.

========== 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 mobile homes; amending s. 723.006, F.S.; revising certain notice requirements for written complaints; requiring the Division of Florida

Condominiums, Timeshares, and Mobile Homes to adopt rules to implement board member training requirements; providing notice and requirements of such rules; amending s. 723.031, F.S.; authorizing a mobile home park owner to pass on non-ad valorem assessments to a tenant under certain circumstances; providing that a mobile home park owner is deemed to have disclosed the passing on of certain taxes and assessments under certain circumstances; requiring the non-ad valorem assessments to be a part of the lot rental amount; requiring that a renewed rental agreement remain under the same terms unless certain notice is provided; amending s. 723.059, F.S.; authorizing a mobile home purchaser to cancel or rescind the contract to purchase under certain circumstances; amending s. 723.075, F.S.; revising the rights that mobile home owners exercise if they form an association; authorizing mobile home owners to become members upon incorporation of the association; defining the terms "member" and "shareholder"; deleting provisions relating to memberships of successors to home owners; amending s. 723.078, F.S.; specifying voting requirements for homeowners' associations; specifying the requirements for a majority of votes; authorizing members to vote by secret ballot and absentee ballot; prohibiting the tape recording or videotaping of meetings between the board of directors or its committees and the park owner; amending s. 723.0781, F.S.; providing a date by which certain provisions are

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effective; providing that board members may not be considered in violation of such provisions until after a specified date; providing an effective date.

By Senator Latvala

20-00856A-16 2016826__

A bill to be entitled

An act relating to mobile homes; amending s. 723.006, F.S.; revising certain notice requirements for written complaints; amending s. 723.031, F.S.; authorizing a mobile home park owner to pass on non-ad valorem assessments to a tenant under certain circumstances; providing that a mobile home park owner is deemed to have disclosed the passing on of certain taxes and assessments under certain circumstances; requiring the non-ad valorem assessments to be a part of the lot rental amount; requiring that a renewed rental agreement remain under the same terms unless certain notice is provided; amending s. 723.059, F.S.; authorizing a mobile home purchaser to cancel or rescind the contract to purchase under certain circumstances; amending s. 723.075, F.S.; revising the rights that mobile home owners exercise if they form an association; authorizing mobile home owners to become members upon incorporation of the association; defining the terms "member" and "shareholder"; deleting provisions relating to memberships of successors to home owners; amending s. 723.078, F.S.; specifying voting requirements for homeowners' associations; specifying the requirements for a majority of votes; authorizing members to vote by secret ballot and absentee ballot; providing an effective date.

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

Section 1. Subsection (6) of section 723.006, Florida Statutes, is amended to read:

723.006 Powers and duties of division.—In performing its duties, the division has the following powers and duties:

(6) With regard to any written complaint alleging a violation of any provision of this chapter or any rule adopted ~~promulgated~~ pursuant thereto, the division shall, within 30 days after receipt of a written complaint, ~~periodically~~ notify, in writing, the person who filed the complaint of the status of the complaint. Thereafter, the division shall notify the complainant of the status of the investigation within 90 days after receipt of the written complaint. Upon completion of the investigation, the division ~~investigation, whether probable cause has been found, and the status of any administrative action, civil action, or appellate action, and if the division has found that probable cause exists, it~~ shall notify, in writing, the complainant and the party complained against of the results of the investigation and disposition of the complaint.

Section 2. Subsection (5) of section 723.031, Florida Statutes, is amended to read:

723.031 Mobile home lot rental agreements.—

(5) The rental agreement shall contain the lot rental amount and services included. An increase in lot rental amount upon expiration of the term of the lot rental agreement shall be in accordance with ss. 723.033 and 723.037 or s. 723.059(4), whichever is applicable, provided that, pursuant to s. 723.059(4), the amount of the lot rental increase is disclosed and agreed to by the purchaser, in writing. An increase in lot

rental amount shall not be arbitrary or discriminatory between similarly situated tenants in the park. A ~~No~~ lot rental amount may not be increased during the term of the lot rental agreement, except:

(a) When the manner of the increase is disclosed in a lot rental agreement with a term exceeding 12 months and which provides for such increases not more frequently than annually.

(b) For pass-through charges as defined in s. 723.003.

(c) That a ~~no~~ charge may not be collected which ~~that~~ results in payment of money for sums previously collected as part of the lot rental amount. The provisions hereof notwithstanding, the mobile home park owner may pass on, at any time during the term of the lot rental agreement, ad valorem property taxes, non-ad valorem assessments, and utility charges, or increases of either, provided that the ad valorem property taxes, non-ad valorem assessments, and ~~the~~ utility charges are not otherwise being collected in the remainder of the lot rental amount and provided further that the passing on of such ad valorem taxes, non-ad valorem assessments, or utility charges, or increases of either, was disclosed prior to tenancy, was being passed on as a matter of custom between the mobile home park owner and the mobile home owner, or such passing on was authorized by law. A park owner shall be deemed to have disclosed the passing on of ad valorem property taxes and non-ad valorem assessments if ad valorem property taxes or non-ad valorem assessments were disclosed as a factor for increasing the lot rental amount in the prospectus or rental agreement. Such ad valorem taxes, non-ad valorem assessments, and utility charges shall be a part of the lot rental amount as defined by

this chapter. Other provisions of this chapter notwithstanding, pass-on charges may be passed on only within 1 year of the date a mobile home park owner remits payment of the charge. A mobile home park owner is prohibited from passing on any fine, interest, fee, or increase in a charge resulting from a park owner's payment of the charge after the date such charges become delinquent. Nothing herein shall prohibit a park owner and a homeowner from mutually agreeing to an alternative manner of payment to the park owner of the charges.

(d) If a notice of increase in lot rental amount is not given 90 days before the renewal date of the rental agreement, the rental agreement shall remain under the same terms until a 90-day notice of increase in lot rental amount is given. The notice may provide for a rental term shorter than 1 year in order to maintain the same renewal date.

Section 3. Subsection (1) of section 723.059, Florida Statutes, is amended to read:

723.059 Rights of purchaser.—

(1) The purchaser of a mobile home within a mobile home park may become a tenant of the park if such purchaser would otherwise qualify with the requirements of entry into the park under the park rules and regulations, subject to the approval of the park owner, but such approval may not be unreasonably withheld. The purchaser of the mobile home may cancel or rescind the contract for purchase of the mobile home if the purchaser's tenancy has not been approved by the park owner 5 days before the closing of the purchase.

Section 4. Subsection (1) of section 723.075, Florida Statutes, is amended to read:

723.075 Homeowners' associations.—

(1) In order to exercise the rights provided in this chapter ~~s. 723.071~~, the mobile home owners shall form an association in compliance with this section and ss. 723.077, 723.078, and 723.079, which shall be a corporation for profit or not for profit and of which not less than two-thirds of all of the mobile home owners within the park shall have consented, in writing, to become members or shareholders. Upon incorporation of the association ~~such consent by two-thirds of the mobile home owners~~, all consenting mobile home owners in the park may become members or shareholders. The term "member" or "shareholder" means a mobile home owner who consents to be bound by the articles of incorporation, bylaws, and policies of the incorporated homeowners' association ~~and their successors shall become members of the association and shall be bound by the provisions of the articles of incorporation, the bylaws of the association, and such restrictions as may be properly promulgated pursuant thereto~~. The association may not ~~shall~~ have a ~~no~~ member or shareholder who is not a bona fide owner of a mobile home located in the park. Upon incorporation and service of the notice described in s. 723.076, the association shall become the representative of all the mobile home owners in all matters relating to this chapter.

Section 5. Paragraph (b) of subsection (2) of section 723.078, Florida Statutes, is amended to read:

723.078 Bylaws of homeowners' associations.—

(2) The bylaws shall provide and, if they do not, shall be deemed to include, the following provisions:

(b) *Quorum; voting requirements; proxies.*—

1. Unless otherwise provided in the bylaws, 30 percent of the total membership is required to constitute a quorum. Decisions shall be made by a majority of members represented at a meeting at which a quorum is present.

2. A member may not vote by general proxy but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies may be used for votes taken to amend the articles of incorporation or bylaws pursuant to this section, and any other matters for which this chapter requires or permits a vote of members, except that no proxy, limited or general, may be used in the election of board members. If a mobile home or subdivision lot is owned jointly, the owners of the mobile home, or subdivision lot, shall be counted as one for the purpose of determining the number of votes required for a majority. Only one vote per mobile home or subdivision lot shall be counted. Any number greater than 50 percent of the total number of votes constitutes a majority. Notwithstanding ~~the provisions of~~ this section, members may vote in person at member meetings or by secret ballot, including absentee ballots.

3. A proxy is effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the member executing it.

4. A member of the board of directors or a committee may submit in writing his or her agreement or disagreement with any

action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

Section 6. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

826
Bill Number (if applicable)

Topic Mobile Homes

Amendment Barcode (if applicable)

Name Lori KILLINGER

Job Title attorney/lobbyist

Address 315 S. Calhoun St Ste 830
Street

Phone 8502225702

Tallahassee FL 32301
City *State* *Zip*

Email lkillinger@flw-law.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Manufactured Housing 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.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

SB 826
Bill Number (if applicable)

Topic Mobile homes

Amendment Barcode (if applicable)

Name Nancy Stewart

Job Title

Address 1535 Killearn Center Blvd
Street
Tallahassee FL 32309
City *State* *Zip*

Phone 850-385-7805

Email nancy.stewart@nancyblackstewart.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Federation of Manufactured Home Owners of FL, Inc (FMO)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

January 14, 2016

The Honorable Wilton Simpson, Chair
Senate Committee on Community Affairs
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully request consideration of Senate Bill 826/Mobile Home at your earliest convenience.

This bill will revise notice requirements for written complaints. Additionally, the bill would allow a mobile home park owner to pass on non-ad valorem assessments to a tenant. Finally the bill modifies rules for mobile home associations and their voting requirements.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

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

REPLY TO:
☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 826
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

FINAL VOTE			1/26/2016 1 Amendment 597842 Thompson					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
		Abruzzo						
X		Bradley						
X		Dean						
VA		Diaz de la Portilla						
X		Hutson						
X		Thompson						
VA		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
7	0	**TOTALS**	RCS	-				
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
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 1480
INTRODUCER:	Senator Sobel
SUBJECT:	Conveyance of Property Taken by Eminent Domain
DATE:	January 25, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	**Pre-meeting**
2.			JU	
3.			RC	

I. Summary:

SB 1480 authorizes the state or a political subdivision to convey, without restriction, property taken by eminent domain to a private party if the property is near a large hub airport and the property is condemned pursuant to a noise mitigation or noise compatibility program.

II. Present Situation:

Constitutional Provisions on Takings

The Fifth Amendment of the United States Constitution applies to the states through the Fourteenth Amendment and provides, in part: "nor shall private property be taken for public use, without just compensation."[1]

Similarly, the Florida Constitution states that: "No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner."[2]

There is no absolute definition of what constitutes a public use. The concept changes along with evolutions of societal norms and changed "circumstances brought about by an increase in population and new modes of communication and transportation."[3] In situations where both private and public benefits result from a condemnation, the determination of whether the condemnation was for a public use may turn on whether the public benefits are of a primary or an incidental character.[4] An incidental benefit to a private party does not render a taking invalid so long as the primary benefit is to the public.

[1] U.S.C.A. CONST. AMEND V.
[2] FLA. CONST., Article X., s. 6(a).
[3] 21 Fla. Jur. 2d Eminent Domain s. 27, *Generally; public purpose distinguished* (2015).
[4] 21 Fla. Jur. 2d Eminent Domain s. 29, *Purpose partly public and partly private; incidental private use or benefit* (2015).

Florida Law on Eminent Domain

Florida affords generous treatment to private property owners, or defendants in eminent domain proceedings. In Florida, the owner is entitled to full and fair compensation.[5] Compensation is generally the payment of the fair market value of the property.[6] Fair market value is considered to be based upon what a willing buyer would pay to a willing seller.[7] Also, the petitioner must always pay attorney's fees and reasonable costs to the defendant.[8] Reasonable costs include appraisal fees and, if business damages are involved, an accountant's fee.[9] Defendants also have the right to a jury trial.[10]

Eminent domain is effected in one of two ways. The first is through the traditional eminent domain process, which involves the filing of a petition for condemnation and, if the property owner challenges the action, a jury trial.[11] The second process, called a "quick taking," occurs when the governmental entity files a declaration of taking (containing a good faith estimate of the value of the property) and takes immediate possession of the property before the completion of the judicial procedure.[12] "A taking may result from a 'physical invasion' of the property or may follow a 'regulatory imposition.'"[13]

Restrictions on the Conveyance of Condemned Property to Private Parties

The state may not authorize the taking of private property solely for another private party's private use, even if the state pays full compensation for the condemned property.[14] Neither the state nor any political subdivision may convey a property taken by condemnation to a private entity, unless the conveyance is authorized by law.[15] Current law allows condemned property to be conveyed to a private party for:

- Use in common carrier services or systems;
- Use as a road or other right-of-way;
- Use in providing utility services or systems; and
- Use in providing public infrastructure.

There are also statutory restrictions on the subsequent conveyance of a condemned property that has already been conveyed to a private party. If ownership of a condemned property is conveyed to a private party pursuant to one of the statutory exceptions described above and at least 10 years have elapsed since the condemning authority acquired title to the property, then the property may be transferred again to another private party after public notice and competitive

[5] Debra Herman and Jorge Martinez-Esteve, *The Admissibility of Dedication Requirements in Condemnation Cases: No Longer the Road Less Traveled*, 85 FLA. B.J. 20, 21 (November 2011).
[6] *Id*.
[7] *Id*.
[8] Section 73.091(1), F.S.
[9] *Id*.
[10] Section 73.071(1), F.S.
[11] Sections 73.031(1) and 73.071(1), F.S.
[12] Section 74.031, F.S.
[13] *Alachua Land Investors, LLC v. City of Gainesville*, 107 So.3d 1154, 1158 (Fla. 1st DCA 2013) (internal citations omitted).
[14] 21 Fla. Jur. 2d Eminent Domain s. 25, *Taking for private use restricted* (2015).
[15] FLA. CONST., Article X, s. 6(c); *see also*, s 73.013(1), F.S.

bidding (unless otherwise provided by general law).[16] If fewer than 10 years have elapsed since the condemning authority acquired title to the property, the property may be conveyed a second time if the current titleholder certifies that the property is no longer needed for the use for which the property was originally condemned, and the owner from whom the property was taken by eminent domain is given the opportunity to repurchase the property at the price received from the condemning authority.[17] Two statutory exceptions that substitute the condemning authority for the certifying party or the current titleholder operate similarly.[18]

Large Hub Airports

According to the Federal Aviation Administration, a "large hub airport" is a public use airport that serves civil aviation and accounts for 1 percent or more of annual national passenger boarding.[19] There are four large hub airports in Florida: Fort Lauderdale-Hollywood International Airport, Miami International Airport, Orlando International Airport, and Tampa International Airport.[20]

The National Plan of Integrated Airport Systems is overseen by the United States Secretary of Transportation.[21] The plan is designed to ensure a "safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service."[22]

The State of Florida and its political subdivisions have the authority to condemn property when necessary for air approach protection.[23] A county's taking of only residential property (but not similarly situated commercial property) serves a valid public purpose when the residential property is condemned "because the airport zoning laws indicate that residential construction in areas exceeding certain noise level requirements is an incompatible use, and testimony indicates that the parcels taken meet the requirements for incompatible use."[24]

Appendix A of 14 C.F.R. part 150 regulates "noise exposure maps" related to airports. A noise exposure map is a "scaled, geographic depiction of an airport, its noise contours, and surrounding area."[25] Appendix A establishes a uniform methodology for the development and preparation of airport noise exposure maps. It also identifies land uses that are considered to be compatible with various exposures of individuals to noise around airports. Residential land uses are not recommended for areas with an average noise exposure above 65 decibels.

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[16] Section 73.013(2)(a), F.S.
[17] Section 73.013(2)(b), F.S.
[18] Sections 73.013(1)(f) and (g), F.S.
[19] Federal Aviation Administration, *Airport Categories – Airports*, *available at*, http://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/categories/ (last visited January 21, 2016).
[20] Wikipedia, *List of airports in Florida*, *available at* https://en.wikipedia.org/wiki/List_of_airports_in_Florida (last visited January 21, 2016).
[21] 49 U.S.C. s. 47103.
[22] *Id.*
[23] Section 333.12, F.S.
[24] 21 Fla. Jur. 2d Eminent Domain s. 31, *Airports* (2015).
[25] 14 C.F.R. s. 150.7.

III. Effect of Proposed Changes:

Section 1 authorizes the state or a political subdivision to convey a condemned property without restriction to a private party if the property is near a large hub airport and the property is condemned pursuant to:

- A noise mitigation program; or
- A noise compatibility program; and
- The property was condemned on the basis:
  - That the property is deemed incompatible with residential land use under the standards provided by the Federal Aviation Administration in Appendix A of 14 C.F.R. part 150;
  - Of noise mitigation measures; or
  - Of measures required for the safety utility, or efficiency of an airport identified in a Record of Decision or other evaluation issued by the Federal Aviation Administration in connection with an airport development project.

This authority only applies to large hub airports identified in the National Plan of Integrated Airport Systems prepared in accordance with 49 U.S.C. s. 47103.

Section 2 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Florida Constitution prohibits the conveyance of private property taken by eminent domain after January 2, 2007, to a private party, unless that conveyance is authorized by a general law passed by a three-fifths vote of the membership of each house of the Legislature.[26] The bill authorizes the conveyance of private property taken by eminent domain, therefore it requires a three-fifths vote for final passage.

[26] FLA. CONST., Article X., s. 6(c).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Florida's eminent domain law requires a condemning authority to pay the owner of the condemned lands full compensation (as opposed to the federally mandated "just compensation"). Therefore, any private owner of condemned lands should not suffer an adverse fiscal impact.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 73.013 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.

By Senator Sobel

33-01085-16 20161480__

A bill to be entitled

An act relating to the conveyance of property taken by eminent domain; amending s. 73.013, F.S.; authorizing a condemning authority to convey, without restriction, lands condemned for specific noise mitigation or noise compatibility programs at certain large hub airports to a person or private entity; providing an effective date.

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

Section 1. Subsection (1) of section 73.013, Florida Statutes, is amended to read:

73.013 Conveyance of property taken by eminent domain; preservation of government entity communications services eminent domain limitation; exception to restrictions on power of eminent domain.—

(1) Notwithstanding any other provision of law, including any charter provision, ordinance, statute, or special law, if the state, any political subdivision as defined in s. 1.01 ~~s. 1.01(8)~~, or any other entity to which the power of eminent domain is delegated files a petition of condemnation on or after the effective date of this section regarding a parcel of real property in this state, ownership or control of property acquired pursuant to such petition may not be conveyed by the condemning authority or any other entity to a natural person or private entity, by lease or otherwise, except that ownership or control of property acquired pursuant to such petition may be conveyed, by lease or otherwise, to a natural person or private entity:

(a) For use in providing common carrier services or systems;

(b)1. For use as a road or other right-of-way or means that is open to the public for transportation, whether at no charge or by toll;

2. For use in the provision of transportation-related services, business opportunities, and products pursuant to s. 338.234, on a toll road;

(c) That is a public or private utility for use in providing electricity services or systems, natural or manufactured gas services or systems, water and wastewater services or systems, stormwater or runoff services or systems, sewer services or systems, pipeline facilities, telephone services or systems, or similar services or systems;

(d) For use in providing public infrastructure;

(e) That occupies, pursuant to a lease, an incidental part of a public property or a public facility for the purpose of providing goods or services to the public;

(f) Without restriction, after public notice and competitive bidding unless otherwise provided by general law, if less than 10 years have elapsed since the condemning authority acquired title to the property and the following conditions are met:

1. The condemning authority or governmental entity holding title to the property documents that the property is no longer needed for the use or purpose for which it was acquired by the condemning authority or for which it was transferred to the current titleholder; and

2. The owner from whom the property was taken by eminent domain is given the opportunity to repurchase the property at the price that he or she received from the condemning authority;

(g) After public notice and competitive bidding unless otherwise provided by general law, if the property was owned and controlled by the condemning authority or a governmental entity for at least 10 years after the condemning authority acquired title to the property; ~~or~~

(h) In accordance with subsection (2)<u>; or</u>

<u>(i) Without restriction, if the condemning authority condemns the property pursuant to a noise mitigation or noise compatibility program at an airport governed by Federal Aviation Administration requirements. The decision to condemn must be made on the basis that the property is deemed incompatible with residential land use under the standards provided in 14 C.F.R. part 150, Appendix A, or on the basis of noise mitigation measures or measures required for the safety, utility, or efficiency of an airport identified in a Record of Decision or other evaluation issued by the Federal Aviation Administration in connection with an airport development project. This paragraph applies only to large hub airports identified in the National Plan of Integrated Airport Systems prepared in accordance with 49 U.S.C. s. 47103</u>.

Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1480
Bill Number (if applicable)

Topic Conveyance of Property by Eminent Domain

Amendment Barcode (if applicable)

Name Carole Duncanson

Job Title

Address 113 E College Ave # 310
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 566 9056

Email CaroleCLS@AOL.com

Speaking: ☒ For ☐ Against ☒ Information

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

Representing City of Dania 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.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/2016
Meeting Date

1480
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Conveyance of Property by Eminent Domain

Name Eddy Labrador

Job Title Director of Intergovernmental Affairs

Address 115 S. Andrews Avenue, Room 426
Street

Fort Lauderdale FL 33301
City State Zip

Phone 954-357-7575

Email elabrador@broward.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Broward County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Health Policy, *Vice Chair*
Agriculture
Education Pre-K-12
Appropriations Subcommittee on Health and Human Services

SENATOR ELEANOR SOBEL
33rd District

January 19, 2016

Senator Wilton Simpson
Chair of the Committee on Community Affairs
322 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Simpson,

This letter is to request that **SB 1480,** relating to the **Conveyance of Property Taken by Eminent Domain,** be placed on the agenda of the next scheduled meeting of the Committee on Community Affairs. Senate Bill 1480 authorizes a condemning authority to convey, without restriction, lands condemned for specific noise mitigation or noise compatibility programs at certain large hub airports to a person or private entity.

Thank you for your consideration of this request. If you have any questions, please don't hesitate to contact me or my staff.

Respectfully,

Eleanor Sobel
State Senator, 33rd District

REPLY TO:
❒ The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
❒ 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Health Policy, *Vice Chair*
Agriculture
Education Pre-K-12
Appropriations Subcommittee on Health and Human Services

SENATOR ELEANOR SOBEL
33rd District

January 25, 2016

Senator Wilton Simpson
Chair of the Committee on Community Affairs
322 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Simpson,

This letter is to request that you allow my Legislative Aide, Eric M. Reinarman, Esq., to present SB 1480 on my behalf in the Committee on Community Affairs tomorrow. I am needed for a quorum in the Committee on Children, Families, and Elder Affairs.

Thank you for your consideration of this request.

Respectfully,

Eleanor Sobel
State Senator, 33rd District

Cc: Tom Yeatman, Ann Whitaker, Rachel Perrin Rogers

REPLY TO:
❒ The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
❒ 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 1480
FINAL ACTION:
MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

FINAL VOTE			1/26/2016 1 Motion to Temporarily Postpone Brandes					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
		Abruzzo						
		Bradley						
		Dean						
		Diaz de la Portilla						
		Hutson						
		Thompson						
		Brandes, VICE CHAIR						
		Simpson, CHAIR						
		TOTALS	FAV	-				
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
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 1664
INTRODUCER:	Senator Stargel
SUBJECT:	Special Assessments on Agricultural Lands
DATE:	January 25, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Favorable**
2.			FT	
3.			FP	

I. Summary:

SB 1664 prohibits counties and municipalities from levying or collecting special assessments for the provision of fire protection services on lands classified as agricultural lands under s. 193.461, F.S.

II. Present Situation:

Agricultural Property Classification

Section 193.461, F.S., provides that each county's property appraiser shall, for assessment purposes on an annual basis, classify all lands within a county as agricultural or nonagricultural. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes."[1] The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land.[2] In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- The length of time the land has been so used.
- Whether the use has been continuous.
- The purchase price paid.
- Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices.
- Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.

[1] Section 193.461(3)(b), F.S.
[2] *Id.*

- Such other factors as may become applicable.[3]

Agricultural purposes include, but are not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture, including algaculture; sod farming; and all forms of farm products and farm production.[4]

Property appraisers are required to reclassify lands as nonagricultural when they are diverted from an agricultural to a nonagricultural use or no longer utilized for agricultural purposes.[5]

Revenue Sources Based on Home Rule Authority

The Florida Constitution provides local governments with expansive home rule powers. Given these powers, local governments may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. The validity of these fees and assessments depends on requirements established in Florida case law.[6]

Special Assessments

Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities. Section 125.01(1)(r), F.S., authorizes the levy of special assessments for county government. Chapter 170, F.S., authorizes the levy of special assessments for municipal governments. Section 125.271, F.S., authorizes the levy of special assessments for county emergency medical services. Special districts derive their authority to levy special assessments through general law or special act creating the district.[7]

As established by case law, two requirements exist for the imposition of a valid special assessment: 1) the property assessed must derive a special benefit from the improvement or service provided; and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.[8]

The test to be applied in evaluating whether a special benefit is conferred on property by the provision of a service is whether there is a "logical relationship" between the services provided and the benefit to real property.[9] Many assessed services and improvements have been upheld as

[3] *Id.*
[4] Section 193.461(5), F.S.
[5] Section 193.461(4), F.S.
[6] See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at pgs. 9-16 (December 2015) *available at* http://www.edr.state.fl.us/Content/local-government/reports/lgfih15.pdf (last visited: Jan. 20, 2015).
[7] For example, s. 153.73, F.S., for county water and sewer districts; s. 163.514, F.S., for neighborhood improvement districts; s. 190.021, F.S., for community development districts; and s. 191.009, F.S., for independent special fire control districts.
[8] See *City of Boca Raton v. State*, 595 So.2d 25, 29 (Fla. 1992).
[9] *Whisnant v. Stringfellow*, 50 So.2d 885 (Fla. 1951) (citing *Crowder v. Phillips*, 146 Fla. 428 (Fla. 1941)).

providing the requisite special benefit. Such services and improvements include: garbage disposal,[10] fire protection,[11] fire and rescue services,[12] and stormwater management services.[13]

Once an identified service or capital facility satisfies the special benefit test, the assessed amount is required to be fairly apportioned among the benefited property in a manner consistent with the logical relationship embodied in the special benefit requirement.

Special assessments may be collected on an annual ad valorem tax bill. Under such statutory collection procedure, the special assessment is characterized as a "non-ad valorem assessment."[14]

Assessments by Independent Fire Control Districts

Chapter 2013-183, Laws of Fla.,[15] amended s. 191.009, F.S., to authorize independent special fire control districts to levy non-ad valorem assessments for emergency medical and emergency transport services. The provision of such services is recognized, in law, as constituting a benefit to real property.[16] The legislation also provided that if a district levies a non-ad valorem assessment for either service, then the district must cease charging an ad valorem tax for the service.[17] Additionally, the legislation provided that a district can levy non-ad valorem assessments on lands within the district without demonstrating a special benefit to the real property.

III. Effect of Proposed Changes:

Section 1 amends s. 125.01, F.S., to prohibit a county from levying or collecting special assessments for the provision of fire protection services on lands classified as agricultural lands under s. 193.461, F.S.

Section 2 amends s. 170.01, F.S., to prohibit a municipality from levying or collecting special assessments for the provision of fire protection services on lands classified as agricultural lands under s. 193.461, F.S.

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill reduces the authority of counties and municipalities to raise revenues because it eliminates their ability to levy or collect special assessments for the provision of fire protection services on certain agricultural lands. Article VII, section 18(b) of the Florida

[10] *Harris v. Wilson*, 693 So.2d 945 (Fla 1997).
[11] *South Trail Fire Control Dist., Sarasota County v. State*, 273 So.2d 380 (Fla. 1973).
[12] *Lake County v. Water Oak Mgmt Corp.*, 695 So.2d 667 (Fla. 1997).
[13] *Sarasota County v. Sarasota Church of Christ*, 667 So.2d 180 (Fla. 1995).
[14] *See* s. 197.3632(1)(d), F.S.
[15] CS/CS/SB 1410 (2013).
[16] Section 191.009(2)(b)2., F.S.
[17] Section 191.009(2)(b)1., F.S.

Constitution requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law that reduces the authority of municipalities and counties to raise revenues in the aggregate. Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. If it is determined that this bill has more than an insignificant fiscal impact, the bill will require a two-thirds vote of the membership of each house of the Legislature for passage.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners of certain agricultural lands will benefit to the extent that they will not have to pay a special assessment for fire protection services which may have otherwise been levied by a county or a municipality.

C. Government Sector Impact:

The bill will eliminate the ability of counties and municipalities to collect special assessments for the provision of fire protection services on certain agricultural lands.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.01 and 170.01 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.

By Senator Stargel

15-01265-16 20161664__

A bill to be entitled

An act relating to special assessments on agricultural lands; amending ss. 125.01 and 170.01, F.S.; prohibiting counties and municipalities from levying or collecting special assessments on certain agricultural lands for the provision of fire protection services; providing an effective date.

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

Section 1. Paragraph (r) of subsection (1) of section 125.01, Florida Statutes, is amended to read:

125.01 Powers and duties.—

(1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

(r) Levy and collect taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit, and special assessments; borrow and expend money; and issue bonds, revenue certificates, and other obligations of indebtedness, which power shall be exercised in such manner, and subject to such limitations, as may be provided by general law. There shall be no referendum required for the levy by a county of ad valorem taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit. Notwithstanding any other provision of law, a county may not levy or collect special assessments for the provision of fire protection services on lands classified as agricultural lands under s. 193.461.

Section 2. Subsection (4) is added to section 170.01, Florida Statutes, to read:

170.01 Authority for providing improvements and levying and collecting special assessments against property benefited.—

(4) Notwithstanding any other provision of law, a municipality may not levy or collect special assessments for the provision of fire protection services on lands classified as agricultural lands under s. 193.461.

Section 3. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

SB 1664
Bill Number (if applicable)

Topic Ag Lands

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title EXEC VICE PRESIDENT

Address 1625 Summit Lake Dr
Street
Tallahassee FL 32317
City *State* *Zip*

Phone 850 445 1607

Email nancy@nstephens.com

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

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

Representing FLORIDA POULTRY FEDERATION

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1664
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SPECIAL ASSESSMENTS

Name STEPHEN JAMES

Job Title

Address 100 S. MONROE
Street
TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850-922-4300

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLA ASSOC. OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1664
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Special Assessments on Ag

Name Adam Basford

Job Title Director Legislative Affairs

Address 315 S Calhoun
Street

Tallahassee
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Farm Bureau

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1664
Bill Number (if applicable)

Topic Special Assessments - Ag

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title

Address 433 N Magnolia
Street

Phone 339 6211

Tallahassee FL 32301
City *State* *Zip*

Email rao@theriagurlaw.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Fla League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

SB 1664
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Butch Calhoun

Job Title _____

Address 119 S. Monroe, Suite 300 (*Street*)

Phone 521-0455

Tallahassee (*City*) FL (*State*) 32301 (*Zip*)

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Fruit & Vegetable Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

January 15, 2016

The Honorable Wilton Simpson
Senate Community Affairs Committee, Chair
322 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Simpson:

I respectfully request that SB 1664, related to *Special Assessments on Agricultural Lands*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

Kelli Stargel
State Senator, District 15

Cc: Tom Yeatman/ Staff Director
Ann Whittaker/ AA

REPLY TO:
❒ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
❒ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 1664
FINAL ACTION: Favorable
MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
		Abruzzo						
X		Bradley						
X		Dean						
VA		Diaz de la Portilla						
X		Hutson						
X		Thompson						
VA		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
7	0	**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
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 1426
INTRODUCER:	Community Affairs Committee and Senators Stargel and Gaetz
SUBJECT:	Membership Associations
DATE:	January 25, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Fav/CS**
2.			ED	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1426 prohibits membership associations from expending any money received from public funds on litigation against the state. A membership association is defined as "a not-for-profit corporation… the majority of whose board members are constitutional officers who… operate, control, and supervise public entities that receive annual state appropriations… prescribed annually in the General Appropriations Act or the substantive bill implementing the annual appropriations act." The bill also requires such organizations to file an annual report with the Legislature.

The bill may have a positive fiscal impact on the state to the extent that it reduces suits against the state by organizations that receive state funds. However, it appears that any such impact would be minimal.

II. Present Situation:

In Florida, not for profit corporations are regulated by the Florida Not For Profit Corporation Act (Act), which outlines the requirements for creating and managing a not for profit corporation as well as the powers and duties of the corporation.[1] The Act authorizes not for profit corporations to be created for any lawful purpose or purposes that are not for pecuniary profit and that are not specifically prohibited to corporations by other state laws.[2] The Act specifies that such purposes include charitable, benevolent, eleemosynary, educational, historical, civic, patriotic, political,

[1] Chapter 90-179, L.O.F.
[2] Section 617.0301, F.S.

religious, social, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional, commercial, industrial, or trade association purposes.[3]

Florida law authorizes not for profit corporations to operate with the same degree of power provided to for profit corporations in the state, including the power to appoint officers, adopt bylaws, enter into contracts, sue and be sued, and own and convey property.[4] Officers and directors of certain not for profit corporations also are protected by the same immunity from civil liability provided to directors of for profit corporations.[5] Unlike for profit corporations, certain not for profit corporations may apply for exemptions from federal, state, and local taxes.[6]

Not for profit corporations are required to submit an annual report to the Department of State that contains the following information:

- The name of the corporation and the state or country under the law of which it is incorporated;
- The date of incorporation or, if a foreign corporation, the date on which it was admitted to conduct its affairs in the state;
- The address of the principal office and the mailing address of the corporation;
- The corporation's federal employer identification number, if any, or, if none, whether one has been applied for;
- The names and business street addresses of its directors and principal officers;
- The street address of its registered office in the state and the name of its registered agent at that office; and
- Such additional information as may be necessary or appropriate to enable the Department of State to carry out the provisions of the Act.[7]

A not for profit corporation may receive public funds from the state or a local government in certain situations. Public funds are defined as "moneys under the jurisdiction or control of the state, a county, or a municipality, including any district, authority, commission, board, or agency thereof and the judicial branch, and includes all manner of pension and retirement funds and all other funds held, as trust funds or otherwise, for any public purpose."[8] The state or a local government may provide public funds to a not for profit corporation through a grant or through payment of membership dues authorized for governmental employees and entities who are members of certain types of not for profit corporations.[9]

[3] *Id.*
[4] *See* ss. 617.0302 and 607.0302, F.S.
[5] *See* ss. 617.0834 and 607.0831, F.S.
[6] *See* 26 U.S.C. s. 501; Section 212.08(7)(p), F.S.
[7] Section 617.1622, F.S.
[8] Section 215.85(3)(b), F.S.
[9] *See, e.g.*, Section 2-103(a), Pinellas County Code (authorizing the board of county commissioners to expend monies from the county general fund for membership fees and dues for county employees and officials for professional associations); Section 120-65(a)(2), South Florida Water Management District Administrative Policies (authorizing the district to pay for an employee's membership in a professional organization not required by his or her job).

III. Effect of Proposed Changes:

Section 1 creates s. 617.221, F.S., to prohibit certain membership associations from expending any money received from public funds on litigation against the state. The bill also requires the membership associations to file an annual report with the Legislature covering the following topics:

- The name and address of the membership association and any parent membership association, or state, national, or international membership association with which it is affiliated.
- The names, titles, telephone numbers, and addresses of the principal officers and all representatives of the membership association.
- The fee required to become a member of the membership association, if any, and the annual dues that each member must pay.
- The current annual financial statements of the membership association as described in s. 617.1605, F.S.
- A copy of the current constitution and bylaws of the membership association.
- A description of the assets and liabilities of the association at the beginning and end of the preceding fiscal year.
- A description of the salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and to each employee who, during the preceding fiscal year, received more than $10,000 total from the membership association and any other state, national, or international membership association affiliate.
- The annual amount of the following benefit packages paid to each of the principal officers of the membership association:
  - Health, major medical, vision, dental, and life insurance.
  - Retirement plans.
  - Automobile allowances.
- The per-member amount of annual dues sent from the membership association to each state, national, or international affiliate.
- The total amount of direct or indirect disbursements for lobbying activity at the federal, state, or local level incurred by the membership association, listed by full name and address of each person who received a disbursement.
- The total amount of direct or indirect disbursements for litigation expenses incurred by the membership association, listed by case citation.

The bill defines a membership association for purposes of this section as "a not-for-profit corporation, including a department or division of such corporation, the majority of whose board members are constitutional officers who, pursuant to s. 1001.32(2), operate, control, and supervise public entities that receive annual state appropriations through a statutorily defined formulaic allocation that is funded and prescribed annually in the General Appropriations Act or the substantive bill implementing the annual appropriations act. Section 1001.32(2), F.S., provides that district school boards shall operate, control, and supervise all free public schools in their respective districts. The term does not include a labor organization as defined in s. 447.02 or an entity funded through the Justice Administrative Commission."

The bill also provides that dues paid to a membership association which are paid with public funds shall be assessed for each elected or appointed public officer. If a public officer elects not to join the membership association, the dues assessed to that public officer may not be paid to the membership association.

The bill requires the Auditor General to conduct an annual financial and operational audit of accounts and records of each membership association. Furthermore, all records of a membership association constitute public records for purposes of ch. 119.

Section 2 provides that the act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill applies to membership associations organized as a corporation not for profit but does not apply to membership associations organized as a corporation for profit. As such, it may violate the constitutional right of equal protection under the United States Constitution. Unlike the federal Equal Protection Clause, Florida's constitutional right to equal protection only applies to natural persons.[10]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate negative fiscal impact on membership associations because they would be required to file an annual report with the Legislature.

[10] Fla. Const., Art. I, s. 2.

C. Government Sector Impact:

The bill may have a positive fiscal impact on the state to the extent that it reduces suits against the state by organizations that receive state funds. However, it appears that any such impact would be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 617.221 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 January 26, 2016:
Revises the definition of membership associations. The term now includes only a not-for-profit corporation the majority of whose members are constitutional officers who, pursuant to s. 1001.32(2), F.S., operate, control, and supervise public entities that receive annual state appropriations. The reference to s. 1001.32(3), F.S., was removed.

B. Amendments:

None.

511974

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2016	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 26
and insert:
s. 1001.32(2), operate, control, and supervise public

By Senator Stargel

15-00842B-16 20161426__

A bill to be entitled

An act relating to membership associations; creating s. 617.221, F.S.; defining the term "membership association"; requiring membership associations to file an annual report with the Legislature; specifying the requirements for the annual report; prohibiting a membership association from using public funds for certain litigation; requiring the assessment of dues paid to a membership association by certain elected and appointed officials with public funds; requiring the Auditor General to conduct certain audits annually; specifying that all membership association records constitute public records under certain law; providing an effective date.

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

Section 1. Section 617.221, Florida Statutes, is created to read:

617.221 Membership associations; reporting requirements; restrictions on use of funds.—

(1) As used in this section, the term "membership association" means a not-for-profit corporation, including a department or division of such corporation, the majority of whose board members are constitutional officers who, pursuant to s. 1001.32(2) and (3), operate, control, and supervise public entities that receive annual state appropriations through a statutorily defined formulaic allocation that is funded and prescribed annually in the General Appropriations Act or the substantive bill implementing the annual appropriations act. The term does not include a labor organization as defined in s. 447.02 or an entity funded through the Justice Administrative

Commission.

(2) A membership association shall file a report with the President of the Senate and the Speaker of the House of Representatives by January 1 of each year. The report must provide:

(a) The name and address of the membership association and any parent membership association or state, national, or international membership association with which it is affiliated.

(b) The names, titles, telephone numbers, and addresses of the principal officers and all representatives of the membership association.

(c) The amount of the fee required to become a member of the membership association, if any, and the annual dues each member must pay.

(d) The current annual financial statements of the membership association as described in s. 617.1605.

(e) A copy of the current constitution and bylaws of the membership association.

(f) A description of the assets and liabilities of the membership association at the beginning and end of the preceding fiscal year.

(g) A description of the salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and to each employee who, during the preceding fiscal year, received more than $10,000 in the aggregate from the membership association and any other state, national, or international membership association affiliated with the membership association.

(h) The annual amount of the following benefit packages paid to each of the principal officers of the membership association:

1. Health, major medical, vision, dental, and life insurance.

2. Retirement plans.

3. Automobile allowances.

(i) The per-member amount of annual dues sent from the membership association to each state, national, or international affiliate.

(j) The total amount of direct or indirect disbursements for lobbying activity at the federal, state, or local level incurred by the membership association, listed by full name and address of each person who received a disbursement.

(k) The total amount of direct or indirect disbursements for litigation expenses incurred by the membership association, listed by case citation.

(3) A membership association may not expend moneys received from public funds, as defined in s. 215.85(3), on litigation against the state.

(4) Dues paid to a membership association which are paid with public funds shall be assessed for each elected or appointed public officer. If a public officer elects not to join the membership association, the dues assessed to that public officer may not be paid to the membership association.

(5) The Auditor General shall conduct an annual financial and operational audit of accounts and records of each membership association.

(6) All records of a membership association constitute

public records for purposes of chapter 119.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/2016	SB 1426
Meeting Date	*Bill Number (if applicable)*

Topic Membership Associations

Amendment Barcode (if applicable)

Name Melissa Fazst

Job Title Policy Analyst

Address 200 W. College Ave., Ste. 109 *Street*

Phone 850-408-1218

Tallahassee *City* FL *State* 32301 *Zip*

Email mfazst@afphq.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.

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1.26.16
Meeting Date

1426
Bill Number (if applicable)

Topic Membership Association

Amendment Barcode (if applicable)

Name Debbie Mortham

Job Title Legislative Director

Address 215 S. Monroe St.
Street

Phone 850.251.2278

Tallahassee FL 32301
City *State* *Zip*

Email debbie@excelined.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1.26.16
Meeting Date

1426
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Membership Association

Name Shawn Frost

Job Title School Board Member

Address _____ Phone _____
Street

Indian River _____ Email _____
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Coalition of School Board Members

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1426
Bill Number (if applicable)

Topic SB 1426

Amendment Barcode (if applicable)

Name Andrea Messina

Job Title

Address
Street

Phone

City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida School Bd. Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26
Meeting Date

1426
Bill Number (if applicable)

Topic Membership Assn.

Amendment Barcode (if applicable)

Name Jeff Bergosh

Job Title School Board Member

Address 5905 Forest Ridge Cir
Street

Phone

Pensacola FL 32526
City *State* *Zip*

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Coalition of School Board Members

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

January 15, 2016

The Honorable Wilton Simpson
Senate Community Affairs Committee, Chair
322 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Simpson:

I respectfully request that SB 1426, related to *Membership Associations*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

Kelli Stargel
State Senator, District 15

Cc: Tom Yeatman/ Staff Director
Ann Whittaker/ AA

REPLY TO:
❒ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
❒ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 1426
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

FINAL VOTE			1/26/2016 1 Amendment 511974 Bradley					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
	X	Abruzzo						
X		Bradley						
X		Dean						
VA		Diaz de la Portilla						
X		Hutson						
	X	Thompson						
VA		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
6	2	**TOTALS**	RCS	-				
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
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 1534
INTRODUCER:	Senator Simmons
SUBJECT:	Housing Assistance
DATE:	January 25, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Favorable**
2.			ATD	
3.			AP	

I. Summary:

SB 1534 makes numerous changes to laws related to housing assistance, including housing for individuals and families who are homeless. The bill:

- Amends the State Apartment Incentive Loan (SAIL) Program to change the reservation requirements for the specified tenant groups to reflect projected need.
- Amends provisions relating to the State Office on Homelessness and the Challenge Grant Program that provides grants to lead agencies of homeless assistance continuums of care, including:
  - Requiring that expenditures of leveraged funds or resources are permitted only for eligible activities committed on one project which have not been used as leverage or match for another project;
  - Removing the requirement that award levels for Challenge Grants be based upon the total population within the continuum of care catchment area and reflect the differing degrees of homelessness in the catchment planning areas; and
  - Requiring any funding distributed to the lead agencies be based on overall performance and achievement of specified objectives, including the number of persons or households that are no longer homeless, the rate of recidivism to homelessness, and the number of persons who obtain gainful employment.
- Expresses legislative intent to encourage homeless continuums of care to adopt the Rapid ReHousing approach to preventing homelessness for individuals and families who do not require the intense level of support provided in the permanent supportive housing model and requires Rapid ReHousing to be added to the components of a continuum of care plan.
- Provides exceptions to the restriction on counties and eligible municipalities related to expenditures of State Housing Initiatives Partnership (SHIP) Program distributions for ongoing rent subsidies.
- Provides that up to 25 percent of the SHIP Program funds made available in a county or municipality may be reserved for rental housing; and

- Expresses legislative intent to encourage the state entity that administers funds from the National Housing Trust Fund to propose an allocation plan that includes strategies to reduce statewide homelessness.
- Makes several changes to laws relating to housing authorities, which include:
  - Prohibiting housing authorities, regardless of when they were created, from applying to the federal government to seize any projects, units, or vouchers of another established housing authority;
  - Exempting housing authorities from the provisions of s. 215.425, F.S., which addresses extra compensation, bonuses and severance pay; and
  - Clarifying that housing authorities are not required to submit audit reports and annual financial reports to the Department of Financial Services.

II. Present Situation:

Housing for Individuals with Lower Incomes

In 1986[1] the Legislature found that:

- Decent, safe, and sanitary housing for individuals of very low income, low income, and moderate income is a critical need in the state;
- New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need;
- Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help eradicate slum conditions and provide housing for very-low-income persons, low-income persons, and moderate-income persons as a matter of public purpose; and
- Public-private partnerships are an essential means of bringing together resources to provide affordable housing.[2]

As a result of these findings, the Legislature determined that legislation was urgently needed to alleviate crucial problems related to housing shortages for individuals with very low,[3] low[4] and moderate[5] incomes. In 1986, part VI of ch. 420, F.S., was titled as the "Florida Affordable Care Act of 1986"[6] and programs and funding mechanisms were created over the years to help remedy low-income housing issues.

[1] Chapter 86-192, Laws of Fla.
[2] Section 420.6015, F.S.
[3] "Very-low-income persons" means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.
[4] "Low-income persons" means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.
[5] "Moderate-income persons" means one or more persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the household is located, whichever is greater.
[6] Chapter 86-192, Laws of Fla., Part VI, was subsequently renamed the "Affordable Housing Planning and Community Assistance Act." Chapter 92-317, Laws of Fla.

State Apartment Incentive Loan Program

The SAIL program was created by the Legislature in 1988[7] for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.[8]

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers each year. This funding often serves to bridge the gap between the development's primary financing and the total cost of the development and is available to individuals, public entities, and not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very-low-income individuals and families.[9]

SAIL program funds must be distributed in a manner that meets the need and demand for very-low-income housing throughout the state. The need and demand must be determined by using the most recent statewide low-income rental housing market studies available. The SAIL program funding is reserved for use within statutorily defined counties (large, medium, and small)[10] and for properties providing units for specified tenant groups. The University of Florida's Shimberg Center for Housing Studies prepares the rental housing market study for the Florida Finance Housing Corporation (FHFC).[11] Below is a comparison of the actual need based on the 2013 Rental Market Study compared to the current statutory reservation requirements for the specified tenant groups.

Specified Tenant Group	Actual Percentage of Total Households in Need	Current Statutory Reservation Requirements[12]
Commercial fishing workers and farmworker households	4 percent	Not less than 10 percent
Persons who are homeless	10 percent	Not less than 5 percent
Persons with special needs	13 percent	Not more than 10 percent
Elder persons	20 percent	Not less than 10 percent
Families	53 percent	Not less than 10 percent

During the first 6 months of loan or loan guarantee availability, SAIL program funds are required to be reserved for use by sponsors who provide the required housing set-aside for specified tenant groups. Under current law, the statutory requirement to reserve funds for the commercial fishing worker and farmworker household tenant group significantly exceeds the actual housing need for this group. The current statutory "cap" on the reservation for the persons with special

[7] Chapter 88-376, Laws of Florida.
[8] Section 420.5087, F.S.
[9] Florida Housing Finance Corporation, *State Apartment Incentive Loan Program*, available at: http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0173 (last visited Jan. 21, 2016).
[10] Section 420.5087(1), F.S., provides that funds must be allocated to the following categories of counties: counties that have a population of 845,000 or more ("large"); counties that have a population of more than 100,000 but less than 825,000 ("medium"); and counties that have a population of 100,000 or less ("small").
[11] Shimberg Center for Housing Studies, University of Florida, *2013 Rental Market Study: Affordable Rental Housing Needs*, April 7, 2013.
[12] Section 420.5087, F.S.

needs (no more than 10 percent) does not allow the program to address the actual housing need for this group (13 percent) during the first 6 months of loan or loan guarantee availability.

Funding for the SAIL Program is subject to an annual appropriation.[13]

State Office on Homelessness

In 2001, the Florida Legislature created the State Office on Homelessness within the Department of Children and Families (DCF) to serve as a central point of contact within state government on homelessness. The Office on Homelessness is responsible for coordinating resources and programs across all levels of government, and with private providers that serve the homeless. It also manages targeted state grants to support the implementation of local homeless service continuum of care plans.[14]

Council on Homelessness

The inter-agency Council on Homelessness was also created in 2001. The 17-member Council on Homelessness is charged with developing recommendations on how to reduce homelessness statewide and advising the State Office on Homelessness.[15]

Local Coalitions for the Homeless

The DCF is required to establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless.[16] Groups and organizations provided the opportunity to participate in such coalitions include: organizations and agencies providing mental health and substance abuse services; county health departments and community health centers; organizations and agencies providing food, shelter, or other services targeted to the homeless; local law enforcement agencies; regional workforce boards; county and municipal governments; local public housing authorities; local school districts; local organizations and agencies serving specific subgroups of the homeless population such as veterans, victims of domestic violence, persons with HIV/AIDS, runaway youth; and local community-based care alliances.[17]

Continuum of Care

The local coalition serves as the lead agency for the local homeless assistance continuum of care (CoC).[18] A local CoC is a framework for a comprehensive and seamless array of emergency, transitional, and permanent housing, and services to address the various needs of the homeless and those at risk of homelessness.[19] The purpose of a CoC is to help communities or regions envision, plan, and implement comprehensive and long-term solutions.[20]

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[13] *Id*.
[14] Section 420.622(1), F.S.
[15] *Id*.
[16] Section 420.623, F.S.
[17] *Id*.
[18] *Id*.
[19] Section 420.624, F.S.
[20] *Id*.

The DCF interacts with the state's 28 CoCs through the State Office on Homelessness, which serves as the state's central point of contact on homelessness. The Office on Homelessness has designated local entities to serve as lead agencies for local planning efforts to create homeless assistance CoC systems. The Office on Homelessness has made these designations in consultation with the local homeless coalitions and the Florida offices of federal Department of Housing and Urban Development (HUD).

The CoC planning effort is an ongoing process that addresses all subpopulations of the homeless. The development of a local CoC plan is a prerequisite to applying for federal housing grants through HUD. The plan also makes the community eligible to compete for the state's Challenge Grant and Homeless Housing Assistance Grant.[21]

Challenge Grants

The State Office on Homelessness is authorized to accept and administer moneys appropriated to it to provide Challenge Grants annually to designated lead agencies of homeless assistance continuums of care.[22] The Office on Homelessness may award grants in an amount of up to $500,000 per lead agency.[23] A lead agency may spend a maximum of 8 percent of its funding on administrative costs. To qualify for the grant, a lead agency must develop and implement a local homeless assistance continuum of care plan for its designated area.[24]

Pursuant to s. 420.624, F.S., the DCF provides funding for local homeless assistance continuum of care, which is a framework for providing an array of emergency, transitional, and permanent housing, and services to address the various needs of homeless persons and persons at risk of becoming homeless. There is no statutorily identified funding source for this program.[25]

Pursuant to s. 420.606(3), F.S., the DEO provides training and technical assistance to staff of state and local government entities, community-based organizations, and persons forming such organizations for the purpose of developing new housing and rehabilitating existing housing that is affordable for very-low-income persons, low-income persons, and moderate-income persons. There is no statutorily identified funding source for this program.[26]

Homeless Housing Assistance Grants

The State Office on Homelessness is authorized to accept and administer moneys appropriated to it to provide Homeless Housing Assistance Grants annually to lead agencies of local homeless assistance CoC. The grants may not exceed $750,000 per project and an applicant may spend a maximum of 5 percent of its funding on administrative costs. The grant funds must be used to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.

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[21] Florida Department of Children and Families, *Lead Agencies*, available at: http://www.myflfamilies.com/service-programs/homelessness/lead-agencies (last visited Jan. 21, 2016).
[22] "Section 420.621(1), F.S., defines "Continuum of Care" to mean the community components needed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness."
[23] Section 420.622, F.S.
[24] *Id*.
[25] Department of Economic Opportunity, *House Bill 379 Analysis*, (January 22, 2015).
[26] *Id*.

The funds available for the eligible grant activities may be appropriated, received from donations, gifts, or from any public or private source.[27]

Rapid ReHousing

Rapid ReHousing is a model for providing housing for individuals and families who are homeless. The model places a priority on moving a family or individual experiencing homelessness into permanent housing as quickly as possible, hopefully within 30 days of a client becoming homeless and entering a program. While originally focused primarily on people experiencing homelessness due to short-term financial crises, programs across the country have begun to assist individuals and families who are traditionally perceived as more difficult to serve. This includes people with limited or no income, survivors of domestic violence, and those with substance abuse issues. Although the duration of financial assistance may vary, many programs find that, on average, 4 to 6 months of financial assistance is sufficient to stably re-house a household.[28]

Since federal funding for rapid re-housing first became available in 2008, a number of communities, including Palm Beach County, Florida, that prioritized rapid re-housing as a response to homelessness have seen decreases in the amount of time that households spend homeless, less recidivism, and improved permanent housing outcomes relative to other available interventions.[29]

There are three core components of rapid re-housing: housing identification, rent and move-in assistance (financial), and rapid re-housing case management and services. While all three components are present and available in effective rapid re-housing programs, there are instances where the components are provided by different entities or agencies, or where a household does not utilize all three.[30] A key element of rapid re-housing is the "Housing First" philosophy, which offers housing without preconditions such as employment, income, lack of a criminal background, or sobriety. If issues such as these need to be addressed, the household can address them most effectively once they are in housing.[31]

State Housing Initiatives Partnership Program

The State Housing Initiatives Partnership Program was created in 1992[32] to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very-low, low, and moderate-income families and is administered by the FHFC. A dedicated funding source for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. The SHIP Program is funded through a statutory distribution of documentary stamp tax

[27] *Id*.
[28] National Alliance to End Homelessness, *Rapid Re-Housing: A History and Core Components*, (2014), available at: http://www.endhomelessness.org/library/entry/rapid-re-housing-a-history-and-core-components (last visited Jan. 21, 2016).
[29] *Id*.
[30] *Id*.
[31] The Florida Legislature expressed the intent to encourage homeless continuums of care to adopt the Housing First approach to ending homelessness for individuals and families in 2009. See s. 420.6275, F.S.
[32] Chapter 92-317, Laws of Fla.

revenues, which are deposited into the Local Government Housing Trust Fund. Subject to specific appropriation, funds are distributed quarterly to local governments participating in the program under an established formula.[33]

National Housing Trust Fund

In July 2008, the Housing and Economic Recovery Act was signed into law,[34] establishing a National Housing Trust Fund (NHTF or trust fund), among other housing-related provisions. Although the National Housing Trust Fund has been established, a permanent funding stream has not been secured.[35]

The goal of the trust fund is to provide ongoing, permanent, dedicated, and sufficient sources of revenue to build, rehabilitate, and preserve 1.5 million units of housing for the lowest-income families, including people experiencing homelessness, over the next 10 years. The NHTF particularly aims to increase and preserve the supply of rental housing that is affordable for extremely[36] and very-low-income households, and increase homeownership opportunities for those households. To prevent funding for the NHTF from competing with existing U.S. Department of Housing and Urban Development programs, this revenue is expected to be generated separately from the current appropriations process.[37]

Housing Authorities and Eminent Domain

An authority has the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes.[38] Property already devoted to a public use may be acquired in like manner, so long as no real property belonging to the city, the county, the state, or any political subdivision is acquired without its consent.

III. Effect of Proposed Changes:

Section 1 amends s. 420.5087, F.S., relating to the SAIL Program, to change the reservation requirements for three of the five tenant groups. The set-aside for the persons who are in the homeless tenant group is increased from not less than 5 percent to at least 10 percent. The cap of "not be more than 10 percent" for the persons with special needs tenant group is replaced with at least 10 percent. The bill requires that at least 10 percent of SAIL Program funds available must be reserved for four of the five tenant groups. At least 5 percent of available SAIL Program funds must be reserved for the commercial fishing workers and farmworkers tenant group.

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[33] Section 420.9073, F.S.
[34] Public Law 110-289.
[35] The National Alliance to End Homelessness. *National Housing Trust Fund*, available at: http://www.endhomelessness.org/pages/national_housing_trust_fund (last visited Jan. 21, 2016).
[36] "Extremely-low-income persons" means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 30 percent of the median annual adjusted gross income for households within the state. The FHFC may adjust this amount annually by rule to provide that in lower-income counties, extremely-low income may exceed 30 percent of area median income and that in higher-income counties, extremely-low income may be less than 30 percent of area median income.
[37] The National Alliance to End Homelessness, *National Housing Trust Fund*, available at: http://www.endhomelessness.org/pages/national_housing_trust_fund (last visited Jan. 21, 2016).
[38] Section 421.12, F.S. An authority may exercise the power of eminent domain pursuant to ch. 73 and ch. 74, F.S.

Section 2 amends s. 420.622, F.S., relating to the State Office on Homelessness and the Council on Homelessness, to:

- Require the State Office on Homelessness, in coordination with other entities, to produce an inventory of state homeless programs instead of the currently required program and financial plan.
- Require the State Office on Homelessness to establish a task force to make recommendations related to the implementation of a statewide Homeless Management Information System. The task force must make its recommendations to the Council on Homelessness by December 31, 2016.
- Require, rather than allow, the Office on Homelessness and the Council on Homelessness to accept and administer moneys appropriated for annual Challenge Grants.
- Remove the requirement that award levels for Challenge Grants be based upon the total population within the continuum of care catchment area and reflect the differing degrees of homelessness in the catchment planning areas.
- Provide requirements related to expenditures of leveraged funds or resources. They may only be used for eligible activities committed on one project which have not been used as leverage or match for any other project.
- Require the Office on Homelessness, in conjunction with the Council on Homelessness, to establish performance measures and specific objectives to evaluate the performance and outcomes of lead agencies that receive grant funds.
- Require any funding distributed to the lead agencies be based on overall performance and achievement of specified objectives, including the number of persons or households that are no longer homeless, the rate of recidivism to homelessness, and the number of persons who obtain gainful employment.

Section 3 amends s. 420.624, F.S., relating to the local homeless assistance continuum of care, to require the Office on Homelessness and the Council on Homelessness to include a methodology for assessing performance and outcomes and data reporting in the plan that communities seeking to implement a local homeless assistance continuum of care are encouraged to develop. The bill also requires Rapid ReHousing to be added to the components of a continuum of care plan.

Section 4 creates s. 420.6265, F.S., relating to Rapid ReHousing, to express legislative intent to encourage homeless continuums of care to adopt the Rapid ReHousing approach to preventing homelessness for individuals and families who do not require the intense level of support provided in the permanent supportive housing model.[39] The bill also statutorily prescribes the Rapid Rehousing Methodology.

Section 5 amends s. 420.9071(26), F.S., relating to the definition of "rent subsidies," to allow initial assistance for tenants, such as grants or loans for security and utility deposits.

[39] Permanent supportive housing is for individuals who need long-term housing assistance with supportive services in order to stay housed. Individuals and families living in supportive housing often have long histories of homelessness and face persistent obstacles to maintaining housing, such as a serious mental illness, a substance use disorder, or a chronic medical problem. Many supportive housing tenants face more than one of these serious conditions. *See* United States Interagency Council on Homelessness, *Permanent Supportive Housing*, available at https://www.usich.gov/solutions/housing/permanent-supportive-housing (last visited Jan. 21, 2016).

Section 6 amends s. 420.9072, F.S., relating to the SHIP Program, to provide that a county or an eligible municipality may not spend its portion of the local housing distribution to provide ongoing rent subsidies with the exception of:

- Security and utility deposit assistance.
- Eviction prevention not to exceed rent for 6 months.
- A rent subsidy program for very-low-income households that meet specified qualifications.

Section 7 amends s. 420.9075, F.S., relating to local housing assistance plans and partnerships, to:

- Add "Lead agencies of local homeless assistance continuums of care" as part of the partnership process to participate in the SHIP Program.
- Add language to encourage eligible municipalities to develop a strategy for providing program funds to reduce homelessness.
- Provide that up to 25 percent of the SHIP Program funds made available in a county or municipality may be reserved for rental housing.
- Require a county or eligible municipality to include a description of efforts to reduce homelessness in the annual report that must be submitted to the FHFC.

Section 8 creates s. 420.9089, F.S., relating to the NHTF, to express legislative intent to encourage the state entity that administers funds from the NHTF to propose an allocation plan that includes strategies to reduce statewide homelessness.

Section 9 amends s. 421.04, F.S., to prohibit housing authorities, regardless of when they were created, from applying to the federal government to seize any projects, units, or vouchers of another established housing authority.

Section 10 amends s. 421.05, F.S., to provide that housing authorities are exempt from the provisions of s. 215.425, F.S. Section 215.425, F.S., addresses extra compensation, bonuses, and severance pay.

Section 11 amends s. 421.091, F.S., to exempt housing authorities from reporting requirements of s. 218.32, F.S., which requires each local government to submit an annual financial report for the previous fiscal year. Housing authorities would still be responsible for a biennial financial accounting and audit, made by a certified public accountant, and submitted to the federal government, but would not report to the Department of Financial Services.

Section 12 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector impact of the bill is indeterminate. Programs that serve homeless persons may receive additional resources.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 420.5087, 420.622, 420.624, 420.9071, 420.9072, 420.9075, 421.04, 421.05, and 421.091 of the Florida Statutes.

This bill creates sections 420.6265 and 420.9089 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.

By Senator Simmons

10-01651A-16 20161534__

A bill to be entitled

An act relating to housing assistance; amending s. 420.5087, F.S.; revising the reservation of funds within each notice of fund availability to specified tenant groups; amending s. 420.622, F.S.; requiring that the State Office on Homelessness coordinate among certain agencies and providers to produce a statewide consolidated inventory for the state's entire system of homeless programs which incorporates regionally developed plans; directing the office to create a task force to make recommendations regarding the implementation of a statewide Homeless Management Information System (HMIS), subject to certain requirements; requiring the task force to include in its recommendations the development of a statewide, centralized coordinated assessment system; requiring the task force to submit a report to the Council on Homelessness by a specified date; deleting the requirement that the Council on Homelessness explore the potential of creating a statewide Homeless Management Information System and encourage future participation of certain award or grant recipients; requiring the State Office on Homelessness to accept and administer moneys appropriated to it to provide annual Challenge Grants to certain lead agencies of homeless assistance continuums of care; removing the requirement that levels of grant awards be based upon the total population within the continuum of care catchment area and reflect the differing degrees of homelessness in the respective areas; allowing expenditures of leveraged funds or resources only for

eligible activities, subject to certain requirements; requiring the State Office on Homelessness, in conjunction with the Council on Homelessness, to establish specific objectives by which it may evaluate the outcomes of certain lead agencies; requiring that any funding through the State Office on Homelessness be distributed to lead agencies based on their performance and achievement of specified objectives; revising the factors that may be included as criteria for evaluating the performance of lead agencies; amending s. 420.624, F.S.; revising requirements for the local homeless assistance continuum of care plan; providing that the components of a continuum of care plan should include Rapid ReHousing; requiring that specified components of a continuum of care plan be coordinated and integrated with other specified services and programs; creating s. 420.6265, F.S.; providing legislative findings and intent relating to Rapid ReHousing; providing a Rapid ReHousing methodology; amending s. 420.9071, F.S.; conforming a provision to changes made by the act; redefining the term "rent subsidies"; amending s. 420.9072, F.S.; prohibiting a county or an eligible municipality from expending its portion of the local housing distribution to provide ongoing rent subsidies; specifying exceptions; amending s. 420.9075, F.S.; providing that a certain partnership process of the State Housing Initiatives Partnership Program should involve lead agencies of local homeless assistance

continuums of care; encouraging counties and eligible municipalities to develop a strategy within their local housing assistance plans which provides program funds for reducing homelessness; revising the criteria that apply to awards made to sponsors or persons for the purpose of providing housing; requiring that a specified report submitted by counties and municipalities include a description of efforts to reduce homelessness; creating s. 420.9089, F.S.; providing legislative findings and intent; amending s. 421.04, F.S.; prohibiting a housing authority from applying to the Federal Government to seize projects, units, or vouchers of another established housing authority; amending s. 421.05, F.S.; exempting authorities from s. 215.425, F.S.; amending s. 421.091, F.S.; requiring a full financial accounting and audit of public housing agencies to be submitted to the Federal Government pursuant to certain requirements; exempting housing authorities from specified reporting requirements; providing an effective date.

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

Section 1. Subsection (3) of section 420.5087, Florida Statutes, is amended to read:

420.5087 State Apartment Incentive Loan Program.—There is hereby created the State Apartment Incentive Loan Program for the purpose of providing first, second, or other subordinated

mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.

(3) During the first 6 months of loan or loan guarantee availability, program funds shall be reserved for use by sponsors who provide the housing set-aside required in subsection (2) for the tenant groups designated in this subsection. The reservation of funds to each of these groups shall be determined using the most recent statewide very-low-income rental housing market study available at the time of publication of each notice of fund availability required by paragraph (6)(b). The reservation of funds within each notice of fund availability to the tenant groups in paragraphs (b)-(e) ~~(a), (b), and (c)~~ may not be less than 10 percent of the funds available at that time. Any increase in funding required to reach the 10-percent minimum must be taken from the tenant group that has the largest reservation. The reservation of funds within each notice of fund availability to the tenant group in paragraph (a) ~~(c)~~ may not be less than 5 percent of the funds available at that time. ~~The reservation of funds within each notice of fund availability to the tenant group in paragraph (d) may not be more than 10 percent of the funds available at that time.~~ The tenant groups are:

(a) Commercial fishing workers and farmworkers;

(b) Families;

(c) Persons who are homeless;

(d) Persons with special needs; and

(e) Elderly persons. Ten percent of the amount reserved for the elderly shall be reserved to provide loans to sponsors of

housing for the elderly for the purpose of making building preservation, health, or sanitation repairs or improvements which are required by federal, state, or local regulation or code, or lifesafety or security-related repairs or improvements to such housing. Such a loan may not exceed $750,000 per housing community for the elderly. In order to receive the loan, the sponsor of the housing community must make a commitment to match at least 5 percent of the loan amount to pay the cost of such repair or improvement. The corporation shall establish the rate of interest on the loan, which may not exceed 3 percent, and the term of the loan, which may not exceed 15 years; however, if the lien of the corporation's encumbrance is subordinate to the lien of another mortgagee, then the term may be made coterminous with the longest term of the superior lien. The term of the loan shall be based on a credit analysis of the applicant. The corporation may forgive indebtedness for a share of the loan attributable to the units in a project reserved for extremely-low-income elderly by nonprofit organizations, as defined in s. 420.0004(5), if ~~where~~ the project has provided affordable housing to the elderly for 15 years or more. The corporation shall establish, by rule, the procedure and criteria for receiving, evaluating, and competitively ranking all applications for loans under this paragraph. A loan application must include evidence of the first mortgagee's having reviewed and approved the sponsor's intent to apply for a loan. A nonprofit organization or sponsor may not use the proceeds of the loan to pay for administrative costs, routine maintenance, or new construction.

Section 2. Paragraphs (a) and (b) of subsection (3) and

subsections (4), (5), and (6) of section 420.622, Florida Statutes, are amended to read:

420.622 State Office on Homelessness; Council on Homelessness.—

(3) The State Office on Homelessness, pursuant to the policies set by the council and subject to the availability of funding, shall:

(a) Coordinate among state, local, and private agencies and providers to produce a statewide consolidated inventory ~~program and financial plan~~ for the state's entire system of homeless programs which incorporates regionally developed plans. Such programs include, but are not limited to:

1. Programs authorized under the Stewart B. McKinney Homeless Assistance Act of 1987, 42 U.S.C. ss. 11371 et seq., and carried out under funds awarded to this state; and

2. Programs, components thereof, or activities that assist persons who are homeless or at risk for homelessness.

(b) Collect, maintain, and make available information concerning persons who are homeless or at risk for homelessness, including demographics information, current services and resources available, the cost and availability of services and programs, and the met and unmet needs of this population. All entities that receive state funding must provide access to all data they maintain in summary form, with no individual identifying information, to assist the council in providing this information. The State Office on Homelessness shall establish a task force to make recommendations regarding the implementation of a statewide Homeless Management Information System (HMIS). The task force shall define the conceptual framework of such a

system; study existing statewide HMIS models; establish an inventory of local HMIS systems, including providers and license capacity; examine the aggregated reporting being provided by local continuums of care; complete an analysis of current continuum of care resources; and provide recommendations on the costs and benefits of implementing a statewide HMIS. The task force shall also make recommendations regarding the development of a statewide, centralized coordinated assessment system in conjunction with the implementation of a statewide HMIS. The task force findings must be reported to the Council on Homelessness no later than December 31, 2016. ~~The council shall explore the potential of creating a statewide Management Information System (MIS), encouraging the future participation of any bodies that are receiving awards or grants from the state, if such a system were adopted, enacted, and accepted by the state.~~

(4) The State Office on Homelessness, with the concurrence of the Council on Homelessness, shall ~~may~~ accept and administer moneys appropriated to it to provide annual "Challenge Grants" to lead agencies of homeless assistance continuums of care designated by the State Office on Homelessness pursuant to s. 420.624. The department shall establish varying levels of grant awards up to $500,000 per lead agency. ~~Award levels shall be based upon the total population within the continuum of care catchment area and reflect the differing degrees of homelessness in the catchment planning areas.~~ The department, in consultation with the Council on Homelessness, shall specify a grant award level in the notice of the solicitation of grant applications.

(a) To qualify for the grant, a lead agency must develop

and implement a local homeless assistance continuum of care plan for its designated catchment area. The continuum of care plan must implement a coordinated assessment or central intake system to screen, assess, and refer persons seeking assistance to the appropriate service provider. The lead agency shall also document the commitment of local government and private organizations to provide matching funds or in-kind support in an amount equal to the grant requested. Expenditures of leveraged funds or resources, including third-party cash or in-kind contributions, are permitted only for eligible activities committed on one project which have not been used as leverage or match for any other project or program and must be certified through a written commitment.

(b) Preference must be given to those lead agencies that have demonstrated the ability of their continuum of care to provide quality services to homeless persons and the ability to leverage federal homeless-assistance funding under the Stewart B. McKinney Act and private funding for the provision of services to homeless persons.

(c) Preference must be given to lead agencies in catchment areas with the greatest need for the provision of housing and services to the homeless, relative to the population of the catchment area.

(d) The grant may be used to fund any of the housing, program, or service needs included in the local homeless assistance continuum of care plan. The lead agency may allocate the grant to programs, services, or housing providers that implement the local homeless assistance continuum care plan. The lead agency may provide subgrants to a local agency to implement

programs or services or provide housing identified for funding in the lead agency's application to the department. A lead agency may spend a maximum of 8 percent of its funding on administrative costs.

(e) The lead agency shall submit a final report to the department documenting the outcomes achieved by the grant in enabling persons who are homeless to return to permanent housing thereby ending such person's episode of homelessness.

(5) The State Office on Homelessness, with the concurrence of the Council on Homelessness, may administer moneys appropriated to it to provide homeless housing assistance grants annually to lead agencies for local homeless assistance continuum of care, as recognized by the State Office on Homelessness, to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons. These moneys shall consist of any sums that the state may appropriate, as well as money received from donations, gifts, bequests, or otherwise from any public or private source, which are intended to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.

(a) Grant applicants shall be ranked competitively. Preference must be given to applicants who leverage additional private funds and public funds, particularly federal funds designated for the acquisition, construction, or rehabilitation of transitional or permanent housing for homeless persons; who acquire, build, or rehabilitate the greatest number of units; or ~~and~~ who acquire, build, or rehabilitate in catchment areas having the greatest need for housing for the homeless relative to the population of the catchment area.

(b) Funding for any particular project may not exceed $750,000.

(c) Projects must reserve, for a minimum of 10 years, the number of units acquired, constructed, or rehabilitated through homeless housing assistance grant funding to serve persons who are homeless at the time they assume tenancy.

(d) No more than two grants may be awarded annually in any given local homeless assistance continuum of care catchment area.

(e) A project may not be funded which is not included in the local homeless assistance continuum of care plan, as recognized by the State Office on Homelessness, for the catchment area in which the project is located.

(f) The maximum percentage of funds that the State Office on Homelessness and each applicant may spend on administrative costs is 5 percent.

(6) The State Office on Homelessness, in conjunction with the Council on Homelessness, shall establish performance measures and specific objectives by which it may ~~to~~ evaluate the ~~effective~~ performance and outcomes of lead agencies that receive grant funds. Any funding through the State Office on Homelessness shall be distributed to lead agencies based on their overall performance and their achievement of specified objectives. Each lead agency for which grants are made under this section shall provide the State Office on Homelessness a thorough evaluation of the effectiveness of the program in achieving its stated purpose. In evaluating the performance of the lead agencies, the State Office on Homelessness shall base its criteria upon the program objectives, goals, and priorities

that were set forth by the lead agencies in their proposals for funding. Such criteria may include, but not be limited to, the number of persons or households that are no longer homeless, the rate of recidivism to homelessness, and the number of persons who obtain gainful employment ~~homeless individuals provided shelter, food, counseling, and job training~~.

Section 3. Subsections (3), (7), and (8) of section 420.624, Florida Statutes, are amended to read:

420.624 Local homeless assistance continuum of care.—

(3) Communities or regions seeking to implement a local homeless assistance continuum of care are encouraged to develop and annually update a written plan that includes a vision for the continuum of care, an assessment of the supply of and demand for housing and services for the homeless population, and specific strategies and processes for providing the components of the continuum of care. The State Office on Homelessness, in conjunction with the Council on Homelessness, shall include in the plan a methodology for assessing performance and outcomes. The State Office on Homelessness shall supply a standardized format for written plans, including the reporting of data.

(7) The components of a continuum of care plan should include:

(a) Outreach, intake, and assessment procedures in order to identify the service and housing needs of an individual or family and to link them with appropriate housing, services, resources, and opportunities;

(b) Emergency shelter, in order to provide a safe, decent alternative to living in the streets;

(c) Transitional housing;

(d) Supportive services, designed to assist with the development of the skills necessary to secure and retain permanent housing;

(e) Permanent supportive housing;

(f) Rapid ReHousing, as specified in s. 420.6265;

(g) ~~(f)~~ Permanent housing;

(h) ~~(g)~~ Linkages and referral mechanisms among all components to facilitate the movement of individuals and families toward permanent housing and self-sufficiency;

(i) ~~(h)~~ Services and resources to prevent housed persons from becoming or returning to homelessness; and

(j) ~~(i)~~ An ongoing planning mechanism to address the needs of all subgroups of the homeless population, including but not limited to:

1. Single adult males;

2. Single adult females;

3. Families with children;

4. Families with no children;

5. Unaccompanied children and youth;

6. Elderly persons;

7. Persons with drug or alcohol addictions;

8. Persons with mental illness;

9. Persons with dual or multiple physical or mental disorders;

10. Victims of domestic violence; and

11. Persons living with HIV/AIDS.

(8) Continuum of care plans must promote participation by all interested individuals and organizations and may not exclude individuals and organizations on the basis of race, color,

national origin, sex, handicap, familial status, or religion. Faith-based organizations must be encouraged to participate. To the extent possible, these components must ~~should~~ be coordinated and integrated with other mainstream health, social services, and employment programs for which homeless populations may be eligible, including Medicaid, State Children's Health Insurance Program, Temporary Assistance for Needy Families, Food Assistance Program, and services funded through the Mental Health and Substance Abuse Block Grant, the Workforce Investment Act, and the welfare-to-work grant program.

Section 4. Section 420.6265, Florida Statutes, is created to read:

420.6265 Rapid ReHousing.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that Rapid ReHousing is a strategy of using temporary financial assistance and case management to quickly move an individual or family out of homelessness and into permanent housing.

(b) The Legislature also finds that public and private solutions to homelessness in the past have focused on providing individuals and families who are experiencing homelessness with emergency shelter, transitional housing, or a combination of both. While emergency shelter and transitional housing programs may provide critical access to services for individuals and families in crisis, the programs often fail to address their long-term needs.

(c) The Legislature further finds that most households become homeless as a result of a financial crisis that prevents individuals and families from paying rent or a domestic conflict

that results in one member being ejected or leaving without resources or a plan for housing.

(d) The Legislature further finds that Rapid ReHousing is an alternative approach to the current system of emergency shelter or transitional housing which tends to reduce the length of time a person is homeless and has proven to be cost effective.

(e) It is therefore the intent of the Legislature to encourage homeless continuums of care to adopt the Rapid ReHousing approach to preventing homelessness for individuals and families who do not require the intense level of supports provided in the permanent supportive housing model.

(2) RAPID REHOUSING METHODOLOGY.—

(a) The Rapid ReHousing response to homelessness differs from traditional approaches to addressing homelessness by focusing on each individual's or family's barriers to housing. By using this approach, communities can significantly reduce the amount of time that individuals and families are homeless and prevent further episodes of homelessness.

(b) In Rapid ReHousing, an individual or family is identified as being homeless, temporary assistance is provided to allow the individual or family to obtain permanent housing as quickly as possible, and, if needed, assistance is provided to allow the individual or family to retain housing.

(c) The objective of Rapid ReHousing is to provide assistance for as short a term as possible so that the individual or family receiving assistance does not develop a dependency on the assistance.

Section 5. Subsections (25) and (26) of section 420.9071,

Florida Statutes, are amended to read:

420.9071 Definitions.—As used in ss. 420.907-420.9079, the term:

(25) "Recaptured funds" means funds that are recouped by a county or eligible municipality in accordance with the recapture provisions of its local housing assistance plan pursuant to s. 420.9075(5)(i) ~~s. 420.9075(5)(h)~~ from eligible persons or eligible sponsors, which funds were not used for assistance to an eligible household for an eligible activity, when there is a default on the terms of a grant award or loan award.

(26) "Rent subsidies" means ongoing monthly rental assistance. ~~The term does not include initial assistance to tenants, such as grants or loans for security and utility deposits.~~

Section 6. Subsection (7) of section 420.9072, Florida Statutes, is amended, present subsections (8) and (9) of that section are redesignated as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

420.9072 State Housing Initiatives Partnership Program.—The State Housing Initiatives Partnership Program is created for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing-related employment.

(7) A county or an eligible municipality must expend its portion of the local housing distribution only to implement a

local housing assistance plan or as provided in this subsection. ~~A county or an eligible municipality may not expend its portion of the local housing distribution to provide rent subsidies; however, this does not prohibit the use of funds for security and utility deposit assistance.~~

(8) A county or an eligible municipality may not expend its portion of the local housing distribution to provide ongoing rent subsidies, except for:

(a) Security and utility deposit assistance.

(b) Eviction prevention not to exceed 6 months' rent.

(c) A rent subsidy program for very-low-income households with at least one adult who is a person with special needs as defined in s. 420.0004 or homeless as defined in s. 420.621. The period of rental assistance may not exceed 12 months for any eligible household.

Section 7. Paragraph (a) of subsection (2) of section 420.9075, Florida Statutes, is amended, paragraph (f) is added to subsection (3) of that section, subsection (5) of that section is amended, and paragraph (i) is added to subsection (10) of that section, to read:

420.9075 Local housing assistance plans; partnerships.—

(2)(a) Each county and each eligible municipality participating in the State Housing Initiatives Partnership Program shall encourage the involvement of appropriate public sector and private sector entities as partners in order to combine resources to reduce housing costs for the targeted population. This partnership process should involve:

1. Lending institutions.

2. Housing builders and developers.

3. Nonprofit and other community-based housing and service organizations.

4. Providers of professional services relating to affordable housing.

5. Advocates for low-income persons, including, but not limited to, homeless people, the elderly, and migrant farmworkers.

6. Real estate professionals.

7. Other persons or entities who can assist in providing housing or related support services.

8. Lead agencies of local homeless assistance continuums of care.

(3)

(f) Each county and each eligible municipality is encouraged to develop a strategy within its local housing assistance plan which provides program funds for reducing homelessness.

(5) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(a) At least 65 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for home ownership for eligible persons.

(b) Up to 25 percent of the funds made available in each county and eligible municipality from the local housing distribution may be reserved for rental housing for eligible persons or for the purposes enumerated in s. 420.9072(8).

(c) ~~(b)~~ At least 75 percent of the funds made available in

each county and eligible municipality from the local housing distribution must be reserved for construction, rehabilitation, or emergency repair of affordable, eligible housing.

(d) ~~(c)~~ Not more than 20 percent of the funds made available in each county and eligible municipality from the local housing distribution may be used for manufactured housing.

(e) ~~(d)~~ The sales price or value of new or existing eligible housing may not exceed 90 percent of the average area purchase price in the statistical area in which the eligible housing is located. Such average area purchase price may be that calculated for any 12-month period beginning not earlier than the fourth calendar year before ~~prior to~~ the year in which the award occurs or as otherwise established by the United States Department of the Treasury.

(f) ~~(e)~~1. All units constructed, rehabilitated, or otherwise assisted with the funds provided from the local housing assistance trust fund must be occupied by very-low-income persons, low-income persons, and moderate-income persons except as otherwise provided in this section.

2. At least 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to very-low-income persons or eligible sponsors who will serve very-low-income persons and at least an additional 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to low-income persons or eligible sponsors who will serve low-income persons. This subparagraph does not apply to a county or an eligible municipality that includes, or has included within the previous 5 years, an area of critical state concern designated or ratified by the

Legislature for which the Legislature has declared its intent to provide affordable housing. The exemption created by this act expires on July 1, 2013, and shall apply retroactively.

(g) ~~(f)~~ Loans shall be provided for periods not exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons.

(h) ~~(g)~~ Loans or grants for eligible rental housing constructed, rehabilitated, or otherwise assisted from the local housing assistance trust fund must be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan unless reserved for eligible persons for 15 years or the term of the assistance, whichever period is longer. Eligible sponsors that offer rental housing for sale before 15 years or that have remaining mortgages funded under this program must give a first right of refusal to eligible nonprofit organizations for purchase at the current market value for continued occupancy by eligible persons.

(i) ~~(h)~~ Loans or grants for eligible owner-occupied housing constructed, rehabilitated, or otherwise assisted from proceeds provided from the local housing assistance trust fund shall be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan.

(j) ~~(i)~~ The total amount of monthly mortgage payments or the amount of monthly rent charged by the eligible sponsor or her or his designee must be made affordable.

(k) ~~(j)~~ The maximum sales price or value per unit and the maximum award per unit for eligible housing benefiting from awards made pursuant to this section must be established in the

local housing assistance plan.

(l) ~~(k)~~ The benefit of assistance provided through the State Housing Initiatives Partnership Program must accrue to eligible persons occupying eligible housing. This provision shall not be construed to prohibit use of the local housing distribution funds for a mixed income rental development.

(m) ~~(l)~~ Funds from the local housing distribution not used to meet the criteria established in paragraph (a) or paragraph (c) ~~(b)~~ or not used for the administration of a local housing assistance plan must be used for housing production and finance activities, including, but not limited to, financing preconstruction activities or the purchase of existing units, providing rental housing, and providing home ownership training to prospective home buyers and owners of homes assisted through the local housing assistance plan.

1. Notwithstanding ~~the provisions of~~ paragraphs (a) and (c) ~~(b)~~, program income as defined in s. 420.9071(24) may also be used to fund activities described in this paragraph.

2. When preconstruction due-diligence activities conducted as part of a preservation strategy show that preservation of the units is not feasible and will not result in the production of an eligible unit, such costs shall be deemed a program expense rather than an administrative expense if such program expenses do not exceed 3 percent of the annual local housing distribution.

3. If both an award under the local housing assistance plan and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of s. 42 of the Internal

Revenue Code of 1986, as amended, the county or eligible municipality may resolve the conflict by giving precedence to the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (a) and (f) ~~(e)~~ of this subsection.

4. Each county and each eligible municipality may award funds as a grant for construction, rehabilitation, or repair as part of disaster recovery or emergency repairs or to remedy accessibility or health and safety deficiencies. Any other grants must be approved as part of the local housing assistance plan.

(10) Each county or eligible municipality shall submit to the corporation by September 15 of each year a report of its affordable housing programs and accomplishments through June 30 immediately preceding submittal of the report. The report shall be certified as accurate and complete by the local government's chief elected official or his or her designee. Transmittal of the annual report by a county's or eligible municipality's chief elected official, or his or her designee, certifies that the local housing incentive strategies, or, if applicable, the local housing incentive plan, have been implemented or are in the process of being implemented pursuant to the adopted schedule for implementation. The report must include, but is not limited to:

(i) A description of efforts to reduce homelessness.

Section 8. Section 420.9089, Florida Statutes, is created to read:

420.9089 National Housing Trust Fund.—The Legislature finds

that more funding for housing to assist the homeless is needed and encourages the state entity designated to administer funds made available to the state from the National Housing Trust Fund to propose an allocation plan that includes strategies to reduce homelessness in this state. These strategies to address homelessness shall be in addition to strategies under s. 420.5087.

Section 9. Subsection (4) is added to section 421.04, Florida Statutes, to read:

421.04 Creation of housing authorities.—

(4) Regardless of the date of its creation, a housing authority may not apply to the Federal Government to seize any projects, units, or vouchers of another established housing authority, irrespective of each housing authority's areas of operation.

Section 10. Subsection (2) of section 421.05, Florida Statutes, is amended to read:

421.05 Appointment, qualifications, and tenure of commissioners; hiring of employees.—

(2) The powers of each authority shall be vested in the commissioners thereof in office from time to time. A majority of the commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority require a larger number. The mayor with the concurrence of the governing body shall designate ~~which of the commissioners appointed shall be~~ the first chair from among the appointed commissioners, but when the

office of the chair of the authority thereafter becomes vacant, the authority shall select a chair from among the ~~its~~ commissioners. An authority shall also select from among the ~~its~~ commissioners a vice chair,~~;~~ and it may employ a secretary, who shall be the executive director, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require and shall determine their qualifications, duties, and compensation. Accordingly, authorities are exempt from s. 215.425. ~~For such legal services as it may require,~~ An authority may call upon the chief law officer of the city or may employ its own counsel and legal staff for legal services. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

Section 11. Subsection (1) of section 421.091, Florida Statutes, is amended to read:

421.091 Financial accounting and investments; fiscal year.—

(1) A complete and full financial accounting and audit in accordance with federal audit standards of public housing agencies shall be made biennially by a certified public accountant and submitted to the Federal Government in accordance with its policies. Housing authorities are otherwise exempt from the reporting requirements of s. 218.32. ~~A copy of such audit shall be filed with the governing body and with the Auditor General.~~

Section 12. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-26-16
Meeting Date

1534
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Housing

Name Sean PITTMAN

Job Title ATTORney

Address 1028 East Park Avenue
Street

TLH FL 32301
City *State* *Zip*

Phone 8502161002

Email Sean@PITTMAN-LAW.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Palm Beach County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1534
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Kelley Teague

Job Title Legislative Affairs Director

Address 201 S. Rosalind Ave
Street

Phone _____

Orlando FL 32801
City *State* *Zip*

Email _____

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Orange County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1534
Bill Number (if applicable)

Topic Housing Assistance

Amendment Barcode (if applicable)

Name Arthur Rosenberg

Job Title Attorney

Address 3000 Biscayne BLVD
Street

Phone 850-509-2085

Miami FL 33137
City *State* *Zip*

Email arthur@floridalegal.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Legal Services

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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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	Bill Number (if applicable)
26 Jan 2016	1534

Amendment Barcode (if applicable)

Topic Housing Assistance

Name Jill Gran

Job Title Senior Policy Advisor

Address 2808 Mahan Dr (Street)

Tallahassee FL 32308 (City / State / Zip)

Phone 850 878 2194

Email jill@fadaa.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Alcohol & Drug Abuse Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1/26/2016
Meeting Date

1534
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SHIP Funds for rental assistance

Name Dana Farmer

Job Title Public Policy Director

Address 2473 Care Drive, Suite 200
Street

Phone (850)264-9230

Tallahassee FL 32308
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Disability Rights Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

SB 1534
Bill Number (if applicable)

Topic Housing Assistance

Amendment Barcode (if applicable)

Name Karen Koch (Cook)

Job Title Ex. Director

Address P.O. Box 11242
Street

Tallahassee FL 32302
City *State* *Zip*

Phone 850-545-0818

Email karen@FSHC.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL. Supportive Housing Coalition

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)

1/24/14
Meeting Date

SB 1534
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jacqueline Peters

Job Title Legislative Director

Address 227 N. Bronough St, Suite 5000
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850 488 4197

Email jacqueline.peters@floridahousing.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Housing Finance Corporation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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)

1-26-16
Meeting Date

1534
Bill Number (if applicable)

Topic HOMELESSNESS

Amendment Barcode (if applicable)

Name OSCAR ANDERSON

Job Title

Address 28 W. CENTRAL AVE
Street

ORLANDO FL
City *State* *Zip*

Phone

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing CENTRAL FLORIDA COMMISSION ON HOMELESSNESS

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)

@ 1/26/16
Meeting Date

1534
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic HOUSING

Name SUSAN HARBIN

Job Title

Address 100 S. MONROE
Street
TALLAHASSEE, FL 32301
City *State* *Zip*

Phone 850-922-4300

Email

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

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

Representing FLA. ASSOC. OF COUNTIES

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

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

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

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

S-001 (10/14/14)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: January 19, 2016

I respectfully request that **Senate Bill 1534**, relating to Housing Assistance, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator David Simmons
Florida Senate, District 10

File signed original with committee office

S-020 (03/2004)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 1534
FINAL ACTION: Favorable
MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Abruzzo						
X		Bradley						
X		Dean						
VA		Diaz de la Portilla						
X		Hutson						
X		Thompson						
VA		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
8	0	**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
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 1652
INTRODUCER:	Community Affairs Committee and Senators Bradley, Bean, and Hutson
SUBJECT:	Discretionary Sales Surtaxes
DATE:	January 25, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Fav/CS**
2.			FT	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1652 provides that a county may levy a pension liability surtax to fund underfunded defined benefit retirement plans or systems at a rate up to 0.5 percent. The county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The pension liability surtax imposed terminates for any defined benefit retirement plan or system when the actuarial funding level of that plan or system reaches or exceeds 100 percent.

The county may only levy the pension liability surtax if:

- The employees who enter employment on or after the date that the local government meets the requirement for enacting the surtax are prohibited from enrolling in a defined benefit retirement plan or system that will receive the surtax proceeds; and
- The county currently levies a local government infrastructure surtax which is scheduled to terminate and is not subject to renewal.

The Department of Revenue (DOR) and the local government are authorized to retain an administrative fee of up to 2 percent of the surtax proceeds.

The bill limits to 1 percent the combined rate of the Pension Liability Surtax, the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent and Trauma Center Surtax, and the County Public Hospital Surtax.

The surtax must be enacted by ordinance and approved by a majority of electors of the county voting in a referendum.

II. Present Situation:

Local Discretionary Sales Surtaxes

In addition to the 6 percent state sales tax, the Florida Statutes authorize counties to charge discretionary sales surtaxes,[1] which must be specifically designated by statute.[2] Eight different types of local discretionary sales surtaxes (also referred to as local option sales taxes) are currently authorized in law and represent potential revenue sources for county and municipal governments and school districts.[3] The local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions authorized pursuant to ch. 212, F.S., and communications services as defined for the purposes of ch. 202, F.S.[4]

The eight types of local discretionary sales surtaxes are:

- The Charter County and Regional Transportation System Surtax in s. 212.055(1), F.S.;
- The Local Government Infrastructure Surtax in s. 212.055(2), F.S.;
- The Small County Surtax in s. 212.055(3), F.S.;
- The Indigent Care and Trauma Center Surtax in s. 212.055(4), F.S.;
- The County Public Hospital Surtax in s. 212.055(5), F.S.;
- School Capital Outlay Surtax in s. 212.055(6), F.S.;
- The Voter-Approved Indigent Care Surtax in s. 212.055(7), F.S.; and
- The Emergency Fire Rescue Services and Facilities Surtax in s. 212.055(8), F.S.

A discretionary sales surtax applies to transactions if:[5]

- The selling dealer delivers taxable goods or taxable service in or into a county with a surtax.
- The event for which an admission is charged is located in a county with a surtax. Tax is due at the rate in the county where the event takes place.
- The consumer of electric power or energy is located in a county with a surtax.
- The sale of prepaid calling arrangements occurs in a county with a surtax.
- The location or delivery of tangible personal property covered by a service warranty is within a county with a surtax. The person receiving consideration for the issuance of a service warranty from the agreement holder must collect surtax at the rate imposed by that county.
- The commercial real property that is leased or rented, or upon which a license for use is granted, is in a county with a surtax.
- The rental of living or sleeping accommodations (transient rentals) occurs in a county with a surtax.
- A registered dealer owing use tax on purchases or leases is located in a county with a surtax.

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[1] A local discretionary sales surtax may also be known as a local option county sales tax. A surtax is an "additional tax imposed on something being taxed or on the primary tax itself." BLACK'S LAW DICTIONARY 704 (3rd ed. 2006).
[2] Sections 212.054 and 212.055, F.S.
[3] Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 215 (2016).
[4] *Id.*
[5] Florida Department of Revenue, *Florida's Discretionary Sales Surtax*, 2, http://dor.myflorida.com/Forms_library/current/gt800019.pdf (last visited Oct. 28, 2015).

During the 2015-16 local fiscal year, the 49 county governments and 15 school districts levying one or more local discretionary sales surtaxes will realize an estimated $2.15 billion in revenue.[6]

Local Government Infrastructure Surtax

The Local Government Infrastructure Surtax is one of the surtaxes authorized by s. 212.055, F.S., which may be levied by the governing authority in each county after a majority vote of the electorate through a local referendum.[7] The surtax may be levied at 0.5 percent or 1.0 percent.[8] Proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, or if there is no interlocal agreement, according to the formula in s. 218.62, F.S.[9]

The proceeds of the surtax must be expended only to:
- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.[10]

While all counties are authorized to levy the surtax, only 18 counties currently do so. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of 1 percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla. During the 2015-2016 fiscal year, these counties are expected to receive combined county revenues of $691,831,985.[11] All 18 counties that currently levy the tax are scheduled to terminate, with the latest termination date being Leon County on Dec. 31, 2039.[12]

The surtax may not be levied beyond the time established in the ordinance if the surtax was levied pursuant to a referendum held before July 1, 1993.[13] If the pre-July 1, 1993, ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years.[14] There is no

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[6] Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at 152 (December 2015) *available at* http://www.edr.state.fl.us/Content/local-government/reports/lgfih15.pdf (last visited Jan. 21, 2016).
[7] Section 212.055(2)(a)1., F.S.
[8] However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent. Section 212.055(2)(h), F.S.
[9] Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.
[10] Section 212.055(2)(d), F.S.
[11] Dollar amounts are estimates. Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 226 (2015).
[12] *See* Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at pgs. 154-155 (December 2015) *available at* http://www.edr.state.fl.us/Content/local-government/reports/lgfih15.pdf (last visited Jan. 21, 2016).
[13] Section 212.055(2)(a)2., F.S.
[14] *Id.*

state-mandated limit on the length of levy for those surtax ordinances enacted after July 1, 1993. The levy may only be extended by voter approval in a countywide referendum.[15]

Combined Tax Rate Caps for Discretionary Sales Surtaxes

Certain discretionary sales surtax levy combinations are subject to tax rate caps such that the combined rate of the surtaxes may not exceed 1 percent.[16]

Actuarial Soundness of Retirement Systems

Part VII of Chapter 112 of the Florida Statutes governs the Actuarial Soundness of Retirement Systems. The intent of this part is to ensure that governmental retirement systems or plans are "managed, administered, operated, and funded in such a manner as to maximize the protection of public employee retirement benefits."[17] The part establishes minimum standards for the operation and funding of public employee retirement systems and plans.[18] The provisions of part VII are applicable to "any and all units, agencies, branches, departments, boards, and institutions of state, county, special district, and municipal governments which participate in, operate, or administer a retirement system or plan for public employees, funded in whole or in part by public funds."[19] Each retirement system or plan under part VII must have regularly scheduled actuarial reports prepared and certified by an enrolled actuary.[20] The actuarial report must include, but is not limited to, the following:

- Adequacy of employer and employee contribution rates in meeting levels of employee benefits provided in the system and changes, if any, needed in such rates to achieve or preserve a level of funding deemed adequate to enable payment through the indefinite future of the benefit amounts prescribed by the system, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.
- A plan to amortize any unfunded liability pursuant to s. 112.64, F.S., and a description of actions taken to reduce the unfunded liability.
- A description and explanation of actuarial assumptions.
- A schedule illustrating the amortization of unfunded liabilities, if any.
- A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports.
- Effective January 1, 2016, the mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System.
- A statement by the enrolled actuary that the report is complete and accurate and that in his or her opinion the techniques and assumptions used are reasonable and meet the requirements and intent of this act.[21]

[15] *Id.*
[16] *See* sections 212.055(2)(h), 212.055(3)(f), 212.055(4)(b)5., and 212.055(5)(f), F.S.
[17] Section 112.61, F.S.
[18] *Id.*
[19] Section 112.62, F.S.
[20] Section 112.63(1), F.S.
[21] *Id.*

Section 112.64, F.S., governs the amortization of unfunded liability for such retirement systems or plans. For those plans in existence on October 1, 1980, the total contributions to the retirement system or plan shall be sufficient to meet the normal cost of the retirement system or plan and to amortize the unfunded liability, if any, within 40 years; however, nothing contained in this subsection permits any retirement system or plan to amortize its unfunded liabilities over a period longer than that which remains under its current amortization schedule.[22] For a retirement system or plan which comes into existence after October 1, 1980, the unfunded liability, if any, shall be amortized within 40 years of the first plan year.[23] The net increase, if any, in unfunded liability under the plan arising from significant plan amendments adopted, changes in actuarial assumptions, changes in funding methods, or actuarial gains or losses shall be amortized within 30 plan years.[24]

III. Effect of Proposed Changes:

Section 1 amends s. 112.64, F.S., providing that the proceeds of a pension liability surtax imposed by a county pursuant to s. 212.055, F.S., which is levied for the purpose of funding or amortizing the unfunded liability of a defined benefit retirement plan or system, excluding the Florida Retirement System, shall be actuarially recognized, and the county shall apply the present value of the total projected proceeds of the surtax to reduce the unfunded liability or to amortize it as part of the county's annual required contribution, beginning with the fiscal year immediately following approval of the pension liability surtax. The unfunded liability amortization schedule must be adjusted beginning with the fiscal year immediately following approval of the pension liability surtax and amortized over a period of 30 years.

The payroll of all employees in classifications covered by a closed retirement plan or system that receives funds from the pension liability surtax must be included in determining the unfunded liability amortization schedule for the closed plan, regardless of the plan in which the employees currently participate, and the payroll growth assumption must be adjusted to reflect the payroll of those employees when calculating the amortization of the unfunded liability.

Section 2 amends s. 212.055, F.S., authorizing the governing body of a county to levy a pension liability surtax to fund underfunded defined benefit retirement plans or systems, pursuant to an ordinance conditioned to take effect upon approval by a majority vote of the electors of the county voting in a referendum, at a rate that may not exceed 0.5 percent. The county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The most recent actuarial report submitted to the Department of Management Services pursuant to s. 112.63, F.S., must be used to establish the level of actuarial funding for purposes of determining eligibility to impose the surtax. The governing body of a county may only impose the surtax if:

- The employees, including police officers and firefighters, who enter employment on or after the date that the local government meets the requirements for enacting the pension liability surtax, are prohibited from enrolling in a defined benefit retirement plan or system that will receive the surtax proceeds.

[22] Section 112.64(2), F.S.
[23] Section 112.64(3), F.S.
[24] Section 112.64(4), F.S.

- The county currently levies a local government infrastructure surtax pursuant to s. 212.055(2), F.S., which is scheduled to terminate and is not subject to renewal. The pension liability surtax does not take effect until the local government infrastructure surtax is terminated.

A referendum to adopt a pension liability surtax must meet the requirements of s. 101.161, F.S., and must include a brief and general description of the purposes for which the surtax proceeds will be used. Section 101.161, F.S., requires the public measure to include a ballot summary that is printed in clear and unambiguous language on the ballot. The ballot summary must be an explanatory statement of the chief purpose of the measure and may not exceed 75 words in length.[25] Furthermore, the Financial Impact Estimating Conference must prepare a separate financial impact statement concerning the measure in accordance with s. 100.371, F.S.[26]

Pursuant to s. 212.054(4), F.S., the proceeds of the surtax collected under s. 212.055(9), F.S., less an administrative fee that may be retained by the DOR, shall be distributed by the DOR to the local government. The local government shall distribute the proceeds it receives from the DOR, less an administrative fee not to exceed 2 percent of the surtax collected, to an eligible defined benefit retirement plan or system, except the Florida Retirement System. The ordinance providing for the imposition of the pension liability surtax must specify the method of determining the percentage of the proceeds, and the frequency of such payments, distributed to each eligible defined benefit retirement plan or system. The pension liability surtax proceeds may only be used to reduce or amortize the unfunded actuarial liability of the defined benefit retirement plan or system. A defined benefit retirement plan or system may no longer receive the surtax proceeds once the plan or system reaches or exceeds 100 percent of actuarial funding. If the local government makes advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system which are secured by future revenues associated with the surtax, the local government may fully reimburse itself from the surtax proceeds for such payments.

Notwithstanding s. 212.054(5), F.S., a pension liability surtax imposed pursuant to this subsection shall terminate for any defined benefit retirement plan or system when the actuarial funding level of that plan or system reaches or exceeds 100 percent.

The bill limits to 1 percent the combined rate of the Pension Liability Surtax, the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent and Trauma Center Surtax, and the County Public Hospital Surtax.

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[25] Section 101.161(1), F.S.
[26] *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill does not directly increase government revenue.

B. Private Sector Impact:

The bill does not directly impact the private sector, but if a county approves the surtax by referendum, it will increase the tax rates on transactions in the county.

C. Government Sector Impact:

The bill provides an additional taxing authority.

The Department of Revenue has determined that the bill will have an insignificant fiscal impact on the department.[27]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 112.64 and 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 January 26, 2016:
Limits to 1 percent the combined rate of the Pension Liability surtax, the Local Government Infrastructure surtax, the Small County Surtax, the Indigent and Trauma Center surtax, and the County Public Hospital surtax.

[27] Florida Dep't of Revenue, *Legislative Bill Analysis for SB 1652,* 3 (Jan. 13, 2016).

B. Amendments:

None.

762716

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 124 and 125
insert:
(e) Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized in this subsection and subsections (2), (3), (4), and (5) in excess of a combined rate of 1 percent.

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

762716

And the title is amended as follows:

Delete line 21

and insert:

under which the surtax terminates; limiting the combined rate of specified discretionary sales surtaxes; providing an

By Senators Bradley and Bean

7-01569E-16 20161652__

A bill to be entitled

An act relating to discretionary sales surtaxes; amending s. 112.64, F.S.; authorizing a county to apply proceeds of a pension liability surtax toward reducing the unfunded liability of a defined benefit retirement plan or system; specifying the method of determining the amortization schedule if a surtax is approved; amending s. 212.055, F.S.; authorizing a county to levy a pension liability surtax by ordinance if certain conditions are met; prescribing the form of the ballot statement; requiring the Department of Revenue and participating local governments to distribute the surtax proceeds, less administrative fees; requiring the ordinance to specify the method and frequency of distributing proceeds; prohibiting a defined benefit retirement plan or system from receiving surtax proceeds after a certain level of actuarial funding is reached; requiring that surtax proceeds be used to reduce or amortize the unfunded liability of the system or plan; specifying conditions under which the surtax terminates; providing an effective date.

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

Section 1. Subsection (6) of section 112.64, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

112.64 Administration of funds; amortization of unfunded liability.—

(6)(a) Notwithstanding any other provision of this part, the proceeds of a pension liability surtax imposed by a county

pursuant to s. 212.055, which is levied for the purpose of funding or amortizing the unfunded liability of a defined benefit retirement plan or system, excluding the Florida Retirement System, shall be actuarially recognized, and the county shall apply the present value of the total projected proceeds of the surtax to reduce the unfunded liability or to amortize it as part of the county's annual required contribution, beginning with the fiscal year immediately following approval of the pension liability surtax. The unfunded liability amortization schedule must be adjusted beginning with the fiscal year immediately following approval of the pension liability surtax and amortized over a period of 30 years.

(b) The payroll of all employees in classifications covered by a closed retirement plan or system that receives funds from the pension liability surtax must be included in determining the unfunded liability amortization schedule for the closed plan, regardless of the plan in which the employees currently participate, and the payroll growth assumption must be adjusted to reflect the payroll of those employees when calculating the amortization of the unfunded liability.

Section 2. Subsection (9) is added to section 212.055, Florida Statutes, to read:

212.055 Discretionary sales surtaxes; legislative intent; 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.

(9) PENSION LIABILITY SURTAX.—

(a) The governing body of a county may levy a pension liability surtax to fund underfunded defined benefit retirement plans or systems, pursuant to an ordinance conditioned to take effect upon approval by a majority vote of the electors of the county voting in a referendum, at a rate that may not exceed 0.5 percent. The county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The most recent actuarial report submitted to the Department of Management Services pursuant to s. 112.63 must be used to establish the level of actuarial funding for purposes of determining eligibility to impose the surtax. The governing body of a county may only impose the surtax if:

1. The employees, including police officers and firefighters, who enter employment on or after the date that the local government meets the requirements for enacting the pension liability surtax, may not enroll in a defined benefit retirement plan or system that will receive the surtax proceeds.

2. The county currently levies a local government infrastructure surtax pursuant to subsection (2) which is scheduled to terminate and is not subject to renewal.

3. The pension liability surtax does not take effect until the local government infrastructure surtax described in subparagraph 2. is terminated.

(b) A referendum to adopt a pension liability surtax must meet the requirements of s. 101.161 and must include a brief and general description of the purposes for which the surtax proceeds will be used.

(c) Pursuant to s. 212.054(4), the proceeds of the surtax collected under this subsection, less an administrative fee that may be retained by the department, shall be distributed by the department to the local government. The local government shall distribute the proceeds it receives from the department, less an administrative fee not to exceed 2 percent of the surtax collected, to an eligible defined benefit retirement plan or system, except the Florida Retirement System. The ordinance providing for the imposition of the pension liability surtax must specify the method of determining the percentage of the proceeds, and the frequency of such payments, distributed to each eligible defined benefit retirement plan or system. The pension liability surtax proceeds may be used only to reduce or amortize the unfunded actuarial liability of the defined benefit retirement plan or system. A defined benefit retirement plan or system may no longer receive the surtax proceeds once the plan or system reaches or exceeds 100 percent of actuarial funding. If the local government makes advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system which are secured by future revenues associated with the surtax, the local government may fully reimburse itself from the surtax proceeds for such payments.

(d) Notwithstanding s. 212.054(5), a pension liability surtax imposed pursuant to this subsection shall terminate for any defined benefit retirement plan or system when the actuarial funding level of that plan or system reaches or exceeds 100 percent.

Section 3. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

1-26-16 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 1652

Meeting Date *Bill Number (if applicable)*

Topic Sales Surtax - Jax Pension *Amendment Barcode (if applicable)*

Name Scott Dudley

Job Title Legislative Director

Address 301 S. Bronough Street Phone 850-222-9684

Street Suite 300

Tallahassee FL Email sdudley@flcities.com

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

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

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

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

S-001 (10/14/14)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: January 15, 2016

I respectfully request that **Senate Bill # 1652**, relating to Discretionary Sales Surtaxes, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Rob Bradley
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 1652
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

FINAL VOTE			1/26/2016 1 Amendment 762716 Bradley					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Abruzzo						
X		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
	VA	Brandes, VICE CHAIR						
X		Simpson, CHAIR						
7	1	**TOTALS**	RCS	-				
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
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 1190
INTRODUCER:	Community Affairs Committee and Senator Diaz de la Portilla
SUBJECT:	Growth Management
DATE:	January 27, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	**Fav/CS**
2.			ATD	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1190 makes a number of changes to the state's growth management programs. Specifically, the bill:

- Allows the governing body of a county to employ tax increment financing to fund economic development activities and projects which directly benefit the tax increment area.
- Revises the comprehensive plan amendments that must follow the state coordinated review process, and also establishes a procedure for issuing a final order if the state land planning agency fails to take action.
- Amends the minimum acreage for application as a sector plan from 15,000 acres to 5,000 acres.
- Changes the acreage for annexation of enclaves from 10 acres to 110 acres.
- Specifies that persons do not lose the right to complete DRIs upon certain changes to those developments.
- Authorizes specified parties to amend certain agreements without the submission, review, or approval of a notification of proposed change when a project has been essentially built out. The exchange of one approved land use for another so long as there is no increase in impacts to public facilities is authorized. Specifies that persons do not lose the right to complete DRIs upon certain changes to those developments.
- Provides that substantial deviations are subject to further DRI review through the notice of proposed change process.

- Clarifies that certain proposed developments which are currently consistent with the local government comprehensive plan are not required to be reviewed pursuant to the State Coordinated Review Process for comprehensive plan amendments.
- Revises conditions under which the DRI aggregation requirements do not apply.
- Establishes procedures relating to rights, duties, and obligations related to certain development orders or agreements if a development elects to rescind a development order.

II. Present Situation:

Growth Management

The Local Government Comprehensive Planning and Land Development Regulation Act,[1] also known as Florida's Growth Management Act, was adopted in 1985. The act requires all counties and municipalities to adopt local government comprehensive plans that guide future growth and development.[2] Comprehensive plans contain chapters or "elements" that address topics including future land use, housing, transportation, conservation, and capital improvements, among others.[3] Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. The state land planning agency that administers these provisions is the Department of Economic Opportunity (DEO).[4]

State law requires a proposed comprehensive plan amendment to receive three public hearings, the first held by the local planning board.[5] The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies,[6] including DEO, the relevant Regional Planning Council (RPC), and adjacent local governments that request to participate in the review process.[7]

The state and regional agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for "extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region" as well as adverse effects on regional resources or facilities.[8] Upon receipt of the reports from the various agencies, the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the amendment receives a favorable vote it is transmitted to the DEO for final review.[9] The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant agency rules and laws.[10]

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[1] *See* ch. 163, part II, F.S.
[2] Section 163.3167, F.S.
[3] Section 163.3177, F.S.
[4] Section 163.3221(14), F.S.
[5] Section 163.3174(4)(a), F.S.
[6] Section 163.3184, F.S.
[7] *Id.*
[8] Section 163.3184(3)(b)(3)(a), F.S.
[9] Section 163.3184, F.S.
[10] *Id.*

Development of Regional Impact Background

A development of regional impact is defined in s. 380.06, F.S., as "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs. The DRI program provided a lengthy and complicated review process for proposed projects that was largely duplicated by the successor comprehensive planning review process.

Comprehensive planning was first required by law in 1975. However, the Growth Management Act of 1985 is considered the watershed moment that brought truly modern planning requirements into force. In recognition of this fact, the Environmental Land Management Study Committee in 1992 recommended that the DRI program be eliminated and relegated to an enhanced version of the Intergovernmental Coordination Element (ICE) that is required to be included in local comprehensive plans.[11] After much controversy, this recommendation was not implemented, and the DRI program continued in its previous form.

However, over the ensuing years, the program was chipped away via the serial enactment of a number of exemptions. The following list of exemptions is not exhaustive, but it is illustrative of the number and variety of carve outs from the DRI program that have been enacted:[12]

- Certain projects that created at least 100 jobs that met certain qualifications – 1997.
- Certain expansions to port harbors, certain port transportation facilities and certain intermodal transportation facilities – 1999.
- The thresholds used to identify projects subject to the program were increased by 150 percent for development in areas designated as rural areas of critical economic concern (now known as Rural Areas of Opportunity) – 2001.
- Certain proposed facilities for the storage of any petroleum product or certain expansions of existing petroleum product storage facilities – 2002.
- Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use – 2002.
- Certain waterport or marina developments – 2002.
- The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, F.S. – 2005.

In 2009, the Legislature enacted the most significant exemption from the DRI program: the exemption for Dense Urban Land Areas (DULAs).[13] By 2015, when the Legislature eliminated the requirement that new DRIs undergo the DRI review process, 8 counties and 243 cities qualified as DULAs. This meant that all projects within those counties and cities were exempted from the DRI program. The areas qualifying as DULAs accounted for more than half of Florida's population.[14]

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[11] *See* Richard G. Rubino and Earl M. Starnes, *Lessons Learned? The History of Planning in Florida*. Tallahassee, FL: Sentry Press, 2008. ISBN 978-1-889574-31-8.
[12] Section 360.06(24), F.S.
[13] Section 380.06(29), F.S.
[14] Florida Department of Economic Opportunity, List of Local Governments Qualifying as DULAs, http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/list-of-local-governments-qualifying-as-dense-urban-land-areas (last visited January 21, 2016).

Consistency with Comprehensive Plans

DRI development orders are required to be consistent with a local government's comprehensive plan.[15] In *Bay Point Club, Inc. v. Bay County* the court held that any change to a DRI development order must be consistent with the local government's comprehensive plan.[16] That can create concerns for a developer where the DRI development order itself is no longer consistent with the local comprehensive plan because of plan amendments adopted after the DRI development order was approved (e.g., the DRI development order may authorize more density or greater building height than the current comprehensive plan allows, or the plan may require more stringent environmental protections potentially reducing the development footprint from what was allowed when the DRI development order was issued).[17]

Approval of New DRIs

In 2015, s. 380.06, F.S., governing DRIs was amended to add a new subsection (30) providing that new proposed DRI-sized developments shall be approved by comprehensive plan amendment in lieu of the review process in s. 380.06, F.S. Section 163.3184(2)(c), F.S., was amended to provide that such plan amendments will be reviewed under the state coordinated review process.

Administrative Proceedings Related to Comprehensive Plan Amendments – Final Order Timeframes

In plan amendment cases, DEO enters final orders finding a plan amendment "in compliance" and the Administration Commission enters final orders finding a plan amendment "not in compliance."[18] When an Administrative Law Judge (ALJ) with the Division of Administrative Hearings (DOAH) issues a recommended order to find a plan amendment "in compliance," DOAH sends the recommended order to DEO.[19] DEO can then enter a final order finding the plan amendment in compliance or, if it disagrees with the ALJ's recommendation, must refer the matter to the Administration Commission with its recommendation to find the plan amendment "not in compliance."[20] Section 163.3184(5)(3), F.S., requires that DEO make every effort to enter the final order or refer the matter to the Administration Commission expeditiously but at a minimum within the time period provided by s. 120.569, F.S., which is 90 days after the recommended order is submitted to the agency.

Essentially Built Out DRIs

Section 380.06(15)(g), F.S., prohibits a local government from issuing permits for development in a DRI after the buildout date in the development order except under certain circumstances. For an essentially built out DRI, the developer, the local government, and DEO may enter into an agreement establishing the terms and conditions for continued development, after which the

[15] Section 163.3194(1)(a), F.S.
[16] 890 So.2d 256 (Fla. 1st DCA 2004).
[17] Department of Economic Opportunity, *Senate Bill 1190 Agency Legislative Bill Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Community Affairs).
[18] Section 163.3184, F.S.
[19] Section 163.3184(5)(e), F.S.
[20] Section 163.3184(5)(e)(1), F.S.

development proceeds pursuant to the local comprehensive plan and land development regulations without further DRI review.[21] In practice, from DEO's perspective, an agreement can be modified on request, with the consent of all the parties to the agreement and without a formal application process.[22]

Substantial Deviations and Notice of Proposed Changes

Any proposed change to a previously approved development which creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, shall constitute a substantial deviation and shall cause the proposed change to be subject to further DRI review.[23] Section 380.06(19), F.S., identifies changes to a DRI that, based on numerical standards, are substantial deviations, which means that further DRI review is required. Section 380.06(19)(e)(2), F.S., then identifies specific changes that do not require further DRI review (e.g., changes in the name of the project, changes to certain setbacks, changes to minimum lot sizes, changes that do not increase external peak hour trips and do not reduce open space or conserved areas, and any other changes that DEO agrees in writing are similar to the enumerated changes and do not increase regional impacts).

Aggregation

Section 380.0651(4), F.S., provides that two or more developments shall be aggregated and treated as a single DRI when they are determined to be part of a unified plan of development and are physically proximate to one another. Section 380.0651(4)(c), F.S., identifies exceptions to aggregation: DRIs that have already received development approval; developments that were authorized before September 1, 1988, and could not have been aggregated under the law existing at that time; and developments exempt from DRI review.

Vested Rights; Rescinding a DRI Development Order

Changes in statutes or in a developer's development program may result in a development that was a DRI when approved no longer being a DRI. Section 380.115, F.S., preserves the vested rights of those developments and establishes a procedure under which the developers of such projects may seek to rescind the DRI development orders. Developments subject to this provision are those that are no longer defined as DRIs under the applicable guidelines and standards, developments that have reduced their size below the DRI guidelines and standards, and developments that are exempt from DRI review.

Sector Plans – Minimum Acreage

Section 163.3245, Florida Statutes, authorizes local governments to adopt sector plans into their comprehensive plans.[24] Section 163.3164(42), F.S., defines a sector plan as follows:

[21] Section 380.06(15)(g)(4), F.S.
[22] Department of Economic Opportunity, *Senate Bill 1190 Agency Legislative Bill Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Community Affairs).
[23] Section 380.06(19)(a), F.S.
[24] Florida Department of Economic Opportunity, Sector Planning Program, http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/sector-planning-program (last visited January 19, 2016).

> "Sector plan" means the process authorized by s. 163.3245 in which one or more local governments engage in long-term planning for a large area and address regional issues through adoption of detailed specific area plans within the planning area as a means of fostering innovative planning and development strategies, furthering the purposes of this part and part I of chapter 380, reducing overlapping data and analysis requirements, protecting regionally significant resources and facilities, and addressing extrajurisdictional impacts. The term includes an optional sector plan that was adopted before June 2, 2011.

Sector plans are intended for substantial geographic areas of at least 15,000 acres and must emphasize urban form and protection of regionally significant resources and public facilities.[25] A sector plan may not be adopted in an area of critical state concern.[26]

Annexation of Enclaves

Florida law defines annexation as the adding of real property to the boundaries of an incorporated municipality.[27] The purpose of annexation varies. Historically, annexation was typically used to provide rural communities with access to municipal services—a proposition grounded in the notion that only cities could effectively deliver essential services such as police, fire, and water and sewer.[28] Presently, in addition to seeking out appropriate levels of service, annexation is often used either by developers to find the most favorable laws and regulations for a development, or by a municipality to increase its tax base.[29]

There are three threshold requirements to annex land: the annexed land must be unincorporated, "contiguous," and "compact."[30] Under Florida law, "contiguous" means that "a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality."[31] "Compactness" means "concentration of a piece of property in a single area and precludes any action which would create enclaves (discussed below), pockets, or finger areas in serpentine patterns."[32]

Assuming the land to be annexed is contiguous and compact, there are two primary methods of annexation procedures—involuntary and voluntary—and one exceptional method—expedited annexation of certain enclaves.[33] Florida law defines "enclave" as follows:

- Any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or
- Any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.[34]

[25] *Id*.
[26] *Id*.
[27] Section 171.031(1), F.S.
[28] Alison Yurko, *A Practical Perspective About Annexation in Florida*, 25 Stetson L. Rev. 669 (1996).
[29] *Id*.
[30] Section 171.043, F.S. Florida law also lays out many "prerequisites to annexation" in s. 171.042, F.S.
[31] Section 171.031(11), F.S.
[32] Section 171.031(12), F.S.
[33] Section 171.046, F.S.
[34] Section 171.031(13), F.S.

The Legislature expressly recognizes in s. 171.046, F.S., that, "enclaves can create significant problems in planning, growth management, and service delivery, and therefore declare that it is the policy of the state to eliminate enclaves."[35] Accordingly, the Legislature authorizes two expedited methods of annexing enclaves of less than 10 acres into the municipality in which they exist:

- A municipality may annex such an enclave by interlocal agreement with the county having jurisdiction over the enclave; or
- A municipality may annex such an enclave with fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave.[36]

Tax Increment Financing

Community redevelopment agencies (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).[37] The TIF mechanism, as described in s. 163.387, F.S., requires taxing authorities to annually appropriate an amount to the redevelopment trust fund by January 1 each year. This revenue is used to back bonds issued to finance redevelopment projects in accordance with a redevelopment plan.[38] The incremental revenue amount is calculated annually as 95 percent of the difference between:

- 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
- 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.

Thus, as the time period of the CRA increases, its property values increase, and the tax increment revenue increases, which is then available to repay public infrastructure and redevelopment costs of the CRA. Tax increment revenues can be used when they are related to development in the designated redevelopment areas.[39]

TIF Limitations and Exemptions

CRAs created before July 1, 2002, typically appropriate to the trust fund for a period not exceeding 30 years, unless the community redevelopment plan is amended.[40] For CRAs created

[35] Section 171.046(1), F.S.
[36] *See id.*
[37] Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the trust fund. Section 163.387, F.S.
[38] Section 163.387(1)(a), F.S.
[39] Harry M. Hipler, *Tax Increment Financing in Florida: A Tool for Local Government Revitalization, Renewal, and Redevelopment*, Fla. Bar J., Volume 81, No. 7 (July/August 2007).
[40] Section 163.387(2)(a), F.S.

after July 1, 2002, taxing authorities make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the plan is approved or adopted. The following taxing authorities are exempt from paying the incremental revenues:[41]

- A special district that levies ad valorem taxes on taxable real property in more than one county.
- A special district for which the sole available source of revenue the district has the authority to levy is ad valorem taxes at the time the ordinance is adopted.
- A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.
- A neighborhood improvement district created under the Safe Neighborhoods Act.
- A metropolitan transportation authority.
- A water management district created under s. 373.069, F.S.
- A special district specifically made exempt by the local governing body that created the CRA, if the exemption is made in accordance with the requirements of s. 163.387(2)(d), F.S., which include a public hearing, public notice, and an interlocal agreement.

In addition to CRAs, TIF is also allowed for conservation lands and transportation projects.[42]

III. Effect of Proposed Changes:

Section 1 creates s. 125.045(6), F.S., allowing the governing body of a county to employ tax increment financing for the purpose of funding economic development activities and projects which directly benefit the tax increment area. The governing body must administer a separate reserve account for the deposit of tax increment revenues. The tax increment authorized shall be determined annually and shall be the amount equal to a maximum of 95 percent of the difference between:

- The amount of ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the tax increment area; and
- 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 the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the tax increment area, as shown upon the most recent assessment roll used in connection with the taxation of such property by the county, before establishment of the tax increment area.

Section 2 amends s. 163.3184, F.S., to clarify that a development that is subject to the review process under s. 380.06(30), F.S., must follow the state coordinated review process in s. 163.3184(4), F.S. Additionally, recommended orders submitted under s. 163.3184(5)(e), F.S., become final orders 90 days after issuance unless all parties agree to a time extension in writing, or the state land planning agency acts as pursuant to subparagraph s. 163.3184(5)(e)(1) or (2), F.S. This section also adds that absent written consent of the parties, if the administrative law judge recommends that the amendment be found not in compliance, the Administration Commission shall issue a final order within 45 days after the issuance of the recommended order. If the administrative law judge recommends that the amendment be found in compliance, the

[41] Section 163.387(2)(c), F.S.
[42] Sections 259.042, F.S. and 163.3182, F.S.

state land planning agency shall issue a final order within 45 days after the issuance of the recommended order. If the agency fails to do so, the recommended order will become final.

Section 3 amends s. 163.3245, F.S., to decrease the acreage minimum to apply as a sector plan from 15,000 to 5,000 acres.

Section 4 amends s. 171.046, F.S., changing the acreage for annexation of enclaves from 10 acres to 110 acres.

Section 5 amends s. 380.06, F.S., providing that a person does not lose his or her right to proceed with a development authorized as a DRI if a change is made to the development that only has the effect of reducing height, density, or intensity of the development from that originally approved. This section allows parties to amend an essentially built out agreement between the developer, state land planning agency, and the local government without the submission, review, or approval of a notification of proposed change pursuant to s. 380.06(19), F.S. Additionally, one approved land use may be exchanged for another approved land use in developing the unbuilt land uses specified in the agreement. Before the issuance of a building permit pursuant to this exchange, the developer must demonstrate to the local government that the exchange ratio will not result in an increased impact to public facilities and will meet all applicable requirements of the comprehensive plan and land development code. This section states that when any proposed change to a previously approved DRI or development order condition exceeds criteria in s. 380.06(19)(b), F.S., it will constitute a substantial deviation and will be subject to further DRI review through the notice of proposed change process. A phase date extension, if the state land planning agency, in consultation with the regional planning council and with the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules, is not a substantial deviation. Finally, this section clarifies that a proposed development that is consistent with the existing comprehensive plan is not required to undergo review pursuant to the state coordinated review process for comprehensive plan amendments. This subsection does not apply to amendments to a development order governing an existing DRI.

Section 6 amends s. 380.0651, F.S., stating that aggregation review is not triggered when newly acquired lands comprise an area that is less than or equal to 10 percent of the total acreage that is subject to the existing DRI development order, if these lands were acquired subsequent to the development of an existing DRI.

Section 7 amends s. 380.115, F.S., to clarify the right of rescission of existing DRI orders. A development that elects to rescind a development order shall be governed by the provisions of s. 380.115, F.S.

Section 8 provides that the bill shall take effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is likely to have minimal impact to expenditures due to reduction in the number and types of situations that result in DRI amendments or extensive review of amendments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3167, 163.3184, 163.3245, 380.06, 380.0651, and 380.115.

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 January 26, 2016:

- Removes the 30 day requirement on the state land planning agency for final action on recommended orders;
- States that a recommended order becomes a final order 90 days after issuance unless the state has acted under subparagraph 1 or 2, or all parties consent to an extension;
- Adds that after an ALJ recommends an amendment be found not in compliance, the Administration Commission shall issue a final order within 45 days;

- Adds that after an ALJ recommends an amendment be found in compliance, the state land planning agency shall issue a final order within 45 days, and if it fails to do so, the recommended order shall become final;
- Changes the acreage for annexation of enclaves from 10 acres to 110 acres;
- Provides that developers can exchange one approved land use for another for an essentially built out project if a resolution is adopted and the developer demonstrates the exchange will not result in an increase in any impacts to public facilities;
- Removes the rebuttable presumption for substantial deviations; and
- Adds a provision allowing a governing body of a county to employ tax increment financing to be used to fund economic development activities within the tax increment area. The increment may not exceed 95 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2016	.	
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The Committee on Community Affairs (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (2), paragraph (e) of subsection (5), and paragraph (d) of subsection (7) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—


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(c) Plan amendments that are in an area of critical state concern designated pursuant to s. 380.05; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan pursuant to s. 163.3245 or an amendment to an adopted sector plan; update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191; propose a development that is subject to the state coordinated review process ~~qualifies as a development of regional impact~~ pursuant to s. 380.06; or are new plans for newly incorporated municipalities adopted pursuant to s. 163.3167 must ~~shall~~ follow the state coordinated review process in subsection (4).

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(e) If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.

1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall make every effort to refer the recommended order and its determination expeditiously to the Administration Commission for final agency action, but at a minimum within the time period provided by s. 120.569.

2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall make every effort to enter its final order expeditiously, but at a minimum within the time period provided by s. 120.569.

3. The recommended order submitted under this paragraph becomes a final order 90 days after issuance unless the state land planning agency acts as provided in subparagraph 1. or


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subparagraph 2., or all parties consent in writing to an extension of the 90-day period.

(7) MEDIATION AND EXPEDITIOUS RESOLUTION.—

(d) For a case following the procedures under this subsection, absent a showing of extraordinary circumstances or written consent of the parties, if the administrative law judge recommends that the amendment be found not in compliance, the Administration Commission shall issue a final order~~, in a case proceeding under subsection (5),~~ within 45 days after the issuance of the recommended order~~, unless the parties agree in writing to a longer time~~. If the administrative law judge recommends that the amendment be found in compliance, the state land planning agency shall issue a final order within 45 days after the issuance of the recommended order. If the state land planning agency fails to timely issue a final order, the recommended order finding the amendment to be in compliance immediately becomes final.

Section 2. Subsection (1) of section 163.3245, Florida Statutes, is amended to read:

163.3245 Sector plans.—

(1) In recognition of the benefits of long-range planning for specific areas, local governments or combinations of local governments may adopt into their comprehensive plans a sector plan in accordance with this section. This section is intended to promote and encourage long-term planning for conservation, development, and agriculture on a landscape scale; to further support innovative and flexible planning and development strategies, and the purposes of this part and part I of chapter 380; to facilitate protection of regionally significant

resources, including, but not limited to, regionally significant water courses and wildlife corridors; and to avoid duplication of effort in terms of the level of data and analysis required for a development of regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Sector plans are intended for substantial geographic areas that include at least 5,000 ~~15,000~~ acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.

Section 3. Subsection (2) of section 171.046, Florida Statutes, is amended to read:

171.046 Annexation of enclaves.—

(2) In order to expedite the annexation of enclaves of 110 ~~10~~ acres or less into the most appropriate incorporated jurisdiction, based upon existing or proposed service provision arrangements, a municipality may:

(a) Annex an enclave by interlocal agreement with the county having jurisdiction of the enclave; or

(b) Annex an enclave with fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave.

Section 4. Subsection (14), paragraph (g) of subsection (15), paragraphs (b) and (e) of subsection (19), and subsection (30) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

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(14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.—If the development is not located in an area of critical state concern, in considering whether the development is ~~shall be~~ approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:

(a) The development is consistent with the local comprehensive plan and local land development regulations.;

(b) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12).~~; and~~

(c) The development is consistent with the State Comprehensive Plan. In consistency determinations, the plan shall be construed and applied in accordance with s. 187.101(3).

However, a local government may approve a change to a development authorized as a development of regional impact if the change has the effect of reducing the originally approved height, density, or intensity of the development, and if the revised development would have been consistent with the comprehensive plan in effect when the development was originally approved. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5).

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(g) A local government may ~~shall~~ not issue a permit ~~permits~~ for a development subsequent to the buildout date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation


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provisions of subsection (19) after ~~subsequent to~~ the termination or expiration date;

2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with ~~the provisions of~~ subsection (26);

3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order except the buildout date, and the amount of proposed development that remains to be built is less than 40 percent of any applicable development-of-regional-impact threshold; or

4. The project has been determined to be an essentially built out ~~built-out~~ development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations ~~or subject to a modified development-of-regional-impact analysis~~. The parties may amend the agreement without submission, review, or approval of a notification of proposed change pursuant to subsection (19). For the purposes of ~~As used in~~ this paragraph, a ~~an "essentially built-out"~~ development of regional impact is essentially built out, if ~~means~~:

a. The developers are in compliance with all applicable terms and conditions of the development order except the buildout date; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.

The single-family residential portions of a development may be considered "essentially built out" if all of the workforce housing obligations and all of the infrastructure and horizontal development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination. The mobile home park portions of a development may be considered "essentially built out" if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners. In order to accommodate changing market demands and achieve maximum land use efficiency in an essentially built out project, when a developer is building out a project, a local government, without the concurrence of the


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state land planning agency, may adopt a resolution authorizing the developer to exchange one approved land use for another approved land use specified in the agreement. Before issuance of a building permit pursuant to an exchange, the developer must demonstrate to the local government that the exchange ratio will not result in a net increase in impacts to public facilities and will meet all applicable requirements of the comprehensive plan and land development code.

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the ~~following~~ criteria in subparagraphs 1.-11. constitutes ~~shall constitute~~ a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review through the notice of proposed change process under this subsection. ~~without the necessity for a finding of same by the local government:~~

1. An increase in the number of parking spaces at an attraction or recreational facility by 15 percent or 500 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 15 percent or 1,500 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25 percent lengthening of an existing runway, or a 25 percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development

by 15 percent or 100,000 gross square feet, whichever is greater.

4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.

5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced before ~~prior to~~ the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this subparagraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is

greater.

7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.

8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.

10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

11. Any change that would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (e)2.j.

The substantial deviation numerical standards in subparagraphs

3., 6., and 9., excluding residential uses, and in subparagraph 10., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order which individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-10. and does not exceed any other criterion, or which involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice must include a description of previous individual changes made to the development, including changes previously approved by the local government, and must include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or

monitoring official.

b. Changes to a setback which do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads which do not affect external access points.

e. Changes to the building design or orientation which stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, if no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, if there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, if these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries and configuration of areas described in subparagraph (b)11. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur before the time that a conservation easement protecting

such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.

k. Changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted by sub-subparagraph j.

l. A phase date extension, if the state land planning agency, in consultation with the regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.

m.~~l.~~ Any other change that the state land planning agency, in consultation with the regional planning council, agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-l. ~~a.-k.~~ and that does not create the likelihood of any additional regional impact.

This subsection does not require the filing of a notice of proposed change but requires an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the

state land planning agency the amendment to the development order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., sub-subparagraph j., sub-subparagraph k., or sub-subparagraph m. ~~l.~~ and if the agency believes that the change creates a reasonable likelihood of new or additional regional impacts.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development must include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence:~~.~~

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Notwithstanding any provision of paragraph (b) to the

contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) and residential use.

6. If a local government agrees to a proposed change, a change in the transportation proportionate share calculation and mitigation plan in an adopted development order as a result of recalculation of the proportionate share contribution meeting the requirements of s. 163.3180(5)(h) in effect as of the date of such change shall be presumed not to create a substantial deviation. For purposes of this subsection, the proposed change in the proportionate share calculation or mitigation plan may not be considered an additional regional transportation impact.

(30) ~~NEW~~ PROPOSED DEVELOPMENTS.—A ~~new~~ proposed development otherwise subject to the review requirements of this section shall be approved by a local government pursuant to s. 163.3184(4) in lieu of proceeding in accordance with this section. However, if the proposed development is consistent with the comprehensive plan as provided in s. 163.3194(3)(b), the development is not required to undergo review pursuant to s. 163.3184(4) or this section. This subsection does not apply to amendments to a development order governing an existing development of regional impact.

Section 5. Paragraph (c) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated


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and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(c) Aggregation is not applicable when the following circumstances and provisions of this chapter apply ~~are applicable~~:

1. Developments that ~~which~~ are otherwise subject to aggregation with a development of regional impact which has received approval through the issuance of a final development order may ~~shall~~ not be aggregated with the approved development of regional impact. However, ~~nothing contained in~~ this subparagraph does not ~~shall~~ preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact.

2. Two or more developments, each of which is independently a development of regional impact that has or will obtain a development order pursuant to s. 380.06.

3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact shall not include review of the impacts resulting from the vested portions of the development.

4. The developments sought to be aggregated were authorized to commence development before ~~prior to~~ September 1, 1988, and could not have been required to be aggregated under the law existing before ~~prior to~~ that date.

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5. Any development that qualifies for an exemption under s. 380.06(29).

6. Newly acquired lands intended for development in coordination with developed and existing development of regional impact are not subject to aggregation if such newly acquired lands comprise an area equal to, or less than, 10 percent of the total acreage subject to an existing development-of-regional-impact development order.

Section 6. Subsection (1) of section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards.—

(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact. A development that has received a development-of-regional-impact development order pursuant to s. 380.06~~,~~ but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards, a development that ~~or~~ has reduced its size below the thresholds specified in s. 380.0651, ~~or~~ a development that is exempt pursuant to s. 380.06(24) or (29), or a development that elects to rescind the development order are ~~shall be~~ governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures

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for rescission in paragraph (b). Any proposed changes to those developments which continue to be governed by a development order must ~~shall~~ be approved pursuant to s. 380.06(19) as it existed before a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria are ~~shall be~~ doubled and all other criteria are ~~shall be~~ increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as provided in ~~by~~ ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), if ~~provided~~ such permit or authorization is subject to enforcement through administrative or judicial remedies.

Section 7. This act shall take effect July 1, 2016.

========== 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 growth management; amending s. 163.3184, F.S.; specifying that certain developments must follow the state coordinated review process;

providing timeframes within which the Division of Administrative Hearings must transmit certain recommended orders to the Administration Commission; establishing deadlines for the state land planning agency to take action on recommended orders relating to certain plan amendments; providing a procedure for issuing a final order if the state land planning agency fails to take action; amending s. 163.3245, F.S.; revising the acreage thresholds for sector plans; amending s. 171.046, F.S.; revising the size of an enclave that a municipality may annex on an expedited basis; amending s. 380.06, F.S.; authorizing certain changes to approved developments of regional impact; authorizing parties to amend certain development agreements without submittal, review, or approval of a notification of proposed change; providing criteria under which one approved land use may be submitted for another approved land use in certain land development agreements under certain circumstances; specifying that certain proposed changes to certain developments are a substantial deviation; specifying that such developments must undergo further development-of-regional-impact review; providing that certain phase date extensions to amend a development order are not substantial deviations under certain circumstances; specifying conditions under which certain proposed developments are not required to undergo the state-coordinated review process; amending s. 380.0651, F.S.; providing that

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lands acquired for development are not subject to aggregation under certain circumstances; amending s. 380.115, F.S.; providing the procedures to be used by a development that elects to rescind a development order; providing an effective date.

963938

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2016	.	
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	.	
	.	

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

Senate Amendment to Amendment (787538) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Subsection (6) is added to section 125.045, Florida Statutes, to read:

125.045 County economic development powers.—

(6) The governing body of a county may employ tax increment financing for the purposes of this section. For any tax

963938

increment area created pursuant to this section, the governing body of a county shall administer a separate reserve account for the deposit of tax increment revenues. Tax increment revenues, including the proceeds of any revenue bonds secured by, and repaid with, such tax increment revenues, shall be used to fund economic development activities and projects which directly benefit the tax increment area. The tax increment authorized under this section shall be determined annually and shall be the amount equal to a maximum of 95 percent of the difference between:

(a) The amount of ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the tax increment area; and

(b) 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 the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the tax increment area, as shown upon the most recent assessment roll used in connection with the taxation of such property by the county, before establishment of the tax increment area.

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

And the title is amended as follows:

Delete line 501

and insert:

An act relating to growth management; amending s. 125.045, F.S.; authorizing the governing body of a county to employ tax increment financing; requiring

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the governing body of a county to administer a separate reserve account for tax increment areas for the deposit of tax increment revenues; requiring that tax increment revenues be used to fund certain activities and projects which directly benefit the tax increment area; specifying requirements for a tax increment; amending s.

579296

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/26/2016	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 121 and 122

insert:

Section 4. Subsection (2) of section 171.046, Florida Statutes, is amended to read:

171.046 Annexation of enclaves.—

(2) In order to expedite the annexation of enclaves of 150 ~~10~~ acres or less into the most appropriate incorporated jurisdiction, based upon existing or proposed service provision

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arrangements, a municipality may:

(a) Annex an enclave by interlocal agreement with the county having jurisdiction of the enclave; or

(b) Annex an enclave with fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave.

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

And the title is amended as follows:

Delete lines 2 - 14

and insert:

An act relating to regional and local planning; amending s. 163.3167, F.S.; specifying that persons do not lose the right to complete developments of regional impact upon certain changes to those developments; amending s. 163.3184, F.S.; revising the comprehensive plan amendments that must follow the state coordinated review process; establishing deadlines for the state land planning agency to take action on recommended orders relating to certain plan amendments; providing a procedure for issuing a final order if the state land planning agency fails to take action; amending s. 163.3245, F.S.; decreasing acreage minimums for application as a sector plan; amending s. 171.046, F.S.; increasing the size of enclaves that may be the subject of expedited annexation by municipalities; amending s. 380.06,

By Senator Diaz de la Portilla

40-01337-16 20161190__

A bill to be entitled

An act relating to growth management; amending s. 163.3167, F.S.; specifying that persons do not lose the right to complete developments of regional impact upon certain changes to those developments; amending s. 163.3184, F.S.; revising the comprehensive plan amendments that must follow the state coordinated review process; establishing deadlines for the state land planning agency to take action on recommended orders relating to certain plan amendments; providing a procedure for issuing a final order if the state land planning agency fails to take action; amending s. 163.3245, F.S.; decreasing acreage minimums for application as a sector plan; amending s. 380.06, F.S.; authorizing specified parties to amend certain agreements without the submission, review, or approval of a notification of proposed change when a project has been essentially built out; authorizing the exchange of one approved land use for another under certain conditions; providing that certain conditions constitute a presumption of a standard deviation rather than a deviation; establishing the manner by which such a presumption may be rebutted; revising the conditions under which such a presumption may be made; revising requirements related to proposed developments; specifying certain conditions under which a proposed development is not required to undergo review pursuant to the state coordinated review process; providing an exception; amending s. 380.0651, F.S.; revising the conditions under which the development of regional impact aggregation requirements do not apply; amending s. 380.115, F.S.;

establishing procedures relating to rights, duties, and obligations related to certain development orders or agreements if a development elects to rescind a development order; providing an effective date.

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

Section 1. Subsection (5) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(5) ~~Nothing in~~ This act does not ~~shall~~ limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to chapter 380 or who has been issued a final local development order, provided that ~~and~~ development has commenced and is continuing in good faith. A person does not lose his or her right to proceed with a development authorized as a development of regional impact if a change is made to the development that only has the effect of reducing height, density, or intensity of the development from that originally approved.

Section 2. Paragraph (c) of subsection (2) and paragraph (e) of subsection (5) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

(c) Plan amendments that are in an area of critical state concern designated pursuant to s. 380.05; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan

pursuant to s. 163.3245 or an amendment to an adopted sector plan; update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191; propose a development that is subject to the review process under s. 380.06(30) ~~qualifies as a development of regional impact pursuant to s. 380.06~~; or are new plans for newly incorporated municipalities adopted pursuant to s. 163.3167 must ~~shall~~ follow the state coordinated review process in subsection (4).

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(e) If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.

1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall ~~make every effort to~~ refer the recommended order and its determination ~~expeditiously~~ to the Administration Commission for final agency action within 30 days after the agency receives such order~~, but at a minimum within the time period provided by s. 120.569~~.

2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall ~~make every effort to~~ enter its final order within 30 days after the agency receives the recommended order ~~expeditiously, but at a minimum within the time period provided by s. 120.569~~.

3. If the state land planning agency fails to comply with subparagraph 1. or subparagraph 2., and if written consent has not been obtained from all parties to the proceeding to extend the period of time within which the state land planning agency

must act, the recommended order:

a. If recommending denial of the plan amendment, shall be transmitted by the Division of Administrative Hearings to the Administration Commission for final agency action; or

b. If recommending a finding that the plan amendment is in compliance, the order shall be entered as the final order in the proceeding.

Section 3. Subsection (1) of section 163.3245, Florida Statutes, is amended to read:

163.3245 Sector plans.—

(1) In recognition of the benefits of long-range planning for specific areas, local governments or combinations of local governments may adopt into their comprehensive plans a sector plan in accordance with this section. This section is intended to promote and encourage long-term planning for conservation, development, and agriculture on a landscape scale; to further support innovative and flexible planning and development strategies, and the purposes of this part and part I of chapter 380; to facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors; and to avoid duplication of effort in terms of the level of data and analysis required for a development of regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Sector plans are intended for substantial geographic areas that include at least 5,000 ~~15,000~~ acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of

regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.

Section 4. Paragraph (g) of subsection (15), paragraphs (b) and (e) of subsection (19), and subsection (30) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(g) A local government may ~~shall~~ not issue permits for development subsequent to the buildout date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) subsequent to the termination or expiration date;

2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with ~~the provisions of~~ subsection (26);

3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order except the buildout date, and the amount of proposed development that remains to be built is less than 40 percent of any applicable development-of-regional-impact threshold; or

4. The project has been determined to be an essentially built out ~~built-out~~ development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the

development may be continued. If the project is determined to be essentially built out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations. The parties may also amend the agreement without the submission, review, or approval of a notification of proposed change pursuant to subsection (19) ~~or subject to a modified development-of-regional-impact analysis~~. As used in this paragraph, an ~~"~~essentially built out ~~built-out"~~ development of regional impact means:

a. The developers are in compliance with all applicable terms and conditions of the development order except the buildout date; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.

The single-family residential portions of a development may be considered ~~"~~essentially built out~~"~~ if all of the workforce housing obligations and all of the infrastructure and horizontal

development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination. The mobile home park portions of a development may be considered ~~"~~essentially built out~~"~~ if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners. In order to accommodate changing market demands and achieve maximum land use efficiency in an essentially built out project, one approved land use may be exchanged for another approved land use in developing the unbuilt land uses specified in the agreement. This exchange must be implemented at a ratio that ensures there is no increase in net external transportation impacts. Before the issuance of a building permit pursuant to this exchange, the developer must demonstrate to the local government that the exchange ratio will not result in an increase in net external transportation impacts.

(19) SUBSTANTIAL DEVIATIONS.—

(b) There is a rebuttable presumption that any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the ~~following~~ criteria in the following paragraphs creates ~~shall constitute~~ a substantial deviation. If this presumption is not rebutted, ~~and shall cause~~ the development shall ~~to~~ be subject to further development-of-regional-impact review through the notice of proposed change process under this subsection. ~~without the~~

~~necessity for a finding of same by the local government:~~

1. An increase in the number of parking spaces at an attraction or recreational facility by 15 percent or 500 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 15 percent or 1,500 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25 percent lengthening of an existing runway, or a 25 percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development by 15 percent or 100,000 gross square feet, whichever is greater.

4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.

5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced <u>before</u> ~~prior to~~ the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if

located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this subparagraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater.

7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.

8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.

10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

11. Any change that would result in development of any area

which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (e)2.j.

The substantial deviation numerical standards in subparagraphs 3., 6., and 9., excluding residential uses, and in subparagraph 10., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order which individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-10. and does not exceed any other criterion, or which involves an extension of the buildout date

of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice must include a description of previous individual changes made to the development, including changes previously approved by the local government, and must include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback which do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads which do not affect external access points.

e. Changes to the building design or orientation which stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, if no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, if there are no additional regional impacts.

h. Changes required to conform to permits approved by any

federal, state, or regional permitting agency, if these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries and configuration of areas described in subparagraph (b)11. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur before the time that a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.

k. Changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted by sub-subparagraph j.

l. A phase date extension, if the state land planning agency, in consultation with the regional planning council and with the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.

m. Any other change that the state land planning agency, in consultation with the regional planning council, agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-l. ~~a.-k.~~ and that does not create the likelihood of any additional regional

impact.

This subsection does not require the filing of a notice of proposed change but requires an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the state land planning agency the amendment to the development order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., sub-subparagraph j., sub-subparagraph k., or <u>sub-subparagraph m.</u> ~~sub-subparagraph l.~~ and if the agency believes that the change creates a reasonable likelihood of new or additional regional impacts.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development must include a description of individual changes previously made to the development, including changes previously approved by the local government. The local

government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence.

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) and residential use.

6. If a local government agrees to a proposed change, a change in the transportation proportionate share calculation and mitigation plan in an adopted development order as a result of recalculation of the proportionate share contribution meeting the requirements of s. 163.3180(5)(h) in effect as of the date of such change shall be presumed not to create a substantial deviation. For purposes of this subsection, the proposed change in the proportionate share calculation or mitigation plan may not be considered an additional regional transportation impact.

(30) ~~NEW~~ PROPOSED DEVELOPMENTS.—A ~~new~~ proposed development otherwise subject to the review requirements of this section

shall be approved by a local government pursuant to s. 163.3184(4) in lieu of proceeding in accordance with this section. However, if the proposed development is consistent with the comprehensive plan as provided in s. 163.3194, the development is not required to undergo review pursuant to s. 163.3184(4) or this section. This subsection does not apply to amendments to a development order governing an existing development of regional impact.

Section 5. Paragraph (c) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(c) Aggregation is not applicable when the following circumstances and provisions of this chapter are applicable:

1. Developments—which are otherwise subject to aggregation with a development of regional impact which has received approval through the issuance of a final development order may ~~shall~~ not be aggregated with the approved development of regional impact. However, ~~nothing contained in~~ this subparagraph does not ~~shall~~ preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact.

2. Two or more developments, each of which is independently a development of regional impact that has or will obtain a

development order pursuant to s. 380.06.

3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact does ~~shall~~ not include review of the impacts resulting from the vested portions of the development.

4. The developments sought to be aggregated were authorized to commence development before ~~prior to~~ September 1, 1988, and could not have been required to be aggregated under the law existing before ~~prior to~~ that date.

5. Any development that qualifies for an exemption under s. 380.06(29).

6. Newly acquired lands comprise an area that is less than or equal to 10 percent of the total acreage that is subject to the existing development of regional-impact development order, if these lands were acquired subsequent to the development of an existing development of regional impact.

Section 6. Section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards.—

(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact. A development that has received a development-

of-regional-impact development order pursuant to s. 380.06, but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards; a development that ~~or~~ has reduced its size below the thresholds specified in s. 380.0651;~~, or~~ a development that is exempt pursuant to s. 380.06(24) or (29); or a development that elects to rescind the development order; shall be governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). Any proposed changes to those developments which continue to be governed by a development order must ~~shall~~ be approved pursuant to s. 380.06(19) as it existed before a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria are ~~shall be~~ doubled and all other criteria are ~~shall be~~ increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as provided in ~~by~~ ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), if ~~provided~~ such permit or

authorization is subject to enforcement through administrative or judicial remedies.

(2) A development with an application for development approval pending, pursuant to s. 380.06, on the effective date of a change to the guidelines and standards, or a notification of proposed change pending on the effective date of a change to the guidelines and standards, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order is ~~shall be~~ governed by ~~the provisions of~~ subsection (1).

(3) A landowner who ~~that~~ has filed an application for a development-of-regional-impact review before ~~prior to~~ the adoption of a sector plan pursuant to s. 163.3245 may elect to have the application reviewed pursuant to s. 380.06. Such review must be conducted using the~~,~~ comprehensive plan provisions in force before ~~prior to~~ adoption of the sector plan, and any requested comprehensive plan amendments that accompany the application.

Section 7. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1190
Bill Number (if applicable)

#787538
Amendment Barcode (if applicable)

Topic GROWTH MANAGEMENT

Name CHARLES PATTISON

Job Title POLICY DIRECTOR

Address 308 N. MONROE
Street
TALLAHASSEE 32308
City *State* *Zip*

Phone 850.222.6277

Email cpattison@1000fof.org

Speaking: ☐ For ☐ Against ☑ Information

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

Representing 1000 FRIENDS 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.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1190
Bill Number (if applicable)

Topic Growth Management

as amended
Amendment Barcode (if applicable)

Name Nancy Linnan

Job Title

Address 215 S. Monroe, Ste 508
Street

Phone 850 212-7631

Tally FL 32301
City *State* *Zip*

Email nlinnan@carltonfields.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Villages; The Howard Group

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

	1190
Meeting Date	*Bill Number (if applicable)*
	Amendment Barcode (if applicable)

Topic _____

Name CHRISTOPHER EMMANUEL

Job Title POLICY DIRECTOR

Address 136 BROADWAY STREET Phone 850 933 1223
Street

TLH FL 32310 Email CEMMANUEL@FLCHAMBER
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA CHAMBER OF COMMERCE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/20/16
Meeting Date

1190
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Attorney

Address 119 S. Monroe St Suite 300
Street

Phone _____

Tallahassee FL 32301
City *State* *Zip*

Email _____

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Association of Florida Community Developers

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Finance and Tax
Regulated Industries
Rules

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

January 12, 2016

The Honorable Wilton Simpson
Chair
Community Affairs

Dear Chair Simpson:

Please agenda Senate Bill 1190, Growth Management, at your next opportunity.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
State Senator, District 40

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

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 1190
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

FINAL VOTE			1/26/2016 1 Amendment 787538 Diaz de la Portilla		1/26/2016 2 Amendment 963938 Simpson		1/26/2016 3 Amendment 579296 Abruzzo	
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Abruzzo						
X		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
VA		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
8	0	**TOTALS**	RCS	-	RCS	-	-	WD
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
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 1174
INTRODUCER:	Community Affairs Committee and Senator Diaz de la Portilla
SUBJECT:	Residential Facilities
DATE:	January 26, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	**Fav/CS**
2.			CF	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1174 requires a radius of 1,200 feet between a community residential home licensed for 7 to 14 residents and a community residential home licensed for 6 or fewer residents. It would not impact any homes already licensed and in operation prior to July 1, 2016.

II. Present Situation:

Community Residential Homes

Historically, community housing options for persons with disabilities, frail elderly persons, dependent or delinquent children, and persons with mental illnesses have been limited. Although the transition from providing services in large institutions to community-based programs began in the 1970s,[1] the availability of safe, appropriate, and affordable housing in Florida has been an ongoing challenge. The primary obstacle was the opposition to establishing affordable housing or housing for persons with disabilities or special needs in residential neighborhoods. In an

[1] Normalization and deinstitutionalization have long been held to provide benefits to individuals with special needs. Normalization is a social science theory based upon the proposition "that the quality of life increases as an individual's access to culturally typical activities and settings increases." Deinstitutionalization seeks to remove individuals from placement in the more restrictive environment of institutions to the less restrictive environment of mainstream society. Working in concert these two principles encourage the development of community-based living arrangements for individuals with special needs. *Normalization and Deinstitutionalization of Mentally Retarded Individuals: Controversy and Facts, American Psychologist*, August 1987, Vol 42, No. 8,809-816.

attempt to address this issue the Legislature enacted s. 419.001, F.S., which establishes the siting requirements applicable to local governments for community residential homes.

A community residential home is a home consisting of 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.[2] Residency in a community residential home is limited to individuals who qualify as:[3]

- "Developmentally disabled," as defined in s. 393.063, F.S., which includes a person with a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely;
- A "frail elder" as defined in s. 429.65(9), F.S., which includes a functionally impaired elderly person who is 60 years of age or older and who has physical or mental limitations that restrict the person's ability to perform the normal activities of daily living and that impede the person's capacity to live independently;
- "Handicapped" pursuant to s. 760.22(7)(a), F.S., which includes a person who has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment;
- A nondangerous person who has a "mental illness" as defined in s. 394.455(18), F.S., which includes an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living; or
- A child who is found to be dependent by the court pursuant to ss. 39.01(14) and 984.03 F.S., and a "child in need of services" as defined in ss. 984.03(9) and 985.03(8), F.S.

Community residential homes must be licensed by the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Families, or the Agency for Health Care Administration (collectively the "licensing entity").[4]

Local Government Approval of Proposed Community Residential Homes

Local government is responsible for the site approval of a proposed community residential home. A sponsoring agency[5] is required to notify the chief executive officer of the local government in writing when a site for a community residential home has been selected in an area zoned for multifamily use.[6] The notice must include the address of the site, the residential licensing category, the number of residents, and the community support requirements of the program.[7] The notice must also contain a statement from the licensing entity indicating the licensing status of the home, and how the home meets applicable licensing criteria for the safe care and supervision

[2] Section 419.001(1)(a), F.S.
[3] Section 419.001(e), F.S.
[4] Section 419.001(1)(b), F.S.
[5] Section 419.001(1)(f), F.S., defines "sponsoring agency" as an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.
[6] Section 419.001(3)(a), F.S.
[7] *Id*.

of the residents.[8] The sponsoring agency must provide the local government with the most recently published data that identifies all community residential homes in the district in which the proposed site is to be located.[9] The local government reviews the notification from the sponsoring agency in accordance with the zoning ordinance of the jurisdiction in which the community residential home is located.[10] The local government then has up to 60 days to respond, and if no response is given within 60 days, the sponsoring agency may establish the home at the site in question.[11]

A local government may not deny the siting of a community residential home unless the site selected:[12]

- Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area;
- Does not meet licensing criteria; or
- Would substantially alter the nature and character of the area by being located within a radius of:
  - 1,200 feet of another existing community residential home; or
  - 500 feet of an area of single-family zoning.

Section 419.001, F.S., additionally addresses siting requirements for homes with six or fewer residents which otherwise meet the definition of a community residential home. These homes are considered a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances.[13] These homes are allowed in a single- or multi-family zoned area without approval by the local government provided:[14]

- The home does not exist within a radius of 1,000 feet of another such home; and
- The sponsoring agency notifies the local government at the time of occupancy that the home is licensed.

Section 419.001, F.S., is silent as to which zoning requirement (within a radius of 1,200 feet or within a radius of 1,000 feet) applies when determining the proper distance between a community residential home and a home with six or fewer residents which otherwise meets the definition of a community residential home.

III. Effect of Proposed Changes:

Section 1 amends s. 419.001(2), F.S., to require a radius of 1,200 feet between a community residential home licensed for 7 to 14 residents and a community residential home licensed for six or fewer residents. It would not impact any homes already licensed and in operation prior to July 1, 2016.

Section 2 provides an effective date of July 1, 2016.

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[8] *Id*.
[9] *Id*.
[10] *Id*.
[11] Section 419.001(3)(b)(2), F.S.
[12] Section 419.001(3)(c), F.S.
[13] Section 419.001(2), F.S.
[14] *Id*.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 419.001 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 January 26, 2016:
Provides that homes of six or fewer which otherwise meet the definition of a community residential home are not to be within a 1,200 foot radius of another existing community residential home in single-family or multifamily zoning.

B. Amendments:

None.

295500

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2016	.	
	.	
	.	
	.	

The Committee on Community Affairs (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 419.001, Florida Statutes, is amended to read:

419.001 Site selection of community residential homes.—

(2) Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the

295500

purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes are ~~shall~~ not ~~be~~ located within a radius of 1,000 feet of another existing such home with six or fewer residents or within a radius of 1,200 feet of another existing community residential home. Such homes with six or fewer residents are ~~shall~~ not ~~be~~ required to comply with the notification provisions of this section; provided that, before ~~prior to~~ licensure, the sponsoring agency provides the local government with the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located in order to show that there is not a home of six or fewer residents which otherwise meets the definition of a ~~no other~~ community residential home ~~is~~ within a radius of 1,000 feet and not a community residential home within a radius of 1,200 feet of the proposed home ~~with six or fewer residents~~. At the time of home occupancy, the sponsoring agency must notify the local government that the home is licensed by the licensing entity. For purposes of local land use and zoning determinations, this subsection does not affect the legal nonconforming use status of any community residential home lawfully permitted and operating as of July 1, 2016.

Section 2. This act shall take effect July 1, 2016.

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

295500

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to residential facilities; amending s. 419.001, F.S.; specifying applicability of siting requirements for community residential homes; providing applicability with respect to local land use and zoning; providing an effective date.

By Senator Diaz de la Portilla

40-01647A-16 20161174__

A bill to be entitled

An act relating to residential facilities; amending s. 419.001, F.S.; specifying applicability of siting requirements for community residential homes; providing applicability with respect to local land use and zoning; providing an effective date.

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

Section 1. Subsection (5) of section 419.001, Florida Statutes, is amended to read:

419.001 Site selection of community residential homes.—

(5) All distance requirements in this section shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home. When one home has 6 or fewer residents and another home has 7 to 14 residents, the greater distance requirement applies. Distances between community residential homes shall be measured according to the requirements of this section regardless of which agency, as specified in paragraph (1)(a), serves the clients housed therein. For purposes of local land use and zoning determinations, this paragraph does not affect the legal nonconforming use status of any community residential home lawfully permitted and operating as of July 1, 2016.

Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

SB1174
Bill Number (if applicable)

Topic Residential Facilities

Amendment Barcode (if applicable)

Name Shad Haston

Job Title CEO, Florida Assisted Living Assoc.

Address 2447 Millcreek Ct.
Street
Tallahassee, FL
City *State* *Zip*

Phone 850.383.1159

Email shad@fala.net.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Assisted Living Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

SB 1174
Bill Number (if applicable)

Topic Residential Living Facilities

Amendment Barcode (if applicable)

Name Diana Arteaga

Job Title Director Govt Relations

Address 444 SW 2nd Ave, 10th Floor
Street

Phone 786-469-1644

Miami FL
City *State* *Zip*

Email

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

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

Representing City of Miami

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Finance and Tax
Regulated Industries
Rules

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

January 19, 2016

The Honorable Wilton Simpson
Chair
Community Affairs

Dear Chair Simpson:

I would appreciate it if you would place SB 1174 on the Community Affairs agenda at the next available opportunity.

Thank you.

Sincerely,

Miguel Diaz de la Portilla
State Senator, District 40

Copy Mr. Tom Yeatman, Staff Director;
Ms. Ann Whittaker, Committee Administrative Assistant

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 1174
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

FINAL VOTE			1/26/2016 1 Amendment 295500 Diaz de la Portilla					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Abruzzo						
X		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
VA		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
8	0	**TOTALS**	RCS	-				
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
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 1202
INTRODUCER:	Senator Abruzzo
SUBJECT:	Discounts on Public Park Entrance Fees and Transportation Fares
DATE:	January 25, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Ryon	MS	**Favorable**
2.	Cochran	Yeatman	CA	**Favorable**
3.			FP	

I. Summary:

SB 1202 requires county and municipal departments of parks and recreation to provide a full or partial discount on park entrance fees to the following individuals:

- Current military service members;
- Honorably discharged veterans;
- Honorably discharged veterans with a service-connected disability;
- The surviving spouse or parents of a military service member who died in combat; and
- The surviving spouse or parent of a law enforcement officer, firefighter, emergency medical technician, or paramedic who died in the line of duty.

The bill also requires regional transportation authorities to provide disabled veterans with discounts on fares for use of fixed-route transportation systems.

II. Present Situation:

Veteran and Military Presence in Florida

The composition of military personnel who reside in Florida consists of the following:

- More than 1.6 million veterans;[1]
- More than 249,000 veterans with a service-connected disability;[2]
- More than 84,000 active duty and federal reserve personnel;[3] and

[1] Florida Department of Veterans' Affairs, *Fast Facts*, available at http://floridavets.org/?page_id=50 (last visited January 21, 2016).
[2] *Id*.
[3] Data provided by Career Source Florida staff on January 13, 2016 (on file with Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

- More than 12,000 Florida National Guard members.[4]

After their military service, veterans and their families may qualify for a variety of benefits administered by the U.S. Department of Veterans Affairs and by the State of Florida.[5]

State Park Entrance Fee Discounts

The Division of Recreation and Parks (division) within the Department of Environmental Protection oversees Florida's 174 state parks. The division offers two types of annual entrance passes: the individual annual entrance pass for $60 and the family annual entrance pass for $120.[6] The division currently provides the following park entrance fee discounts:

- Active duty members and honorably discharged veterans of the U.S. Armed Forces, National Guard, or reserve components receive a 25 percent discount on an annual entrance pass;
- Veterans with service-connected disabilities receive lifetime family annual entrance passes at no charge;
- Surviving spouses and parents of deceased members of the U.S. Armed Forces, National Guard, or reserve components who have fallen in combat receive lifetime family annual entrance passes at no charge; and
- Surviving spouses and parents of a law enforcement officer or firefighter who died in the line of duty receive lifetime family annual entrance passes at no charge.[7]

The table below reflects the park entrance fee discounts provided for Fiscal Year 2013-14 and 2014-15:[8]

State Park Entrance Fee Discounts, s. 258.0145, F.S.	FY 2013-14	FY 2014-15
Individual Entrance Pass (25% discount: active duty service members and veterans)	1,295	1,466
Value of Discount	$19,425	$21,990
Family Annual Entrance Pass (25% discount: active duty service members and veterans)	4,103	4,688
Value of Discount	$123,090	$140,640
Lifetime Family Annual Entrance Pass (Full discount: disabled veterans; the spouse and parents of a fallen military service member, law enforcement officer, or firefighter)	9,804	10,977

[4] Florida Department of Military Affairs, *About Us*, available at http://www.floridaguard.army.mil/about-us (last visited January 21, 2016).
[5] See Florida Department of Veteran's Affairs, *Florida Veterans' Benefits Guide* (2015); U.S. Department of Veterans Affairs, Office of Public Affairs, *Federal Benefits for Veterans, Dependents and Survivors* (2014), available at http://floridavets.org/?page_id=110 (last visited January 21, 2016).
[6] Florida State Parks, *Annual Pass Information*, https://www.floridastateparks.org/content/annual-pass-information (last visited January 21, 2016).
[7] Section 258.0145, F.S.
[8] E-mail correspondence with the Florida Department of Environmental Protection on Jan. 13, 2016 (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

Value of Discount	$1,176,480	$1,317,240
Total Passes	**15,202**	**17,131**
Total Value of Discount	$1,318,995	$1,479,870

Current law does not address entrance fee discounts for county and municipal parks for current and former military personnel and their families or the families of deceased first responders. There are approximately 269 county and municipal parks and recreation agencies in Florida, each managing a number of park areas, which offer a variety of amenities.[9]

Regional Transportation Authorities

Section 163.567, F.S., states that any two or more contiguous counties, municipalities, other political subdivisions, or combinations thereof are authorized to convene a charter committee for the purpose of developing a regional transportation authority. However, no county, municipality, or other political subdivision may be a member in more than one authority.[10] A regional transportation authority has the authority to, in part, purchase, own, or operate, or provide for the operation of, transportation facilities.[11]

Chapters 163, 343, and 349, F.S., govern the regional transportation authorities. The following authorities are created in statute or special law:

- Northeast Florida Regional Transportation Commission.
- South Florida Regional Transportation Authority.
- Central Florida Regional Transportation Authority.
- Northwest Florida Transportation Corridor Authority.
- Tampa Bay Area Regional Transportation Authority.
- Jacksonville Transportation Authority.
- Pinellas Suncoast Transit Authority.
- Hillsborough Area Regional Transit Authority.

Of these regional transportation authorities, two provide commuter services. Tri-Rail, operated by the South Florida Regional Transportation Authority, currently offers a 50 percent discount on Fare EASY Cards to persons with disabilities.[12] LYNX, operated by the Central Florida Regional Transportation Authority, provides discounted fares to persons with medical disabilities.[13]

[9] Telephone conversation between Florida Recreation and Parks Association, Inc. staff and Senate Military and Veterans Affairs, Space, and Domestic Security Committee staff (Jan. 12, 2016).
[10] Section 163.567(1), F.S.
[11] Section 163.568, F.S.
[12] Acceptable forms of documentation to present at the ticket kiosk include a Disabled Veterans ID, a letter from a physician, a Driver's License indicating disability, or Social Security documentation for disability benefits. See Tri-Rail, *Discount Policy*, available at http://www.tri-rail.com/fares/discount-policy/ (last visited January 21, 2016).
[13] See LYNX, *Reduced Fares Application*, available at http://www.golynx.com/buy-tickets/reduced-fares-application.stml (last visited Jan. 21, 2016).

III. Effect of Proposed Changes:

The bill creates ss. 125.029 and 166.0447, F.S., (Sections 1 and 3) to require counties and municipalities to provide a partial or a full discount on park entrance fees to the following persons:

- A current member of the U.S. Armed Forces, their reserve components, or the National Guard;
- An honorably discharged veteran of the U.S. Armed Forces, their reserve components, or the National Guard;
- An honorably discharged veteran of the U.S. Armed Forces, their reserve components, or the National Guard who has a service-connected disability as determined by the U.S. Department of Veterans Affairs;
- A surviving spouse and parents of a deceased member of the U.S. Armed Forces, their reserve components, or the National Guard who died in the line of duty under combat-related conditions; and
- A surviving spouse and parents of a law enforcement officer, firefighter, emergency medical technician, or paramedic who died in the line of duty.

The bill defines the term "park entrance fee" to mean a fee charged to access lands managed by a county or municipal park or recreation department. The term does not include expanded amenity fees for amenities such as campgrounds, aquatic facilities, stadiums or arenas, facility rentals, special events, boat launching, golf, zoos, museums, gardens, or programs taking place within public lands.

The bill also creates s. 163.58, F.S., (Section 2) to require a regional transportation authority to provide disabled veterans[14] with a partial or a full discount on fares when using a fixed-route transportation system operated by the authority. A county, municipality, or regional transportation authority must provide the discount upon a satisfactory showing to the entity of information evidencing eligibility.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate, to be passed by a two-thirds vote of the membership of each house of the Legislature. This bill has the effect of reducing municipal and county revenues generated from park entrance fees by requiring discounts for the military members, their families, and the families of deceased first responders. However, laws having insignificant fiscal impact are exempt from the mandates requirements;[15]

[14] As defined in s. 295.07(1)(a), F.S.

[15] FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year.

The Revenue Estimating Conference estimated in 2015 that a similar bill (CS/HB 721) would have a negative, indeterminate fiscal impact on local government revenue.[16]

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not yet adopted an estimate for this bill or its companion. However, the REC did review a similar bill filed during the 2015 Legislative Session (CS/HB 721). At that time the REC estimated that the bill would have a negative, indeterminate fiscal impact on local government revenue.[17]

B. Private Sector Impact:

The individuals described above will be eligible for a full or partial discount on entrance fees at county and municipal parks. Disabled military veterans will be eligible for a full or partial discount when using a fixed-route transportation system operated by a regional transportation authority.

C. Government Sector Impact:

County and municipal departments of parks and recreation will experience a decrease in revenue generated from park entrance fees because of this bill. To the extent disabled veterans use the discount provided at transportation systems, regional transportation authorities will experience a decrease in revenue from fares.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 125.029, 163.58, and 166.0447.

[16] Revenue Estimating Conference, *Impact Conference Results for CS/HB 721 (HB 1095 and SB 1430 similar)* (adopted March 13, 2015).
[17] Id.

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.

By Senator Abruzzo

25-00304-16 20161202__

A bill to be entitled

An act relating to discounts on public park entrance fees and transportation fares; creating s. 125.029, F.S.; requiring counties to provide a partial or a full discount on park entrance fees to military members, veterans, and the spouse and parents of certain deceased military members, law enforcement officers, firefighters, emergency medical technicians, and paramedics; requiring that individuals seeking the discount present information satisfactory to the county department which evidences eligibility; defining the term "park entrance fee"; providing certain exclusions; creating s. 163.58, F.S.; requiring certain regional transportation authorities to provide a partial or a full discount on fares for certain disabled veterans; creating s. 166.0447, F.S.; requiring municipalities to provide a partial or a full discount on park entrance fees to military members, veterans, and the spouse and parents of certain deceased military members, law enforcement officers, firefighters, emergency medical technicians, and paramedics; requiring that individuals seeking the discount present information satisfactory to the municipal department which evidences eligibility; defining the term "park entrance fee"; providing certain exclusions; providing an effective date.

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

Section 1. Section 125.029, Florida Statutes, is created to read:

125.029 County park entrance fee discounts.—

(1) A county park or recreation department shall provide a partial or a full discount on park entrance fees to the following individuals who present information satisfactory to the county department which evidences eligibility for the discount:

(a) A current member of the United States Armed Forces, their reserve components, or the National Guard.

(b) An honorably discharged veteran of the United States Armed Forces, their reserve components, or the National Guard.

(c) An honorably discharged veteran of the United States Armed Forces, their reserve components, or the National Guard, who has a service-connected disability as determined by the United States Department of Veterans Affairs.

(d) A surviving spouse and parents of a deceased member of the United States Armed Forces, their reserve components, or the National Guard, who died in the line of duty under combat-related conditions.

(e) A surviving spouse and parents of a law enforcement officer, as defined in s. 943.10(1), a firefighter, as defined in s. 633.102, or an emergency medical technician or paramedic employed by state or local government, who died in the line of duty.

(2) As used in this section, the term "park entrance fee" means a fee charged to access lands managed by a county park or recreation department. The term does not include expanded fees for amenities, such as campgrounds, aquatic facilities, stadiums or arenas, facility rentals, special events, boat launching, golf, zoos, museums, gardens, or programs taking place within public lands.

Section 2. Section 163.58, Florida Statutes, is created to read:

163.58 Transportation fare discounts.—An authority, as defined in this chapter, chapter 343, or chapter 349, shall provide a partial or a full discount on fares for the use of a fixed-route transportation system operated by the authority to a disabled veteran as described in s. 295.07(1)(a) who presents information satisfactory to the authority which evidences eligibility for the discount.

Section 3. Section 166.0447, Florida Statutes, is created to read:

166.0447 Municipal park entrance fee discounts.—

(1) A municipal park or recreation department shall provide a partial or a full discount on park entrance fees to the following individuals who present information satisfactory to the municipal department which evidences eligibility for the discount:

(a) A current member of the United States Armed Forces, their reserve components, or the National Guard.

(b) An honorably discharged veteran of the United States Armed Forces, their reserve components, or the National Guard.

(c) An honorably discharged veteran of the United States Armed Forces, their reserve components, or the National Guard, who has a service-connected disability as determined by the United States Department of Veterans Affairs.

(d) A surviving spouse and parents of a deceased member of the United States Armed Forces, their reserve components, or the National Guard, who died in the line of duty under combat-related conditions.

(e) A surviving spouse and parents of a law enforcement officer, as defined in s. 943.10(1), a firefighter, as defined in s. 633.102, or an emergency medical technician or paramedic employed by state or local government, who died in the line of duty.

(2) As used in this section, the term "park entrance fee" means a fee charged to access lands managed by a municipal park or recreation department. The term does not include expanded fees for amenities, such as campgrounds, aquatic facilities, stadiums or arenas, facility rentals, special events, boat launching, golf, zoos, museums, gardens, or programs taking place within public lands.

Section 4. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

1202
Bill Number (if applicable)

Topic Discounts on Public Park Entrance Fees & Trans Fares
Amendment Barcode (if applicable)

Name Justin Day

Job Title Director

Address 215 S. Monroe St, Suite 602
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 222-8900

Email jd@cardenaspartners.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Hillsborough Area Regional Transit Authority

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Alternating Chair*

SENATOR JOSEPH ABRUZZO
Minority Whip
25th District

January 19th, 2016

The Honorable Wilton Simpson
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully request that Senate Bill 1202, Discounts on Public Park Entrance Fees and Transportation Fares, be considered for placement on the Community Affairs committee agenda. This piece of legislation will provide military members, veterans, and the spouse and parents of deceased military members, law enforcement officers, and firefighters with discounted public park entrance fees and discounted public transportation fees.

Thank you in advance for your consideration. Please let me know if I can provide you with any additional information.

Sincerely,

Joseph Abruzzo

Cc: Tom Yeatman, *Staff Director*

REPLY TO:
❒ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
❒ 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
❒ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 1202
FINAL ACTION: Favorable
MEETING DATE: Tuesday, January 26, 2016
TIME: 9:00—11:00 a.m.
PLACE: 301 Senate Office Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Abruzzo						
X		Bradley						
X		Dean						
X		Diaz de la Portilla						
X		Hutson						
X		Thompson						
VA		Brandes, VICE CHAIR						
X		Simpson, CHAIR						
8	0	**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
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.:** **Type:**
Caption: Senate Community Affairs Committee **Judge:**

Started: 1/26/2016 9:02:53 AM
Ends: 1/26/2016 10:40:56 AM Length: 01:38:04

9:02:59 AM Call Roll
9:03:33 AM Quorum Present
9:05:04 AM SB 826 Senator Latvala
9:07:16 AM Amendment 597842
9:07:26 AM Senator Abruzzo's Amendment (Senator Thompson as a courtesy)
9:07:32 AM Questions
9:07:36 AM Appearance
9:07:45 AM Amendment 597842 Adopted
9:07:49 AM Back on bill as Amended
9:07:51 AM Appearances
9:07:55 AM Nancy Stewart - Federation of Manufactured Home Owners of FL, Inc.
9:08:03 AM Lori Killinger - FL Manufactured Housing Assn.
9:08:04 AM Debate
9:08:06 AM Close
9:08:19 AM Roll Call SB 826 as Committee Substitute
9:08:32 AM SB 826 Reported Favorably
9:08:38 AM SB 1664 Senator Stargel
9:08:54 AM Questions
9:08:56 AM Appearance
9:09:09 AM Butch Calhoun - FL Fruit and Vegetable Assoc.
9:09:28 AM Rebecca O'Hara - FL League of Cities
9:10:47 AM Adam Basford - FL Farm Bureau
9:11:09 AM Stephen James - FL Assoc. of Counties
9:11:24 AM Nancy Stephens - FL Poultry Federation
9:11:25 AM Debate
9:11:27 AM Close
9:11:32 AM Roll Call SB 1664
9:11:47 AM SB 1664 Reported Favorably
9:11:54 AM SB 1426 Senator Stargel
9:12:17 AM Questions
9:12:19 AM Senator Thompson
9:14:49 AM Amendment 511974 Senator Bradley
9:14:59 AM Courtesy Amendment
9:15:02 AM Questions
9:15:08 AM Appearance
9:15:09 AM Debate
9:15:10 AM Close
9:15:17 AM Amendment 511974 Adopted
9:15:21 AM Back on Bill as Amended
9:15:24 AM Questions
9:15:38 AM Shawn Frost - Coalition of School Board Members
9:15:51 AM Jeff Bergosh - FL Coaltion of School Board Members
9:17:55 AM Questions
9:17:58 AM Senator Dean
9:21:34 AM Senator Bradley
9:23:19 AM Andrea Messini - FL School Board Assoc.
9:25:10 AM Questions
9:25:15 AM Senator Bradley
9:31:15 AM Senator Dean
9:34:41 AM Senator Thompson
9:36:29 AM Senator Hutson
9:39:18 AM Shawn Frost - Coalition of School Board Members

9:40:30 AM Debbie Mortham - Foundation of FL's Future
9:40:37 AM Melissa Fausz - Amercans for Prosperity
9:40:41 AM Debate
9:40:44 AM Senator Thompson
9:42:53 AM Senator Bradley
9:44:43 AM Close
9:45:23 AM Roll Call SB 1426 as CS
9:45:38 AM SB 1426 Reported Favorably
9:45:47 AM SB 1534 Senator Simmons
9:51:06 AM Questions
9:51:10 AM Senator Abruzzo
9:51:30 AM Appearance
9:51:34 AM Susan Harbin - FL Assoc. of Counties
9:51:39 AM Oscar Anderson - Central FL Commission on Homelessness
9:51:47 AM Jacqueline Peters - FL Housing Finance Corporation
9:51:54 AM Karen Cook - FL Supportive Housing Coalition
9:51:59 AM Dana Farmer - Disability Rights FL
9:52:04 AM Jill Gran - FL Alcohol and Drug Abuse Assoc.
9:52:13 AM Arthur Rosenberg - FL Legal Services
9:52:16 AM Kelly Teague - Orange County
9:52:24 AM Sean Pittman - Palm Beach County
9:52:25 AM Debate
9:52:27 AM Senator Abruzzo
9:52:43 AM Close
9:53:12 AM Call Roll SB 1534
9:53:23 AM SB 1534 Reported Favorably
9:53:45 AM SB 1652 Senator Bradley
9:54:59 AM Amendment 762716
9:55:03 AM Late-Filed
9:55:10 AM Amendment Introduced
9:55:14 AM Senator Bradley
9:55:35 AM Questions
9:55:37 AM Appearance
9:55:39 AM Debate
9:55:43 AM Close
9:55:50 AM Amendment 762716 Adopted
9:55:53 AM Back on Bill as Amended
9:55:54 AM Questions
9:56:01 AM Questions
9:56:03 AM Senator Hutson
10:01:09 AM Senator Dean
10:04:34 AM Appearance
10:04:41 AM Scott Dudley - FL League of Cities
10:04:43 AM Debate
10:04:47 AM Senator Hutson
10:05:38 AM Close
10:05:48 AM Roll Call SB 1652 as CS
10:06:03 AM SB 1652 Reported Favorably
10:06:11 AM SB 1202 Senator Abruzzo
10:06:41 AM Questions
10:06:43 AM Appearance
10:06:49 AM Justin Day - Hillsborough Area Regional Transit Authority
10:06:50 AM Debate
10:06:52 AM Close
10:06:58 AM Roll Call SB 1202
10:07:07 AM SB 1202 Reported Favorably
10:07:30 AM SB 1190 Senator Diaz de la Portilla
10:07:46 AM Amendment 787538
10:07:50 AM Senator Diaz de la Portilla
10:09:48 AM Questions
10:09:54 AM Amendment to the Amendment
10:10:01 AM Turn Chair over to Senator Thompson

10:10:09 AM Amendment 963938
10:10:11 AM Late-Filed
10:10:17 AM Show Amendment Introduced
10:10:30 AM Amendment to the Amendment 963938
10:10:33 AM Senator Simpson
10:10:48 AM Questions
10:10:54 AM Appearance
10:10:59 AM Debate
10:11:02 AM Close
10:11:14 AM Amendment 963938 Adopted
10:11:20 AM Turn Chair Back to Senator Simpson
10:11:33 AM Back on Amendment as Amended 787538
10:11:35 AM Appearance
10:11:43 AM Charles Pattinson - 1000 Friends of FL
10:12:19 AM Debate
10:12:23 AM Close
10:12:30 AM Amendment 787538 Adopted
10:12:34 AM Back on Bill as Amended
10:12:35 AM Questions
10:12:37 AM Appearance
10:12:41 AM Gary Hunter - Assoc. of FL Community Developers
10:12:51 AM Christopher Emmanuel - FL Chamber of Commerce
10:12:55 AM Nancy Linnan - The Villages; The Howard Group
10:12:57 AM Debate
10:13:00 AM Close
10:13:12 AM Roll Call SB 1190 as CS
10:13:19 AM SB 1190 Reported Favorably
10:13:33 AM SB 1174 Senator Diaz de la Portilla
10:13:56 AM Questions
10:14:02 AM Amendment 295500
10:14:11 AM Senator Diaz de la Portilla
10:14:15 AM Appearance
10:14:16 AM Debate
10:14:19 AM Close
10:14:26 AM Amendment 295500 Adopted
10:14:30 AM Back on Bill as Amended
10:14:31 AM Questions
10:14:33 AM Appearance
10:14:40 AM Diana Arteaga - City of Miami
10:14:52 AM Shad Haston - FL Assisted Living Assoc.
10:14:54 AM Debate
10:14:58 AM Close
10:15:09 AM Roll Call SB 1174 as CS
10:15:16 AM SB 1174 Reported Favorably
10:15:32 AM SB 1480 Senator Sobel
10:16:04 AM Senator Sobel's Legislative Aide Eric Reinarman
10:18:39 AM Questions
10:18:44 AM Senator Hutson
10:21:32 AM Senator Bradley
10:24:05 AM Senator Dean
10:25:50 AM Appearance
10:26:07 AM Eddy Labrador - Broward County
10:30:56 AM Senator Dean
10:31:11 AM Senator Bradley
10:32:13 AM Senator Hutson
10:34:37 AM Senator Bradley
10:38:21 AM Senator Brandes
10:39:41 AM Motion to Temporarily Post-Pone SB 1480
10:39:45 AM SB 1480 TP
10:39:58 AM Senator Brandes
10:40:32 AM Senator Diaz de la Portilla
10:40:50 AM Meeting Adjourned