

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Lee, Chair
Senator Clemens, Vice Chair

MEETING DATE: Wednesday, March 22, 2017

TIME: 1:30—3:30 p.m.

PLACE: 301 Senate Office Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 148 Education / Garcia (Similar H 85)	Students Remaining on School Grounds During School Hours; Requiring schools in certain districts to obtain written parental consent before permitting students to leave school grounds during the lunch period, etc. ED 02/21/2017 Fav/CS CA 03/22/2017 Favorable RC	Favorable Yeas 7 Nays 0
2	SB 704 Garcia (Similar H 463)	Tax on Sales, Use, and Other Transactions; Providing a limited exception from the tax on rental or license fees charged for the use of real property for certain ad valorem tax charges; providing that tax charges in excess of a specified limit are subject to tax; requiring ad valorem tax charges for multiple tenants or licensees of a parcel of property or portions of a property to be calculated in a specified manner under certain circumstances, etc. CA 03/22/2017 Favorable AFT AP	Favorable Yeas 5 Nays 1
3	SB 330 Steube (Similar CS/H 487)	Local Business Taxes; Prohibiting the governing bodies of counties and municipalities, respectively, from levying a local business tax that was not adopted before a specified date; deleting certain provisions that, for counties and municipalities, limit the rate of the tax and authorize increases of the tax; providing an exemption from the business tax, subject to certain conditions, to specified veterans, spouses of veterans and active servicemembers, and low-income individuals, etc. CA 03/22/2017 Fav/CS AFT AP	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 22, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1634 Steube (Identical CS/H 1215)	Residential Elevators; Requiring that an elevator controller be capable of monitoring the closed and locked contacts of the hoistway door locking device; requiring that the elevator controller be capable of interrupting the power for the motor and brake for a hoistway door locking device under certain circumstances, etc. CA 03/22/2017 Favorable RC	Favorable Yeas 6 Nays 0
5	SJR 136 Artiles (Identical HJR 87, Compare CS/HJR 187, HJR 271, HJR 571, CS/HJR 721, HJR 1129, SJR 130, SJR 132, CS/SJR 134, SJR 138)	Selection and Duties of County Officers/Property Appraiser ; Proposing amendments to the State Constitution to remove authority for a county charter to provide for choosing certain county officers in a manner other than election, prohibit a special law to provide for choosing a property appraiser in a manner other than election, authorize the abolition of any county office if its duties are transferred to another office by special law approved by county voters, and remove authority for a county charter to transfer certain duties of the clerk of the circuit court to another officer, etc. CA 03/22/2017 Fav/CS EE JU RC	Fav/CS Yeas 7 Nays 1
6	SB 282 Artiles (Similar CS/H 193)	Towing and Storage Fees; Prohibiting counties and municipalities from enacting certain ordinances or rules to impose a fee or charge on wrecker operators or vehicle storage companies, etc. CA 03/22/2017 Fav/CS TR AFT AP	Fav/CS Yeas 8 Nays 0
7	CS/SB 764 Governmental Oversight and Accountability / Baxley (Similar H 455)	Ad Valorem Taxation; Providing an exemption from ad valorem taxation for certain first responders under specified conditions; providing an exemption from ad valorem taxation for certain surviving spouses of first responders who have died; specifying the documentation required to receive the exemption, etc. GO 03/06/2017 Fav/CS CA 03/22/2017 Fav/CS AFT AP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 22, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1000 Campbell (Similar H 1105)	Firesafety Standards; Authorizing certain buildings to have specified balcony guard openings, etc. CA 03/22/2017 Favorable BI RC	Favorable Yeas 8 Nays 0
9	SB 1770 Lee (Similar CS/H 13)	Community Redevelopment Agencies; Requiring ethics training for community redevelopment agency commissioners; providing a phase-out period for existing community redevelopment agencies; requiring the Department of Economic Opportunity to declare inactive community redevelopment agencies that have reported no financial activity for a specified number of years, etc. CA 03/22/2017 Not Considered ATD AP RC	Not Considered
10	SB 1048 Lee (Identical H 1055)	Linear Facilities; Revising the definition of the term "development" to exclude work by certain utility providers on utility infrastructure on certain rights-of-way or corridors; requiring the consideration of a certain variance standard when including conditions for the certification of an electrical power plant; requiring the consideration of a certain variance standard when including conditions for the certification of a proposed transmission line corridor, etc. CU 03/14/2017 Favorable CA 03/22/2017 Favorable	Favorable Yeas 7 Nays 1
11	SJR 1774 Lee	Increased Homestead Property Tax Exemption; Proposing amendments to the State Constitution to increase the assessed value eligible for homestead exemption and to provide an effective date if the amendment is adopted, etc. CA 03/22/2017 Favorable AFT AP	Favorable Yeas 5 Nays 1

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 148

INTRODUCER: Education Committee and Senator Garcia

SUBJECT: Students Remaining on School Grounds During School Hours

DATE: March 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hand</u>	<u>Graf</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 148 authorizes district school boards to adopt policies for allowing students to leave school grounds during school hours, with some exceptions. Specifically, the bill:

- Clarifies that district school board procedures for granting permission for students to leave school grounds during school hours includes the school lunch period; and
- Provides that in a district that has more than 100,000 students in prekindergarten through grade 12, a school may not permit a student to leave school grounds for the lunch period unless the student’s parent has, in writing, consented for his or her child to leave school grounds during the lunch period for the school year.

II. Present Situation:

District School Boards Powers and Duties

District school boards are authorized to operate, control, and supervise all free public schools within the school district.¹ More specifically, “[t]he responsibility for actual operation and administration of all schools needed within the districts in conformity with rules and minimum standards prescribed by the state, and also the responsibility for the provision of any desirable

¹ Art. IX, s. 4(b), Fla. Const. *See also, School Board of Palm Beach County v. Florida Charter Education Foundation*, 2017 Fla. App. Lexis 494, (4th DCA, January 18, 2017). (“The Florida Constitution therefore creates a hierarchy under which a school board has local control, but the State Board [of Education] supervises the system as a whole. This broader supervisory authority may at times infringe on a school board’s local powers, but such infringement is expressly contemplated – and in fact encouraged by the very nature of supervision – by the Florida Constitution.”).

and practicable opportunities authorized by law beyond those required by the state, are delegated by law to the school officials of the respective districts.”²

District school boards are also responsible for student welfare, including the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of the students.³

Open and Closed Campuses

District school boards have the discretion to determine whether school campuses are to be open or closed.⁴ Specifically, Florida law states that district school boards may “[p]rovide procedures for student dismissal precautions and for granting permission for students to leave school grounds during school hours, including releasing a student from school upon request by a parent or for public appearances of school groups.”⁵

The most recent data for Florida shows that 43 school districts reported a closed-campus policy as district policy, and 13 districts reported a closed-campus policy as a school option.⁶ Nationally, 72 percent of high schools maintain a closed campus.⁷

III. Effect of Proposed Changes:

The bill authorizes district school boards to adopt policies for allowing students to leave school grounds during school hours, with some exceptions. Specifically, the bill:

- Clarifies that district school board procedures for granting permission for students to leave school grounds during school hours includes the school lunch period; and
- Provides that in a district that has more than 100,000 students in prekindergarten through grade 12, a school may not permit a student to leave school grounds for the lunch period unless the student’s parent has, in writing, consented for his or her child to leave school grounds during the lunch period for the school year.

² Section 1001.30, F.S. *See also*, s. 1001.32(2), F.S., which provides that district school boards “may exercise any power except as expressly prohibited by the State Constitution or general law.”

³ Section 1001.42(8)(a), F.S.

⁴ Department of Education, *Agency Legislative Bill Analysis for SB 148* (2017), at 2; Section 1001.43(1)(c), F.S. School lunch policies are generally labelled “open campus” (e.g., students may go off campus) or “closed campus” (e.g., students are not allowed to leave campus). Public Health Advocacy Institute, *Off the Map: Extracurricular School Food, Open Campus Lunch*, (2009) available at http://www.phaionline.org/wp-content/uploads/2009/04/otm_open_campus_lunch.pdf. A school with a “modified” policy that only allows certain students who meet specified requirements to go off campus is considered to have an open campus policy. *Id.* The terms “open campus” and “closed campus” are not defined in Florida statute or rule; although, the term “closed-campus” has been used by the Department of Education in the context of violence prevention. *See*, page 4, Department of Education, *Florida Safe and Drug-Free Schools Program, State Report for 2009-2010* (2009) available at <http://www.fldoe.org/core/fileparse.php/7771/urlt/0084819-staterrep0910.pdf>.

⁵ Section 1001.43(1)(c), F.S.

⁶ Department of Education, *Florida Safe and Drug-Free Schools Program, State Report for 2009-2010* (2009) available at <http://www.fldoe.org/core/fileparse.php/7771/urlt/0084819-staterrep0910.pdf>, at 4.

⁷ Center for Disease Control and Prevention, *School Health Policies and Practices Study, Results from the School Health Policies and Practices Study 2014* (2015), available at https://www.cdc.gov/healthyyouth/data/shpps/pdf/shpps-508-final_101315.pdf at 104.

For the 2016-2017 school year, 8 school districts have over 100,000 students in prekindergarten through grade 12. The table below shows the student population and open versus closed campus policy for such school districts:⁸

District	Student Population	District Policy
Miami-Dade	357,249	Closed
Broward	271,852	Closed
Hillsborough	214,386	Closed
Orange	200,674	Closed
Palm Beach	192,271	No formal policy
Duval	129,479	Modified Open
Pinellas	102,905	Closed
Polk	102,295	Closed

The bill takes effect July1, 2017.

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.

⁸ Department of Education, *Florida’s PK-20 Education Information Portal, Students, Enrollment, Build Your Own Table*, <https://edstats.fldoe.org/SASPortal/main.do> (last visited Jan. 25, 2017). The closest school districts under 100,000 students are Lee (92,686), Brevard (73,444), and Pasco (72,493). *Id.* E-mail, Department of Education (Jan. 27, 2017). Duval authorizes principals to determine whether lunches are open or closed; however, only six high schools allow students to leave during lunch, and they all require parental permission and for the students to meet specified criteria (e.g., honor roll and no referrals). Department of Education, *Agency Legislative Analysis for SB 148 (2017)*, at 2.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1001.43 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Education on February 21, 2017:

Removes the short title of the act.

B. Amendments:

None.

By the Committee on Education; and Senator Garcia

581-01913-17

2017148c1

1 A bill to be entitled
2 An act relating to students remaining on school
3 grounds during school hours; amending s. 1001.43,
4 F.S.; providing that a district school board may adopt
5 policies for releasing students for the school lunch
6 period; requiring schools in certain districts to
7 obtain written parental consent before permitting
8 students to leave school grounds during the lunch
9 period; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Paragraph (c) of subsection (1) of section
14 1001.43, Florida Statutes, is amended to read:

15 1001.43 Supplemental powers and duties of district school
16 board.—The district school board may exercise the following
17 supplemental powers and duties as authorized by this code or
18 State Board of Education rule.

19 (1) STUDENT MANAGEMENT.—The district school board may adopt
20 programs and policies to ensure the safety and welfare of
21 individuals, the student body, and school personnel, which
22 programs and policies may:

23 (c) Provide procedures for student dismissal precautions
24 and for granting permission for students to leave school grounds
25 during school hours, including releasing a student from school
26 upon request by a parent, or ~~or~~ for public appearances of school
27 groups, or for the school lunch period. However, in a district
28 that has more than 100,000 students in prekindergarten through
29 grade 12, a school may not permit a student to leave school

581-01913-17

2017148c1

30 grounds for the lunch period unless the student's parent has, in
31 writing, consented for his or her child to leave school grounds
32 during the lunch period for the school year.

33 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

148
Bill Number (if applicable)

Topic STUDENTS REMAINING ON SCHOOL GROUNDS

Amendment Barcode (if applicable)

Name DIANA PADGETT

Job Title GOVERNMENTAL CONSULTANT

Address 1371 MILLSTREAM RD.
Street

Phone 850-212-4204

TALL. FL. 32312
City State Zip

Email DHP CONSULTING @ EARTHLINK.NET

Speaking: For Against Information

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

Representing FLORIDA SCHOOL NUTRITION ASSOC.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
State Senator René García
36th District

Please reply to:

District Office:

1490 West 68 Street
Suite # 201
Hialeah, FL. 33014
Phone# (305) 364-3100

March 10th, 2017

The Honorable Tom Lee
Chairman, Committee on Community Affairs
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Lee,

Please have this letter serve as my formal request to have **SB 148: Students Remaining on School Grounds During School Hours**, be heard during the next scheduled Community Affairs Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García
District 36

CC: Tom Yeatman
Ann Whittaker

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 704

INTRODUCER: Senator Garcia

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: March 21, 2017

REVISED: _____

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

I. Summary:

SB 704 provides a limited exception from the sales tax on commercial leases and rents. Specifically, separately itemized charges for ad valorem taxes paid to the lessor or the licensor, or to any other person if itemized and not taxed, are not subject to the sales tax on commercial leases of real property.

The maximum amount that may fall under the exception is the lesser of ad valorem taxes actually paid to the tax collector or the ad valorem taxes delinquent on April 1 of the following year. If the total ad valorem tax exception exceeds the amount of taxes actually paid or delinquent on April 1, the excess ad valorem tax charges are subject to tax, which must be remitted on the December sales and use tax return to the Department of Revenue.

Additionally, if multiple tenants or licensees occupy a parcel of real property that is not subject to the aforementioned sales tax, the tenants' or licensees' ad valorem taxes shall be calculated based on a reasonable allocation to the real property occupied by each tenant or used by each licensee.

II. Present Situation:

The Florida Sales and Use Tax is a 6 percent levy on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, and motor vehicles.¹ Since enactment in 1949, Florida's sales tax rate has been modified several times. In 1968, the Legislature increased rates on most items from 3 percent to 4 percent. In 1982, rates were increased from 4 percent to 5 percent. In the 1987 Regular Session, the Legislature passed legislation extending the tax to sales of many services.² During Special Session D in December

¹ Chapter 212, F.S.

² Chapter 87-6, 101, Laws of Fla.

1987, the Legislature repealed the recently-enacted service tax and increased the general sales tax rate from 5 percent to 6 percent, the current tax rate.³

Section 212.031, F.S., provides for a tax levied in an amount equal to 6 percent on the total rent or license fee charged for the exercise of the taxable privilege of engaging in the business of renting, leasing, letting, or granting a license for the use of any real property unless the type of property is specifically exempted. Exemptions exist for the following types of property:

- Agricultural assessed property;⁴
- Dwelling units;⁵
- Parking, docking, or storage spaces;⁶
- Recreational property or common elements of a condominium that meet certain conditions;⁷
- Streets or right-of-ways with improvements used by a utility or provider of communications services;⁸
- Public street or road used for transportation services;⁹
- Airport property used exclusively for landing, taxiing, passenger movement or fueling;¹⁰
- Port authority property used exclusively for docking, mooring, passenger movement, or fueling;¹¹
- Property used as an integral part of the performance of qualified production services;¹²
- Property used by concessionaires at certain venues;¹³
- Property declared to be nontaxable pursuant to a Technical Assistance Advisement issued before March 15, 1993;¹⁴ and
- Property used or occupied predominately for space-flight business.¹⁵

In addition to the exemptions specified above, other statutory provisions exempt specific uses of property from sales and use taxes.

- A special provision for air carriers provides for apportionment of the tax on real property rentals used by the carrier for aircraft maintenance.¹⁶
- A limited exemption exists for leases of real property used to provide education services described in s. 212.031 (1)(a)(9), F.S.¹⁷

³ Chapter 87-548, Laws of Fla.

⁴ Section 212.031 (1)(a)1, F.S.

⁵ Section 212.031 (1)(a)2, F.S.

⁶ Section 212.031 (1)(a)3, F.S. Parking, docking and storage facilities for boats, and tie-down or storage space for aircraft at airports is taxable under s. 212.03(6), F.S.

⁷ Section 212.031 (1)(a)4, F.S.

⁸ Section 212.031 (1)(a)5, F.S.

⁹ Section 212.031 (1)(a)6, F.S.

¹⁰ Section 212.031 (1)(a)7, F.S.

¹¹ Section 212.031 (1)(a)8, F.S.

¹² Section 212.031 (1)(a)9, F.S.

¹³ Section 212.031 (1)(a)10, F.S.

¹⁴ Section 212.031 (1)(a)11, F.S. This exemption applied to a limited number of situations that existed before April 1993 and is not available to new lease contracts.

¹⁵ Section 212.031 (1)(a)12, F.S.

¹⁶ Section 212.0598, F.S.

¹⁷ Section 212.0602, F.S.

- Business properties within an enterprise zone are authorized to receive a refund for certain previously paid taxes.¹⁸
- Exemptions exist for religious institutions, Section 501(c)(3) organizations, and fair associations.¹⁹

The 6 percent tax on transient lodging rentals, parking and storage for motor vehicles in parking lots or garages, docking or storage for boats in boat docks or marinas, or tie-down or storage space for aircraft in airports²⁰ is not affected by this bill.

III. Effect of Proposed Changes:

Section 1 amends s. 212.031, F.S., to provide an exception from the tax on rental or licenses fees charged for the use of real property for certain ad valorem charges. Specifically, separately itemized charges for ad valorem taxes paid to the lessor or the licensor, or to any other person if itemized and not taxed, are not subject to the sales tax on commercial leases of real property.

The bill limits the maximum charges that are not subject to tax in a calendar year for a single parcel of real property to the lesser of the ad valorem taxes actually paid to the tax collector or the ad valorem taxes delinquent on April 1 of the following calendar year. If the total ad valorem tax charges exceed the taxes actually paid or delinquent on April 1 of the following calendar year, the excess ad valorem tax charges are subject to the tax, which must be remitted on the December sales and use tax return to the Department of Revenue in the manner provided for dealers to remit taxes under s. 212.11, F.S.

If multiple tenants or licensees occupy a parcel of real property or portions of the real property are not subject to a lease or license to use real property, the tenants' or licensees' ad valorem tax charges shall be calculated based on a reasonable allocation related to the real property occupied by each tenant or used by each licensee.

Section 2 provides that this act shall take effect January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of section 18, Article VII of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant

¹⁸Section 212.08(5)(h), F.S.

¹⁹Sections 212.08(7)(m),(p),and (gg), F.S.

²⁰ Section 212.03(1) and (6), F.S.

impact, which for Fiscal Year 2016-2017 was \$2 million or less.^{21,22,23} The Revenue Estimating Conference estimated a negative recurring impact for the local option of \$17.5 million in 2017-18; \$18.2 in 2018-19; \$18.9 in 2019-20; \$19.5 in 2020-21; and \$20.2 in 2021-22.²⁴

The county/municipality mandates provision of Article VII, Section 18 of the Florida Constitution, may apply because this bill reduces local government authority to raise revenue by providing an exception from the sales tax on commercial leases and rents. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Landlords and tenants will benefit from a reduction in the tax on commercial rentals. A 2014 study, “The Economic Impact of Sales Tax on the Rental of Real Property,” found that “since the leasing market has demonstrated a history of growth and manageable vacancies over the long run, it is unlikely on its face that the rental tax had materially driven a significant number of the economic actors into other paths.”²⁵ The report analyzed the impact of a total repeal of the tax on commercial rentals and concluded that “property owners would likely gain the greatest benefit from eliminating the tax (on commercial rentals), but this effect would be masked for a period of at least three to five

²¹ FLA. CONST. art. VII, s. 18(d).

²² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 16, 2017).

²³ Based on the Demographic Estimating Conference’s population adopted on November 1, 2016. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited March 16, 2017).

²⁴ Revenue Estimating Conference, HB 463/SB 704, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/Impact0303.pdf (analyzed March 3, 2017).

²⁵ Office of Economic and Demographic Research, The Florida Legislature, p. 3, available at <http://edr.state.fl.us/Content/returnoninvestment/SalesTaxontheRentalofRealProperty.pdf> (Nov. 15, 2014).

years by the length of existing contracts.”²⁶ The report adds “A straight reduction in the tax rate is analyzed in the same manner as complete elimination.”²⁷

C. Government Sector Impact:

The Revenue Estimating Conference estimated a negative recurring impact in general revenue of \$137.5 million; and a negative recurring total local impact of \$35.3 million.²⁸

In its analysis, the Department of Revenue provided that it will need to mail a Tax Information Publication (TIP) notifying approximately 146,000 taxpayers of the sales and use tax exemption to separately itemized ad valorem tax charges paid by certain tenants and licensees.²⁹ The estimated cost for this TIP is \$49,000, but it is nonrecurring.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.031 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

²⁶ *Id.* p. 5.

²⁷ *Id.*

²⁸ Office of Economic and Demographic Research, Revenue Estimating Conference, HB 463/SB 704, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/Impact0303.pdf (analyzed March 3, 2017).

²⁹ Department of Revenue, Legislative Bill Analysis for SB 704, p. 6 (analyzed February 20, 2017).

³⁰ *Id.*

By Senator Garcia

36-00649A-17

2017704__

1 A bill to be entitled

2 An act relating to the tax on sales, use, and other
3 transactions; amending s. 212.031, F.S.; providing a
4 limited exception from the tax on rental or license
5 fees charged for the use of real property for certain
6 ad valorem tax charges; providing that tax charges in
7 excess of a specified limit are subject to tax;
8 specifying the manner of remitting such taxes to the
9 Department of Revenue; requiring ad valorem tax
10 charges for multiple tenants or licensees of a parcel
11 of property or portions of a property to be calculated
12 in a specified manner under certain circumstances;
13 providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Paragraph (c) of subsection (1) of section
18 212.031, Florida Statutes, is amended to read:

19 212.031 Tax on rental or license fee for use of real
20 property.—

21 (1)

22 (c)1. For the exercise of such privilege, a tax is levied
23 in an amount equal to 6 percent of and on the total rent or
24 license fee charged for such real property by the person
25 charging or collecting the rental or license fee. The total rent
26 or license fee charged for such real property shall include
27 payments for the granting of a privilege to use or occupy real
28 property for any purpose and shall include base rent, percentage
29 rents, or similar charges. Such charges shall be included in the
30 total rent or license fee subject to tax under this section
31 whether or not they can be attributed to the ability of the
32 lessor's or licensor's property as used or operated to attract

36-00649A-17

2017704__

33 customers.

34 2. Payments for intrinsically valuable personal property
35 such as franchises, trademarks, service marks, logos, or patents
36 are not subject to tax under this section.

37 3. Separately itemized charges for ad valorem taxes paid to
38 the lessor or the licensor, or to any other person if itemized
39 and not taxed, are not subject to tax under this section. For
40 purposes of this subparagraph, the maximum charges that are not
41 subject to tax in a calendar year for a single parcel of real
42 property are the lesser of the ad valorem taxes actually paid to
43 the tax collector or the ad valorem taxes delinquent on April 1
44 of the following calendar year. If the total ad valorem tax
45 charges exceed the taxes actually paid or delinquent on April 1
46 of the following calendar year, the excess ad valorem tax
47 charges are subject to tax, which must be remitted on the
48 December sales and use tax return to the department in the
49 manner provided for dealers to remit taxes under s. 212.11. If
50 multiple tenants or licensees occupy a parcel of real property
51 or portions of the real property are not subject to a lease or
52 license to use real property, the tenants' or licensees' ad
53 valorem tax charges shall be calculated based on a reasonable
54 allocation related to the real property occupied by each tenant
55 or used by each licensee.

56 4. In the case of a contractual arrangement that provides
57 for both payments taxable as total rent or license fee and
58 payments not subject to tax, the tax shall be based on a
59 reasonable allocation of such payments and shall not apply to
60 that portion which is for the nontaxable payments.

61 Section 2. This act shall take effect January 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17

Meeting Date

704

Bill Number (if applicable)

Topic Sales tax on commercial leases and rents

Amendment Barcode (if applicable)

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough St

Street

Tallahassee

City

FL

State

32301

Zip

Phone 222-5052

Email kwenner@floridatxwatch.org

Speaking: For Against Information

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

Representing Florida TaxWatch

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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)

3/22

Meeting Date

704

Bill Number (if applicable)

Topic Tax on Sales, Use, Other transactions

Amendment Barcode (if applicable)

Name CORY GUZZO

Job Title Lobbyist

Address 108 S. Monroe St.

Phone 681-0024

Street

Tallahassee

FL

32301

Email Cory@Flapardrus.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries 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.

THE FLORIDA SENATE
APPEARANCE RECORD

3/22/17

Meeting Date

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

SB 704

Bill Number (if applicable)

Topic Business Rent Tax

Amendment Barcode (if applicable)

Name FRENCH BROWN

Job Title Lobbyist; Hopping GREEN & SANS

Address 119. S. Monroe St. Suite 300
Street

Phone 850-222-7500

Tallahassee FL 32301
City State Zip

Email frenchb@hgs law.com

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

704

Bill Number (if applicable)

Topic Business Rent Tax

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title _____

Address 311 EAST PARK AVE

Phone 224-5081

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email ddaniel@smithbryantmyer.com

Speaking: For Against Information

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

Representing International Council for Shopping Centers

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)

3/22/2017

Meeting Date

704

Bill Number (if applicable)

Topic Tax on Sales, Use, and Other Transactions

Amendment Barcode (if applicable)

Name Danielle Scoggins

Job Title Sr. Public Policy Representative

Address 200 South Monroe Street

Phone 8502241400

Street

Tallahassee

Florida

32301

Email danielles@floridarealtors.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Realtors

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)

3/22/17

Meeting Date

704

Bill Number (if applicable)

Topic Business Rent Tax

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 E. Jefferson St

Phone 850-445-5367

Street

Killbucksee FL 32301

City

State

Zip

Email tim.nungesser@nfib.org

Speaking: For Against Information

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

Representing NFIB (National Federation of Independent Business)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

3/22/17
Meeting Date

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

704
Bill Number (if applicable)

Topic tax

Amendment Barcode (if applicable)

Name Melissa Ramba

Job Title VP Government Affairs

Address 227 S Adams St

Phone _____

Street

Tallahassee

Fl.

32301

City

State

Zip

Email Melissa@FRF.org

Speaking: For Against Information

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

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
State Senator René García
36th District

Please reply to:

District Office:

1490 West 68 Street
Suite # 201
Hialeah, FL. 33014
Phone# (305) 364-3100

March 10th, 2017

The Honorable Tom Lee
Chairman, Committee on Community Affairs
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Lee,

Please have this letter serve as my formal request to have **SB 704: Tax on Sales, Use, and Other Transactions** be heard during the next scheduled Community Affairs Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García
District 36

CC: Tom Yeatman
Ann Whittaker

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 330

INTRODUCER: Community Affairs Committee and Senator Steube

SUBJECT: Local Business Taxes

DATE: March 23, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 330 provides an exemption from the local business tax for specified veterans, spouses of veterans, the spouse of active servicemembers, and low-income individuals if the individual completes and signs a Request for Fee Exemption.

II. Present Situation:

Local Business Tax

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

Eligibility Requirements

County and municipal governments are eligible to levy, by appropriate resolution or ordinance, a business tax for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. If adopted by ordinance prior to January 1, 1995, a county, as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County) or any adjacent county (i.e., Broward, Collier, and

¹ Sections 205.033 and 205.043, F.S.

² Section 205.022(5), F.S.

Monroe counties) is authorized to levy and collect an additional business tax up to 50 percent of the appropriate business tax imposed under s. 205.033(1), F.S.³

Administrative Procedures

In order to levy a business tax, the governing body must first give at least 14 days of public notice between the first and last reading of the resolution or ordinance by publishing a notice in a newspaper of general circulation within its jurisdiction.⁴ The public notice must contain the proposed classifications and rates applicable to the business tax.⁵ A number of other conditions for levy are imposed on counties and municipalities.⁶

For purposes of ch. 205, F.S., the terms “business,” “profession,” and “occupation” do not include the customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions in the state.⁷ These institutions are more particularly defined and limited in statute.⁸ The term “receipt” means the document that is issued by the local governing authority which bears the words “Local Business Tax Receipt” and evidences that the person in whose name the document is issued has complied with the provisions of ch. 205, F.S., relating to the business tax.⁹

The governing body of a municipality that levies the tax may request that the county in which the municipality is located issue the municipal receipt and collect the tax.¹⁰ The governing body of a county that levies the tax may request that municipalities within the county issue the county receipt and collect the tax.¹¹ However, before any local government issues any business receipts on behalf of another local government, appropriate agreements must be entered into by the affected local governments.¹² All business tax receipts are sold by the appropriate tax collector beginning July 1 of each year.¹³ The taxes are due and payable on or before September 30 of each year, and the receipts expire on September 30 of the succeeding year.¹⁴ In several situations, administrative penalties are also imposed.¹⁵

A county or municipality that has not adopted a business tax ordinance or resolution may adopt a business tax ordinance.¹⁶ The tax rate structure and classifications in the adopted ordinance must be reasonable and based upon the rate structure and classifications prescribed in ordinances adopted by adjacent local governments that have implemented s. 205.0535, F.S.¹⁷ If no adjacent local government has implemented s. 205.0535, F.S., or if the governing body of the county or

³ Section 205.033(6), F.S.

⁴ Sections 205.032 and 205.042, F.S.

⁵ *Id.*

⁶ Sections 205.033 and 205.043, F.S.

⁷ Section 205.022(1), F.S.

⁸ *Id.*

⁹ Section 205.022(2), F.S.

¹⁰ Section 205.045, F.S.

¹¹ *Id.*

¹² *Id.*

¹³ Section 205.053, F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 205.0315, F.S.

¹⁷ *Id.*

municipality finds that the rate structures or classifications of adjacent local governments are unreasonable, then an alternative method is authorized. In such a case, the rate structure or classifications prescribed in the ordinance of the local government seeking to impose the tax may be based upon those prescribed in ordinances adopted by local governments that have implemented s. 205.0535, F.S., in counties or municipalities that have a comparable population.¹⁸

Prior to October 1, 2008, any municipality that adopted by ordinance a local business tax after October 1, 1995, could, by ordinance, reclassify businesses, professions, and occupations and establish new rate structures provided certain conditions were met. If such conditions were met, counties and municipalities could, every other year thereafter, increase or decrease by ordinance the rates of business taxes by up to 5 percent. Any subsequent increase must be enacted by at least a majority plus one vote of the governing body.¹⁹ A county or municipality is not prohibited from decreasing or repealing any authorized local business tax, and the governing body may adopt an ordinance by majority vote that repeals a local business tax or establishes new rates that decrease local business tax and do not result in an increase in local business taxes for a taxpayer without having to establish an equity study commission.²⁰

Exemptions

State law exempts, or allows local governments to exempt, certain individuals from all or some portion of local business taxes.²¹ Customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions are excluded from the definition of “business,” “profession,” and “occupation” and are thereby excluded from paying local business taxes.²² The delivery and transportation of tangible personal property by a business that is otherwise required to pay a local business tax may not be charged a separate local business tax for such delivery or transportation service.²³ There are also exemptions for persons engaged in specified farming activities,²⁴ certain nonresident persons regulated by the Department of Business and Professional Regulation,²⁵ certain employees of businesses that are required to pay a local business tax,²⁶ certain disabled persons, the elderly, and widows with minor dependents,²⁷ disabled veterans of any war or their unremarried spouses,²⁸ and certain mobile home setup operations.²⁹ Charitable, religious, fraternal, youth, civic, service, or other similar organization that make occasional sales or engage in fundraising projects that are performed exclusively by the members where the proceeds derived from the activities are used

¹⁸ *Id.*

¹⁹ Section 205.0535(4), F.S.

²⁰ Section 205.0535(5), F.S.

²¹ Sections 205.054, 205.063, 205.064, 205.065, 205.066, 205.162, 205.171, 205.191, 205.192, and 205.193, F.S.

²² Section 205.022(1), F.S.

²³ Section 205.063, F.S.

²⁴ Section 205.064, F.S.

²⁵ Section 205.065, F.S.

²⁶ Section 205.066, F.S.

²⁷ Section 205.162, F.S.

²⁸ Section 205.171, F.S.

²⁹ Section 205.193, F.S.

exclusively in the charitable, religious, fraternal, youth, civic and service activities of the organization are also exempt.³⁰

Regulatory Provisions

State law also regulates the issuance of local business tax receipts to certain individuals or businesses.³¹ Section 205.194, F.S., provides that any person applying for or renewing a local business tax receipt to practice any profession or engage in or manage any business or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, or any other state regulatory agency, including any board or commission thereof, must exhibit an active state certificate, registration, or license, or proof of copy of the same, before such local receipt may be issued.

State law provides similar requirements for production of evidence of appropriate licensure prior to issuance of a business tax receipt for pharmacies and pharmacists,³² assisted living facilities,³³ pest control,³⁴ health studios,³⁵ sellers of travel,³⁶ telemarketing businesses,³⁷ and household moving services,³⁸ respectively. However, out-of-state businesses that are conducting operations within the state solely to perform disaster-related work or emergency-related work during a disaster-response period are not subject to registration, filing, or remittance requirements, including requirements for local business taxes.³⁹

Distribution of Revenues

The revenues derived from the business tax imposed by county governments, exclusive of the costs of collection and credit given for municipal business taxes, are apportioned between the county's unincorporated area and the incorporated municipalities located within the county by a ratio derived by dividing their respective populations by the county's total population.⁴⁰ Within 15 days following the month of receipt, the apportioned revenues are sent to each governing authority; however, this provision does not apply to counties that have established a new rate structure pursuant to s. 205.0535, F.S.⁴¹

Authorized Uses of Revenues

The tax proceeds are considered general revenue for the county or municipality. Additionally, the county business tax proceeds may be used for overseeing and implementing a comprehensive economic development strategy through advertising, promotional activities and other sales and

³⁰ Section 205.192, F.S.

³¹ Sections 205.194, 205.196, 205.1965, 205.1967, 205.1969, 205.1971, 205.1973, and 205.1975, F.S.

³² Section 205.196, F.S.

³³ Section 205.1965, F.S.

³⁴ Section 205.1967, F.S.

³⁵ Section 205.1969, F.S.

³⁶ Section 205.1971, F.S.

³⁷ Section 205.1973, F.S.

³⁸ Section 205.1975, F.S.

³⁹ Section 213.055, F.S.

⁴⁰ Section 205.033(4), F.S.

⁴¹ Section 205.033(5), F.S.

marketing techniques.⁴² The proceeds of the additional county business tax imposed pursuant to s. 205.033(6), F.S., are distributed by the county's governing body to a designated organization or agency for the purpose of implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.⁴³

Total Revenues Collected

According to a report published by the Office of Economic and Demographic Research (EDR), in fiscal year 2013-14, 33 counties collected a total of \$27 million of local business tax revenue. In that same fiscal year, 292 municipalities collected a total of \$142 million of local business tax revenue.⁴⁴

Certain local governments receive a sizable amount of revenue from the local business tax. At least seven municipalities received over \$7 million in revenue from the local business tax including:

- Panama City—\$8.6 million;
- Panama City Beach—\$10 million;
- Jacksonville—\$7 million;
- Tampa—\$10.2 million;
- Hialeah—\$9.3 million;
- Miami—\$7.6 million; and
- Orlando—\$8.1 million.

Miami-Dade County received \$11.6 million in revenue from the local business tax.

III. Effect of Proposed Changes:

Section 1 creates s. 205.055, F.S., to provide an exemption from the local business tax and any subsequent fees for the following individuals who meet the listed criteria below on or after July 1, 2016:

- A veteran or the surviving spouse of a veteran of the United States Armed Forces;
- The spouse of an active military servicemember who has relocated to the county or municipality pursuant to a permanent change of station order;
- An individual who is receiving public assistance, as that term is defined in s. 409.2554, F.S.; and
- An individual whose household income is less than 130 percent of the federal poverty level based on the current year's federal poverty guidelines.

In order to be entitled to the exemption, the individual must complete and sign, under penalty of perjury, a Request for Fee Exemption to be furnished by the local governing authority and provide written documentation in support of his or her request.

⁴² Section 205.033(7), F.S.

⁴³ Section 205.033(6)(b), F.S.

⁴⁴ Office of Economic and Demographic Research, 2014 County and Municipal Revenues for the Local Business Tax, available at: <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> (last visited March 16, 2017).

Section 2 repeals s. 205.171, F.S., relating to exemptions from the local business tax for disabled veterans of any war or their unremarried spouses.

Section 3 provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of section 18, Article VII of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2016-2017 was \$2 million or less.^{45,46,47}

The county/municipality mandates provision of Article VII, Section 18 of the Florida Constitution, may apply because this bill reduces local government authority to raise revenue by exempting certain persons from the local business tax. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁴⁵ FLA. CONST. art. VII, s. 18(d).

⁴⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 22, 2017).

⁴⁷ Based on the Demographic Estimating Conference's population adopted on November 1, 2016. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited March 22, 2017).

B. Private Sector Impact:

Specified veterans, spouses of veterans, spouses of active servicemembers, and low-income individuals will be exempt from the local business tax if the individual completes and signs a Request for Fee Exemption.

C. Government Sector Impact:

Counties and municipalities that adopted a local business tax may see a corresponding decrease in revenue due to the exempted persons.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 205.055 of the Florida Statutes.

This bill repeals section 205.171 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 Committee on March 22, 2017:

Removes provisions that:

- Prohibited municipalities and counties from levying a local business tax that was not adopted before a certain date;
- Limited the rate of the local business tax; and
- Set maximum limits of certain transfer fees.

B. Amendments:

None.



811028

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 30 - 230.

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

And the title is amended as follows:

Delete lines 2 - 19

and insert:

An act relating to local business taxes; creating s.

By Senator Steube

23-00332-17

2017330__

1 A bill to be entitled
2 An act relating to local business taxes; amending ss.
3 205.032 and 205.042, F.S.; prohibiting the governing
4 bodies of counties and municipalities, respectively,
5 from levying a local business tax that was not adopted
6 before a specified date; limiting the amount of the
7 tax; making conforming changes; amending s. 205.033,
8 F.S.; deleting certain provisions that, for counties,
9 limit the rate of the tax and authorize increases of
10 the tax; revising the maximum limits of certain
11 transfer fees; revising applicability of provisions
12 apportioning revenues from the tax; deleting certain
13 provisions authorizing the levying of an additional
14 business tax; amending s. 205.043, F.S.; deleting
15 certain provisions that, for municipalities, limit the
16 rate of the tax and authorize increases of the tax;
17 revising the maximum limits of certain transfer fees;
18 amending ss. 205.0535 and 205.054, F.S.; conforming
19 provisions to changes made by the act; creating s.
20 205.055, F.S.; providing an exemption from the
21 business tax, subject to certain conditions, to
22 specified veterans, spouses of veterans and active
23 servicemembers, and low-income individuals; repealing
24 s. 205.171, F.S., relating to exemptions allowed
25 disabled veterans of any war or their unremarried
26 spouses; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Section 205.032, Florida Statutes, is amended to
31 read:

32 205.032 Levy; counties.—The governing body of a county may

23-00332-17

2017330__

33 not levy a business tax for the privilege of engaging in or
34 managing any business, profession, or occupation within its
35 jurisdiction if the county did not adopt such tax before January
36 1, 2017. The governing body of a county may continue to levy,~~by~~
37 ~~appropriate resolution or ordinance,~~ a business tax for the
38 privilege of engaging in or managing any business, profession,
39 or occupation within its jurisdiction if the county adopted the
40 business tax before January 1, 2017, but in no case may such
41 business tax exceed \$25 for any single taxpayer. ~~However, the~~
42 ~~governing body must first give at least 14 days' public notice~~
43 ~~between the first and last reading of the resolution or~~
44 ~~ordinance by publishing a notice in a newspaper of general~~
45 ~~circulation within its jurisdiction as defined by law. The~~
46 ~~public notice must contain the proposed classifications and~~
47 ~~rates applicable to the business tax.~~

48 Section 2. Section 205.042, Florida Statutes, is amended to
49 read:

50 205.042 Levy; municipalities.—The governing body of an
51 incorporated municipality may not levy a business tax for the
52 privilege of engaging in or managing any business, profession,
53 or occupation within its jurisdiction if the municipality did
54 not adopt such tax before January 1, 2017. The governing body of
55 an incorporated municipality may continue to levy,~~by~~
56 ~~appropriate resolution or ordinance,~~ a business tax for the
57 privilege of engaging in or managing any business, profession,
58 or occupation within its jurisdiction if the municipality
59 adopted the business tax before January 1, 2017, but in no case
60 may such business tax exceed \$25 for any taxpayer. ~~However, the~~
61 ~~governing body must first give at least 14 days' public notice~~

23-00332-17

2017330__

62 ~~between the first and last reading of the resolution or~~
63 ~~ordinance by publishing the notice in a newspaper of general~~
64 ~~circulation within its jurisdiction as defined by law. The~~
65 ~~notice must contain the proposed classifications and rates~~
66 ~~applicable to the business tax.~~ The business tax may be levied
67 on:

68 (1) Any person who maintains a permanent business location
69 or branch office within the municipality, for the privilege of
70 engaging in or managing any business within its jurisdiction.

71 (2) Any person who maintains a permanent business location
72 or branch office within the municipality, for the privilege of
73 engaging in or managing any profession or occupation within its
74 jurisdiction.

75 (3) Any person who does not qualify under subsection (1) or
76 subsection (2) and who transacts any business or engages in any
77 occupation or profession in interstate commerce, if the business
78 tax is not prohibited by s. 8, Art. I of the United States
79 Constitution.

80 Section 3. Section 205.033, Florida Statutes, is amended to
81 read:

82 205.033 Conditions for levy; counties.-

83 (1) The following conditions are imposed on the authority
84 of a county governing body to levy a business tax:

85 (a) The tax must be based upon reasonable classifications
86 and must be uniform throughout any class.

87 (b) ~~Unless the county implements s. 205.0535 or adopts a~~
88 ~~new business tax ordinance under s. 205.0315, a business tax~~
89 ~~levied under this subsection may not exceed the rate provided by~~
90 ~~this chapter in effect for the year beginning October 1, 1971;~~

23-00332-17

2017330__

91 ~~however, beginning October 1, 1980, the county governing body~~
92 ~~may increase business taxes authorized by this chapter. The~~
93 ~~amount of the increase above the tax rate levied on October 1,~~
94 ~~1971, for taxes levied at a flat rate may be up to 100 percent~~
95 ~~for business taxes that are \$100 or less; 50 percent for~~
96 ~~business taxes that are between \$101 and \$300; and 25 percent~~
97 ~~for business taxes that are more than \$300. Beginning October 1,~~
98 ~~1982, the increase may not exceed 25 percent for taxes levied at~~
99 ~~graduated or per unit rates. Authority to increase business~~
100 ~~taxes does not apply to licenses or receipts granted to any~~
101 ~~utility franchised by the county for which a franchise fee is~~
102 ~~paid.~~

103 ~~(c)~~ A receipt is not valid for more than 1 year, and all
104 receipts expire on September 30 of each year, except as
105 otherwise provided by law.

106 (2) Any receipt may be transferred to a new owner, when
107 there is a bona fide sale of the business, upon payment of a
108 transfer fee of up to 10 percent of the annual business tax, but
109 not less than \$3 nor more than \$10 ~~\$25~~, and presentation of the
110 original receipt and evidence of the sale.

111 (3) Upon written request and presentation of the original
112 receipt, any receipt may be transferred from one location to
113 another location in the same county upon payment of a transfer
114 fee of up to 10 percent of the annual business tax, but not less
115 than \$3 nor more than \$10 ~~\$25~~.

116 (4) The revenues derived from the business tax, exclusive
117 of the costs of collection and any credit given for municipal
118 business taxes, shall be apportioned between the unincorporated
119 area of the county and the incorporated municipalities located

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120 therein by a ratio derived by dividing their respective
121 populations by the population of the county. ~~This subsection~~
122 ~~does not apply to counties that have established a new rate~~
123 ~~structure under s. 205.0535.~~

124 (5) The revenues so apportioned shall be sent to the
125 governing authority of each municipality, according to its
126 ratio, and to the governing authority of the county, according
127 to the ratio of the unincorporated area, within 15 days
128 following the month of receipt. ~~This subsection does not apply~~
129 ~~to counties that have established a new rate structure under s.~~
130 ~~205.0535.~~

131 ~~(6) (a) Each county, as defined in s. 125.011(1), or any~~
132 ~~county adjacent thereto may levy and collect, by an ordinance~~
133 ~~enacted by the governing body of the county, an additional~~
134 ~~business tax up to 50 percent of the appropriate business tax~~
135 ~~imposed under subsection (1).~~

136 ~~(b) Subsections (4) and (5) do not apply to any revenues~~
137 ~~derived from the additional tax imposed under this subsection.~~
138 ~~Proceeds from the additional business tax must be placed in a~~
139 ~~separate interest-earning account, and the governing body of the~~
140 ~~county shall distribute this revenue, plus accrued interest,~~
141 ~~each fiscal year to an organization or agency designated by the~~
142 ~~governing body of the county to oversee and implement a~~
143 ~~comprehensive economic development strategy through advertising,~~
144 ~~promotional activities, and other sales and marketing~~
145 ~~techniques.~~

146 ~~(c) An ordinance that levies an additional business tax~~
147 ~~under this subsection may not be adopted after January 1, 1995.~~

148 (6) (7) Notwithstanding any other provisions of this

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149 chapter, the revenue received from a county business tax may be
150 used for overseeing and implementing a comprehensive economic
151 development strategy through advertising, promotional
152 activities, and other sales and marketing techniques.

153 Section 4. Section 205.043, Florida Statutes, is amended to
154 read:

155 205.043 Conditions for levy; municipalities.—

156 (1) The following conditions are imposed on the authority
157 of a municipal governing body to levy a business tax:

158 (a) The tax must be based upon reasonable classifications
159 and must be uniform throughout any class.

160 (b) ~~Unless the municipality implements s. 205.0535 or~~
161 ~~adopts a new business tax ordinance under s. 205.0315, a~~
162 ~~business tax levied under this subsection may not exceed the~~
163 ~~rate in effect in the municipality for the year beginning~~
164 ~~October 1, 1971; however, beginning October 1, 1980, the~~
165 ~~municipal governing body may increase business taxes authorized~~
166 ~~by this chapter. The amount of the increase above the tax rate~~
167 ~~levied on October 1, 1971, for taxes levied at a flat rate may~~
168 ~~be up to 100 percent for business taxes that are \$100 or less;~~
169 ~~50 percent for business taxes that are between \$101 and \$300;~~
170 ~~and 25 percent for business taxes that are more than \$300.~~
171 ~~Beginning October 1, 1982, an increase may not exceed 25 percent~~
172 ~~for taxes levied at graduated or per unit rates. Authority to~~
173 ~~increase business taxes does not apply to receipts or licenses~~
174 ~~granted to any utility franchised by the municipality for which~~
175 ~~a franchise fee is paid.~~

176 (c) A receipt is not valid for more than 1 year and all
177 receipts expire on September 30 of each year, except as

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178 otherwise provided by law.

179 (2) Any business receipt may be transferred to a new owner,
180 when there is a bona fide sale of the business, upon payment of
181 a transfer fee of up to 10 percent of the annual tax, but not
182 less than \$3 nor more than \$10 ~~\$25~~, and presentation of the
183 original receipt and evidence of the sale.

184 (3) Upon written request and presentation of the original
185 receipt, any receipt may be transferred from one location to
186 another location in the same municipality upon payment of a
187 transfer fee of up to 10 percent of the annual tax, but not less
188 than \$3 nor more than \$10 ~~\$25~~.

189 (4) If the governing body of the county in which the
190 municipality is located has levied a business tax or
191 subsequently levies such a tax, the collector of the county tax
192 may issue the receipt and collect the tax thereon.

193 Section 5. Paragraph (b) of subsection (3) of section
194 205.0535, Florida Statutes, is amended to read:

195 205.0535 Reclassification and rate structure revisions.—

196 (3)

197 (b) The total annual revenue generated by the new rate
198 structure for the fiscal year following the fiscal year during
199 which the rate structure is adopted may not exceed:

200 1. For municipalities, the sum of the revenue base and 10
201 percent of that revenue base. The revenue base is the sum of the
202 business tax revenue generated by receipts issued for the most
203 recently completed local fiscal year ~~or the amount of revenue~~
204 ~~that would have been generated from the authorized increases~~
205 ~~under s. 205.043(1)(b), whichever is greater,~~ plus any revenue
206 received from the county under s. 205.033(4).

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207 2. For counties, the sum of the revenue base, 10 percent of
208 that revenue base, and the amount of revenue distributed by the
209 county to the municipalities under s. 205.033(4) during the most
210 recently completed local fiscal year. The revenue base is the
211 business tax revenue generated by receipts issued for the most
212 recently completed local fiscal year ~~or the amount of revenue~~
213 ~~that would have been generated from the authorized increases~~
214 ~~under s. 205.033(1)(b), whichever is greater, but may not~~
215 include any revenues distributed to municipalities under s.
216 205.033(4).

217 Section 6. Subsection (1) of section 205.054, Florida
218 Statutes, is amended to read:

219 205.054 Business tax; partial exemption for engaging in
220 business or occupation in enterprise zone.—

221 (1) Notwithstanding ~~the provisions of~~ s. 205.033(1)(a) or
222 s. 205.043(1)(a), the governing body of a county or municipality
223 may authorize by appropriate resolution or ordinance, adopted
224 pursuant to the procedure established in ~~s. 205.032 or~~ s.
225 205.042, the exemption of 50 percent of the business tax levied
226 for the privilege of engaging in or managing any business,
227 profession, or occupation in the respective jurisdiction of the
228 county or municipality when such privilege is exercised at a
229 permanent business location or branch office located in an
230 enterprise zone.

231 Section 7. Section 205.055, Florida Statutes, is created to
232 read:

233 205.055 Exemptions; veterans, certain spouses, and low-
234 income individuals.—On or after July 1, 2016, a veteran or the
235 surviving spouse of a veteran of the United States Armed Forces;

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236 the spouse of an active military servicemember who has relocated
237 to the county or municipality pursuant to a permanent change of
238 station order; an individual who is receiving public assistance,
239 as that term is defined in s. 409.2554; or an individual whose
240 household income is less than 130 percent of the federal poverty
241 level based on the current year's federal poverty guidelines is
242 entitled to an exemption from the business tax and any fees
243 imposed under this chapter, if such individual completes and
244 signs, under penalty of perjury, a Request for Fee Exemption to
245 be furnished by the local governing authority and provides
246 written documentation in support of his or her request.

247 Section 8. Section 205.171, Florida Statutes, is repealed.

248 Section 9. 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)

Meeting Date _____

330
Bill Number (if applicable)

Topic LBT

Amendment Barcode (if applicable)

Name TOM CAMPENNI

Job Title MAYOR CITY OF STUART

Address 121 SW FLAHLG

Phone _____

Street

STUART FL 34994

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing STUART

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17

Meeting Date

SB 0330

Bill Number (if applicable)

Topic Local Business Tax

Amendment Barcode (if applicable)

Name Terry Atchley

Job Title City Manager

Address 126 S. 7th Ave

Phone 863 773 3535

Street

Wauchula FL 33873

City

State

Zip

Email atchley@cityofwauchula.com

Speaking: For Against Information

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

Representing City of Wauchula

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

330
Bill Number (if applicable)

Topic Local Business Taxes

Amendment Barcode (if applicable)

Name Kashamba Miller-Anderson

Job Title City Council

Address 600 W. Blue Heron Blvd

Phone _____

Street

Riviera Bch

FL

33404

City

State

Zip

Email K.miller@rivierabch.com

Speaking: For Against Information

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

KMA

Representing City of Riviera Beach Amendment

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/2017

Meeting Date

330

Bill Number (if applicable)

Topic Local Biz Tax

Amendment Barcode (if applicable)

Name DAWN PARDO

Job Title Council woman - City of Riviera Beach 845 3683

Address 600 W Blue Heron Blvd

Phone 561-373

Street

RB

FL

33404

City

State

Zip

Email dpardo@rivierabch.ca

Speaking: For Against Information

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

Representing City of Riviera 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SB 330

Bill Number (if applicable)

811028

Amendment Barcode (if applicable)

Topic LOCAL BUSINESS TAXES

Name CHRIS CLOUDMAN

Job Title Commissioner

Address 120 S. PLANEAD AVENUE

Street

Phone _____

Deland,

City

FL

State

32720

Zip

Email cloudman@deland.org

Speaking: For Against Information

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

Representing CITY OF DELAND

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

3/22/17

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

SB 330

Meeting Date

Bill Number (if applicable)

811028

Topic Local Business tax

Amendment Barcode (if applicable)

Name Michael Pleus

Job Title CITY MANAGER

Address 120 S. Florida
Street

Phone 386 626 7109

DeLand Fl. 32729
City State Zip

Email pleusm@deland.org

Speaking: For Against Information

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

Representing CITY OF DeLAND

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17
Meeting Date

330
Bill Number (if applicable)

Topic Local Business Tax

811028
Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Senior Legislative Advocate

Address PO Box 1757
Street

Phone 850-701-3621

Tallahassee FL 32302
City State Zip

Email ahughes@flcities.com

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Banking and Insurance, *Vice Chair*
Agriculture
Appropriations Subcommittee on Finance and Tax
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG STEUBE

23rd District

March 13, 2017

The Honorable Tom Lee
Florida Senate
418 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Lee,

I am writing this letter because my bill, SB 330 Local Business Tax, has been referred to the Senate Community Affairs Committee. I am respectfully requesting that you place the bill on your committee's calendar for the next committee week.

Thank you for your consideration. Please contact me if you have any questions.

Very respectfully yours,

A handwritten signature in blue ink, appearing to read "W. Steube".

W. Gregory Steube, District 23

REPLY TO:

- 722 Apex Road, Unit A, Sarasota, Florida 34240 (941)342-9162
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1634

INTRODUCER: Senator Steube

SUBJECT: Residential Elevators

DATE: March 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.			RC	

I. Summary:

SB 1634 removes the requirement that the underside of the platform of an elevator car be equipped with a device that, if the platform of the elevator car is obstructed anywhere on its underside in its downward travel, interrupts the electric power to the driving machine motor and brake and stops the elevator car's downward motion. The bill replaces the current requirement with a new requirement that all new elevator controllers in private residences must:

- Monitor the closed and locked contacts of the hoistway door locking device.
- Cut off any power to the elevator motor and brake if the closed and locked contacts of the landing locks or the car gate contacts are open while the elevator car is not in the unlocking zone for the hoistway door.
- Not allow the elevator car to restart until the owner or the owner's agent has checked for obstructions above and below the elevator car, returned the hoistway door locking device contacts to normal operating position, and manually reset the elevator controller with the master elevator key.

The bill provides that a visual indicator must be visible at all landings until the hoistway door locking device has been returned to the normal operating position and the elevator has been manually reset.

The bill also requires the Florida Building Commission to adopt a provision for a hoistway door space guard.

II. Present Situation:

Chapter 399, F.S., on elevator safety, is enforced by the Division of Hotels and Restaurants within the Department of Business and Professional Regulation (DBPR). Section 399.02(3)(u), F.S., lists elevators located in private residences as equipment not covered by the chapter. However, s. 399.031, F.S., sets forth building requirements for new elevators in private residences.

The Florida Building Code (Code) provides the requirements for “the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height...”¹ The Code provides that private residence elevators shall comply with American Society of Mechanical Engineers (ASME) requirements, and shall comply with the requirements set forth in s. 399.031, F.S.²

ASME develops and maintains major codes addressing safety in design, construction, installation, operation, inspection, testing, maintenance, alteration, and repair of elevators, dumbwaiters, escalators, moving walks, material lifts, and dumbwaiters with automatic transfer devices, wheelchair lifts, or inclined-stairway chair lifts.³

In the last few years, the media reported several private residential elevator accidents involving children.⁴ A major concern is that many residential elevators have a dangerous gap between the elevator and hoistway door which allows children as old as 12 to fit between them. The hoistway door is the door that opens to reveal the elevator car or elevator shaft. When the elevator is called to another floor, the hoistway door automatically locks, and the child’s body is carried along with the elevator car, often crushing the child, leading to death or permanent injuries.⁵

In January 2015, 12-year-old Maxwell Erik “Max” Grablin crawled into the elevator shaft in his home in Bradenton to find his pet hamster. The elevator’s hoistway door locked behind him, trapping him in the elevator shaft. The elevator was lowered and crushed him.

The owner of the elevator company indicated to Mrs. Grablin that the accident that resulted in Max’s death would not have happened if the elevator had an inexpensive sensor.⁶

As a result, the Legislature enacted the Erik “Max” Grablin Act.⁷ The act requires that the underside of the platform of an elevator car be equipped with a device that, if the platform of the elevator car is obstructed anywhere on its underside in its downward travel, interrupts the electric power to the driving machine motor and brake and stops the elevator car's downward motion within two inches. The downward motion can only be resumed after the elevator has been manually reset. The section also provides specific measurements for clearances and requires specified force amounts for doors and gates of elevators.

¹ Section R101.2 of the 5th edition of the Florida Building Code (Residential).

² Section R321.1 of the 5th edition of the Florida Building Code (Residential) and s. 399.031, F.S.

³ ASME, Safety Codes and Standards, available at <https://www.asme.org/about-asme/standards/safety-codes-for-elevators-and-escalators> (last visited March 16, 2017).

⁴ See The Safety Institute, Safety Advocates Petition CPSC for Mandatory Residential Elevator Standard Citing Numerous at Deaths <http://www.thesafetyinstitute.org/safety-advocates-petition-cpsc-for-mandatory-residential-elevator-standard-citing-numerous-deaths/> (last visited March 16, 2017), and CBS News, In-home elevator accidents causing catastrophic harm to kids at <http://www.cbsnews.com/news/in-home-elevator-accidents-causing-catastrophic-harm-to-kids/> (last visited March 16, 2017).

⁵ *Id.*

⁶ Kate Irby, After Florida boy suffocates in elevator shaft chasing pet hamster, his parents on safety mission, Jan. 18, 2016, <http://www.miamiherald.com/news/state/florida/article55252190.html> (last visited March 16, 2017).

⁷ 2016-211, Laws of Fla.

The Legislature also required the Florida Building Commission to adopt s. 399.031, F.S., into the Code. The Code is implemented by the Florida Building Commission within DBPR.⁸

In order to comply with the Legislature, the Florida Building Commission enacted section R321.4.1 of the 2016 supplement to the 5th edition of the Florida Building Code (Residential).⁹ The subsection deals with the permanent installation of a nonremovable, hoistway door space guard.

The Florida Building Commission also enacted section R321.4.2 of the 2016 supplement to the 5th edition of the Florida Building Code (Residential).¹⁰ The subsection requires a device located on the underside of an elevator car to interrupt electric power to the driving machine and brake and stop the elevator car's downward motion within two inches. The downward motion can be resumed only after the elevator has been manually reset.

III. Effect of Proposed Changes:

Section 1 requires the elevator controller to monitor the closed and locked contacts of the hoistway door locking device, whether electrical or mechanical, during normal operation.

If the closed and locked contacts of the landing locks or the car gate contacts are open while the car is not in the unlocking zone for the hoistway door locking device, the elevator controller must interrupt power to the motor and brake. Additionally, the elevator controller must not allow the elevator car to restart until the owner or owner's agent, with a master elevator key, has checked for obstructions above and below the elevator car, returned the hoistway door locking device contacts to the normal operating position, and manually reset the elevator controller with the master elevator key. Furthermore, a visual indicator must be visible at all landings until the hoistway door locking device has been returned to the normal operating position and the elevator controller has been manually reset.

This requirement replaces the existing requirement that the underside of an elevator car be equipped with a device that, if the elevator car is obstructed anywhere on its underside in its downward travel, stops the elevator car's downward motion within 2 inches.

Section 2 requires the Florida Building Commission to adopt, by October 1, 2017, a provision authorizing the permanent installation of a nonremovable, hoistway door space guard to comply with section R321.4.1(c)2-5 of the 5th edition (2014) of the Florida Building Code (Residential). The provision must require the hoistway door space guard to withstand a force of 75 pounds applied horizontally using a 4 inch-diameter sphere at any location within the folds on the car door without permanent deformation. The Florida Building Commission must also adopt s. 399.031, F.S., relating to clearance requirements between elevator doors for elevators inside a private residence, into the Florida Building Code.

⁸ Section 553.74, F.S.

⁹ Florida Building Code, 2016 Supplement to the 5th Edition (2014), available at http://www.floridabuilding.org/fbc/thecode/2017_Code_Development/Glitch_2016/2016_Supplement_to_the_5th_Edition_2014_FBC.htm (last visited March 16, 2017).

¹⁰ *Id.*

Section 3 provides an effective date of July 1, 2017.

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:

Homeowners may incur indeterminate costs of complying with the new provisions when installing new residential elevators.

C. Government Sector Impact:

Residential elevators are not regulated by DBPR, so there is no fiscal impact to the state.¹¹ Local governments will enforce the provisions of the bill while conducting building inspections, so no fiscal impact is anticipated on local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 399.02(3)(u), F.S., indicates that residential elevators are not covered by the chapter, but residential elevators are regulated in s. 399.031, F.S.

It is not clear if the bill requires the Florida Building Commission to remove its prior adoption of the requirement that the underside of the platform of an elevator car be equipped with a sensor device from the Code. Currently, section R321.4 of the 5th edition of the Florida Building Code (Residential) requires the underside of the platform of a residential elevator car be equipped with such a device.

¹¹ Section 399.02(3)(u), F.S.

In its analysis, the DBPR noted that the bill uses the phrase “owner or the owner’s agent” instead of “authorized personnel.”¹² According to DBPR, the use of the term “owner or owner’s agent” may lead a court to determine that Florida licensed elevator personnel are not required to reset an elevator in s. 399.031, F.S.¹³

VIII. Statutes Affected:

This bill substantially amends section 339.031 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

¹² Department of Business and Professional Regulation, Legislative Bill Analysis for SB 1634, p. 5 (analyzed March 15, 2017).

¹³ *Id.*

By Senator Steube

23-01117A-17

20171634__

1 A bill to be entitled
2 An act relating to residential elevators; amending s.
3 399.031, F.S.; requiring that an elevator controller
4 be capable of monitoring the closed and locked
5 contacts of the hoistway door locking device;
6 requiring that the elevator controller be capable of
7 interrupting the power for the motor and brake for a
8 hoistway door locking device under certain
9 circumstances; prohibiting an elevator car from being
10 restarted until certain conditions are met; requiring
11 a visual indicator to be visible at all landings under
12 certain circumstances; deleting a requirement that the
13 underside of the platform of an elevator car be
14 equipped with a specified device; deleting
15 requirements for such devices; deleting a requirement
16 that manual reset of an elevator resume before
17 downward motion is allowed; requiring the Florida
18 Building Commission to adopt certain provisions
19 relating to residential elevators into the Florida
20 Building Code by a specified date; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (3) of section 399.031, Florida
26 Statutes, is amended to read:

27 399.031 Clearance requirements between elevator doors for
28 elevators inside a private residence.—

29 (3) During normal operation, the elevator controller must

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30 monitor the closed and locked contacts of the hoistway door
31 locking device, whether electrical or mechanical. If either the
32 closed and locked contacts of the landing locks or the car gate
33 contacts are open while the car is not in the unlocking zone for
34 the hoistway door locking device, the elevator controller must
35 interrupt power to the motor and brake and must not allow the
36 elevator car to restart until the owner or the owner's agent,
37 with a master elevator key, has checked for obstructions above
38 and below the elevator car, returned the hoistway door locking
39 device contacts to the normal operating position, and manually
40 reset the elevator controller with the master elevator key.

41 Additionally, a visual indicator must be visible at all landings
42 until the hoistway door locking device has been returned to the
43 normal operating position and the elevator controller has been
44 manually reset ~~The underside of the platform of an elevator car~~
45 ~~shall be equipped with a device that, if the platform of the~~
46 ~~elevator car is obstructed anywhere on its underside in its~~
47 ~~downward travel, interrupts the electric power to the driving~~
48 ~~machine motor and brake, if provided, and stops the elevator~~
49 ~~car's downward motion within 2 inches. The stroke of the device~~
50 ~~may not be less than the stopping distance of the platform of~~
51 ~~the elevator car. The force required to operate the device may~~
52 ~~not exceed 15 pounds. Downward motion shall be permitted to~~
53 ~~resume only after the elevator has been manually reset.~~

54 Section 2. The Florida Building Commission shall, by
55 October 1, 2017, adopt into the Florida Building Code pursuant
56 to s. 553.73(8), Florida Statutes:

57 (1) A provision authorizing the permanent installation of a
58 nonremovable, hoistway door space guard in order to comply with

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20171634__

59 section R321.4.1(c)2-5 of the Florida Building Code, 5th Edition
60 (2014) Residential. The door space guard must be designed and
61 installed to withstand a force of 75 pounds applied horizontally
62 using a 4-inch-diameter sphere at any location within the folds
63 on the car door without permanent deformation.

64 (2) Section 399.031, Florida Statutes, relating to
65 clearance requirements between elevator doors for elevators
66 inside a private residence.

67 Section 3. This act shall take effect July 1, 2017.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Banking and Insurance, *Vice Chair*
Agriculture
Appropriations Subcommittee on Finance and Tax
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG STEUBE

23rd District

March 14, 2017

The Honorable Tom Lee
Florida Senate
418 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Lee,

I am writing this letter because my bills, SB 1634 Residential Elevators and SB 1696 Subdivided Lands, have been referred to the Senate Community Affairs Committee. I am respectfully requesting that you place these bills on your committee's calendar for the next committee week.

Thank you for your consideration. Please contact me if you have any questions.

Very respectfully yours,

A handwritten signature in blue ink, appearing to read "W. Gregory Steube".

W. Gregory Steube, District 23

REPLY TO:

- 722 Apex Road, Unit A, Sarasota, Florida 34240 (941)342-9162
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SJR 136

INTRODUCER: Community Affairs Committee and Senators Artiles and Powell

SUBJECT: Selection and Duties of County Officers/Property Appraiser

DATE: March 23, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 136 proposes to amend the Florida Constitution to remove authority for a county charter or special law to provide for choosing a property appraiser in a manner other than by election or to alter the duties of the property appraiser or abolish the office of the appraiser.

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

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

II. Present Situation:

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

¹ Art. VIII, s. 1(a), Fla. Const.

² Art. VIII, s. 2(a), Fla. Const.

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

Charter Commission

Creation of Charter Commission

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

Duties of Charter Commission

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

³ Section 125.60, F.S.

⁴ *Id.*

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

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

⁷ Section 125.61(1), F.S.

⁸ Section 125.61(2), F.S.

⁹ *Id.*

¹⁰ Section 125.62, F.S.

¹¹ Section 125.63, F.S.

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

Submission of the Charter to the Voters

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

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

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

Differences between Charter Counties and Non-Charter Counties²⁰

Structure

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

¹² *Id.*

¹³ *Id.*

¹⁴ Section 125.64(1), F.S.

¹⁵ *Id.*

¹⁶ Section 125.64(2), F.S.

¹⁷ *Id.*

¹⁸ Section 125.64(3), F.S.

¹⁹ Section 125.64(4), F.S.

²⁰ The Florida Association of Counties, *Basic Differences between Charter and Non-Charter Counties* (Mar. 2008), available at http://www.fl-counties.com/themes/bootstrap_subtheme/sitefinity/documents/basic-differences-between-charter-and-non-charter-counties-pdf-.pdf (last visited March 15, 2017).

Powers of Self-Government

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

Initiative, Referendum, and Recall of County Officers

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

Administrative Code

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

Utility Taxation

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

Special Acts

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

Municipal Ordinances

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

²¹ Ch. 125, Part I, F.S.

²² Art. VIII, s. 1(f), Fla. Const.

²³ Art. VIII, s. 1(g), Fla. Const.

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

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

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

County Officers Under the Florida Constitution

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

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

Brevard County

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

Broward County

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

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

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

²⁹ Art. VIII, s. 1(d), Fla. Const.

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

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

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

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

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

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

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

Clay County

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

Duval County

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

Miami-Dade County

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

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

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

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

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

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

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

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

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

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

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

Orange County

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

Osceola County

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

⁴⁵ Historically, the Miami-Dade Police Director was appointed by the county manager. This appointment power was subsequently reallocated to the mayor when the office of county manager was abolished. See Miami-Dade County Florida, Code of Ordinances, ss. 2-91, 2-92 & 1-4.4 available at https://www.municode.com/library/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTXIIMIDPEODE.

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

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

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

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

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

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

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

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

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

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

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

Volusia County

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

Existing Selection and Removal Procedures for Constitutional Officers in Charter Counties

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

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

⁵⁷ Chapter 70-966, Laws of Fla.

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

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

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

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

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

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

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

⁶⁵ Art. VIII, s. 1(g), Fla. Const.

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

Term Limits

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

Recall

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

Non-partisan Elections

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

III. Effect of Proposed Changes:

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

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

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

⁶⁷ Duval, Orange, and Sarasota Counties.

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

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

⁷⁰ Section 100.361, F.S.

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

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

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

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

Article XI, section 5(a) of the Florida Constitution and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”⁷³

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately before the week the election is held. The Department of State, Division of Elections, estimated the average cost per word to advertise an amendment to the Florida Constitution is \$135.97 for the previous fiscal year. The department estimated the publication costs for advertising a similar joint resolution from 2016 to be at least \$96,130.79 to \$100,735.77, possibly greater, depending on the final wording of the joint resolution and the resulting ballot language.⁷⁴

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved,

⁷³ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

⁷⁴ 2016 Agency Legislative Bill Analysis, Department of State, HJR 165 (10/27/2015).

becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately before the week the election is held. The Department of State, Division of Elections, estimated the average cost per word to advertise an amendment to the Florida Constitution is \$135.97 for the previous fiscal year. The department estimated the publication costs for advertising a similar joint resolution from 2016 to be at least \$96,130.79 to \$100,735.77, possibly greater, depending on the final wording of the joint resolution and the resulting ballot language.⁷⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose. The next general election in Florida is the gubernatorial election scheduled for November 6, 2018. If approved by the voters, the amendment takes effect on January 8, 2019. As a result, affected charter counties will have just over 2 months to revise their charters and ordinances to conform to this amendment and elect a property appraiser.

⁷⁵ 2016 Agency Legislative Bill Analysis, Department of State, HJR 165 (10/27/2015).

VIII. Statutes Affected:

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

IX. Additional Information:

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

CS by Community Affairs Committee on March 22, 2017:

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

- B. **Amendments:**

None.



121006

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the resolving clause
and insert:

That the following amendment to Section 1 of Article VIII
of the State Constitution is agreed to and shall be submitted to
the electors of this state for approval or rejection at the next
general election or at an earlier special election specifically
authorized by law for that purpose:

ARTICLE VIII



121006

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LOCAL GOVERNMENT

SECTION 1. Counties.—

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody and method of disbursing county funds shall be provided by general law.

(c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, a sheriff, a tax collector, a supervisor of elections, and a clerk of the circuit court ~~any county officer~~ may be chosen in another manner therein specified, or ~~any county office~~ may be abolished when all the duties of the office prescribed by general law are transferred to another office. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds. Notwithstanding subsection 6(e) of this article, this subsection provides the exclusive manner for the selection, length of term, abolition of office, and transfer of duties of the property appraiser of each



121006

40 county.

41 (e) COMMISSIONERS. Except when otherwise provided by county
42 charter, the governing body of each county shall be a board of
43 county commissioners composed of five or seven members serving
44 staggered terms of four years. After each decennial census the
45 board of county commissioners shall divide the county into
46 districts of contiguous territory as nearly equal in population
47 as practicable. One commissioner residing in each district shall
48 be elected as provided by law.

49 (f) NON-CHARTER GOVERNMENT. Counties not operating under
50 county charters shall have such power of self-government as is
51 provided by general or special law. The board of county
52 commissioners of a county not operating under a charter may
53 enact, in a manner prescribed by general law, county ordinances
54 not inconsistent with general or special law, but an ordinance
55 in conflict with a municipal ordinance shall not be effective
56 within the municipality to the extent of such conflict.

57 (g) CHARTER GOVERNMENT. Counties operating under county
58 charters shall have all powers of local self-government not
59 inconsistent with general law, or with special law approved by
60 vote of the electors. The governing body of a county operating
61 under a charter may enact county ordinances not inconsistent
62 with general law. The charter shall provide which shall prevail
63 in the event of conflict between county and municipal
64 ordinances.

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



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

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

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

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

86 CONSTITUTIONAL AMENDMENT

87 ARTICLE VIII, SECTION 1

88 SELECTION AND DUTIES OF PROPERTY APPRAISERS.—Proposing an
89 amendment to the State Constitution to remove authority for a
90 county charter or special law to provide for choosing a property
91 appraiser in a manner other than by election or to transfer the
92 duties of the property appraiser or abolish the office of the
93 property appraiser. The amendment is applicable to all counties
94 and takes effect January 8, 2019, if approved.

95
96 ===== T I T L E A M E N D M E N T =====

97 And the title is amended as follows:



121006

98 Delete everything before the resolving clause
99 and insert:

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

By Senator Artiles

40-00230-17

2017136__

Senate Joint Resolution

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

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

That the following amendment to Section 1 of Article VIII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VIII

LOCAL GOVERNMENT

SECTION 1. Counties.—

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody and method of disbursing county funds shall be provided by general law.

40-00230-17

2017136__

33 (c) GOVERNMENT. Pursuant to general or special law, a
34 county government may be established by charter which shall be
35 adopted, amended or repealed only upon vote of the electors of
36 the county in a special election called for that purpose.

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

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

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2017136__

62 as practicable. One commissioner residing in each district shall
63 be elected as provided by law.

64 (f) NON-CHARTER GOVERNMENT. Counties not operating under
65 county charters shall have such power of self-government as is
66 provided by general or special law. The board of county
67 commissioners of a county not operating under a charter may
68 enact, in a manner prescribed by general law, county ordinances
69 not inconsistent with general or special law, but an ordinance
70 in conflict with a municipal ordinance shall not be effective
71 within the municipality to the extent of such conflict.

72 (g) CHARTER GOVERNMENT. Counties operating under county
73 charters shall have all powers of local self-government not
74 inconsistent with general law, or with special law approved by
75 vote of the electors. The governing body of a county operating
76 under a charter may enact county ordinances not inconsistent
77 with general law. The charter shall provide which shall prevail
78 in the event of conflict between county and municipal
79 ordinances.

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

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

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

89 (k) COUNTY SEAT. In every county there shall be a county
90 seat at which shall be located the principal offices and

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91 permanent records of all county officers. The county seat may
 92 not be moved except as provided by general law. Branch offices
 93 for the conduct of county business may be established elsewhere
 94 in the county by resolution of the governing body of the county
 95 in the manner prescribed by law. No instrument shall be deemed
 96 recorded until filed at the county seat, or a branch office
 97 designated by the governing body of the county for the recording
 98 of instruments, according to law.

99 ARTICLE XII

100 SCHEDULE

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

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

113 CONSTITUTIONAL AMENDMENT

114 ARTICLE VIII, SECTION 1

115 ARTICLE XII

116 SELECTION AND DUTIES OF COUNTY OFFICERS.—Removes authority
 117 for a county charter to provide for choosing certain county
 118 officers other than by election; prohibits a special law to
 119 provide for choosing a property appraiser other than by

40-00230-17

2017136__

120 election; authorizes abolition of any county office and transfer
121 of duties only by approval of county voters; and removes
122 authority for a county charter to transfer certain duties of the
123 clerk of the circuit court. The amendment takes effect January
124 5, 2021, if approved.

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

CONSTITUTIONAL AMENDMENT

ARTICLE VIII, SECTION 1

ARTICLE XII

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

THE FLORIDA SENATE
APPEARANCE RECORD

3-22-17

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

136

Meeting Date

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JESS McCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1st St 2810

Phone _____

Street

City

MIAMI

33128

State

Zip

Email _____

Speaking: For Against Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

136

Bill Number (if applicable)

Topic County Officers

Amendment Barcode (if applicable)

Name Kelley Teague

Job Title Legislative Affairs Director

Address 201 S. Rosalind Ave

Phone _____

Street

Orlando

FL

32801

Email _____

City

State

Zip

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)

3/22/17

Meeting Date

136

Bill Number (if applicable)

Topic Constitutional officers

Amendment Barcode (if applicable)

Name Arlene Smith

Job Title Legislative Affairs

Address 123 W Indiana Ave

Phone 386-405-1552

Street

DeLand, FL

City

State

Zip

Email asmith@volusia.org

Speaking: For Against Information

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

Representing Volusia County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SJR 136

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Loren Levy

Job Title General Counsel, Property Appraisers' Ass'n of Fla.

Address 1828 Riggins Rd

Phone 850-219-0220

Street

Tallahassee

FL

32308

City

State

Zip

Email paaf@comcast.net

Speaking: For Against Information

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

Representing Property Appraisers' Ass'n of Fla

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17
Meeting Date

136
Bill Number (if applicable)

Topic COUNTY OFFICERS

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title ASSOCIATE DIR. OF PUBLIC POLICY

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

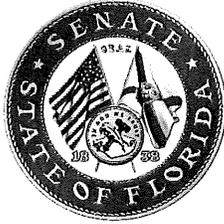
Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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



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

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

Tuesday, January 03, 2017

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

Re: SJR 136 – Selection and Duties of County Officers / Property Appraiser

Dear Senator Lee,

I hope this correspondence finds you well.

Please have this letter serve as my formal request to have **SJR 136: Selection and Duties of County Officers / Property Appraiser**, be heard during the next Community Affairs Committee Meeting.

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

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

Respectfully,

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

Senator Frank Artiles, District 40



The Florida Senate
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 282

INTRODUCER: Community Affairs Committee and Senator Artiles

SUBJECT: Towing and Storage Fees

DATE: March 23, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Fav/CS
2.			TR	
3.			AFT	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 282 prohibits a county or municipality from adopting or maintaining a rule or ordinance that imposes a charge, cost, expense, fine, fee, or penalty, other than the reasonable costs of towing and storage incurred by an authorized wrecker operator, on the registered owner of a vehicle removed and impounded by an authorized wrecker operator. A county or municipality may impose a reasonable fee or charge for towing and storage not to exceed maximum rates if the county or municipality has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality.

II. Present Situation:

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.¹ After the establishment of such contract(s), the county or municipality must create a "wrecker operator system" to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods. Any wrecker operator that is included in the wrecker operator

¹ Section 323.002(1)(c), F.S.

system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”²

Unauthorized wrecker operators are not permitted to initiate contact with a wrecked or disabled vehicle.³ If the operator of a disabled vehicle initiates contact, an unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- Their full name;
- Driver’s license number;
- That they are not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s insurance company or lienholder;
- Whether they have an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- Maximum rates for towing and storage.⁴

The unauthorized wrecker operator is also required to disclose this information to any law enforcement officer present.⁵ It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated. An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.⁶ Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.⁷

Counties are required to establish maximum rates for the towing and storage of vehicles removed from private property, removed from the scene of an accident, or where the vehicle is towed at the request of a law enforcement officer.⁸ Municipalities are also authorized to adopt maximum rate ordinances.⁹

Vehicle Holds and Wrecker Operator Storage Facilities

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator’s storage facility for up to 5 business days.¹⁰ A hold may be applied where the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.¹¹

² Section 323.002(1)(a)-(b), F.S.

³ Section 323.002(2)(b), F.S.

⁴ Section 323.002(2)(c), F.S.

⁵ *Id.*

⁶ Section 323.002(2)(d), F.S.

⁷ Section 323.002(2)(a), F.S.

⁸ Section 125.0103(1)(c), F.S.

⁹ Section 166.043(1)(c), F.S.

¹⁰ Section 323.001(1), F.S.

¹¹ Section 323.001(4)(a)-(e), F.S.

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 or 322.34, F.S., and when the officer is complying with a court order.¹² The hold must be in writing and include:

- The name and agency of the law enforcement officer placing the hold;
- The date and time the hold is placed on the vehicle;
- A general description of the vehicle;
- The specific reason for the hold;
- The condition of the vehicle;
- The location where the vehicle is being held; and
- The name and contact information for the wrecker operator and storage facility.¹³

The investigating agency must inform the wrecker operator within the 5-day holding period if the agency intends to hold the vehicle for a longer period of time.¹⁴ The vehicle owner is liable for towing and storage charges for the first 5 days. If the vehicle is to be held beyond 5 days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.¹⁵

Authority for Local Governments to Charge Fees

Counties and cities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.¹⁶ However, local governments possess the authority to impose user fees or assessments by local ordinance; as such, authority is within the constitutional and statutory home rule powers of local governments.¹⁷ The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by others in the public.¹⁸ On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”¹⁹ Usually a fee is applied for the use of a service. The fee rate is tied directly to the cost of maintaining the service. Money collected from a fee is generally not applied to uses other than to provide the service for which the fee is applied.

Administrative Fees Related to Towing and Storage

Some municipalities charge administrative fees when a vehicle is towed in connection with certain misdemeanors or felonies.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.²⁰ The registered owner of the vehicle is then given two options:

¹² Section 323.001(4)(f)-(g), F.S.

¹³ Section 323.001(5), F.S.

¹⁴ Section 323.001(2), F.S.

¹⁵ Section 323.001(2)(a)-(b), F.S.

¹⁶ Art. VII, s. 1(a), Fla. Const.

¹⁷ *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

¹⁸ *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

¹⁹ *Id.* at 758-59.

²⁰ Sarasota Police Department, *Vehicle Seizure Program*, available at <http://www.sarasotapd.org/vehicle-seizure-program/> (last accessed Jan. 31, 2017).

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty (\$500), hearing costs (\$50), and towing and storage fees (\$125 plus \$25 per day) to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees.
- The registered owner may waive the right to a hearing and pay the civil penalty (\$500).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The same process and rate structure is employed by the City of Bradenton.²¹

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.²²

The City of Winter Springs imposes an administrative fee for impoundment arising from 12 offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.²³ The registered owner may request a hearing, accruing additional storage fees either pending the hearing or posting a bond equal to the amount of the administrative fee (\$550). If the registered owner waives the right to hearing, the administrative fee is reduced to \$250. These fees are payable to the city but are collected by towing companies.²⁴

By contract, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for “the opportunity to provide” wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.²⁵

III. Effect of Proposed Changes:

Section 1 amends s. 323.002, F.S., to prohibit a county or municipality from adopting or maintaining an ordinance or rule that imposes a charge, cost, expense, fine, fee, or penalty, other

²¹ Bradenton, FL Code of Ordinances, ch. 54, art. IV (2016).

²² Sweetwater, FL Code of Ordinances, ch. 42-1, s. 42.1(c) (2017).

²³ City of Winter Springs, Ordinance No. 2016-01 (effective October 23, 2016).

²⁴ Florida House of Representatives, *House Bill 193 Staff Analysis* (Feb. 22, 2017) Winter Springs, FL Notice of Right to Hearing Form available at

<http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=h0193c.TIS.DOCX&DocumentType=Analysis&BillNumber=0193&Session=2017>.

²⁵ Florida House of Representatives, *House Bill 193 Staff Analysis* (Feb. 22, 2017) Agreement for Wrecker Towing and Storage Services, City of Sarasota and J&G WFR, Inc. dba Direct Towing Form available at <http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=h0193c.TIS.DOCX&DocumentType=Analysis&BillNumber=0193&Session=2017>.

than the reasonable costs of towing and storage incurred by an authorized wrecker operator, on the registered owner or lienholder of a vehicle removed and impounded by an authorized wrecker operator under ch. 323, F.S.

The bill allows a county or municipality to impose a reasonable fee or charge for towing and storage expenses, not to exceed the maximum rates approved by ordinance or rule under ss. 125.0103 or 166.043, F.S., on the legal owner of a vehicle if a county or municipal law enforcement officer has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality.

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

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:

If counties and municipalities can no longer impose certain fees on vehicle owners, there is likely to be a positive benefit to certain citizens.

C. Government Sector Impact:

There is likely to be a negative fiscal impact on local governments, to the extent they are using fees connected to towing as a revenue source.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 323.002 of the Florida Statutes.

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

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

CS by Community Affairs on March 22, 2017:

Provides that a county or municipality may not adopt or maintain an ordinance or rule that imposes a charge, cost, expense, fine, fee or penalty other than the reasonable costs of towing and storage incurred by an authorized wrecker operator, on the registered owner of a vehicle removed and impounded by an authorized wrecker operator. However, a county or municipality may impose a reasonable fee or charge for towing and storage not to exceed maximum rates if the county or municipality has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) is added to section 323.002,
Florida Statutes, to read:

323.002 County and municipal wrecker operator systems;
penalties for operation outside of system.—

(5) (a) Except as provided in paragraph (b), a county or
municipality may not adopt or maintain in effect an ordinance or



188468

11 rule that imposes a charge, cost, expense, fine, fee, or
12 penalty, other than the reasonable costs of towing and storage
13 incurred by an authorized wrecker operator, on the registered
14 owner or lienholder of a vehicle removed and impounded by an
15 authorized wrecker operator under this chapter.

16 (b) A county or municipality may impose a reasonable fee or
17 charge for towing and storage expenses, not to exceed the
18 maximum rates approved by ordinance or rule under s. 125.0103 or
19 s. 166.043, on the legal owner of a vehicle if a county or
20 municipal law enforcement officer has caused the owner's vehicle
21 to be towed to and impounded at a facility owned by the county
22 or municipality.

23 Section 2. This act shall take effect July 1, 2017.

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

25 And the title is amended as follows:

26 Delete everything before the enacting clause
27 and insert:

28 A bill to be entitled
29 An act relating to towing and storage fees; amending
30 s. 323.002, F.S.; prohibiting counties and
31 municipalities from imposing additional charges,
32 costs, expenses, fines, fees, or penalties on a
33 registered owner or lienholder of a vehicle; providing
34 an exception; providing an effective date.

By Senator Artiles

40-00342-17

2017282__

1 A bill to be entitled
2 An act relating to towing and storage fees; creating
3 ss. 125.01047 and 166.04465, F.S.; prohibiting
4 counties and municipalities from enacting certain
5 ordinances or rules to impose a fee or charge on
6 wrecker operators or vehicle storage companies;
7 providing exceptions; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 125.01047, Florida Statutes, is created
12 to read:

13 125.01047 Rules and ordinances relating to towing or
14 storage services.-

15 (1) A county may not enact an ordinance or rule that would
16 impose a fee or charge on an authorized wrecker operator, as
17 defined in s. 323.002(1), or a vehicle storage company for
18 towing, storing, or impounding a vehicle by the wrecker operator
19 or vehicle storage company. This prohibition applies to and
20 includes, but is not limited to, situations where:

21 (a) The county contacts the wrecker operator or the vehicle
22 storage company to provide such services.

23 (b) A county law enforcement officer causes a vehicle to be
24 towed, stored, or impounded after an accident or after the
25 vehicle has become disabled.

26 (c) A vehicle is towed, stored, or impounded as a result of
27 the commission or attempted commission of a crime or
28 misdemeanor.

29 (d) A county law enforcement officer causes a vehicle to be
30 towed, stored, or impounded when the owner or operator is
31 incapacitated.

32 (e) A vehicle is towed at the request of a person who is

40-00342-17

2017282__

33 not a law enforcement officer or at the request of a person as
34 set forth in s. 715.07(2).

35 (2) The prohibition set forth in subsection (1) does not
36 affect a county's authority to:

37 (a) Levy a reasonable business tax under s. 205.0315, s.
38 205.033, or s. 205.0535.

39 (b) Impose a reasonable fee or charge, not to exceed the
40 maximum rates approved by ordinance or rule under s. 125.0103 or
41 s. 166.043, on the legal owner of a vehicle if a county law
42 enforcement officer has caused the owner's vehicle to be towed
43 to and impounded at a facility owned by the county.

44 Section 2. Section 166.04465, Florida Statutes, is created
45 to read:

46 166.04465 Rules and ordinances relating to towing or
47 storage services.-

48 (1) A municipality may not enact an ordinance or rule that
49 would impose a fee or charge on an authorized wrecker operator,
50 as defined in s. 323.002(1), or a vehicle storage company for
51 towing, storing, or impounding a vehicle by the wrecker operator
52 or vehicle storage company. This prohibition applies to and
53 includes, but is not limited to, situations where:

54 (a) The municipality contacts the wrecker operator or the
55 vehicle storage company to provide such services.

56 (b) A municipal law enforcement officer causes a vehicle to
57 be towed, stored, or impounded after an accident or after a
58 vehicle has become disabled.

59 (c) A vehicle is towed, stored, or impounded as a result of
60 the commission or attempted commission of a crime or
61 misdemeanor.

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2017282__

62 (d) A municipal law enforcement officer causes a vehicle to
63 be towed, stored, or impounded when the owner or operator is
64 incapacitated.

65 (e) A vehicle is towed at the request of a person who is
66 not a law enforcement officer or at the request of a person as
67 set forth in s. 715.07(2).

68 (2) The prohibition set forth in subsection (1) does not
69 affect a municipality's authority to:

70 (a) Levy a reasonable business tax under s. 205.0315, s.
71 205.043, or s. 205.0535.

72 (b) Impose a reasonable fee or charge, not to exceed the
73 maximum rates approved by ordinance or rule under s. 125.0103 or
74 s. 166.043, on the legal owner of a vehicle if a municipal law
75 enforcement officer has caused the owner's vehicle to be towed
76 to and impounded at a facility owned by the municipality.

77 Section 3. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/17
Meeting Date

SB 282
Bill Number (if applicable)

Topic Towing + Storage Fee

Amendment Barcode (if applicable)

Name Stan Forron

Job Title ~~own~~ Member Professional Wrecker Operators FL.

Address 108 E Jefferson St Phone 850-294-2533
Street

Miami FL 33301 Email _____
City State Zip

Speaking: For Against Information

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

Representing Professional Wrecker Operators 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.



The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: February 21, 2017

I respectfully request that **Senate Bill #282**, relating to Towing and Storage Fees, be placed on the:

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



Senator Frank Artiles
Florida Senate, District 40

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 764

INTRODUCER: Community Affairs Committee; Governmental Oversight and Accountability Committee; and Senator Baxley

SUBJECT: Ad Valorem Taxation

DATE: March 23, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Ferrin	GO	Fav/CS
2.	Present	Yeatman	CA	Fav/CS
3.			AFT	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 764 provides an exemption from ad valorem taxation for first responders who are totally and permanently disabled as a result of injuries sustained in the line of duty and to their surviving spouses.

The bill also provides application requirements and specifies documentation required to receive the exemption, including a physician's and an employer's certificate. Additionally, the bill provides penalties for any person submitting false information for purposes of claiming the exemption.

The bill authorizes the Department of Revenue to adopt emergency rules for initial implementation. The bill also provides rulemaking authority, provides procedures for applying for the exemption, and provides circumstances for denying the exemption.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵ Accordingly, the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution.

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Overview of the Value Adjustment Board Process

Each property appraiser submits the county’s tax roll to the Department of Revenue for review by July 1 of each year for assessments as of the prior January 1.¹¹ In August, the property appraiser sends a Truth in Millage (TRIM) notice to all taxpayers providing specific tax information about their parcel.¹² Taxpayers who disagree with the property appraiser’s assessment or the denial of an exemption or property classification may:

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ Section 193.1142(1), F.S.

¹² Section 200.069, F.S.

- Request an informal meeting with the property appraiser;¹³
- Appeal the assessment by filing a petition with the county Value Adjustment Board (VAB);¹⁴ or
- Challenge the assessment in circuit court.¹⁵

Each county has a VAB, comprised of two members of the governing body of the county, one member of the school board and two citizen members appointed by the governing body of the county.¹⁶ The county clerk acts as the clerk of the VAB.¹⁷ A property owner may initiate a review by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice.¹⁸

The clerk of the VAB is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling hearings.

Current law requires VABs to render a written decision within 20 calendar days after the last day the board is in session.¹⁹ The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.²⁰ If a special magistrate has been appointed, the VAB must consider the recommendations of the special magistrate.²¹ The clerk of the VAB, upon issuance of a decision, must notify each taxpayer and the property appraiser of the decision of the VAB. If requested by the Department of Revenue, the clerk must provide to the DOR a copy of the decision or information relating to the tax impact of the findings and results of the board as described in s. 194.037, F.S., in the manner and form requested.

Property Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.²² The following information discusses the constitutional authority for exemptions that disabled persons may receive.

Homestead Exemption

Although not specific to disabled persons, the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 homestead tax exemption applicable to

¹³ Section 194.011(2), F.S.

¹⁴ Section 194.011(3), F.S.

¹⁵ Section 194.171, F.S.

¹⁶ Section 194.015, F.S.

¹⁷ *Id.*

¹⁸ Section 194.011(3)(d), F.S.

¹⁹ Section 194.034(2), F.S.

²⁰ *Id.*; See also Rules 12D-9.030, 12D-9.032, and 12D-10.003(3), F.A.C.

²¹ Section 194.034(2), F.S.

²² *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); See also *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

all ad valorem tax levies, including levies by school districts.²³ An additional \$25,000 homestead exemption applies to a homestead's property value between \$50,000 and \$75,000. The additional exemption does not apply to ad valorem taxes levied by school districts.²⁴

General Disability Exemption

The Florida Constitution provides broad authority for exemptions from property taxes for widows and widowers, blind persons, and persons who are totally and permanently disabled.²⁵ The Legislature has implemented this provision through various property tax exemptions in ch. 196, F.S.

Full Homestead Exemption for Paraplegic, Hemiplegic and Totally and Permanently Disabled Persons confined to Wheelchairs

Section 196.101, F.S., provides a full property tax exemption for any real estate used and owned as a homestead by any quadriplegic, and any real estate used and owned as a homestead by a paraplegic, hemiplegic, or other totally and permanently disabled person who must use a wheelchair for mobility, or who is legally blind.²⁶ Generally, in order to qualify for the exemption, the taxpayer must submit evidence of such disability as certified by two licensed physicians of this state or the United States Department of Veterans Affairs or its predecessor.²⁷ Except for a quadriplegic, applicants must also show that they meet certain income limitations.²⁸

Full Homestead Exemption for Totally and Permanently Disabled Veterans

Section 196.081(1), F.S., provides a full property tax exemption for the homesteads of totally and permanently disabled veterans who were honorably discharged with a service-connected disability and have a letter from the United States Government certifying their disability.

Full Homestead Exemption for Veterans confined to Wheelchairs

Section 196.091, F.S., provides a full property tax exemption for the homesteads of totally disabled veterans who were honorably discharged with a service-connected disability and have a letter from the United States Government certifying that the ex-service member is receiving or has received special pecuniary assistance for specially adopted housing due to the ex-service member's need for a wheelchair.

Proportional Homestead Discount for Combat-disabled Veterans

The Florida Constitution provides a property tax discount to honorably discharged veterans, age 65 or older who are permanently disabled due to a combat-related injury.²⁹ The discount applies for partial or total disabilities. For partially disabled persons, the discount is in proportion to the percentage of their disability.

²³ FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

²⁴ FLA. CONST. art VII, s. 6(a)

²⁵ FLA. CONST. art. VII, s. 3(b)

²⁶ Section 196.101(1)-(2), F.S.

²⁷ Section 196.101(3), F.S.

²⁸ Section 196.101(4), F.S.

²⁹ FLA. CONST. art. VII, s. 6(e); s. 196.082, F.S.

Homestead Exemption for Surviving Spouses of Veterans and First Responders

The Florida Constitution also authorizes the Legislature to provide, by general law, ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces, as well as the surviving spouse of a first responder who died in the line of duty.³⁰ This constitutional provision is implemented in s. 196.081, F.S. The Constitution defines “first responder” as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic.³¹

The Constitution defines “in the line of duty” as arising out of and in the actual performance of duty required by employment as a first responder.³² This term is further defined in statute to include:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities listed above if the training has been authorized by the employing entity.³³

The Administrative Procedure Act

The Administrative Procedure Act (APA) in ch. 120, F.S., sets forth uniform procedures that agencies must follow when exercising rulemaking authority. A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency.³⁴ Rulemaking authority is delegated by the Legislature³⁵ through statute and authorizes an agency to “adopt, develop, establish, or otherwise create”³⁶ a rule. Agencies do not have discretion whether to engage in rulemaking.³⁷ To adopt a rule, an agency must have a general grant of authority to implement a specific law through rulemaking.³⁸ The grant of rulemaking authority itself need not be detailed.³⁹ The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.⁴⁰ A delegation of authority to an administrative agency by a law that

³⁰ FLA. CONST. art. VII, s. 6(f).

³¹ FLA. CONST. art. VII, s. 6(f)(3).

³² FLA. CONST. art. VII, s. 6(f)(3).

³³ Section 196.081(6)(c)2.a.-h., F.S.

³⁴ Section 120.52(16), F.S.; *Florida Dep’t of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).

³⁵ *Southwest Fla. Water Mgmt. Dist. v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).

³⁶ Section 120.52(17), F.S.

³⁷ Section 120.54(1)(a), F.S.

³⁸ Sections 120.52(8) and 120.536(1), F.S.

³⁹ *Southwest Fla. Water Mgmt. Dist.*, *Supra* at 599.

⁴⁰ *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008) (internal citations omitted); *Bd. of Trustees of the Internal Improvement Trust Fund v. Day Cruise Assoc., Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

is vague, uncertain, or so broad as to give no notice of what actions would violate the law, may unconstitutionally allow the agency to make the law.⁴¹ Because of this constitutional limitation on delegated rulemaking, the Legislature must provide minimal standards and guidelines in the law creating a program to provide for its proper administration by the assigned executive agency. The Legislature may delegate rulemaking authority to agencies but not the authority to determine what should be the law.⁴²

In 1996, the Legislature extensively revised⁴³ agency rulemaking under the Administrative Procedure Act⁴⁴ to require both an express grant of rulemaking authority and a specific law to be implemented by the rule.

Emergency rules are effective for a maximum of 90 days and are not renewable, except when the agency has proposed rules addressing the subject of the emergency rule and either a challenge to the proposed rule is pending or the proposed rule requires legislative ratification.⁴⁵ An emergency rule becomes effective immediately upon filing or a date less than 20 days after filing, if specified in the rule.⁴⁶

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 196.011(1)(b), F.S., to add a reference to the exemption for certain totally and permanently disabled first responders and for their surviving spouses contained in newly created s. 196.102, F.S., to the list of exemptions for which the application form must include a space for social security numbers of the applicant and the applicant's spouse.

Section 2 of the bill implements the language of Amendment 3 passed in the November 8, 2016, general election by creating s. 196.102, F.S.

This section defines "disabled" as a physical or cognitive impairment that constitutes or results in a substantial impediment to employment as a first responder. The term does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

⁴¹ *Conner v. Joe Hatton, Inc.*, 216 So.2d 209 (Fla.1968).

⁴² *Sarasota County. v. Barg*, 302 So.2d 737 (Fla. 1974).

⁴³ Ch. 96-159, Laws of Fla.

⁴⁴ Chapter 120, F.S.

⁴⁵ Section 120.54(4)(c), F.S.

⁴⁶ Section 120.54(4)(d), F.S.

This section defines “first responder” as a law enforcement officer or correctional officer as defined in s. 943.10, F.S.,⁴⁷ a firefighter as defined in s. 633.102, F.S.,⁴⁸ or an emergency medical technician or paramedic as defined in s. 401.23, F.S.,⁴⁹ who is a full-time paid employee, part-time paid employee, or unpaid volunteer.

This section defines “cardiac event” as a heart attack, stroke or vascular rupture.

This section defines “in the line of duty” to mean:

- While engaging in activities within the course and scope of employment as a first responder;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities enumerated in this paragraph if the training has been authorized by the employing entity.

The bill provides that total and permanent disability that results from a cardiac event does not qualify for the exemption unless the cardiac event occurs no later than 24 hours after the first responder performed nonroutine stressful or strenuous physical activity in the line of duty and the first responder provides the employer with competent medical evidence showing that:

- The nonroutine stressful or strenuous activity directly and proximately caused the cardiac event that gave rise to the first responder’s total and permanent disability; and
- The cardiac event was not caused by preexisting vascular disease.

This section notes that these definitions are not applicable to the payment of benefits under ss. 112.19⁵⁰ and 112.191, F.S.⁵¹

⁴⁷ Section 943.10(1), F.S., defines “law enforcement officer” as any person who is elected, appointed, or employed full-time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. Section 943.10(2), F.S., defines “correctional officer” as any person who is appointed or employed full-time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.

⁴⁸ Section 633.102(9), F.S., defines “firefighter” as an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division [of State Fire Marshal within the Department of Financial Services] under s. 633.408, F.S.

⁴⁹ Section 401.23(11), F.S., defines “emergency medical technician” as a person who is certified by the department [of Health] to perform basic life support pursuant to this part. Section 401.23(17), F.S., defines “Paramedic” as a person who is certified by the department [of Health] to perform basic and advanced life support pursuant to this part.

⁵⁰ Death benefits for law enforcement, correctional and probation officers.

⁵¹ Death benefits for firefighters.

The bill exempts from taxation any real estate that is owned and used as a homestead by a person who is totally and permanently disabled because of an injury or injuries sustained in the line of duty as a first responder. The first responder must be a permanent resident of Florida on January 1 of the tax year for which the exemption is claimed.

If the first responder provides the following documents to the property appraiser of the county where the property is located, they serve as prima facie evidence that the first responder is entitled to the exemption:

- A certificate of total and permanent disability, in a specified form, from two licensed physicians of this state who are professionally unrelated attesting to the applicant's total and permanent disability.
- A certificate from the organization that employed the first responder at the time that the injury or injuries occurred.

Physician's Certification of Total and Permanent Disability

The bill requires the physician's certificate to include specified information regarding the applicant's total and permanent disability. The physician must certify that the applicant, identified by applicant name and social security number, is totally and permanently disabled. The physician must also list the disabling condition. Additionally, the physician's certificate must include a notice to the taxpayer that each Florida resident applying for an exemption must present to the county property appraiser a copy of the form and a letter from the first responder's employer. Each form is to be completed by a licensed Florida physician. The physician's certificate must also include a notice to the taxpayer and the physician that any person who knowingly and willfully gives false information for the purpose of claiming the homestead exemption commits a misdemeanor of the first degree, punishable by up to 1 year in prison, a fine up to \$5,000, or both.

Employer Certificate

The employer certificate must, at a minimum, attest and include the title of the person signing the certificate, the name and address of the employing entity, a description of the incident that caused the injury or injuries, and a statement that the first responder's injury or injuries were:

- Directly and proximately caused by service in the line of duty.
- Without willful negligence on the part of the first responder.
- The sole cause of the first responder's total and permanent disability.

In addition, the employer certificate must be supplemented with extant documentation of the incident or event that caused the injury, such as an accident or incident report. The first responder may deliver the original employer certificate to the property appraiser's office or the first responder's employer may directly transmit the employer certificate to the applicable property appraiser.

Surviving Spouse

The bill provides that any real estate owned and used as a homestead by the surviving spouse of a first responder who dies but who had been receiving a tax exemption under the provision for

first responders who were totally and permanently disabled because of injuries received in the line of duty is exempt from taxation.

The above tax exemptions for the surviving spouse apply as long as the surviving spouse holds the legal or beneficial title to the homestead, permanently resides thereon as specified in s. 196.031, F.S.,⁵² and does not remarry. If the surviving spouse sells the property, an exemption not to exceed the amount granted under the most recent ad valorem tax roll may be transferred to the new residence if it is used as the surviving spouse's primary residence and he or she does not remarry.

Application for Exemption

The bill provides that a first responder may apply for the exemption before producing the necessary documentation. Upon receipt of the documentation, the property appraiser will grant the exemption as of the date of the original application and the excess taxes paid shall be refunded. Any refund of excess taxes paid shall be limited to those paid during the 4-year period of limitation set forth in s. 197.182(1)(e), F.S.⁵³

The provisions of s. 196.011(9), F.S., for waiving the requirement for property owners to submit an annual application to the property appraiser also apply to applications made under this section.

Penalties

The bill provides that any person who knowingly or willfully gives false information for the purpose of claiming homestead exemption under this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S.,⁵⁴ or by fine of not more than \$5,000, or both.

Administrative Rules

This section authorizes and provides that the Department of Revenue may adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., for the administration the application process for the 2017 calendar year. This provision is repealed on August 30, 2018.

The bill also authorizes and provides that the Department of Revenue may adopt rules to administer this section.

The bill provides that notwithstanding the provisions of ss. 196.011 and 196.102, F.S., the deadline for a first responder to file an application with the property appraiser for an exemption under s. 196.102, F.S., for the 2017 tax year is August 1, 2017.

⁵² Exemption of homesteads.

⁵³ A claim for refund may not be granted unless the claim is made within 4 years after January 1 of the tax year for which the taxes were paid.

⁵⁴ A person convicted of a misdemeanor of the first degree may be sentenced by a definite term of imprisonment not exceeding 1 year.

The property appraiser may grant an application for an exemption that is filed untimely if:

- The applicant is qualified for the exemption; and
- The applicant produces sufficient evidence, as determined by the property appraiser, which demonstrates that the applicant was unable to apply for the exemption in a timely manner or otherwise demonstrates extenuating circumstances that warrant granting the exemption.

The deadline for the property appraiser to serve notice setting forth grounds for denial of exemption, as provided in s. 196.011(6)(a), F.S., is extended to 30 days after the date the application for exemption is submitted. If the property appraiser denies an application under this section, the applicant may file a petition with the value adjustment board as set forth in s. 194.011(3), F.S. The petition must be filed on or before the 25th day after the mailing by the property appraiser during the 2017 calendar year of the notice required under s. 194.011(1), F.S. Notwithstanding s. 194.013, F.S., the eligible first responder is not required to pay a filing fee for such petition. Upon review of the petition, the value adjustment board shall grant the exemption if it determines the applicant is qualified and has demonstrated the existence of extenuating circumstances warranting the exemption.

Section 3 of the bill specifies that this act operates retroactively to the 2017 tax roll and does not provide a basis for relief from an assessment of unpaid taxes or create a right to a refund of taxes paid before January 1, 2017.

Section 4 of the bill provides that it takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of section 18, Article VII of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2016-2017 was \$2 million or less.^{55,56,57} The Revenue Estimating Conference estimates a negative recurring fiscal impact of \$4.5 million to local governments.⁵⁸

The county/municipality mandates provision of Article VII, Section 18 of the Florida Constitution, appears to apply because this bill reduces local government authority to

⁵⁵ FLA. CONST. art. VII, s. 18(d).

⁵⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 16, 2017).

⁵⁷ Based on the Demographic Estimating Conference's population adopted on November 1, 2016. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 16, 2017).

⁵⁸ Revenue Estimating Conference, CS/SB 764 Fiscal Impact Analysis, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/Impact0315.pdf (analyzed Mar. 14, 2017).

raise revenue by reducing ad valorem tax bases compared to the tax bases that would exist under current law. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the bill will reduce local property tax revenues by \$4.5 million annually.

B. Private Sector Impact:

Totally and permanently disabled first responders that qualify for homestead exemption will pay less property taxes.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 196.011 and 196.081 of the Florida Statutes.

This bill creates section 196.102 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS by Community Affairs Committee on March 22, 2017:

- Revises the physician’s required certification form to include disclaimers to the taxpayer and physician;
- Removes a provision that extended the deadline for a property appraiser to serve notice setting his or her grounds for denial of the exemption in certain circumstances; and
- Makes a technical change for the act to apply retroactively, rather than prospectively, to the 2017 tax roll.

CS by Governmental Oversight and Accountability on March 6, 2017:

- Leaves s. 196.091(6), F.S.,(exemption for surviving spouse of first responder who dies in the line of duty) where it is in statute and does not move this exemption to newly created s. 196.02, F.S.;
- Adds definition of “cardiac event” and revises definition of “in the line of duty”;
- Revises application requirements to remove Department of Veteran Affairs as an option for providing physician letter;
- Revises application procedures to allow first responder to deliver employer certification to property appraiser;
- Revises procedures for denying exemption by property appraiser and provides additional time to issue notice of denial from date of application; and
- Changes effective date from July 1, 2017, to effective upon becoming a law.

B. Amendments:

None.



395494

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2017	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 139 - 199

and insert:

...(Physical or cognitive impairment that constitutes or results in a substantial impediment to employment as a first responder)...

...(Chronic condition or chronic disease solely caused by an injury sustained in the line of duty as a first responder)...

1
2
3
4
5
6
7
8
9
10



11 It is my professional belief that the above-named condition(s)
12 render Mr.....Mrs.....Miss.... Ms.....(applicant name)...
13 totally and permanently disabled, and that the foregoing
14 statements are true, correct, and complete to the best of my
15 knowledge and professional belief.

16
17 Signature....

18 Address...(print)...

19 Date....

20 Florida Board of Medicine or Osteopathic Medicine license number

21 Issued on.....

22
23 NOTICE TO TAXPAYER: Each Florida resident applying for an
24 exemption due to a disability that occurred in the line of duty
25 while serving as a first responder must present to the county
26 property appraiser a copy of this form and a letter from the
27 employer for whom the first responder worked at the time of the
28 injury, as required by section 196.102(8), Florida Statutes.
29 Each form is to be completed by a licensed Florida physician.

30
31 NOTICE TO TAXPAYER AND PHYSICIAN: Section 196.131(2), Florida
32 Statutes, provides that any person who knowingly and willingly
33 gives false information for the purpose of claiming homestead
34 exemption commits a misdemeanor of the first degree, punishable
35 by a term of imprisonment not exceeding 1 year or a fine not
36 exceeding \$5,000, or both.

37 (8) An employer for whom the first responder worked at the
38 time of the injury must provide a certificate that, at a
39 minimum, attests and includes:



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- 40 (a) The title of the person signing the certificate.
41 (b) The name and address of the employing entity.
42 (c) A description of the incident that caused the injury or
43 injuries.
44 (d) A statement that the first responder's injury or
45 injuries were:
46 1. Directly and proximately caused by service in the line
47 of duty.
48 2. Without willful negligence on the part of the first
49 responder.
50 3. The sole cause of the first responder's total and
51 permanent disability.
52 (9) Any person who knowingly or willfully gives false
53 information for the purpose of claiming homestead exemption as
54 set forth in this section commits a misdemeanor of the first
55 degree, punishable as provided in s. 775.082 or by fine of not
56 more than \$5,000, or both.
57 (10) The Department of Revenue may, and all conditions are
58 deemed to be met to, adopt emergency rules pursuant to ss.
59 120.536(1) and 120.54 to administer the application process for
60 the 2017 calendar year. This subsection is repealed on August
61 30, 2018.
62 (11) The Department of Revenue may adopt rules to
63 administer this section.
64 (12) Notwithstanding s. 196.011 and this section, the
65 deadline for a first responder to file an application with the
66 property appraiser for an exemption under this section for the
67 2017 tax year is August 1, 2017.
68 (13) If an application is not timely filed under subsection



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69 (12), a property appraiser may grant the exemption if:

70 (a) The applicant files an application for the exemption on
71 or before the 25th day after the mailing of the notice required
72 under s. 194.011(1) by the property appraiser during the 2017
73 calendar year;

74 (b) The applicant is qualified for the exemption; and

75 (c) The applicant produces sufficient evidence, as
76 determined by the property appraiser, which demonstrates that
77 the applicant was unable to apply for the exemption in a timely
78 manner or otherwise demonstrates extenuating circumstances that
79 warrant granting the exemption.

80 (14) If the property appraiser denies an exemption under
81 subsection (12) or subsection (13), the applicant may file,
82 pursuant to s. 194.011(3), a petition with the value adjustment
83 board requesting the exemption be granted. Notwithstanding s.
84 194.013, the eligible first responder is not required to pay a
85 filing fee for such petition filed on or before December 31,
86 2017. Upon review of the petition, the

87
88 ===== T I T L E A M E N D M E N T =====

89 And the title is amended as follows:

90 Delete lines 11 - 14

91 and insert:

92 the exemption; providing a criminal penalty for
93 knowingly or willingly giving false information for a
94 certain purpose; granting rulemaking authority;
95 specifying a deadline for applying for the exemption;
96 authorizing property appraisers, under certain
97 circumstances, to grant exemptions for untimely filed



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98 applications; providing procedures and requirements
99 for petitioning value adjustment boards regarding
100 denied exemptions; providing applicability and
101 construction; providing an



108370

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 203

and insert:

Section 3. This act operates retroactively to the 2017 tax

By the Committee on Governmental Oversight and Accountability;
and Senator Baxley

585-02133A-17

2017764c1

1 A bill to be entitled
2 An act relating to ad valorem taxation; amending s.
3 196.011, F.S.; specifying the information to be
4 included in an application for certain tax exemptions;
5 creating s. 196.102, F.S.; providing definitions;
6 providing an exemption from ad valorem taxation for
7 certain first responders under specified conditions;
8 providing an exemption from ad valorem taxation for
9 certain surviving spouses of first responders who have
10 died; specifying the documentation required to receive
11 the exemption; granting rulemaking authority;
12 specifying procedures for receiving a tax exemption
13 for 2017; specifying procedures for denials of tax
14 exemptions; providing applicability; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Paragraph (b) of subsection (1) of section
20 196.011, Florida Statutes, is amended to read:

21 196.011 Annual application required for exemption.—

22 (1)

23 (b) The form to apply for an exemption under s. 196.031, s.
24 196.081, s. 196.091, s. 196.101, s. 196.102, s. 196.173, or s.
25 196.202 must include a space for the applicant to list the
26 social security number of the applicant and of the applicant's
27 spouse, if any. If an applicant files a timely and otherwise
28 complete application, and omits the required social security
29 numbers, the application is incomplete. In that event, the

585-02133A-17

2017764c1

30 property appraiser shall contact the applicant, who may refile a
31 complete application by April 1. Failure to file a complete
32 application by that date constitutes a waiver of the exemption
33 privilege for that year, except as provided in subsection (7) or
34 subsection (8).

35 Section 2. Section 196.102, Florida Statutes, is created to
36 read:

37 196.102 Exemption for certain totally and permanently
38 disabled first responders and their surviving spouses.-

39 (1) As used in this section, and not applicable to the
40 payment of benefits under s. 112.19 or s. 112.191, the term:

41 (a) "Disabled" means a physical or cognitive impairment
42 that constitutes or results in a substantial impediment to
43 employment as a first responder. The term does not include a
44 chronic condition or chronic disease, unless the injury
45 sustained in the line of duty was the sole cause of the chronic
46 condition or chronic disease.

47 (b) "First responder" means a law enforcement officer or
48 correctional officer as defined in s. 943.10, a firefighter as
49 defined in s. 633.102, or an emergency medical technician or
50 paramedic as defined in s. 401.23 who is a full-time paid
51 employee, part-time paid employee, or unpaid volunteer.

52 (c) "Cardiac event" means a heart attack, stroke or
53 vascular rupture.

54 (d) "In the line of duty" means:

55 1. While engaging in activities within the course and scope
56 of employment as a first responder;

57 2. While performing an activity relating to fire
58 suppression and prevention;

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2017764c1

59 3. While responding to a hazardous material emergency;

60 4. While performing rescue activity;

61 5. While providing emergency medical services;

62 6. While performing disaster relief activity;

63 7. While otherwise engaging in emergency response activity;

64 or

65 8. While engaging in a training exercise related to any of
66 the events or activities enumerated in this paragraph if the
67 training has been authorized by the employing entity.

68 (2) Any real estate that is owned and used as a homestead
69 by a person who is totally and permanently disabled as a result
70 of an injury or injuries sustained in the line of duty while
71 serving as a first responder is exempt from taxation if the
72 first responder is a permanent resident of this state on January
73 1 of the tax year for which the exemption is being claimed.

74 (3) The following documents, if provided to the property
75 appraiser of the county where the property is located, serve as
76 prima facie evidence that the first responder is entitled to the
77 exemption:

78 (a) A certificate of total and permanent disability, in the
79 form set forth in subsection (7), from two licensed physicians
80 of this state who are professionally unrelated, attesting to the
81 applicant's total and permanent disability.

82 (b) A certificate from the organization that employed the
83 first responder at the time that the injury or injuries
84 occurred. The employer certificate must contain, at a minimum,
85 the information identified in subsection (8). The employer
86 certificate shall be supplemented with extant documentation of
87 the incident or event that caused the injury, such as an

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2017764c1

88 accident or incident report. The first responder may deliver the
89 original employer certificate to the property appraiser's office
90 or the first responder's employer may directly transmit the
91 employer certificate to the applicable property appraiser.

92
93 Total and permanent disability that results from a cardiac event
94 does not qualify for the exemption provided in this section
95 unless the cardiac event occurs no later than 24 hours after the
96 first responder performed nonroutine stressful or strenuous
97 physical activity in the line of duty and the first responder
98 provides the employer with competent medical evidence showing
99 that:

100 1. The nonroutine stressful or strenuous activity directly
101 and proximately caused the cardiac event that gave rise to the
102 first responder's total and permanent disability; and

103 2. The cardiac event was not caused by preexisting vascular
104 disease.

105 (4) (a) Any real estate owned and used as a homestead by the
106 surviving spouse of a first responder who died but who had been
107 receiving a tax exemption under subsection (2), is exempt from
108 taxation.

109 (b) The tax exemption provided in paragraph (a) applies as
110 long as the surviving spouse holds the legal or beneficial title
111 to the homestead, permanently resides thereon as specified in s.
112 196.031, and does not remarry. If the surviving spouse sells the
113 property, an exemption not to exceed the amount granted under
114 the most recent ad valorem tax roll may be transferred to the
115 new residence if it is used as the surviving spouse's primary
116 residence and he or she does not remarry.

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2017764c1

117 (5) A first responder may apply for the exemption before
 118 producing the necessary documentation described in paragraphs
 119 (3) (a) or (b). Upon receipt of the documentation, the exemption
 120 shall be granted as of the date of the original application and
 121 the excess taxes paid shall be refunded. Any refund of excess
 122 taxes paid shall be limited to those paid during the 4-year
 123 period of limitation set forth in s. 197.182(1) (e).

124 (6) The provisions of s. 196.011(9) waiving the requirement
 125 that an annual application be submitted to the property
 126 appraiser and providing lien authority are applicable to
 127 applications submitted pursuant to this section.

128 (7) The physician's certification shall read as follows:

129
 130 PHYSICIAN'S CERTIFICATION OF
 131 TOTAL AND PERMANENT DISABILITY
 132

133 I, ... (name of physician) ..., a physician licensed pursuant to
 134 chapter 458 or chapter 459, Florida Statutes, hereby certify
 135 that Mr.....Mrs.....Miss.... Ms..... (applicant name and
 136 social security number) ..., is totally and permanently disabled,
 137 due to the following mental or physical condition(s):

138
 139 It is my professional belief that the above-named condition(s)
 140 render Mr.....Mrs.....Miss.... Ms..... (applicant name)...
 141 totally and permanently disabled, and that the foregoing
 142 statements are true, correct, and complete to the best of my
 143 knowledge and professional belief.

144
 145 Signature....

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2017764c1

146 Address...(print)...

147 Date....

148 Florida Board of Medicine or Osteopathic Medicine license number

149 Issued on.....

150 (8) An employer for whom the first responder worked at the
151 time of the injury must provide a certificate that, at a
152 minimum, attests and includes:

153 (a) The title of the person signing the certificate.

154 (b) The name and address of the employing entity.

155 (c) A description of the incident that caused the injury or
156 injuries.

157 (d) A statement that the first responder's injury or
158 injuries were:

159 1. Directly and proximately caused by service in the line
160 of duty.

161 2. Without willful negligence on the part of the first
162 responder.

163 3. The sole cause of the first responder's total and
164 permanent disability.

165 (9) Any person who knowingly or willfully gives false
166 information for the purpose of claiming homestead exemption as
167 set forth in this section is guilty of a misdemeanor of the
168 first degree, punishable as provided in s. 775.082 or by fine of
169 not more than \$5,000, or both.

170 (10) The Department of Revenue may, and all conditions are
171 deemed to be met to, adopt emergency rules pursuant to ss.
172 120.536(1) and 120.54 to administer the application process for
173 the 2017 calendar year. This subsection is repealed on August
174 30, 2018.

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175 (11) The Department of Revenue may adopt rules to
176 administer this section.

177 (12) Notwithstanding the provisions of ss. 196.011 and
178 196.102, the deadline for a first responder to file an
179 application with the property appraiser for an exemption under
180 s. 196.102 for the 2017 tax year is August 1, 2017. The property
181 appraiser may grant an application for an exemption that is
182 filed untimely if:

183 (a) The applicant is qualified for the exemption; and

184 (b) The applicant produces sufficient evidence, as
185 determined by the property appraiser, which demonstrates that
186 the applicant was unable to apply for the exemption in a timely
187 manner or otherwise demonstrates extenuating circumstances that
188 warrant granting the exemption.

189 (13) If the property appraiser denies an application under
190 subsection (12), the deadline to serve notice setting forth the
191 grounds for denial as provided in s. 196.011(6) (a) is extended
192 to 30 days after the date on which the application for exemption
193 is submitted. A denied applicant may file a petition with the
194 value adjustment board as set forth in s. 194.011(3). The
195 petition must be filed on or before the 25th day after the
196 mailing by the property appraiser during the 2017 calendar year
197 of the notice required under s. 194.011(1). Notwithstanding s.
198 194.013, the eligible first responder is not required to pay a
199 filing fee for such petition. Upon review of the petition, the
200 value adjustment board shall grant the exemption if it
201 determines the applicant is qualified and has demonstrated the
202 existence of extenuating circumstances warranting the exemption.

203 Section 3. This act operates prospectively to the 2017 tax

585-02133A-17

2017764c1

204 roll and does not provide a basis for relief from an assessment
205 of taxes not paid or create a right to a refund of taxes paid
206 before January 1, 2017.

207 Section 4. 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)

3/22/17

Meeting Date

CS/SB 764
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Loren Levy

Job Title General Counsel, Property Appraisers' Ass'n of Florida

Address 1828 Piggins Rd

Phone 850-219-0220

Street

Tallahassee

City

FL

State

32308

Zip

Email paaf@comcast.net

Speaking: For Against Information

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

Representing Property Appraisers' Ass'n 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)

3/22/17

Meeting Date

764

Bill Number (if applicable)

Topic Homestead Exemption

Amendment Barcode (if applicable)

Name Courtney Barker

Job Title City Manager

Address 565 Cassia Blvd

Phone 321-626-9028

Street

Satellite Beach FL

32937

Email cbarker@satellitebeach.org

City

State

Zip

Speaking: For Against Information

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

Representing City of Satellite 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)

3-22-17

Meeting Date

769

Bill Number (if applicable)

Topic TAXES

Amendment Barcode (if applicable)

Name JAMES INGLE

Job Title ELECTRICIAN

Address 3509 NW 22ND DR

Phone 901-483-4800

Street

GAINESVILLE

City

FL

State

32605

Zip

Email

Speaking: For Against Information

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

Representing myself

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

SENATOR DENNIS BAXLEY
12th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Criminal Justice, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and
Human Services
Transportation

SELECT COMMITTEE:
Joint Select Committee on Collective Bargaining

JOINT COMMITTEE:
Joint Legislative Auditing Committee

March 6, 2017

The Honorable Senator Tom Lee
418 Senate Office Building
Tallahassee, Florida 32399

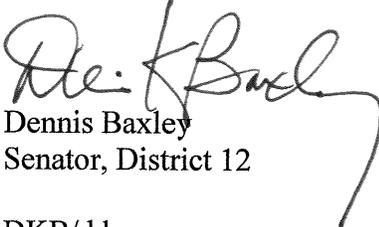
Dear Chairman Lee,

I respectfully request you place Senate Bill 764 Tax Exemptions for First Responders on your next available agenda.

This bill provides an exemption from ad valorem taxation for first responders who are totally and permanently disabled as a result of injuries sustained in the line of duty while serving as a first responder.

I appreciate your favorable consideration.

Onward & Upward,



Dennis Baxley
Senator, District 12

DKB/dd

cc: Tom Yeatman, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1000

INTRODUCER: Senator Campbell

SUBJECT: Firesafety Standards

DATE: March 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Favorable
2.			BI	
3.			RC	

I. Summary:

SB 1000 authorizes certain buildings to have specified balcony guard openings. The bill provides that a building that was constructed and obtained a certificate of occupancy before 1965 may have balcony guard openings that allow passage of a sphere greater than 4 inches in diameter and less than 42 inches high if:

- The guard was approved as a part of the original building design;
- The guard is at least 40 inches high; and,
- The building is designated as a historic property or as a contributing property to a historic district, or is eligible for designation as a local historic property under the local preservation ordinance.

The bill provides that this section supersedes any other contrary provisions in the Florida Fire Prevention Code.

II. Present Situation:

State Fire Prevention – State Fire Marshal

Florida’s fire prevention and control law, ch. 633, F.S., designates the state’s Chief Financial Officer (CFO) as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to firesafety and has the responsibility to minimize the loss of life and property in this state due to fire.¹ Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and firesafety inspectors; investigates the causes of fires; enforces arson laws; regulates the

¹ Section 633.104, F.S.

installation of fire equipment; conducts firesafety inspections of state property; and operates the Florida State Fire College.

In addition to these duties, the State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC), which contains all firesafety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules, at ch. 69A-60, F.A.C. The State Fire Marshal adopts a new edition of the FFPC every three years.² The FFPC includes national firesafety and life safety standards set forth by the National Fire Protection Association (NFPA),³ including the NFPA's Fire Code (1), Life Safety Code (101) and Guide on Alternative Approaches to Life Safety (101A).

Firesafety Enforcement by Local Governments

State law requires all municipalities, counties, and special districts with firesafety responsibilities to enforce the FFPC as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.⁴ These local enforcing authorities may adopt more stringent firesafety standards, subject to certain requirements in s. 633.208, F.S.,⁵ but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.⁶

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and rules within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.⁷ Each county, municipality, and special district with firesafety enforcement responsibilities is also required to employ or contract with a firesafety inspector (certified by the State Fire Marshal) to conduct all firesafety inspections required by law.⁸

The Legislature has recognized that it is not always practical to apply any or all of the provisions of the FFPC and physical limitations may require disproportionate effort or expense with little increase in fire or life safety. Under the minimum firesafety standards, the local fire officials shall apply the applicable firesafety code for existing buildings to the extent practical to ensure a reasonable degree of life safety and safety of property. The local fire officials are also required to

² Section 633.202, F.S.

³ Founded in 1895, the NFPA is a global, nonprofit organization devoted to eliminating death, injury, property and economic loss due to fire, electrical and related hazards. It has developed over 300 voluntary consensus codes and standards in the areas of fire, electrical, and building safety which are widely used by state and local officials. NATIONAL FIRE PROTECTION ASSOCIATION, *About NFPA*, at <http://www.nfpa.org/about-nfpa> (last viewed March 17, 2017). The NFPA states that the Guide on Alternative Approaches to Life Safety "is intended to be used in conjunction with the Life Safety Code (101), not as a substitute." NATIONAL FIRE PROTECTION ASSOCIATION, *NFPA 101A: Guide on Alternative Approaches to Life Safety*, at <http://www.nfpa.org/codes-and-standards/document-information-pages?mode=code&code=101a> (last viewed March 17, 2017).

⁴ Sections 633.108 and 633.208, F.S.

⁵ Section 633.208, F.S.; *see also* s. 633.102(21), F.S., for the definition of "minimum firesafety standard" and Rule 69A-60.002, F.A.C.

⁶ Section 633.214(4), F.S. A list of local amendments to the FFPC is available at DIVISION OF STATE FIRE MARSHAL, *Local Amendments*: <http://www.myfloridacfo.com/division/sfm/BFP/LocalAmendments.htm> (last viewed March 17, 2017).

⁷ Section 633.118, F.S.

⁸ Section 633.216(1), F.S.

fashion reasonable alternatives that afford an equivalent degree of life safety and safety of property.⁹

Guard Requirements

Buildings with balcony guards constructed under the presently adopted FFPC are required to have openings that are less than 4 inches around to avoid small children or animals from passing through them. Buildings that were constructed under a different code edition that did not have this requirement and do not have openings that meet this are not required to update their features unless they undergo significant renovations. At that point, they would be required to update to current code requirements.¹⁰

The FFPC provides the following requirements for guards:

- Guards in accordance with 7.2.2.4 shall be provided at the open sides of means of egress that exceed 30 in. (760 mm) above the floor or the finished ground level below.¹¹
- The height of guards required in 7.1.8 shall be measured vertically to the top of the guard from the surface adjacent thereto.¹²
- Guards shall be not less than 42 in. (1065 mm) high, except as permitted by one of the following:¹³
 - Existing guards within dwelling units shall be permitted to be not less than 36 in. (915 mm) high.
 - The requirement of 7.2.2.4.5.2 shall not apply in assembly occupancies where otherwise provided in chs. 12 and 13.
 - Existing guards on existing stairs shall be permitted to be not less than 30 in. (760 mm) high.
- Open guards, other than approved existing open guards, shall have intermediate rails or an ornamental pattern such that a sphere 4 in. (100 mm) in diameter is not able to pass through any opening up to a height of 34 in. (865 mm), and the following also shall apply:¹⁴
 - The triangular openings formed by the riser, tread, and bottom element of a guardrail at the open side of a stair shall be of such size that a sphere 6 in. (150 mm) in diameter is not able to pass through the triangular opening.
 - In detention and correctional occupancies, in industrial occupancies, and in storage occupancies, the clear distance between intermediate rails, measured at right angles to the rails, shall not exceed 21 in. (535 mm).

III. Effect of Proposed Changes:

The bill provides that a building that was constructed and obtained a certificate of occupancy before 1965 may have balcony guard openings that allow passage of a sphere greater than 4 inches in diameter and less than 42 inches high if:

⁹ Section 633.208, F.S.

¹⁰ Department of Financial Services, State Fire Marshal, *Senate Bill 1000 Analysis* (Feb. 23, 2017) (on file with the Senate Community Affairs Committee).

¹¹ FFPC 101:7.1.8, Guards (2012 Edition). Elements of the means of egress that might require protection with guards include stairs, landings, escalators, moving walks, balconies, corridors, passageways, floor or roof openings, ramps, aisles, porches, and mezzanines.¹¹

¹² FFPC 101:7.2.2.4.5.1, Guard Details (2012 Edition).

¹³ FFPC 101:7.2.2.4.5.2, Guard Details (2012 Edition)

¹⁴ FFPC 101:7.2.2.4.5.3, Guard Details (2012 Edition).

- The guard was approved as a part of the original building design;
- The guard is at least 40 inches high; and,
- The building is designated as a historic property or as a contributing property to a historic district, or is eligible for designation as a local historic property under the local preservation ordinance.

The bill provides that this section supersedes any other contrary provisions in the Florida Fire Prevention Code.

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 bill will provide relief to any private citizen or entity with a historic home who will not have expend funds to replace or repair any balcony guard openings that previously did not satisfy firesafety standards.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill allows for guard openings that allow passage of a sphere greater than 4 inches in diameter, but does not provide for a maximum measurement of distance between guards.

VIII. Statutes Affected:

This bill substantially amends section 633.208 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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



444966

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/22/2017	.	
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	.	

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

Senate Amendment

Delete lines 15 - 19

and insert:

diameter and that are less than 42 inches high if:

1. The guard was approved as a part of the original building design;

2. The guard is at least 40 inches high;

3. The guard openings are protected by a security measure approved by the local jurisdiction, which may include, but is



444966

11 not limited to, mesh or a lattice; and

12 4. The building is designated as a historic property or as

By Senator Campbell

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A bill to be entitled
An act relating to firesafety standards; amending s.
633.208, F.S.; authorizing certain buildings to have
specified balcony guard openings; providing
construction; providing an effective date.

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

Section 1. Subsection (11) is added to section 633.208,
Florida Statutes, to read:

633.208 Minimum firesafety standards.-

(11) (a) A building that was constructed and obtained a
certificate of occupancy before 1965 may have balcony guard
openings that allow passage of a sphere greater than 4 inches in
diameter and less than 42 inches high if:

1. The guard was approved as a part of the original
building design;

2. The guard is at least 40 inches high; and

3. The building is designated as a historic property or as
a contributing property to a historic district, or is eligible
for designation as a local historic property under the local
preservation ordinance.

(b) This subsection supersedes any other contrary
provisions in the Florida Fire Prevention Code.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Community Affairs

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR DAPHNE CAMPBELL

38th District

March 16, 2017

The Honorable Senator Tom Lee
Chair, Community Affairs
418 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

The Honorable Senator Daphne Campbell
District 38, Florida Senate
218 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Lee,

Please consider this letter my formal request to have SB 1000, relating Firesafety Standards, placed on the agenda for the next scheduled meeting of the Community Affairs.

SB 1000 authorizes certain designated historic property or a contributing property to a historic district, to maintain balcony guard openings greater than 4 inches in diameter, if the guard was approved as part of the original building design. This bill will preserve the architectural and design integrity of historically significant buildings.

If you have any questions, please feel free to contact my office at 850-487-5038.

Sincerely,

A handwritten signature in cursive script that reads "D Campbell".

Senator Daphne Campbell
District 38, Florida Senate

cc: Tom Yeatman, Staff Director

REPLY TO:

- 633 N.E. 167th Street, Suite 1101, North Miami Beach, Florida 33162 (305) 493-6009
- 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1770

INTRODUCER: Senator Lee

SUBJECT: Community Redevelopment Agencies

DATE: March 21, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Pre-meeting
2.			ATD	
3.			AP	
4.			RC	

I. Summary:

SB 1770 makes numerous changes to ch. 163, F.S., relating to Community Redevelopment Agencies (CRAs).

The bill provides for the eventual phase-out of CRAs in existence on July 1, 2017, at the earlier of the expiration date stated in the CRA’s charter or on September 30, 2037, with the exception of those CRAs with any outstanding bond obligations. Additionally, on or after July 1, 2017, the governing body of a county or municipality may create a CRA only by a super majority vote of the members of the governing body of the county or municipality.

The bill increases accountability and transparency for CRAs by:

- Requiring the commissioners of a CRA to undergo 4 hours of ethics training annually;
- Requiring each CRA to use the same procurement and purchasing processes as the creating county or municipality;
- Expanding the annual reporting requirements for CRAs to include audit information and performance data and requiring the information and data to be published on the agency website;
- Providing that moneys in the redevelopment trust fund may only be expended pursuant to an annual budget adopted by the board of commissioners of the CRA and only for those purposes specified in current law beginning July 1, 2017;
- Requiring a CRA created by a municipality to provide its proposed budget, and any amendments to the budget, to the board of county commissioners for the county in which the CRA is located 60 days before the start of the CRA’s fiscal year; and
- Requiring counties and municipalities to include CRA data in their annual financial report.

The bill also provides a process for the Department of Economic Opportunity (DEO) to declare a CRA inactive if it has no revenue, expenditures, and debt for 3 consecutive fiscal years.

II. Present Situation:

The Community Redevelopment Act

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

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

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

Creation of Community Redevelopment Agencies

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

A county or municipality may create a CRA upon the adoption of a finding of necessity and a finding that a CRA is necessary for carrying out the community redevelopment goals embodied by the Act.⁶ A CRA created by a county may only operate within the boundaries of a municipality when the municipality has concurred by resolution with the community redevelopment plan adopted by the county. A CRA created by a municipality may not include more than 80 percent of the municipality if it was created after July 1, 2006.⁷

¹ Chapter 163, F.S., part III.

² Section 163.340(8), F.S.

³ Section 163.340(7), F.S.

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

⁵ *Id.*

⁶ Section 163.356(1), F.S.

⁷ Section 163.340(10), F.S.

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

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

As of March 1, 2017, there are 222 CRAs in Florida, which is a 30 percent increase over the past decade.¹¹

Community Redevelopment Agency Boards

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

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

The second option is for the local governing body to appoint itself as the agency board of commissioners.¹⁷ If the local governing body consists of five members, the local governing body may appoint two additional members to 4-year terms.¹⁸ The additional members must meet the selection criteria for appointed board members under s. 163.356, F.S., or be representatives of

⁸ Section 163.410, F.S.

⁹ *Id.*

¹⁰ Section 163.415, F.S.

¹¹ Compare Dept. of Economic Opportunity, Special District Accountability Program, Official List of Special Districts Online, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Mar. 17, 2017) (222 active CRAs as of Mar. 1, 2017) with Bill Analysis for HB 1583 (2006) (stating there were 171 CRAs in operation as of Mar. 26, 2006).

¹² Section 163.356(2), F.S.

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

¹⁴ Section 163.356(3)(c), F.S.

¹⁵ Section 163.356(3)(a), F.S.

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

¹⁷ Section 163.357(1)(a), F.S.

¹⁸ Section 163.357(1)(c), F.S.

another taxing authority within the agency's area of operation, subject to an interlocal agreement between the local governing body creating the CRA and the other taxing authority.¹⁹

As of March 1, 2017, the local governing body creating the CRA serves as the CRA board for 155 of the 222 active CRAs.²⁰

Community Redevelopment Agency Operations

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

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

Community Redevelopment Plans

A community redevelopment plan must be in place before a CRA can engage in operations.²⁵ The county, municipality, the CRA itself, or members of the public may submit the plan and the CRA then chooses which plan it will use as its community redevelopment plan.²⁶ Next, the CRA must submit the plan to the local planning agency for review before the plan can be considered.²⁷ The local planning agency must complete its review within 60 days.

The CRA must submit the community redevelopment plan to the governing body that created the CRA as well as each taxing authority that levies ad valorem taxes on taxable real property contained in the boundaries of the CRA.²⁸ The local governing body that created the CRA must hold a public hearing before the plan is approved.²⁹

To approve the plan, the local governing body must make findings as specified in s. 163.370(7), F.S. The community redevelopment plan must also:

- Conform to the comprehensive plan for the county or municipality;

¹⁹ Section 163.357(1)(c)-(d), F.S.

²⁰ Dept. of Economic Opportunity, Special District Accountability Program, Official List of Special Districts Online, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Mar. 17, 2017).

²¹ Section 163.356(3)(b), F.S.

²² Section 163.356(3)(c), F.S.

²³ *Id.*

²⁴ *Id.*

²⁵ Section 163.360(1), F.S.

²⁶ Section 163.360(4), F.S.

²⁷ *Id.*

²⁸ Section 163.360(5), F.S.

²⁹ Section 163.360(6), F.S.

- Indicate land acquisition, demolition, and removal of structures; redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area; zoning and planning changes, if any; land uses; maximum densities; and building requirements; and
- Provide for the development of affordable housing in the area, or state the reasons for not addressing in the plan the development of affordable housing.³⁰

Redevelopment Trust Fund

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

- The amount of ad valorem taxes levied in the current year by each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area; and
- The amount of ad valorem taxes that would have been produced by levying the current year's millage rate for each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area at the total assessed value of the taxable real property prior to the effective rate of the ordinance providing for the redevelopment trust fund.³¹

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

The TIF authority of a CRA may be limited in certain circumstances.³²

Each taxing authority must transfer TIF funds to the redevelopment trust fund of the CRA by January 1 of each year.³³ For CRA's created before July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for the lesser of 60 years from when the community redevelopment plan was adopted or 30 years from when it was amended. For CRA's created on or after July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for 40 years from when the community redevelopment plan was adopted. If there are any outstanding loans, advances, or indebtedness at the conclusion of these time periods, the local governing body that created the CRA must continue transfers to the redevelopment trust fund until the debt has been paid.³⁴

If a taxing authority does not transfer the TIF funds to the redevelopment trust fund, the taxing authority is required to pay a penalty of 5 percent of the TIF amount to the trust fund as well as 1 percent interest per month for the outstanding amount.³⁵ A CRA may choose to waive these penalties in whole or in part.

³⁰ Section 163.360(2), F.S.

³¹ Section 163.387(1)(a), F.S.

³² Section 163.387(1)(b)1. and 2., F.S.

³³ Section 163.387(2)(a), F.S.

³⁴ Section 163.387(3)(a), F.S.

³⁵ Section 163.387(2)(b), F.S.

Certain taxing authorities are exempt from contributing to the redevelopment trust fund.³⁶

Additionally, the local governing body creating the CRA may choose to exempt other special districts levying ad valorem taxes in the community redevelopment area.³⁷

Any revenue bonds issued by the CRA are payable from revenues pledged to and received by the CRA and deposited into the redevelopment trust fund.³⁸ The lien created by the revenue bonds does not attach to the bonds until the revenues are deposited in the redevelopment trust fund and do not grant bondholders any right to require taxation in order to retire the bond. Revenue bonds issued by a CRA are not a liability of the state or any political subdivision of the state and this status must be made clear on the face of the bond.³⁹

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

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

- Returned to each taxing authority on a pro rata basis;
- Used to reduce the amount of any indebtedness to which increment revenues are pledged;
- Deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or
- Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan and the project must be completed within 3 years from the date of such appropriation.⁴⁰

Each CRA is required to provide for an annual audit of its redevelopment trust fund, conducted by an independent certified public accountant or firm.⁴¹

CRA Oversight and Accountability

Miami-Dade County Grand Jury Report

A Miami-Dade County grand jury issued a report in 2016 after “learning of several examples of mismanagement of large amounts of public dollars” by CRAs.⁴² The report found that some CRA boards were “spending large amounts of taxpayer dollars on what appeared to be pet projects of elected officials” and “there is a significant danger of CRA funds being used as a slush fund for elected officials.”⁴³ In the event funds were misused, the report found that the Act lacked any accountability and enforcement measures.

³⁶ Section 163.387(2)(c), F.S.

³⁷ Section 163.387(2)(d), F.S.

³⁸ Section 163.387(4), F.S.

³⁹ Section 163.387(5), F.S.

⁴⁰ Section 163.387(7), F.S.

⁴¹ Section 163.387(8), F.S.

⁴² Miami-Dade County Grand Jury, Final Report for Spring Term A.D. 2015, at 1, available at https://www.miamisao.com/publications/grand_jury/2000s/gj2015s.pdf (filed Feb. 3, 2016).

⁴³ *Id.* at 7.

The report noted that while county and municipal governments may not pledge ad valorem tax proceeds to finance bonds without voter approval, the board of a CRA can pledge TIF funds to finance bonds without any public input.⁴⁴

The grand jury found that redevelopment trust fund money was often used “without the exercise of any process of due diligence, without justification and without recourse.”⁴⁵ The report notes that the Act does not provide guidelines for the proper use of CRA funds, resulting in questionable expenditures.⁴⁶ For example, one CRA highlighted in the report spent \$300,000 of its \$400,000 budget on administrative expenses. The report also found examples of the CRA funds being used to fund fairs, carnivals, and other community entertainment events.⁴⁷ Additionally, the report found that funds may have been misused as part of the CRA contracting process since there is no specified procurement process for CRAs.⁴⁸

While the Act states affordable housing is one of the three primary purposes for the existence of CRAs, the report found that the provision of affordable housing by CRAs “appears to be the exception and not the rule.”⁴⁹ The report stated that while CRAs cite prohibitive costs as a reason for not developing affordable housing, funds are often used for other purposes.⁵⁰ Some CRAs have requested that their boundaries be extended to include areas for low-income housing while not providing any affordable housing.⁵¹ Some CRA board members have stated the agencies do not focus on affordable housing because it does not produce sufficient revenue.⁵²

Another area of concern for the grand jury was a focus on removing blight by improving the appearance of commercial areas, but leaving slum conditions in place, particularly in the form of multi-family housing that is “unsafe, unsanitary, and overcrowded.”⁵³ The grand jury points to news coverage of some apartment buildings with overflowing toilets and frequent losses of power due to the need for repairs. The report notes the contrast between these conditions and the use of some CRA proceeds to “fund ball stadiums, performing arts centers[,] and dog parks.”⁵⁴

The grand jury report also notes that while a finding of necessity is required for creating a CRA, there is no process for determining whether the mission of the CRA has been fulfilled.⁵⁵

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

- Requiring all CRA boards to contain members of the community;
- Imposing a cap on annual CRA expenditures used for administrative costs;

⁴⁴ *Id.* at 9.

⁴⁵ *Id.* at 14.

⁴⁶ *Id.* at 15.

⁴⁷ *Id.* at 16.

⁴⁸ *Id.* at 17.

⁴⁹ *Id.* at 19.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* at 20.

⁵³ *Id.* at 22.

⁵⁴ *Id.*

⁵⁵ *Id.* at 32.

- Requiring CRAs to adopt procurement guidelines that mirror those of the associated county or municipality;
- Requiring each CRA to submit its budget to the county commission with sufficient time for full consideration;
- Setting aside a percentage of TIF revenue for affordable housing; and
- Imposing ethics training requirements.⁵⁶

Broward County Inspector General Reports

The Broward County Office of the Inspector General has conducted two investigations into CRA operations in the past five years: Hallandale Beach CRA in 2013⁵⁷ and Margate CRA in 2014.⁵⁸ The investigation into the Hallandale Beach CRA showed that the agency failed to create a trust fund and that the city commission failed to operate the CRA as an entity separate from the city.⁵⁹ The former executive director of the CRA stated the city had “free reign” to use funds from the CRA’s account.⁶⁰ The report found over \$2 million of questionable expenditures by the Hallandale Beach CRA between 2007 and 2012, including \$125,000 in inappropriate loans and \$152,494 spent on “civic promotions such as festivals and fireworks displays.”⁶¹ After some of these issues were brought to the attention of the city and the CRA, the CRA continued working on a funding plan that included spending \$5,347,000 on two parks outside of the boundaries of the CRA. The report also found that CRA paid “substantially more than its appraised value” to purchase a property owned by a church whose pastor was a city commissioner at the time.⁶²

The investigation of the Margate CRA showed a failure to properly allocate TIF funds received from the county and other taxing authorities.⁶³ While the CRA stated unused funds were not returned because they were allocated for a specific project, the investigation showed the agency had a pattern of intentionally retaining excess unallocated funds for later use.⁶⁴ This pattern of misuse had resulted in a debt to the county of approximately \$2.7 million for fiscal years 2008-2012.⁶⁵

⁵⁶ *Id.* at 34-36.

⁵⁷ Broward Office of the Inspector Gen., Final Report Re: Gross Mismanagement of Public Funds by the City of Hallandale Beach and the Hallandale Beach Community Redevelopment Agency, OIG 11-020, available at <http://www.broward.org/InspectorGeneral/PublicationsPress/Documents/OIG11020-201405219-BrownMemo.pdf> (Apr. 18, 2013).

⁵⁸ Broward Office of the Inspector Gen., Final Report Re: Misconduct by the Margate Community Redevelopment Agency in the Handling of Taxpayer Funds, OIG 13-015A, available at <http://www.broward.org/InspectorGeneral/Documents/OIG13015AMargateCRAFinalReport.pdf> (July 22, 2014).

⁵⁹ City of Hallandale Beach, *supra* note 62, at 1.

⁶⁰ *Id.* at 28.

⁶¹ *Id.* at 1.

⁶² *Id.* at 2.

⁶³ Margate Community Redevelopment Agency, *supra* note 63, at 1.

⁶⁴ *Id.*

⁶⁵ *Id.* at 2.

Auditor General Report

The Auditor General is required to conduct a performance audit of the local government financial information reporting system every 3 years.⁶⁶ As part of the most recent performance audit, the Auditor General made five findings concerning CRAs:

- Current law could be enhanced to be more specific as to the types of expenditures that qualify for undertakings of a CRA.
- Current law could be enhanced to provide county taxing authorities more control over expenditures of CRAs created by municipalities to help ensure that CRA trust fund moneys are used appropriately.
- Current law could be revised to require all CRAs, including those created before October 1, 1984, to follow the statutory requirements governing the specific authorized uses of CRA trust fund moneys.
- Current law could be enhanced to allow CRAs to provide for reserves of unexpended CRA trust fund balances to be used during financial downturns.
- Current law could be enhanced to promote compliance with the audit requirement in s. 163.387(8), F.S., and to require such audits to include a determination of compliance with laws pertaining to expenditure of, and disposition of unused, CRA trust fund moneys.⁶⁷

Ethics Training Requirements for Public Officials

Constitutional officers and all elected municipal officers must complete 4 hours of ethics training on an annual basis.⁶⁸ The required ethics training must include instruction on Art. II, s. 8 of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws. This requirement may be met by attending a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

Inactive Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO must declare that district inactive by following a specified process.⁶⁹ The DEO must first document the factual basis for declaring the district inactive.

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

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
 - Provides DEO with written notice that the district has taken no action for 2 or more years;

⁶⁶ Section 11.45(2)(g), F.S.

⁶⁷ Florida Auditor Gen., Report No. 2015-037, p. 1, available at http://www.myflorida.com/audgen/pages/pdf_files/2015-037.pdf (Oct. 2014).

⁶⁸ Section 112.3142, F.S. A "constitutional officer" is defined as the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.

⁶⁹ Section 189.062(1), F.S.

- Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years; or
- Fails to respond to an inquiry by DEO within 21 days.⁷⁰
- Following statutory procedure,⁷¹ DEO determines the district failed to file specified reports,⁷² including required financial reports.⁷³
- For more than 1 year, no registered office or agent for the district was on file with DEO.⁷⁴
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.⁷⁵

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.⁷⁶ After declaring certain special districts inactive, DEO must send written notice of the declaration to the authorities that created the district. The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district and any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.⁷⁷

A district declared inactive may not collect taxes, fees, or assessments.⁷⁸ This prohibition continues until the declaration of invalid status is withdrawn or revoked by DEO⁷⁹ or invalidated in an administrative proceeding⁸⁰ or civil action⁸¹ timely brought by the governing body of the special district.⁸² Failure of the special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.⁸³

⁷⁰ Section 189.062(1)(a)1.-3., F.S.

⁷¹ Section 189.067, F.S.

⁷² Section 189.066, F.S.

⁷³ Section 189.062(1)(a)4., F.S. See, ss. 189.016(9), 218.32, 218.39, F.S.

⁷⁴ Section 189.062(1)(a)5., F.S.

⁷⁵ Section 189.062(1)(a)6., F.S.

⁷⁶ Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district's registered agent or chair of the district's governing body, if any.

⁷⁷ Section 189.062(2), F.S.

⁷⁸ Section 189.062(5), F.S.

⁷⁹ Section 189.062(5)(a), F.S.

⁸⁰ Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

⁸¹ Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

⁸² The special district must initiate the legal challenge within 30 days after the date the written notice of DEO's declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.

⁸³ Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature⁸⁴ or the entity that created the district.⁸⁵

Annual Financial Reports for Local Government Entities

Counties, municipalities, and special districts must submit an annual financial report for the previous fiscal year to the Department of Financial Services (DFS).⁸⁶ The report must include component units of the local government entity submitting the report. If a local government entity is required to conduct an audit under s. 218.39, F.S., for the fiscal year, the annual financial report, as well as a copy of the audit report, must be submitted to DFS within 45 days of completion of the audit report, but no later than 9 months after the end of the fiscal year. If the local government entity is not required to conduct an audit under s. 218.39, F.S., for the fiscal year, the annual financial report is due no later than 9 months after the end of the fiscal year. Each local government must provide a link to the annual audit report on its website.

III. Effect of Proposed Changes:

Section 1 amends s. 163.356, F.S., to conform a cross-reference for the reporting requirements created under s. 163.371, F.S.

Section 2 amends s. 163.367, F.S., to provide that commissioners of a CRA must comply with the ethics training requirements in s. 112.3142, F.S. The requirements include mandating that officers complete 4 hours of ethics training each calendar year.

Section 3 amends s. 163.370, F.S., to require a CRA to procure all commodities and services under the same purchasing processes and requirements that apply to the county or municipality that created the agency.

Section 4 creates s. 163.371, F.S., to provide reporting requirements for CRAs. Specifically, the section requires each CRA to submit an annual report to the county or municipality that created the agency by March 31 of each year and to publish the report to the agency's website. The report must include the most recent complete audit report of the redevelopment trust fund and provide performance data for each community redevelopment plan authorized, administered, or overseen by the CRA. The performance data report must include the following information as of December 31 of the year being reported:

- The total number of projects the CRA started and completed, and the estimated cost of each project;
- The total expenditures from the redevelopment trust fund;
- The number of jobs created within the CRA's area of authority
- The sector of the economy to which the new jobs pertain;
- The number of jobs retained within the CRA's area of authority;

⁸⁴ Sections 189.071(3), 189.072(3), F.S.

⁸⁵ Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

⁸⁶ Section 218.32, F.S.

- The original assessed real property values within the CRA's area of authority as of the day the agency was created;
- The total assessed real property values within the CRA's area of authority as of January 1 of the year being reported; and
- The total amount expended for affordable housing for low- and middle-income residents.

By January 1, 2018, each CRA must publish digital maps on its website depicting the geographic boundaries and the total acreage of the CRA. If any change is made to the boundaries or total acreage, the CRA must post the updated map files on its website within 60 days after the date such change takes effect.

Section 5 creates s. 163.3755, F.S., to provide for the termination and future creations of CRAs. Specifically, the section provides for the termination of CRAs in existence on July 1, 2017, on the expiration date stated in the agency's charter or on September 30, 2037. The CRA will terminate on whichever date is earlier.

Additionally, a CRA with outstanding bond obligations as of July 1, 2017, which do not mature until after the earlier of the termination date of the agency or September 30, 2037, the CRA remains in existence until the bonds mature. A CRA in operation on or after September 30, 2037, may not extend the maturity date of its outstanding bonds.

The county or municipality that created the CRA must issue a new finding of necessity that is limited to meeting the remaining bond obligations of the CRA in a timely manner.

On or after July 1, 2017, the governing body of a county or municipality may create a CRA only by a super majority vote of the members of the governing body of the county or municipality. However, a CRA in existence before July 1, 2017, may continue to operate.

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

The Department of Economic Opportunity must declare inactive any CRA reporting no revenues, no expenditures, and no debt for 3 consecutive fiscal years with the calculation beginning on October 1, 2014. The DEO must notify the CRA of the declaration of inactive status. If the CRA has no board members or no agent, the DEO must notify the governing board or commission of the county or municipality that created the CRA. The governing board of a CRA declared inactive by this procedure may seek to invalidate the declaration by initiating proceedings under s. 189.062(5), F.S., within 30 days after the date of receipt of the DEO notice.

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

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

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

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

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

Beginning July 1, 2017, money in the redevelopment trust fund may be expended for undertakings of the CRA as described in the community redevelopment plan pursuant to an annual budget adopted by the board of commissioners of the CRA and for the following purposes:⁸⁷

- Administrative and overhead expenses directly or indirectly necessary to implement a CRA plan adopted by the agency.
- Expenses of redevelopment planning, surveys, and financial analysis.
- The acquisition of real property in the redevelopment area.
- The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the CRA.
- The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.
- All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness.
- The development of affordable housing with the CRA.
- The development of community policing innovations.

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

Additionally, a CRA created by a municipality must:

- Adopt a proposed budget within 90 days before the start of its fiscal year.
- Submit its proposed budget and projections for the next fiscal year to the board of county commissioners for the county in which the CRA is located within 60 days before the start of the CRA's fiscal year.
- Submit amendments to the CRA's operating budget to the board of county commissioners of the county in which the CRA is located within 10 days after the date of the adoption of the amended budget.

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

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

⁸⁷ The only new purpose provided under this section is the administrative and overhead expenses. The other purposes exist under current law. However, current law provides that CRAs are authorized, but not limited, to using money for these other purposes. The bill strictly limits CRAs to the listed purposes only.

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

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

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

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

Section 9 provides that the act takes effect on July 1, 2017.

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 would increase revenue to some local governments to the extent ad valorem taxation that would otherwise be received by those governments is currently deposited in the redevelopment trust fund.

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

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

It appears line 173 should read, "If the agency has no board members and no agent" rather than no board members or no agent. As it currently reads, even if the agency has a board member but does not have an agent or has an agent but does not have a board member, the notice of inactive status must be delivered to the governing board or commission of the county or municipality that created the CRA.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.356, 163.367, 263.370, 163.387, and 218.32.

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

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



452384

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 138 - 142

and insert:

(1) Unless the governing body of the county or municipality which created the community redevelopment agency approves its continued existence by a super majority vote of the governing body members, a community redevelopment agency in existence on July 1, 2017, shall terminate on the expiration date provided in the community redevelopment agency's charter as it exists on



452384

11 July 1, 2017, or on September 30, 2037, whichever is earlier.
12 (2) (a) If the governing body of the county or municipality
13 which created the community redevelopment agency does not
14 approve its continued existence by a super majority vote of the
15 governing body members, a community

16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete line 13

20 and insert:

21 existing community redevelopment agencies unless their
22 continued existence is approved by a super majority
23 vote of the governing bodies of the counties or
24 municipalities which created them; providing a



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete line 173
and insert:
subsection. If the agency has no board members and no agent, the



818196

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete line 201

and insert:

(6) Beginning October 1, 2017, moneys in the redevelopment

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

And the title is amended as follows:



818196

11 Delete line 30
12 and insert:
13 trust fund proceeds beginning on a specified date;
14 limiting allowed expenditures;

By Senator Lee

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1 A bill to be entitled
2 An act relating to community redevelopment agencies;
3 amending s. 163.356, F.S.; providing reporting
4 requirements; deleting provisions requiring certain
5 annual reports; amending s. 163.367, F.S.; requiring
6 ethics training for community redevelopment agency
7 commissioners; amending s. 163.370, F.S.; establishing
8 procurement procedures; creating s. 163.371, F.S.;
9 providing annual reporting requirements; requiring a
10 community redevelopment agency to publish annual
11 reports and boundary maps on its website; creating s.
12 163.3755, F.S.; providing a phase-out period for
13 existing community redevelopment agencies; providing a
14 limited exception for community redevelopment agencies
15 with certain outstanding bond obligations; providing
16 that a governing body of a county or municipality may
17 create a community redevelopment agency only by a
18 super majority vote on or after a specified date;
19 creating s. 163.3756, F.S.; providing legislative
20 findings; requiring the Department of Economic
21 Opportunity to declare inactive community
22 redevelopment agencies that have reported no financial
23 activity for a specified number of years; providing
24 hearing procedures; authorizing certain financial
25 activity by a community redevelopment agency that is
26 declared inactive; requiring the department to
27 maintain a website identifying all inactive community
28 redevelopment agencies; amending s. 163.387, F.S.;
29 revising requirements for the use of the redevelopment

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30 trust fund proceeds; limiting allowed expenditures;
31 revising requirements for the annual budget of a
32 community redevelopment agency; requiring municipal
33 community redevelopment agencies to provide an annual
34 budget to the county commission; revising requirements
35 for the annual audit; requiring the audit to be
36 included with the financial report of the county or
37 municipality that created the community redevelopment
38 agency; amending s. 218.32, F.S.; requiring county and
39 municipal governments to report community
40 redevelopment agency annual audit reports as part of
41 the county or municipal annual report; revising
42 criteria for finding that a county or municipality
43 failed to file a report; requiring the Department of
44 Financial Services to provide a report to the
45 Department of Economic Opportunity concerning
46 community redevelopment agencies with no revenues,
47 expenditures, or debts; providing an effective date.

48

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

50

51 Section 1. Paragraphs (c) and (d) of subsection (3) of
52 section 163.356, Florida Statutes, are amended to read:

53 163.356 Creation of community redevelopment agency.—

54 (3)(c) The governing body of the county or municipality
55 shall designate a chair and vice chair from among the
56 commissioners. An agency may employ an executive director,
57 technical experts, and such other agents and employees,
58 permanent and temporary, as it requires, and determine their

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

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

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

81 Section 2. Subsection (1) of section 163.367, Florida
82 Statutes, is amended to read:

83 163.367 Public officials, commissioners, and employees
84 subject to code of ethics.—

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

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88 the provisions and requirements of part III of chapter 112.

89 (b) Commissioners of a community redevelopment agency must
 90 comply with the ethics training requirements in s. 112.3142.

91 Section 3. Subsection (5) is added to section 163.370,
 92 Florida Statutes, to read:

93 163.370 Powers; counties and municipalities; community
 94 redevelopment agencies.—

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

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

101 163.371 Reporting requirements.—

102 (1) Beginning March 31, 2018, and no later than March 31 of
 103 each year thereafter, a community redevelopment agency shall
 104 file an annual report with the county or municipality that
 105 created the agency and publish the information on the agency's
 106 website. The report must include the following information:

107 (a) A complete audit report of the redevelopment trust fund
 108 pursuant to s. 163.387(8).

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

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

114 2. Total expenditures from the redevelopment trust fund.

115 3. Number of jobs created within the community
 116 redevelopment agency's area of authority.

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117 4. Sector of the economy to which the new jobs pertain.

118 5. Number of jobs retained in the area within the community
119 redevelopment agency's authority.

120 6. Original assessed real property values within the
121 community redevelopment agency's area of authority as of the day
122 the agency was created.

123 7. Total assessed real property values of property within
124 the boundaries of the community redevelopment agency as of
125 January 1 of the year being reported.

126 8. Total amount expended for affordable housing for low-
127 income and middle-income residents.

128 (2) By January 1, 2018, each community redevelopment agency
129 shall publish on its website digital maps that depict the
130 geographic boundaries and total acreage of the community
131 redevelopment agency. If any change is made to the boundaries or
132 total acreage, the agency shall post updated map files on its
133 website within 60 days after the date such change takes effect.

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

136 163.3755 Termination of community redevelopment agencies;
137 future creation.-

138 (1) A community redevelopment agency in existence on July
139 1, 2017, shall terminate on the expiration date provided in the
140 community redevelopment agency's charter as it exists on July 1,
141 2017, or on September 30, 2037, whichever is earlier.

142 (2) (a) Notwithstanding subsection (1), a community
143 redevelopment agency with outstanding bonds as of July 1, 2017,
144 which do not mature until after the earlier of the termination
145 date of the agency or September 30, 2037, remains in existence

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146 until the date the bonds mature.

147 (b) A community redevelopment agency operating under this
148 subsection on or after September 30, 2037, may not extend the
149 maturity date of any outstanding bonds.

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

154 (3) On or after July 1, 2017, the governing body of a
155 county or municipality may create a community redevelopment
156 agency only by a super majority vote of the members of the
157 governing body of the county or municipality. A community
158 redevelopment agency in existence before July 1, 2017, may
159 continue to operate as provided in this part.

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

162 163.3756 Inactive community redevelopment agencies.—

163 (1) The Legislature finds that a number of community
164 redevelopment agencies continue to exist but report no revenues,
165 no expenditures, and no outstanding debt in their annual report
166 to the Department of Financial Services pursuant to s. 218.32.

167 (2) (a) A community redevelopment agency that has reported
168 no revenues, expenditures, or debt under s. 218.32 or s.
169 189.016(9) for 3 consecutive fiscal years calculated from no
170 earlier than October 1, 2014, shall be declared inactive by the
171 Department of Economic Opportunity. The department shall notify
172 the agency of the declaration of inactive status under this
173 subsection. If the agency has no board members or no agent, the
174 notice of inactive status must be delivered to the governing

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175 board or commission of the county or municipality which created
176 the agency.

177 (b) The governing board of a community redevelopment agency
178 declared inactive under this subsection may seek to invalidate
179 the declaration by initiating proceedings under s. 189.062(5)
180 within 30 days after the date of the receipt of the notice from
181 the department.

182 (3) A community redevelopment agency declared inactive
183 under this section is authorized only to expend funds from the
184 redevelopment trust fund as necessary to service outstanding
185 bond debt. The agency may not expend other funds without an
186 ordinance of the governing body of the local government which
187 created the agency consenting to the expenditure of funds.

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

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

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

198 Section 7. Subsections (6) and (8) of section 163.387,
199 Florida Statutes, are amended to read:

200 163.387 Redevelopment trust fund.—

201 (6) Beginning July 1, 2017, moneys in the redevelopment
202 trust fund may be expended ~~from time to time~~ for undertakings of
203 a community redevelopment agency as described in the community

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204 redevelopment plan only pursuant to an annual budget adopted by
205 the board of commissioners of the community redevelopment agency
206 and only for the following purposes stated in this subsection.~~7~~
207 ~~including, but not limited to:~~

208 (a) Except as provided in this subsection, a community
209 redevelopment agency shall comply with the requirements of s.
210 189.016.

211 (b) A community redevelopment agency created by a
212 municipality shall:

213 1. Adopt its proposed budget within 90 days before the
214 beginning of its fiscal year.

215 2. Submit its proposed budget and projections for the next
216 fiscal year to the board of county commissioners for the county
217 in which the community redevelopment agency is located within 60
218 days before the start of the agency's fiscal year.

219 3. Submit amendments to its operating budget to the board
220 of county commissioners of the county in which the community
221 redevelopment agency is located within 10 days after the date of
222 adoption of the amended budget ~~Administrative and overhead~~
223 ~~expenses necessary or incidental to the implementation of a~~
224 ~~community redevelopment plan adopted by the agency.~~

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

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

230 2.~~(b)~~ Expenses of redevelopment planning, surveys, and
231 financial analysis, including the reimbursement of the governing
232 body or the community redevelopment agency for such expenses

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233 incurred before the redevelopment plan was approved and adopted.

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

236 4.~~(d)~~ The clearance and preparation of any redevelopment
237 area for redevelopment and relocation of site occupants within
238 or outside the community redevelopment area as provided in s.
239 163.370.

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

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

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

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

252 (8) (a) Each community redevelopment agency shall provide
253 for an audit of the trust fund each fiscal year and a report of
254 such audit to be prepared by an independent certified public
255 accountant or firm.

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

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

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262 2. Include a complete financial statement identifying the
263 assets, liabilities, income, and operating expenses of the
264 community redevelopment agency as of the end of such fiscal
265 year.

266 3. Include a finding by the auditor determining whether the
267 community redevelopment agency complies with the requirements of
268 subsection (7).

269 (c) The audit report for the community redevelopment agency
270 shall be included with the annual financial report submitted by
271 the county or municipality that created the agency to the
272 Department of Financial Services as provided in s. 218.32,
273 regardless of whether the agency reports separately under s.
274 218.32.

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

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

279 218.32 Annual financial reports; local governmental
280 entities.—

281 (3)(a) The department shall notify the President of the
282 Senate and the Speaker of the House of Representatives of any
283 municipality that has not reported any financial activity for
284 the last 4 fiscal years. Such notice must be sufficient to
285 initiate dissolution procedures as described in s.
286 165.051(1)(a). Any special law authorizing the incorporation or
287 creation of the municipality must be included within the
288 notification.

289 (b) Failure of a county or municipality to include in its
290 annual report to the department the full audit required by s.

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291 163.387(8) for each community redevelopment agency created by
292 that county or municipality constitutes a failure to report
293 under this section.

294 (c) By November 1 of each year, the department must provide
295 the Special District Accountability Program of the Department of
296 Economic Opportunity with a list of each community redevelopment
297 agency reporting no revenues, expenditures, or debt for the
298 community redevelopment agency's previous fiscal year.

299 Section 9. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

1770

Bill Number (if applicable)

Topic CRA

Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757

Phone 701-3076

Street

Tallahassee FL 32302

Email DCRUZ@FLCITYER.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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-2017
Meeting Date

SB 1770
Bill Number (if applicable)

Topic SB 1770 - CRA's

Amendment Barcode (if applicable)

Name Michael Parker

Job Title President Florida Redevelopment Assn.

Address 300 S. Adams St.

Phone 850-891-6457

Tallahassee FL 32317
City State Zip

Email michael.parker@flra.gov

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SB1770

Bill Number (if applicable)

Topic CRA'S HB13 & SB1770

Amendment Barcode (if applicable)

Name Samantha Abell

Job Title Interim City Manager Gulf Breeze

Address 1070 Shoreline Dr.

Phone 850-377-4143

Street

Gulf Breeze

City

FL

State

32561

Zip

Email sebell@gulfbreeze.fl.gov

Speaking: For Against Information

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

Representing FL League of Cities, FL Redevelopment Assoc, City of Gulf Breeze

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

Topic Comm. Redevelopment Agencies

Bill Number 1770
(if applicable)

Name John A. Titkanich

Amendment Barcode _____
(if applicable)

Job Title City Manager, City of Cocoa

Address 65 Stone Street

Phone (321) 843-8660

Street

Cocoa FL 32922

City

State

Zip

E-mail jtikkanich@cocoaf1.org

Speaking: For Against Information

Representing City of Cocoa

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.22.17

Meeting Date

SB1770

Bill Number (if applicable)

Topic Community Redevelopment Agency

Amendment Barcode (if applicable)

Name Terry Atchley

Job Title City Manager

Address 126 S. 7th Ave
Street

Phone 863.773.3535

Wauchula FL 33873
City State Zip

Email atchley@cityofwauchula.com

Speaking: For Against Information

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

Representing City of Wauchula

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SB 1770

Bill Number (if applicable)

Topic COMMUNITY REDEVELOPMENT AGREEMENTS

Amendment Barcode (if applicable)

Name CHRIS CLOUDMAN

Job Title COMMISSIONER

Address 120 S FLORIDA AVENUE

Phone _____

Street

DELAND

City

FL

State

32720

Zip

Email cloudman@deland.org

Speaking: For Against Information

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

Representing CITY OF DELAND

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

SB 1770

Bill Number (if applicable)

Topic SB 1770

Amendment Barcode (if applicable)

Name Michael Pleus

Job Title CITY MANAGER

Address 120 S. Florida Ave

Phone 386 626 7109

DeLand FL 32724

City

State

Zip

Email pleusm@deland.org

Speaking: For Against Information

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

Representing CITY OF DELAND

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

50 1770

Bill Number (if applicable)

Meeting Date

Topic CR.A'S

Amendment Barcode (if applicable)

Name LARRY SANSON

Job Title _____

Address PO Box 98

Phone 322 688 4480

Street

Cocoa

City

FL

State

32923

Zip

Email FISHAWAY@AOL.COM

Speaking: For Against Information

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

Representing CITIZENS of COCOA, ROCKY Pt, Melbourne & Cape Canaveral

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/22/2017
Meeting Date

1770
Bill Number (if applicable)

Topic CRA

Amendment Barcode (if applicable)

Name DAWN PARDO

Job Title Councilwoman

Address City of Riviera Beach

Phone 561 845 3683

Street

600 W Blue Heron

City

State

Zip

Email dpardo@riviera-beach.com

Speaking: For Against Information

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

Representing City of Riviera 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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3/22/17
Meeting Date

1770
Bill Number (if applicable)

Topic CRA2

Amendment Barcode (if applicable)

Name Sally Everett

Job Title Dir. Govt Relations

Address City Hall

Phone 727-267-2111

Street

St. Petersburg FL

33731

City

State

Zip

Email sally.everett@stpete.org

Speaking: For Against Information

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

Representing City of St. Petersburg

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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Meeting Date _____

1770
Bill Number (if applicable)

Topic CNA

Amendment Barcode (if applicable)

Name TOM CARROLL

Job Title MAJOR

Address 121 SW FLAWLER
Street

Phone 772-297-5781

STUART FL 34994
City State Zip

Email +CAMPEANI@CI.STUART.FL

Speaking: For Against Information

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

Representing STUART

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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3/22/17
Meeting Date

1770
Bill Number (if applicable)

Topic Comm Redevelopment Agencies

Amendment Barcode (if applicable)

Name Kashamba Miller-Anderson

Job Title City Council

Address 600 W. Blue Heron Blvd

Phone _____

Riviera Bch FL 33404
City State Zip

Email KMiller@rivierabch.com

Speaking: For Against Information

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

Representing City of Riviera Bch

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

1770
Bill Number (if applicable)

Topic CRA

Amendment Barcode (if applicable) _____

Name P.C. Wu

Job Title Councilman

Address City of Pensacola
Street
City State Zip

Phone 850-477-5279

Email Uotary@seward@jmail.com

Speaking: For Against Information

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

Representing City of Pensacola

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/17 Meeting Date

SB 1770 Bill Number (if applicable)

Topic CRA elimination

Amendment Barcode (if applicable)

Name Doug Bankson

Job Title Commissioner, Apopka

Address 585 E Sandpiper St Street

Phone 407-480-1915

Apopka FL 32712 City State Zip

Email dbankson@apopka.net

Speaking: For Against Information

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

Representing Citizens of Apopka

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/2017
Meeting Date

SB 1770
Bill Number (if applicable)

452384
Amendment Barcode (if applicable)

Topic Community Redevelopment Agencies

Name Thomas Hawkins

Job Title Policy & Planning Director

Address 309 N Monroe St
Street

Phone (352) 377-3141

Tallahassee FL 32301
City State Zip

Email thawkins@1000fof.org

Speaking: For Against Information

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

Request to Speak on Amendment

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.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1048

INTRODUCER: Senator Lee

SUBJECT: Linear Facilities

DATE: March 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	Favorable
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	Favorable

I. Summary:

SB 1048 amends the exemptions from the land-use-consistency provisions of the Power Plant Siting Act (PPSA) and Transmission Line Siting Act (TLSA) to provide that they apply to established rights-of-way and corridors, to rights-of-way and corridors yet to be established, and to creation of distribution and transmission corridors.

The bill establishes the standard to be used in authorizing variances in a site certification under the PPSA and the TLSA. It also provides that the PPSA and TLSA cannot affect in any way the Public Service Commission's (PSC) exclusive jurisdiction to require transmission lines to be located underground.

II. Present Situation:

The bill overturns a Third District Court of Appeal (the court) decision in a power plant siting case.¹ The bill addresses two issues: application of specific local laws in a siting proceeding and the authority of the siting board to order undergrounding, or burying, of a transmission line.

Application of Local Laws / "Development"

Statutes

The application for certification of a site for a power plant and associated facilities must include a statement on the consistency of the site, and any associated facilities² that constitute a

¹ *Miami-Dade County, et al, v. In Re: Florida Power & Light Co., etc., et al*, Opinion filed April 20, 2016, available at <http://www.3dca.flcourts.org/opinions/3D14-1467.pdf>. The Florida Supreme Court denied Florida Power and Light's petition for review, Friday, February 24, 2017, available at https://efactssc-public.flcourts.org/casedocuments/2016/2277/2016-2277_disposition_137996.pdf.

² "Associated facilities" means, for the purpose of certification, those onsite and offsite facilities which directly support the construction and operation of the electrical power plant such as electrical transmission lines, substations, and fuel unloading facilities; pipelines necessary for transporting fuel for the operation of the facility or other fuel transportation facilities; water

“development,” with existing land use plans and zoning ordinances that were in effect on the date the application was filed and a full description of the consistency.³ This information must include an identification of those associated facilities that the applicant believes are exempt from the requirements of land use plans and zoning ordinances under the Community Planning Act provisions of ch. 163 and s. 380.04(3), F.S. Each affected local government must file a determination of the consistency of the site and non-exempt associated facilities with existing land use plans and zoning ordinances in effect on the date the application was filed. Any substantially affected person may file a petition with the designated administrative law judge (ALJ) to dispute the local government’s determination.⁴ If a petition is filed, the ALJ must hold a land use hearing at which the sole issue for determination is whether the proposed site or non-exempt associated facility is consistent and in compliance with existing land use plans and zoning ordinances.⁵ After the hearing, if the Siting board determines that the proposed site or non-exempt associated facility does not conform with existing land use plans and zoning ordinances, the board may authorize a variance or other necessary approval to the adopted land use plan and zoning ordinances required to render the site consistent with the local land use plans and zoning ordinances.⁶

Associated facilities that are exempt from the term “development” are not subject to the land use consistency and compliance requirements. The relevant definition of “development” is set out in s. 380.04, F.S., which expressly excludes the following activities from the term “development”:

- Work by any utility and other persons engaged in the distribution or transmission of gas, electricity, or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.
- The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.⁷

Administrative Orders

Several administrative orders on this issue have held that siting of the transmission line is exempt from “development” and thus exempt from application of the land-use-consistency provisions. This interpretation turns on the meaning of “established.”

One illustration of this interpretation is the following quote.

First, Gulf Power will create a new right-of-way for the powerline. A right-of-way is a ‘right of access,’ an easement, or an “other right[] in land. Second, Gulf Power will construct the powerline on the newly established right-of-way. Gulf Power is a utility engaged in the distribution or transmission of electricity. The construction of the powerline in the established right-of-way falls within

or wastewater transport pipelines; construction, maintenance, and access roads; and railway lines necessary for transport of construction equipment or fuel for the operation of the facility. Section 403.503(7), F.S.

³ Section 403.50665(1), F.S.

⁴ Section 403.50665(2)(a), F.S.

⁵ Section 403.508, F.S.

⁶ Section 403.508(1)(f), F.S. To do this, the Siting Board must determine after notice and hearing and upon consideration of the recommended order on land use and zoning issues that it is in the public interest to authorize the use of the land for a site or associated facility.

⁷ Section 380.04(3)(b) and (h), F.S.

s, 380.04(3)(b). See, *Bd. Of County Commrs. of Monroe County v. Dept. of Community Affairs*, 560 So.2d 240 (Fla. 3d DCA 1990); *Friends of Mantanzas, Inc. v. Dept. of Environmental Protection*, 729 So.2d 437 (Fla. 5th DCA 1999), and *1000 Friends of Florida, Inc. v. St. Johns County*, 765 So.2d 216 (Fla. 5th DCA 2000), interpreting the similar exemption for road improvements within the right-of-way in s. 380.04(3)(a), *Fla. Stat.* (2004).

Therefore, the proposed powerline is not ‘development’ as defined in section 380.04, *Fla. Stat.* (2003).⁸

This interpretation involves both exemptions: first an applicant establishes a right-of-way, which constitutes a right-of-access or easement and so is exempt under s. 380.04(3)(h), F.S.; and second, the applicant seeks approval to construct a power line within “the newly established right-of-way,” which is exempt under s. 380.04(3)(b), F.S.

Another illustration relies only on the second basis for exemption.

After certification of this project, TECO will acquire the necessary property interests in a ROW within the certified corridor for placement of the line.

Construction of transmission lines on such established ROWs is excepted from the definition of ‘development’ in Section 163.3164(5), Florida Statutes.

Accordingly, the provisions of the local comprehensive plans related to ‘development’ that have been adopted by the local governments crossed by the line are not applicable to this project.⁹

Miami-Dade County vs. In Re: Florida Power & Light

In this case, Florida Power & Light Company (FPL) filed an application under the PPSA to obtain a permit to construct and operate two new nuclear generating units and associated facilities at Turkey Point, including new transmission lines. They obtained a recommended order and a final order on certification, both approving FPL’s West Preferred Corridor as a back-up western transmission corridor if adequate right-of-way could not be obtained in the primary corridor in a timely manner and at a reasonable cost. Neither order considered local regulations nor required FPL to underground its lines.

The final order was appealed and the court reversed and remanded the final order based on three errors, including an incorrect application of the “development” exemption based on an erroneous interpretation of the exemption for:

Work by any utility and other persons engaged in the distribution or transmission of gas, electricity, or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.¹⁰

⁸ *In re Petition for Declaratory Statement by Hughes*, 2004 Fla. ENV LEXIS 166, 4 ER FALR 113.

⁹ *In Re: Tampa Electric Company Willow Oak-Wheeler-Davis Transmission Line Siting Application*, 2008 Fla. ENV LEXIS 115, 2008 ER FALR 175, at 50 (DOAH May 13, 2008), adopted in toto 2008 E.R. F.A.L.R. 175 (Siting Bd. Aug. 1, 2008). ROW is an acronym for right-of-way.

¹⁰ *Miami-Dade County*, supra note 1, at 11.

The court found the following errors in the siting board's application of the exemption law:

- In the siting process, the siting board certifies a corridor, not a right-of-way, and the exemption cannot be applied to the entire corridor.¹¹
- The record reflects that the corridor is made up of parcels within and outside established rights-of-way, so the board has no way of knowing whether construction will take place in a right-of-way or an easement.¹²
- The exemption is for work conducted on "established rights-of-way." "And as the City of Miami contends, were this Court to accept FPL's argument on this issue, that an established right-of-way is not the same as an existing right-of-way, this would make the word 'established' meaningless."¹³

Analysis of Decisions

The court appears to have based its decision solely on interpretation of the statutes at issue, without consideration of the previous administrative orders as precedent. The court's interpretation is supported by the plain English meaning of the words in the statute: establish means to institute, to make firm, to bring into existence, to put on a firm basis, to gain full recognition or acceptance, or to put beyond doubt.¹⁴ The past tense usage means the act has been accomplished, that the right-of-way is in existence at the time of the siting proceedings. Unfortunately, the decision appears to conflict with the legislative intent for the PPSA and TLSA.

The stated intent for the siting acts is to establish a centralized, efficient procedure for approving a single license for power plant and transmission line sites, through application of both the state and local standards and recommendations of all involved agencies, while balancing the need for additional electricity against the need to minimize adverse effects on citizens and the environment, without undue conflict with the goals established by the applicable local comprehensive plan.¹⁵

However, if the statutes were interpreted and implemented as the court has held, it is doubtful a transmission line could ever be sited. The local land use laws classify property uses into multiple types of residential, commercial, and industrial property, with different permitted uses for each type. Each municipality and county is a different patchwork of these types of property, but application of the land use laws of each would likely restrict a transmission line to industrial use property. A transmission line cannot be constructed across multiple local governments using only the unconnected industrial property within each.

The previous administrative orders, on the other hand, appear to achieve the statutory intent, but appear to do so by a tortured interpretation of the word "established" within the context of "development."¹⁶

¹¹ *Miami-Dade County*, supra note 1, at 12.

¹² *Miami-Dade County*, supra note 1, at 12.

¹³ *Miami-Dade County*, supra note 1, at 13-14.

¹⁴ See, e.g., <https://www.merriam-webster.com/dictionary/establish> and <https://ahdictionary.com/word/search.html?q=establish>

¹⁵ Sections 403.502 and 403.521, F.S., respectively.

¹⁶ See *In re: Petition for Declaratory Statement filed by Hughes and Knowles*, Case No. DCA-03-DEC-295 (April 9, 2004).

It appears that the s. 380.04, F.S., standard for “development,” incorporated into the PPSA and TLSA by cross reference, is ambiguous in those contexts. The apparent intent of the bill is to clarify this ambiguity.

Authority of the Siting Board to Order Undergrounding of Transmission Lines

Statutes

The PPSA and TLSA authorize the siting board to include conditions in the certification.¹⁷ Both also contain a limitation that the act does not affect in any way the ratemaking powers of the PSC under ch. 366, F.S.

Miami-Dade County vs. In Re: Florida Power & Light

In the *Miami-Dade* decision, the court also reversed and remanded based on a finding that the siting board erroneously thought it did not have the power to require FPL to install the lines underground at FPL’s expense.

The court made the following finding.

The general grant of power in the PPSA to “impose conditions” upon certification, other than those listed in the PPSA, gave the Siting Board the power to impose the condition of requiring that the power lines be installed underground, at FPL’s expense. See s. 403.511(1), Fla. Stat.; s. 403.511(2)(b)(2).

Undergrounding of the transmission lines is a condition upon certification encompassed by the Siting Board’s ability to impose “site specific criteria, standards, or limitations” on FPL’s project. As such, the Siting Board had the power to require it, contrary to the Siting Board’s conclusion that it had no such power. Accordingly, reversal is required on this point.¹⁸

FPL had argued that the siting board did not have jurisdiction to order undergrounding based on a previous case on an issue unrelated to the siting act. The court distinguished that case on the basis that it contained nothing regarding whether undergrounding could be required as a condition of certification in a siting case.

The Seminole holding was made in the context of rate-making with regard to the power vested in the Public Service Commission and not in the context of any of the Siting Board’s powers. The Siting Board’s power in no way infringes on the PSC’s authority with regard to rate-making, and there is no conflict with the PSC’s role. The Seminole case is simply inapplicable to the case before us.¹⁹

Analysis

Again, the court appears to have based its decision solely on interpretation of the siting statutes. Interpretation and implementation is more complex when ch. 366, F.S., and the facts of economic regulation and undergrounding of power lines are considered as well.

¹⁷ Sections 403.511 and 403.531, F.S., respectively.

¹⁸ *Miami-Dade County*, supra note 1, at 14-15.

¹⁹ *Miami-Dade County*, supra note 1, at 18.

Undergrounding of transmission lines is more expensive than placing them on poles. The actual amount of the cost difference depends on the actual circumstances of the transmission line site. For the Turkey Point line, the estimate was that undergrounding would cost nine times more; \$13.3-\$18.5 million per mile compared to \$1.5-\$2.5 million. An estimated average is that the costs are around ten times more to underground a transmission line.²⁰

Additionally, when an agency with regulatory authority over a regulated public utility orders that public utility to incur costs, the PSC *must* allow the utility to recover those costs. This affects the ratemaking power of the PSC under ch. 366, F.S., in at least two significant ways:

- It denies the PSC its oversight and ratemaking function of making the initial determination of whether the higher costs of undergrounding the transmission line are prudent and reasonable under the circumstances. This determination is an essential element of determining what utility costs are recoverable, which, in turn, is the first step in ratemaking.
- It denies the PSC the ability to make a determination of how undergrounding would affect grid reliability. Grid reliability is a part of ratemaking through the underlying regulatory compact, which includes customer service requirements.

III. Effect of Proposed Changes:

The bill amends ss. 380.04(b) and (h), F.S., which contain the exemptions from “development” discussed above. The bill provides that the exemption for work done on established rights-of-way applies to established rights-of-way and corridors and to rights-of way and corridors yet to be established. It also provides that the exemption for the creation of specified types of property rights applies to creation of distribution and transmission corridors.

The bill makes the same changes to s. 163.3221, F.S., which provides definitions for use in the Florida Local Government Development Agreement Act, which provides for agreements between local governments and developers to improve the growth management and public planning processes.

The bill also amends ss. 403.511 and 403.531, F.S., which relate to the effect of certification under the PPSA and the TLSA, respectively. First, the bill specifies that the standard for granting variances in the certification is to be the standards set forth in s. 403.201, F.S. Section 403.201, F.S., authorizes variances in the following conditions:

- There is no practicable means known or available for the adequate control of the pollution involved.
- Compliance with the particular requirement or requirements from which a variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time. A variance granted for this reason shall prescribe a timetable for the taking of the measures required.
- To relieve or prevent hardship of a kind other than those provided for above. Variances and renewals thereof granted under authority of this paragraph shall each be limited to a period of 24 months, except that variances granted pursuant to part II may extend for the life of the permit or certification.

²⁰ Email from David Childs; Hopping Green & Sams, on March 10, 2017.

The bill also provides that the PPSA and TLSA cannot affect in any way the PSC's exclusive jurisdiction to require transmission lines to be located underground.

The bill 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:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will clarify the application of local land use laws to transmission line corridors in siting cases under the PPSA and TLSA. This will provide certainty to both the utilities and the local governments, and will reduce expenses of siting and legal proceedings.

The express prohibition against the siting board ordering undergrounding of transmission lines will save utility ratepayers additional costs. As the PSC is a party to PPSA proceedings and may be a party to TLSA proceedings, it is possible that some coordination of siting proceedings and PSC ratemaking could be accomplished to incorporate undergrounding as a condition of certification while still maintaining PSC ratemaking authority.

C. Government Sector Impact:

The bill will clarify the application of local land use laws to transmission line corridors in siting cases under the PPSA and TLSA. This will provide certainty to both the utilities and the local governments, and will reduce expenses of siting and legal proceedings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3221, 380.04, 403.511, and 403.531.

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 Lee

20-00528C-17

20171048__

1 A bill to be entitled
2 An act relating to linear facilities; amending s.
3 163.3221, F.S.; revising the definition of the term
4 "development" to exclude work by certain utility
5 providers on utility infrastructure on certain rights-
6 of-way or corridors; revising the definition to
7 exclude the creation or termination of distribution
8 and transmission corridors; amending s. 380.04, F.S.;
9 revising the definition of the term "development" to
10 exclude work by certain utility providers on utility
11 infrastructure on certain rights-of-way or corridors;
12 revising the definition to exclude the creation or
13 termination of distribution and transmission
14 corridors; amending s. 403.511, F.S.; requiring the
15 consideration of a certain variance standard when
16 including conditions for the certification of an
17 electrical power plant; clarifying that the Public
18 Service Commission has exclusive jurisdiction to
19 require underground transmission lines; amending s.
20 403.531, F.S.; requiring the consideration of a
21 certain variance standard when including conditions
22 for the certification of a proposed transmission line
23 corridor; clarifying that the Public Service
24 Commission has exclusive jurisdiction to require
25 underground transmission lines; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

20-00528C-17

20171048__

30 Section 1. Paragraph (b) of subsection (4) of section
31 163.3221, Florida Statutes, is amended to read:

32 163.3221 Florida Local Government Development Agreement
33 Act; definitions.—As used in ss. 163.3220-163.3243:

34 (4) "Development" means the carrying out of any building
35 activity or mining operation, the making of any material change
36 in the use or appearance of any structure or land, or the
37 dividing of land into three or more parcels.

38 (b) The following operations or uses shall not be taken for
39 the purpose of this act to involve "development":

40 1. Work by a highway or road agency or railroad company for
41 the maintenance or improvement of a road or railroad track, if
42 the work is carried out on land within the boundaries of the
43 right-of-way.

44 2. Work by any utility and other persons engaged in the
45 distribution or transmission of gas, electricity, or water, for
46 the purpose of inspecting, repairing, or renewing on established
47 rights-of-way or corridors, or constructing on established or to
48 be established rights-of-way or corridors, any sewers, mains,
49 pipes, cables, utility tunnels, power lines, towers, poles,
50 tracks, or the like.

51 3. Work for the maintenance, renewal, improvement, or
52 alteration of any structure, if the work affects only the
53 interior or the color of the structure or the decoration of the
54 exterior of the structure.

55 4. The use of any structure or land devoted to dwelling
56 uses for any purpose customarily incidental to enjoyment of the
57 dwelling.

58 5. The use of any land for the purpose of growing plants,

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59 crops, trees, and other agricultural or forestry products;
60 raising livestock; or for other agricultural purposes.

61 6. A change in use of land or structure from a use within a
62 class specified in an ordinance or rule to another use in the
63 same class.

64 7. A change in the ownership or form of ownership of any
65 parcel or structure.

66 8. The creation or termination of rights of access,
67 riparian rights, easements, distribution and transmission
68 corridors, covenants concerning development of land, or other
69 rights in land.

70 Section 2. Paragraphs (b) and (h) of subsection (3) of
71 section 380.04, Florida Statutes, are amended to read:

72 380.04 Definition of development.—

73 (3) The following operations or uses shall not be taken for
74 the purpose of this chapter to involve "development" as defined
75 in this section:

76 (b) Work by any utility and other persons engaged in the
77 distribution or transmission of gas, electricity, or water, for
78 the purpose of inspecting, repairing, or renewing on established
79 rights-of-way or corridors, or constructing on established or to
80 be established rights-of-way or corridors, any sewers, mains,
81 pipes, cables, utility tunnels, power lines, towers, poles,
82 tracks, or the like. This provision conveys no property interest
83 and does not eliminate any applicable notice requirements to
84 affected land owners.

85 (h) The creation or termination of rights of access,
86 riparian rights, easements, distribution and transmission
87 corridors, covenants concerning development of land, or other

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88 rights in land.

89 Section 3. Paragraph (b) of subsection (2) and subsection
90 (4) of section 403.511, Florida Statutes, are amended to read:

91 403.511 Effect of certification.—

92 (2)

93 (b)1. Except as provided in subsection (4), and in
94 consideration of the standard for granting variances pursuant to
95 s. 403.201, the certification may include conditions which
96 constitute variances, exemptions, or exceptions from
97 nonprocedural requirements of the department or any agency which
98 were expressly considered during the proceeding, including, but
99 not limited to, any site specific criteria, standards, or
100 limitations under local land use and zoning approvals which
101 affect the proposed electrical power plant or its site, unless
102 waived by the agency and which otherwise would be applicable to
103 the construction and operation of the proposed electrical power
104 plant.

105 2. No variance, exemption, exception, or other relief shall
106 be granted from a state statute or rule for the protection of
107 endangered or threatened species, aquatic preserves, Outstanding
108 National Resource Waters, or Outstanding Florida Waters or for
109 the disposal of hazardous waste, except to the extent authorized
110 by the applicable statute or rule or except upon a finding in
111 the certification order that the public interests set forth in
112 s. 403.509(3) in certifying the electrical power plant at the
113 site proposed by the applicant overrides the public interest
114 protected by the statute or rule from which relief is sought.

115 (4) This act shall not affect in any way the Public Service
116 Commission's ratemaking powers or its exclusive jurisdiction to

20-00528C-17

20171048__

117 require transmission lines to be located underground ~~of the~~
118 ~~Public Service Commission~~ under chapter 366; nor shall this act
119 in any way affect the right of any local government to charge
120 appropriate fees or require that construction be in compliance
121 with applicable building construction codes.

122 Section 4. Paragraph (b) of subsection (2) and subsection
123 (4) of section 403.531, Florida Statutes, are amended to read:

124 403.531 Effect of certification.—

125 (2)

126 (b) In consideration of the standard for granting variances
127 pursuant to s. 403.201, the certification may include conditions
128 that constitute variances and exemptions from nonprocedural
129 standards or rules of the department or any other agency which
130 were expressly considered during the certification review unless
131 waived by the agency as provided in s. 403.526 and which
132 otherwise would be applicable to the location of the proposed
133 transmission line corridor or the construction, operation, and
134 maintenance of the transmission lines.

135 (4) This act does not in any way affect the commission's
136 ratemaking powers or its exclusive jurisdiction to require
137 transmission lines to be located underground ~~of the commission~~
138 under chapter 366. This act does not in any way affect the right
139 of any local government to charge appropriate fees or require
140 that construction be in compliance with the National Electrical
141 Safety Code, as prescribed by the commission.

142 Section 5. 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)

3/22/17
Meeting Date

1048
Bill Number (if applicable)

Topic Linear Facilities

Amendment Barcode (if applicable)

Name Chuck Hinson

Job Title VP State & Govt Relations

Address 106 E College Ave
Street

Phone 850 681 6785

TLH FL 32301
City State Zip

Email cohinson@tecoenergy.com

Speaking: For Against Information

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

Representing TECO Energy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

CSRS (12/14/11)



COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Please fill out the entire form and submit both copies to the Committee Administrative Assistant at the meeting.



Bill



Amendment

Bill/PCS/PCB Number: SB 1048

Amendment Number: _____

Name: Joseph Salzwerg ("Sawls - Verg")

Representing: Florida Municipal Electric Association

Title: Attorney/Lobbyist

Address: 301 S. Bronough St., Suite 600

City: Tallahassee

State/Zip: FL, 32301

Phone Number: (850) 577-9090

Meeting Date: 03/22/17

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 22 2017
Meeting Date

1048
Bill Number (if applicable)

Topic Linear Facilities

Amendment Barcode (if applicable)

Name DAVID CHILDS

Job Title Legal Counsel

Address 119 S. Monroe St Suite 300
Street

Phone 850 222-7500

Tallahassee FL 32301
City State Zip

Email DAVIDC@H6SLAW.COM

Speaking: For Against Information

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

Representing Florida Electric Power Coordinating 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17

Meeting Date

1048

Bill Number (if applicable)

Topic LINEAR FACILITIES

Amendment Barcode (if applicable)

Name KERRI MCNULTY

Job Title ASST. CITY ATTORNEY, CITY OF MIAMI

Address 444 SW 2ND AVE.
Street

Phone (305) 416-1500

MIAMI FL 33130
City State Zip

Email Klmcnulty@miamigov.com

Speaking: For Against Information

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

Representing CITY OF MIAMI

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

SB 1048
Bill Number (if applicable)

Topic SB 1048

Amendment Barcode (if applicable)

Name Deb Swim

Job Title Attorney

Address ~~0000~~ 1105 Cherokee DR
Street

Phone 850 656-0448

City _____ State _____ Zip _____

Email ds swim.attorney@gmail.com

Speaking: For Against Information

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

Representing City of South Miami

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22

Meeting Date

SB1048

Bill Number (if applicable)

Topic Linear facilities, FPL

Amendment Barcode (if applicable)

Name Craig Leen

Job Title City Attorney, City of Coral Gables

Address 405 Biltmore Way

Phone 305-460-5248

Street

City

Coral Gables

State

FL

Zip

33134

Email cleen@cragle.com

Speaking: For Against Information

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

Representing City of Coral Gables

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/22/17
Meeting Date

1048
Bill Number (if applicable)

Topic Linear Facilities

Amendment Barcode (if applicable)

Name LARA REYNOLDS

Job Title Policy Consultant on Environment

Address 20715 Leeward Lane
Street
Miami FL 33189
City State Zip

Phone 786-543-1926

Email lreynolds@conservationconceptsllc.org

Speaking: For Against Information

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

Representing Friends of The Everglades

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

SB 1048
Bill Number (if applicable)

Meeting Date _____

Topic Linear Facilities

Amendment Barcode (if applicable) _____

Name Susan Glickman

Job Title Florida Director

Address PO Box 310

Phone 727-7421

Indian Rocks Beach FL 33785
City State Zip

Email susan@cleanenergy.org

Speaking: For Against Information

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

Representing Southern Alliance for Clean Energy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-22-17

Meeting Date

1048

Bill Number (if applicable)

Topic LINEAR FACILITIES

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 1674 UNIVERSITY PKWY 295
Street

Phone 941-323-2404

SARASOTA FL 34243
City State Zip

Email cullenasree@
aol.com

Speaking: For Against Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

March 22, 2017

Meeting Date

SB 1048

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Abbie Raurell

Job Title Assistant County Attorney for Miami-Dade County

Address 111 NW 1st Street, Suite 2810

Phone 305.375.5151

Street

Miami, FL 33128

Email ans1@miamidade.gov

City

State

Zip

Speaking: For Against Information

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

Representing Miami-Dade County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

3/22/17
Meeting Date

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

SB 1048
Bill Number (if applicable)

Topic LINEAR JAVILITHS (FP+L)

Amendment Barcode (if applicable)

Name JAMES E. McDONALD

Job Title COUNCIL MEMBER

Address Village of Pinecrest
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 _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SJR 1774

INTRODUCER: Senator Lee

SUBJECT: Increased Homestead Property Tax Exemption

DATE: March 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Favorable
2.			AFT	
3.			AP	

I. Summary:

SJR 1774 proposes an amendment to the Florida Constitution to increase the homestead exemption, for all levies other than school district levies, on the assessed value greater than \$50,000 and up to \$100,000.

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

The amendment will take effect January 1, 2019, if approved by the electors.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

exemptions to determine the property's "taxable value."³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to increase the homestead exemption, for all levies other than school district levies, on the assessed value greater than \$50,000 and up to \$100,000.

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

The amendment will take effect January 1, 2019, if approved by the electors.

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art VII, s. 6(a).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, Section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Article XI, Section 5(a) of the Florida Constitution and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”¹²

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

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

¹² *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

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

The Revenue Estimating Conference has not yet determined the fiscal impact of the joint resolution.

B. Private Sector Impact:

Taxpayers will experience lower taxes if this joint resolution is approved, and the tax burden will be shifted among taxpayers.

C. Government Sector Impact:

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Local governments, excluding school districts, will receive less property tax revenue if this amendment is approved. Additionally, fiscally constrained counties as defined by s. 218.67, F.S., may be disproportionately impacted by the approval of the amendment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends the following articles of the Florida Constitution: Article VII, Section 6; Article XII.

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 Lee

20-00991-17

20171774__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to increase the assessed value eligible for homestead exemption and to provide an effective date if the amendment is adopted.

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

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

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to one hundred ~~seventy-five~~ thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entirety, jointly, in common, as a condominium, or

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30 indirectly by stock ownership or membership representing the
31 owner's or member's proprietary interest in a corporation owning
32 a fee or a leasehold initially in excess of ninety-eight years.
33 The exemption shall not apply with respect to any assessment
34 roll until such roll is first determined to be in compliance
35 with the provisions of section 4 by a state agency designated by
36 general law. This exemption is repealed on the effective date of
37 any amendment to this Article which provides for the assessment
38 of homestead property at less than just value.

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

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

51 (d) The legislature may, by general law, allow counties or
52 municipalities, for the purpose of their respective tax levies
53 and subject to the provisions of general law, to grant either or
54 both of the following additional homestead tax exemptions:

55 (1) An exemption not exceeding fifty thousand dollars to a
56 person who has the legal or equitable title to real estate and
57 maintains thereon the permanent residence of the owner, who has
58 attained age sixty-five, and whose household income, as defined

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59 by general law, does not exceed twenty thousand dollars; or

60 (2) An exemption equal to the assessed value of the
61 property to a person who has the legal or equitable title to
62 real estate with a just value less than two hundred and fifty
63 thousand dollars, as determined in the first tax year that the
64 owner applies and is eligible for the exemption, and who has
65 maintained thereon the permanent residence of the owner for not
66 less than twenty-five years, who has attained age sixty-five,
67 and whose household income does not exceed the income limitation
68 prescribed in paragraph (1).

69
70 The general law must allow counties and municipalities to grant
71 these additional exemptions, within the limits prescribed in
72 this subsection, by ordinance adopted in the manner prescribed
73 by general law, and must provide for the periodic adjustment of
74 the income limitation prescribed in this subsection for changes
75 in the cost of living.

76 (e) Each veteran who is age 65 or older who is partially or
77 totally permanently disabled shall receive a discount from the
78 amount of the ad valorem tax otherwise owed on homestead
79 property the veteran owns and resides in if the disability was
80 combat related and the veteran was honorably discharged upon
81 separation from military service. The discount shall be in a
82 percentage equal to the percentage of the veteran's permanent,
83 service-connected disability as determined by the United States
84 Department of Veterans Affairs. To qualify for the discount
85 granted by this subsection, an applicant must submit to the
86 county property appraiser, by March 1, an official letter from
87 the United States Department of Veterans Affairs stating the

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88 percentage of the veteran's service-connected disability and
89 such evidence that reasonably identifies the disability as
90 combat related and a copy of the veteran's honorable discharge.
91 If the property appraiser denies the request for a discount, the
92 appraiser must notify the applicant in writing of the reasons
93 for the denial, and the veteran may reapply. The Legislature
94 may, by general law, waive the annual application requirement in
95 subsequent years. This subsection is self-executing and does not
96 require implementing legislation.

97 (f) By general law and subject to conditions and
98 limitations specified therein, the Legislature may provide ad
99 valorem tax relief equal to the total amount or a portion of the
100 ad valorem tax otherwise owed on homestead property to:

101 (1) The surviving spouse of a veteran who died from
102 service-connected causes while on active duty as a member of the
103 United States Armed Forces.

104 (2) The surviving spouse of a first responder who died in
105 the line of duty.

106 (3) A first responder who is totally and permanently
107 disabled as a result of an injury or injuries sustained in the
108 line of duty. Causal connection between a disability and service
109 in the line of duty shall not be presumed but must be determined
110 as provided by general law. For purposes of this paragraph, the
111 term "disability" does not include a chronic condition or
112 chronic disease, unless the injury sustained in the line of duty
113 was the sole cause of the chronic condition or chronic disease.

114
115 As used in this subsection and as further defined by general
116 law, the term "first responder" means a law enforcement officer,

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117 a correctional officer, a firefighter, an emergency medical
118 technician, or a paramedic, and the term "in the line of duty"
119 means arising out of and in the actual performance of duty
120 required by employment as a first responder.

ARTICLE XII

SCHEDULE

123 Increased homestead exemption.—The amendment to Section 6
124 of Article VII increasing the homestead exemption, for all
125 levies other than school district levies, on the assessed value
126 greater than \$50,000 and up to \$100,000 shall take effect
127 January 1, 2019.

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

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

ARTICLE XII

133 INCREASED HOMESTEAD PROPERTY TAX EXEMPTION.—Proposing an
134 amendment to the State Constitution to increase the homestead
135 exemption from property taxes, other than school district taxes,
136 by exempting the assessed value between \$75,000 and \$100,000.
137 The amendment will take effect January 1, 2019, if approved by
138 the electors.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/27/17
Meeting Date

1774

Bill Number (if applicable)

Topic HOMESTEAD EXEMPTION

Amendment Barcode (if applicable)

Name PAUL ANDERSON

Job Title FIRE CHIEF / DISTRICT MANAGER

Address 502 NEW MARKET RD

Phone 239-657-2111

INNOKATE FL 39142
City State Zip

Email chief@innofire.com

Speaking: For Against Information

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

Representing INNOKATE FIRE DISTRICT

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-23-17

Meeting Date

1774

Bill Number (if applicable)

Topic Impact of proposal on SMALL COUNTIES

Amendment Barcode (if applicable)

Name Chris Doolin

Job Title CONSULTANT

Address 1118-B THOMASVILLE ROAD

Phone 850-508-5492

Street

TALLAHASSEE

FLA

32303

Email cdoolin@nettally.com

City

State

Zip

Speaking: For Against Information

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

Representing SMALL COUNTY 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.

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)

3-22-17

Meeting Date

1774

Bill Number (if applicable)

Topic INCREASED HOMESTEAD TAX EXEMPTION

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title ASSOCIATE DIR. OF PUBLIC POLICY

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

1774
Bill Number (if applicable)

Topic Homestead Exemption

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Senior Legislative Advocate

Address PB BOX 1957
Street

Phone 850-701-3621

Tallahassee FL 32302
City State Zip

Email ahughes@flcities.com

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

1:47:38 PM Debate?
1:47:51 PM Senator Garcia closes on CS/SB 148
1:48:07 PM Roll call on SB 148
1:48:25 PM SB 148 is reported favorably
1:48:50 PM Senator Lee turns the chair over to Senator Clemens
1:49:13 PM Tab 11
1:49:23 PM Senator Lee on SB 1774
1:50:16 PM Questions?
1:50:25 PM Senator Brandes
1:50:41 PM Senator Clemens
1:51:52 PM Senator Lee
1:52:50 PM Questions?
1:52:53 PM Senator Simmons
1:54:06 PM Senator Lee
1:55:28 PM Appearance cards
1:55:38 PM Amber Hughes, Florida League of Cities
1:59:03 PM Questions?
1:59:14 PM Laura Youmans, Florida Association of Counties
2:01:10 PM Chris Doolin, Small County Coalition
2:03:22 PM Paul Anderson, Immokanke Fire District
2:04:33 PM Senator Clemens
2:05:26 PM Debate?
2:05:37 PM Senator Simmons
2:08:02 PM Senator Bean
2:08:52 PM Senator Clemens
2:10:15 PM Senator Brandes
2:11:33 PM Further comments
2:11:42 PM Senator Lee closes on SJR 1774
2:13:26 PM Roll call SJR 1774
2:13:50 PM SJR 1774 voted favorably
2:13:55 PM Tab 7
2:14:04 PM Senator Baxley on SB 764
2:14:26 PM Barcode 395494
2:14:54 PM Senator Baxley closes on Amendment
2:14:58 PM Technical amendment 108370
2:15:11 PM Back on bill as amended
2:15:13 PM questions
2:15:18 PM Lauren Levy, Property Appraisers Association of Florida
2:15:27 PM Courtney Barker, City of Satellite Beach
2:15:37 PM James Ingle, self
2:17:23 PM Debate?
2:17:38 PM Senator Baxley closes on SB 764
2:17:45 PM Reported favorably
2:17:50 PM Tab 10
2:18:07 PM Senator Lee on SB 1048
2:22:01 PM Questions?
2:22:11 PM Senator Rodriguez
2:23:05 PM Senator Lee
2:24:18 PM Senator Rodriguez
2:25:25 PM Senator Lee
2:29:08 PM Senator Rodriguez
2:37:48 PM Appearance cards?
2:38:21 PM David Childs, Florida Electric Power Coordinating Group
2:40:43 PM Senator Rodriguez
2:41:54 PM Senator Simmons
2:43:32 PM James E. McDonald, Council Member Village of Pinecrest
2:45:56 PM Kerri McNulty, City of Miami
2:48:12 PM Senator Simmons
2:51:10 PM Ms.McNulty
2:51:23 PM Senator Simmons
2:52:02 PM Senator Brandes
2:52:37 PM Ms.McNulty

2:53:17 PM Senator Lee
2:55:14 PM Senator Simmons
2:56:10 PM Deb Swim, City of South Miami
2:58:39 PM Senator Lee
3:00:11 PM Craig Leen, City of Coral Gables
3:03:47 PM Laura Reynolds, Friends of the Everglades
3:05:55 PM Susen Glickman, Southern Alliance for Clean Energy
3:07:16 PM David Cullen, Sierra Club Florida
3:07:38 PM Abbie Raurell, Miami-Dade County
3:08:21 PM Senator Brandes
3:08:39 PM Senator Simmons
3:10:13 PM Joseph Saulzverg
3:10:19 PM Chuck Hinson, TECO Energy
3:10:43 PM Senator Brandes
3:10:46 PM Senator Lee
3:10:59 PM Debate?
3:11:10 PM Senator Rodriguez
3:14:18 PM Senator Simmons
3:16:15 PM Senator Clemens
3:16:21 PM Senator Lee closes on SB 1048
3:17:10 PM Roll call on SB 1048
3:17:39 PM Reported favorably
3:17:41 PM Tab 6
3:18:08 PM Senator Artiles on SB 282
3:18:21 PM Amendment barcode 188468
3:18:34 PM Stan Forron, Professional Wrecker Operators of Florida
3:18:37 PM Senator Bean
3:19:12 PM Stan Forron
3:19:55 PM Senator Artiles
3:20:03 PM Debate?
3:20:11 PM Senator Artiles closes on bill
3:20:29 PM Roll call on SB 282
3:20:47 PM SB 282 reported favorably
3:21:06 PM Tab 5
3:21:20 PM SJR 136
3:21:24 PM Senator Artiles
3:21:35 PM Amendment 121006
3:21:38 PM Questions?
3:22:36 PM Arlene Smith, Volusia County
3:23:02 PM Senator Rodriguez
3:24:06 PM Questions?
3:24:42 PM Senator Artiles closes on the amendment
3:24:50 PM Appearance cards
3:24:53 PM Kelly Teague, Orange County
3:25:08 PM Laura Youmans, Florida Association of Counties
3:26:02 PM Jess McCarty, Miami-Dade
3:26:08 PM Loren Levy, Property Appraisers' Association of Florida
3:26:14 PM Back on bill as amended
3:26:20 PM Senator Artiles closes
3:26:44 PM SB 136 favorably
3:26:52 PM Tab 8
3:26:56 PM SB 1000
3:27:04 PM Senator Campbell on SB 1000
3:27:35 PM Senator Campbell on amendment barcode 444966
3:27:46 PM Amendment withdrawn
3:27:49 PM Senator Lee
3:28:26 PM Senator Campbell
3:28:36 PM Senator Campbell closes on SB 1000
3:28:40 PM Roll call on SB 1000
3:28:53 PM SB 1000 reported favorably
3:29:06 PM Senator Perry moves we adjourn
3:29:10 PM Meeting Adjourn