<table>
<thead>
<tr>
<th>Tab 1</th>
<th>CS/SB 724 by EN, Albritton; (Identical to H 01031) Local Government Recycling Programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>670630</td>
<td>A S CA, Albritton Delete L.18 - 52: 01/30 08:15 AM</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tab 2</th>
<th>SB 1662 by Albritton; (Compare to CS/H 01249) Property Tax Exemption for Disabled Veterans</th>
</tr>
</thead>
<tbody>
<tr>
<td>166378</td>
<td>A S CA, Albritton Delete L.48 - 62: 01/31 03:44 PM</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tab 3</th>
<th>SB 760 by Brandes; (Compare to H 01331) Independent Special Fire Control Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>624798</td>
<td>D S RCS CA, Brandes Delete everything after 02/05 01:59 PM</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tab 4</th>
<th>SB 888 by Perry; (Similar to CS/H 00625) Public Nuisances</th>
</tr>
</thead>
<tbody>
<tr>
<td>553860</td>
<td>A S RCS CA, Perry Delete L.64 - 338: 02/05 01:23 PM</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tab 5</th>
<th>SB 1336 by Perry; (Similar to CS/H 00003) Preemption of Local Occupational Licensing</th>
</tr>
</thead>
<tbody>
<tr>
<td>395716</td>
<td>A S RCS CA, Perry Delete L.29: 02/05 02:59 PM</td>
</tr>
<tr>
<td>260692</td>
<td>A S WD CA, Farmer Delete L.42 - 53: 02/05 02:59 PM</td>
</tr>
<tr>
<td>662466</td>
<td>A S WD CA, Farmer Delete L.42 - 53: 02/05 02:59 PM</td>
</tr>
<tr>
<td>132314</td>
<td>A S RCS CA, Farmer Delete L.42 - 53: 02/05 02:59 PM</td>
</tr>
<tr>
<td>812038</td>
<td>A S WD CA, Perry Delete L.42 - 53: 02/05 02:59 PM</td>
</tr>
</tbody>
</table>

| Tab 6 | SB 1424 by Gruters; (Identical to H 01009) Special Neighborhood Improvement Districts |

<table>
<thead>
<tr>
<th>Tab 7</th>
<th>SB 856 by Pizzo; (Similar to H 01459) Affordable Housing Tax Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>796642</td>
<td>D S RCS CA, Pizzo Delete everything after 02/05 01:23 PM</td>
</tr>
</tbody>
</table>

| Tab 8 | CS/SB 1302 by JU, Flores (CO-INTRODUCERS) Rodriguez; Sovereign Immunity |
## COMMITTEE MEETING EXPANDED AGENDA

**COMMITTEE:** Community Affairs  
**Chair:** Senator Flores  
**Vice Chair:** Senator Farmer  
**MEETING DATE:** Monday, February 3, 2020  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building  
**MEMBERS:** Senator Flores, Chair; Senator Farmer, Vice Chair; Senators Broxson, Pizzo, and Simmons

<table>
<thead>
<tr>
<th>TAB</th>
<th>BILL NO. and INTRODUCER</th>
<th>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</th>
<th>COMMITTEE ACTION</th>
</tr>
</thead>
</table>
| 1   | CS/SB 724  
Environment and Natural Resources / Albritton  
(Identical H 1031) | Local Government Recycling Programs; Creating the Florida Recycling Working Group; requiring the working group to submit a report to the Legislature by a specified date; providing an expiration date for the working group; providing an exemption for fiscally constrained counties from recycling requirements, etc. | Temporarily Postponed  
EN 12/09/2019 Fav/CS  
CA 02/03/2020 Temporarily Postponed  
AP |
| 2   | SB 1662  
Albritton  
(Similar H 1249) | Property Tax Exemption for Disabled Veterans; Providing that the property tax exemption for certain veterans with a service-connected total and permanent disability may be applied to a tax year for homestead property acquired during that tax year if certain conditions are met; providing requirements for applying for such exemption with the property appraiser, etc. | Temporarily Postponed  
CA 02/03/2020 Temporarily Postponed  
FT AP |
| 3   | SB 760  
Brandes  
(Compare H 1331) | Independent Special Fire Control Districts; Requiring an independent special fire control district to have, and authorizing the board of such district to exercise, specified powers and duties, etc. | Fav/CS Yeas 5 Nays 0  
CA 02/03/2020 Fav/CS  
IS RC |
<table>
<thead>
<tr>
<th>TAB</th>
<th>BILL NO. and INTRODUCER</th>
<th>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</th>
<th>COMMITTEE ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>SB 888 Perry (Similar CS/H 625)</td>
<td>Public Nuisances; Revising notice requirements for the filing of temporary injunctions relating to the enjoinder of certain nuisances; declaring that the use of a location by a criminal gang, criminal gang members, or criminal gang associates for criminal gang-related activity is a public nuisance; declaring that any place or premises that has been used on more than two occasions during a certain period as the site of any combination of specified violations is a nuisance and may be abated pursuant to specified procedures, etc.</td>
<td>Fav/CS Yeas 4 Nays 0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>SB 1336 Perry (Similar CS/H 3)</td>
<td>Preemption of Local Occupational Licensing; Preempting licensing of occupations to the state; prohibiting local governments from imposing additional licensing requirements or modifying licensing unless specified conditions are met; specifying that certain specialty contractors are not required to register with the Construction Industry Licensing Board; authorizing counties and municipalities to issue certain journeyman licenses, etc.</td>
<td>Fav/CS Yeas 4 Nays 0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>SB 1424 Gruters (Identical H 1009)</td>
<td>Special Neighborhood Improvement Districts; Revising the number of directors allowed on the boards of special neighborhood improvement districts; requiring local planning ordinances to specify the number of directors and provide for 4-year staggered terms; requiring that directors be landowners in the proposed area and be subject to certain taxation, etc.</td>
<td>Favorable Yeas 5 Nays 0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### COMMITTEE MEETING EXPANDED AGENDA
Community Affairs
Monday, February 3, 2020, 4:00—6:00 p.m.

<table>
<thead>
<tr>
<th>TAB</th>
<th>BILL NO. and INTRODUCER</th>
<th>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</th>
<th>COMMITTEE ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>SB 856 Pizzo (Similar H 1459)</td>
<td>Affordable Housing Tax Reduction; Providing a reduction in certain property taxes to taxpayers building or renovating certain affordable, elderly, or workforce housing projects; specifying the calculation of property assessments over the reduction term; authorizing certain counties to limit the total number of qualifying projects, subject to certain requirements; specifying a taxpayer’s liability for back taxes, penalties, interest, and certain remedies under certain circumstances, etc.</td>
<td>Fav/CS Yeas 5 Nays 0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>CA 02/03/2020 Favorable AP</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>CS/SB 1302 Judiciary / Flores</td>
<td>Sovereign Immunity; Designating the “Florida Fair Claims Act”; increasing the statutory limits on liability for tort claims against the state and its agencies and subdivisions; revising when a state and its agencies and subdivisions may agree to settle a claim or judgment without further action from the Legislature; requiring that the limitations on tort liability be adjusted every year after a specified date; prohibiting an insurance policy from conditioning the payment of benefits on the enactment of claim bills, etc.</td>
<td>Favorable Yeas 4 Nays 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>JU 01/21/2020 Fav/CS CA 02/03/2020 Favorable AP</td>
<td></td>
</tr>
</tbody>
</table>

Other Related Meeting Documents
I. Summary:

CS/SB 724 provides an exemption for fiscally constrained counties from recycling goals required for county recycling programs. The bill creates within the Department of Environmental Protection (DEP) the Florida Recycling Working Group, consisting of members from eleven public and private organizations. The working group must submit a report to the Legislature. The working group is repealed on July 1, 2021.

II. Present Situation:

Recycling in Florida

Each Florida county has the responsibility and authority to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county. Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county. Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities. Under Florida law, “recycling” is defined as “any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or 

---

1 Section 403.706(1), F.S. Municipalities may also be authorized to construct and operate solid waste disposal facilities, if certain statutory requirements are met; Fla. Admin. Code Ch. 62-701.
2 Id.
3 Id.
processed and reused or returned to use in the form of raw materials or intermediate or final products.” “Municipal solid waste” includes any solid waste (except for sludge) resulting from the operation of residential, commercial, or governmental establishments that would normally be collected, processed, and disposed of through a solid waste management service (this excludes waste from industrial, mining, or agricultural operations).  

In 2008, the Legislature established a weight-based goal of recycling 75 percent of Florida’s municipal solid waste by 2020. In 2010, the Legislature established interim goals that counties must pursue leading up to 2020. The interim goals require each Florida county to have a recyclable materials recycling program with a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020. These programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream before final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers.
- Aluminum cans.
- Steel cans.
- Glass.
- Plastic bottles.
- Cardboard.
- Office paper.
- Yard trash.

Counties with a population of 100,000 or less, in lieu of achieving the interim goals, may provide residents with the opportunity to recycle. Providing the “opportunity to recycle” must include both of the following:

- Either:
  - Providing a system for separating and collecting recyclable materials before disposal that is located at a solid waste management facility or solid waste disposal area; or
  - Providing a system of places within the county for collection of source-separated recyclable materials.
- Providing a public education and promotion program to inform residents of the opportunity to recycle, encourage source separation of recyclable materials, and teach the benefits of reducing, reusing, recycling and composting materials.

---

4 Section 403.703(31), F.S.
5 Section 403.706(5), F.S.
7 Section 403.706(2)(a), F.S.
8 Section 403.706(2)(a), F.S. These are interim goals to help Florida reach the goal of recycling at least 75% of municipal solid waste by 2020; Ch. 2010-143, s. 7, Laws of Fla.; see s. 403.7032(2), F.S.
9 Section 403.706(2)(f), F.S.
10 Section 403.706(4)(c), F.S.
According to DEP’s report, only 36 of Florida’s 67 counties have populations over 100,000.\textsuperscript{11} These 36 counties contain approximately 95\% of Florida’s population and produced 45 million of the 47 million tons of municipal solid waste generated in Florida in 2018.\textsuperscript{12}

Each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.\textsuperscript{13} Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs.\textsuperscript{14} Certain activities are eligible for special credit towards achieving a county’s recycling goals, including the use of solid waste as a fuel in a renewable energy facility and the innovative use of yard trash or other clean wood waste or paper waste.\textsuperscript{15} To assess progress towards achieving the interim goals, the Department of Environmental Protection (DEP) requires counties to provide information on their solid waste management programs and recycling activities to the DEP by April 1 of each year.\textsuperscript{16} If DEP determines that a county has not reached the required recycling goals, DEP is authorized to direct the county to develop a plan to expand recycling programs to existing commercial and multifamily dwellings, including apartment complexes.\textsuperscript{17} Such an authorized directive applies to larger counties (with populations over 100,000), which are required to pursue the interim goals.\textsuperscript{18}

In those years when the state’s recycling rate does not meet the statutory thresholds for the interim goals, DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives.\textsuperscript{19} This report must identify those additional programs or statutory changes needed to achieve the state’s recycling goals.\textsuperscript{20} Florida achieved the interim recycling goals established for 2012 and 2014.\textsuperscript{21} However, Florida’s recycling rate for 2016 was 56 percent, falling short of 60 percent by 2017.\textsuperscript{22} Florida’s recycling rate declined from 52 percent in 2017 to 49 percent in 2018, both of which fall short of the interim targets.\textsuperscript{23} This decrease can largely be attributed to a reduction in the reported amount of construction and demolition (C&D) debris recycled in 2018.\textsuperscript{24} DEP submitted the most recent status report in 2019.\textsuperscript{25} Without significant changes to the current approach, the 2020 goal of 75\% will not be achieved.\textsuperscript{26}

\begin{footnotes}
\item[12] Id. at 29.
\item[13] Section 403.706(3), F.S.
\item[14] Section 403.706(2)(a), F.S.
\item[15] Section 403.706(4), F.S.
\item[17] Section 403.706(2)(d), F.S.
\item[18] DEP 2019 Report, at 3.
\item[19] Section 403.706(2)(e), F.S.
\item[20] Id.
\item[22] Id.
\item[23] DEP 2019 Report, at 3.
\item[24] Id. at 9.
\item[25] Id. at 3.
\item[26] Id. at 29.
\end{footnotes}
In 2018, of Florida’s 32 large counties (with populations over 100,000), four met the 70% interim recycling goal.\textsuperscript{27} Recycling credits received for renewable energy and C&D debris were the primary factors in their success.\textsuperscript{28} In August of 2019, DEP requested each of the 32 large counties not reaching the interim goals to develop a plan to expand current recycling programs to existing commercial and multifamily dwellings.\textsuperscript{29} As of November 21st, DEP has received all 32 county recycling plans.\textsuperscript{30}

DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to DEP that:

- The achievement of the goal would harm the financial obligations of the county that are directly related to the county’s waste-to-energy facility; and
- The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.\textsuperscript{31}

The goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county’s waste-to-energy facility.\textsuperscript{32}

In the development and implementation of a curbside recyclable materials collection program, a county or municipality must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality.\textsuperscript{33} Local governments are authorized to enact ordinances that require and direct all residential properties, multifamily dwellings, and apartment complexes and industrial, commercial, and institutional establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government.\textsuperscript{34} A market must exist for the recyclable materials, and the local government must specifically intend for them to be recycled.\textsuperscript{35} Local governments are authorized to provide for the collection of recyclable materials. Such ordinances may include but are not limited to, prohibiting any person from knowingly disposing of recyclable materials that are designated by the local government and that ensure the collection of recovered materials as necessary to protect public health and safety.\textsuperscript{36}

A local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or a facility designated by the local government;
- Restrict such a generator’s right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has registered with DEP; or

\textsuperscript{27} Id. at 3.
\textsuperscript{28} Id.
\textsuperscript{29} Id. at 9.
\textsuperscript{30} Id.
\textsuperscript{31} Section 403.706(6), F.S.
\textsuperscript{32} Id.
\textsuperscript{33} Section 403.706(9), F.S.
\textsuperscript{34} Section 403.706(21), F.S.
\textsuperscript{35} Id.
\textsuperscript{36} Section 403.706(21), F.S.
• Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.37

Local governments may require a commercial establishment to source separate the recovered materials generated on the premises.38

DEP has been working to increase recycling rates through grant programs, educational opportunities, and the development of a statewide outreach campaign called “Rethink. Reset. Recycle.”39 DEP is also working on the following recycling options:

• Evaluating the implications of shifting from a weight-based recycling goal to sustainable materials management processes.40
• Researching the concept of moving from a weight-based recycling goal of 75 percent by 2020 to market-specific goals such as a food diversion goal or an organics recycling goal.
• Requesting that Florida’s state universities and the Florida Department of Education review potential K-12 curriculum programs emphasizing waste reduction and recycling practices.
• Continuing to work with state agencies to identify recycling/cost-saving measures specific to their operations.
• Providing counties not achieving the interim recycling goals with assistance in analyzing, planning, and executing opportunities to increase recycling.41

Contamination

Many counties and municipalities have instituted single-stream recycling programs.42 Single-stream recycling programs allow all accepted recyclables to be placed in a single, curbside recycling cart, comingling materials from paper and plastic bottles to metal cans and glass containers. Single-stream recycling programs have been marginally successful in providing curbside collection efficiency by increasing the number of recyclables collected and residential participation. While there are many advantages to single-stream recycling, it has not consistently yielded positive results for the recycling industry. The unexpected consequence of single-stream recycling has been the collection of unwanted materials and poorly sorted recyclables, resulting in increased contamination originating in the curbside recycling cart.43

Contamination hinders processing at MRFs when unwanted items are placed into recycling carts.44 For example, plastic bags are harmful to the automated equipment typically used to process and separate recyclable materials from single-stream collections. While MRFs are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process resulting in additional sorting, processing, energy consumption, and other

37 Section 403.7046(3), F.S.
38 Section 403.7046(3)(a), F.S.
42 Id. at 11.
43 Id.
44 Id.
increased costs due to equipment downtime, repair, or replacement needs. In addition to increased recycling processing costs, contamination also results in poorer quality recyclables, and increased rejection and landfilling of unusable materials. Although some local governments have implemented successful single-stream recycling programs with low contamination rates, contamination rates for other programs have continued to rise.\textsuperscript{45}

\textbf{Recycling Markets}

Until 2017, China consumed over 50 percent of the recycled paper and plastic in the world, including 70 percent of the plastics collected for recycling in the U.S.\textsuperscript{46} In 2017, China banned the import of 24 recyclable materials, such as post-consumer plastics and mixed paper, and also announced a 0.5 percent contamination standard for most recyclables not named in the ban.\textsuperscript{47} In 2018, the ban was expanded to include post-industrial plastics and a variety of scrap metals, and China implemented pre-shipment inspection requirements for inbound loads of scrap material.\textsuperscript{48} The ban has caused shipments of recyclables to other Asian countries to increase dramatically, resulting in nations including India, Malaysia, Indonesia, Thailand, and Vietnam enacting policies restricting the import of recyclable materials.\textsuperscript{49}

China’s recycling ban has created substantial challenges around the world for the solid waste and recycling industry.\textsuperscript{50} The loss of the Chinese export markets has caused recyclable materials to be sent to landfills or burned.\textsuperscript{51} China’s ban and higher standards for contamination are leading to higher costs and lower revenues for the U.S. recycling industry.\textsuperscript{52} In Florida, local governments are struggling with issues such as rising costs of processing and high contamination rates...
rates. DEP reports that these changes in the markets create challenges for Florida as it tries to increase its recycling rates because future growth is dependent on healthy markets. The increased supply of recyclable materials and decreased demand from end markets has resulted in a depression of commodities priced in the recycling industry. In response, DEP has utilized state programs and engaged various stakeholders to develop and grow Florida’s recycling markets.

The reduction in global markets has forced many waste haulers and waste management companies to reduce the amount of contamination transported and delivered to their processing facilities. As the value of mixed recovered materials decreases, several counties have been asked to renegotiate their recycling contracts. Many of the contracts have clauses that stipulate contamination must be below a certain percentage or the local government will be charged a much higher rate and penalized.

Exceptions to Requirements for Environmental Resource Permitting

DEP’s Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows. The ERP program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters).

For some low impact activities and projects that are narrow in scope, an ERP permit is not required under state law. Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to DEP. A broad array of activities are expressly exempt from the ERP program, these include but are not limited to: the installation of overhead transmission lines; installation and maintenance of boat ramps; work on seawalls and mooring pilings, swales, and footbridges; the removal of aquatic plants; construction and operation of floating vessel platforms; and work on county roads and bridges. Included among activities exempt from the requirement to obtain an ERP permit is the replacement or repair of existing docks and piers if fill material is not used and the replaced or repaired dock or pier is in the same location and of the same configuration and dimensions as the

55 Id.
57 DEP 2019 Report, at 12.
58 Id.
59 Id. at 12-13.
61 Fla. Admin. Code R. 62-330.010. The responsibilities for implementing the statewide ERP program are partially delegated by DEP to the water management districts and certain local governments.
62 Section 403.813, F.S.
dock or pier being replaced or repaired. Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity.

III. **Effect of Proposed Changes:**

Section 1 amends s. 403.706, F.S., which contains recycling goals required for county government recycling programs.

The bill exempts from the required county recycling goals any fiscally constrained county, as defined in s. 218.67(1), F.S. This exemption expires on July 1, 2035.

The bill creates the Florida Recycling Working Group within the Department of Environmental Protection (DEP). The working group must be composed of eleven members, with each of the following eleven organizations appointing one representative member from within their respective organizations:

- DEP.
- The University of Florida’s Engineering School of Sustainable Infrastructure and Environment.
- The Hinkley Center for Solid and Hazardous Waste Management.
- The Florida League of Cities.
- The Florida Association of Counties.
- The Florida Recycling Partnership.
- Keep Florida Beautiful.
- The Florida Beverage Association.
- Southern Waste Information eXchange, Inc.
- The Florida Chapter of the National Waste and Recycling Association.
- Recycle Florida Today, Inc.

The bill requires the working group to meet at least three times. A quorum must elect a chair and vice chair. A quorum will consist of a majority of the members. The chair of the working group must preside at all meetings and call meetings as often as necessary to carry out the working group’s responsibilities. DEP must keep a complete record of the proceedings of each meeting, including the names of the members present at each meeting and the actions taken. The records are public records, according to ch. 119, F.S.

The bill requires the working group to compile a report recommending programs and statutory changes necessary for achieving future recycling goals based on current progress toward achieving the goals required of county recycling programs. The working group must submit the report to the President of the Senate and the Speaker of the House of Representatives by July 1, 2021.

The subsection creating the Florida Recycling Working Group expires on July 1, 2021.

---

65 Section 403.813(1)(d), F.S.
66 Section 403.813(1), F.S.
Section 2 states that the bill shall take effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

C. Trust Funds Restrictions:
   None.

D. State Tax or Fee Increases:
   None.

E. Other Constitutional Issues:
   None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:
   None.

B. Private Sector Impact:
   None.

C. Government Sector Impact:
   The bill requires DEP to administer and participate in the Florida Recycling Working Group, including producing a report to the Legislature. These responsibilities may cause DEP to incur additional costs.

   The bill exempts fiscally constrained counties from required recycling goals for county recycling programs. This may have an indeterminate, positive fiscal impact on fiscally constrained counties in the short term.

VI. Technical Deficiencies:

None.
VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.706 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 Environment and Natural Resources Committee on December 9, 2019:

• Removes all changes to the timeline regarding the goals required of county recycling programs, including DEP’s reporting requirements related to the goals, but retains the exemption for fiscally constrained counties through July 1, 2035.
• Creates within DEP the Florida Recycling Working Group, which must produce a report recommending programs and statutory changes necessary for achieving future recycling goals based on current progress. The language establishes the working group’s composition, administrative procedures, and obligations for submitting its report to the Legislature by July 1, 2021. The working group is repealed on July 1, 2021.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Community Affairs (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 18 - 52
and insert:

(23) In addition to any report required under subsection (2), the department shall prepare a report that, based on current progress toward achieving the recycling goals established under subsection (2), recommends any program or statutory changes necessary to achieve future redefined statewide recycling goals. In preparing the report, the
The department shall consult with affected stakeholders, including local governments, research universities, recyclers, manufacturers, materials producers, and waste haulers, to recommend programs and education initiatives derived from evidence-based science, best practices, and economics. The department shall submit the report to the President of the Senate and the Speaker of the House of Representatives by July 1, 2021. This subsection expires July 1, 2021.

And the title is amended as follows:

Delete lines 3 - 8 and insert:

programs; amending s. 403.706, F.S.; requiring the Department of Environmental Protection to prepare a report regarding necessary changes to meet certain recycling goals in this state; providing requirements for the report; requiring the department to submit the report to the Legislature by a specified date; providing an exemption for fiscally
I. Summary:

SB 1662 allows certain veterans with total and permanent disabilities to transfer a homestead property exemption to a new property acquired after January 1 of a tax year. Qualified disabled veterans who move homesteads after January 1 would no longer have to wait until the following year to receive the exemption.

Current law provides a full property tax exemption for homestead property owned by veterans who sustained a total and permanent service-connected disability.

To transfer a homestead property tax exemption under the bill, a qualified disabled veteran must have received the exemption on another homestead property in the previous tax year, file an application with the property appraiser describing both properties, and certify under oath that they are qualified to receive the exemption, hold the legal title to the new property, and intend to use the new property as a homestead.

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 a 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 Property tax bills are mailed in November of each year based on the previous January 1 valuation.⁴ If a taxpayer furnishes the outstanding taxes within 30 days after the tax collector mailed the tax notice, the taxpayer will receive a 4 percent discount on the total amount of taxes due.⁵ The full amount of taxes is due by March 31 of the following year.⁶

The Florida Constitution prohibits the state from levying ad valorem taxes⁷ and limits the Legislature’s authority to provide for property valuations at less than just value unless expressly authorized.⁸

**Homestead Exemptions**

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads with an exemption from taxes.⁹ Second, the homestead provisions protect the homestead from forced sale by creditors.¹⁰ Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.¹¹

Every person having a legal or equitable title to real estate and who maintains a permanent residence on the real estate is deemed to establish homestead property. Homestead property is eligible for a $25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹² 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.¹³

---

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).
³ See ss. 192.001(2) and (16), F.S.
⁶ Id.
⁷ FLA. CONST. art. VII, s. 1(a).
⁸ See FLA. CONST. art. VII, s. 4.
⁹ FLA. CONST. art. VII, s. 6.
¹⁰ FLA. CONST. art. VII, s. 4.
¹¹ Id. at (c).
¹² FLA. CONST. art VII, s. 6(a).
¹³ Id.
Annual Application

Each person or organization meeting the criteria for an ad valorem tax exemption may claim the exemption if the claimant held legal title to the real or personal property subject to the exemption on January 1.\textsuperscript{14} The application for exemption must be filed with the property appraiser on or before March 1, and failure to make an application constitutes a waiver of the exemption for that year. The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property. The claimant must reapply for the exemption on an annual basis unless the property appraiser (subject to approval by a vote of the governing body of the county) has waived the annual application requirement for a property after an initial application is made and the exemption granted.\textsuperscript{15}

Veterans with Total and Permanent Service-Connected Disability

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation.\textsuperscript{16} To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or must have been a permanent resident of this state on January 1 of the year the veteran died. If the veteran predeceases their spouse, the spouse may continue to receive the exemption as long as the property remains the homestead property of the spouse, and the spouse is unmarried.\textsuperscript{17}

The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.\textsuperscript{18} A veteran may apply for the exemption before receiving documentation from the United States Government or the United States Department of Veterans Affairs.\textsuperscript{19} When the property appraiser receives the documentation, the exemption is granted as of the date of the original application, with excess taxes paid refunded (subject to the four years of limitation under s. 197.182(1)(e), F.S.).

Property Taxes for Mortgaged Real Estate

Mortgage lenders are often the parties paying property taxes on behalf of homeowners. These property taxes are charged to the homeowner as a component of a mortgage payment. Under Florida’s Consumer Protection statutes in ch. 501, F.S., mortgage lenders who collect payments for a loan secured by a mortgage on real property are required to promptly pay annual property taxes to receive the maximum tax discount available on behalf of the property owner.\textsuperscript{20} This statutory requirement means that the property tax for most homeowners with mortgaged property in Florida is paid during November or within 30 days after the tax collector mails the tax notice.\textsuperscript{21}

\textsuperscript{14} Section 196.011(1)(a), F.S.
\textsuperscript{15} Section 196.011(5) and (9)(a), F.S.
\textsuperscript{16} Section 196.081(1), F.S.
\textsuperscript{17} Section 196.081(3), F.S.
\textsuperscript{18} Section 196.081(2), F.S.
\textsuperscript{19} Section 196.081(5), F.S.
\textsuperscript{20} Section 501.137(1), F.S.
\textsuperscript{21} Id.
Property Taxes and Transfer of Real Estate

Due to the fact Florida statutorily requires mortgage lenders to pay property taxes in November to receive the maximum available discount for property owners, annual property taxes are usually paid in full at the time ownership of real estate is transferred. So, if an individual buys a previously owned home, the individual or the mortgage lender will typically repay the seller or seller’s mortgage lender a pro-rata share of the property taxes to cover the portion of the remaining tax year. On the other hand, these parties are also free to make alternative agreements regarding taxes. Notwithstanding, after this initial year elapses, the property tax schedule resumes the statutory timeframes.

III. Effect of Proposed Changes:

The bill amends ss. 196.011 and 196.081, F.S., to allow a veteran who was honorably discharged with a service-connected total and permanent disability to apply for the homestead property exemption under s. 196.081(1), F.S., in the current tax year for property acquired after January 1 of that year if the veteran had received the exemption on another property in the immediately preceding tax year.

The bill provides that notwithstanding the exemption filing deadline established by s. 196.011, F.S., the veteran may file for the exemption with the property appraiser up to the 25th day following the date the property appraiser mails the assessment notice under s. 194.011, F.S. The application for the exemption must list and describe both the previous homestead and new property. The applicant must also certify under oath that he or she:

- Is otherwise qualified to receive the tax exemption for permanently and totally disabled veterans;
- Holds legal title to the new property; and
- Intends to use the new property as his or her homestead.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18(b) 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

---

22 Id.
mandate requirement does not apply to laws having an insignificant impact, which for Fiscal Year 2019-2020 is forecast at approximately $2.2 million.

The mandate provision may apply because the bill would reduce ad valorem tax revenues to the extent qualified veterans will receive the benefit of ad valorem tax exemption on two parcels in the year of transfer. This decrease in tax revenue may be fiscally insignificant depending on the number of qualified veterans moving in a given year and taxable value of the property. If the bill does qualify as a mandate, the 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.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet analyzed the bill.

B. Private Sector Impact:

The bill may generate a positive fiscal impact for qualified disabled veterans by decreasing tax liabilities when moving between homestead properties.

C. Government Sector Impact:

Local governments may realize a reduction in ad valorem tax revenues from qualified disabled veterans moving homesteads while receiving the exemption.

24 An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times $0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at: http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited Jan. 7, 2020).

25 FLA. CONST. art. VII, s. 18(d).

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

The bill may fail to operate cleanly in real-world transactions. As previously noted, under s. 501.137, F.S., mortgage lenders have a statutory obligation to pay property taxes on behalf of property owners in November of each year to receive the maximum tax discount. In this scenario, sellers (or their mortgage lenders) may still require tax-exempt disabled veteran buyers to reimburse them a pro-rata amount of prepaid property taxes to cover the portion of the tax year the veteran owns the property.

It may be difficult to increase the portability of this tax exemption without curtailing the ability of private parties to allocate reimbursement of prepaid taxes or providing a windfall for tax-exempt veterans.

VIII. **Statutes Affected:**

This bill substantially amends sections 196.011 and 196.081 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.
The Committee on Community Affairs (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 48 - 62 and insert:

(b) The exemption under paragraph (a) shall be applied to a current tax year if the real estate owned and used as a homestead is acquired by the veteran after January 1 of the current tax year and the veteran received the exemption on another property in the immediately prior tax year. Notwithstanding the exemption filing requirements of s. 196.011,
to receive the exemption under this paragraph, the veteran must file an application with the property appraiser and may do so at any time during the current tax year. If the application is filed after the 25th day following the date the property appraiser mails the assessment notice under s. 200.069, the exemption shall be processed as a correction pursuant to s. 197.122(3). The application must identify both the previous homestead and the new property and certify under oath that the veteran meets all of the following requirements:

1. He or she is otherwise qualified to receive the exemption under paragraph (a).

2. He or she holds legal or beneficial title to the new property.

3. He or she uses or intends to use the new property as his or her homestead.

Section 3. Subsection (3) of section 197.122, Florida Statutes, is amended to read:

197.122 Lien of taxes; application.—

(3) A property appraiser shall correct an assessment to reflect an exemption granted under s. 196.081(1)(b) if the application for the exemption was filed after the 25th day following the date the property appraiser mails the assessment notice under s. 200.069. A property appraiser may also correct a material mistake of fact relating to an essential condition of the subject property to reduce an assessment if to do so requires only the exercise of judgment as to the effect of the mistake of fact on the assessed or taxable value of the property.

(a) As used in this subsection, the term “an essential
condition of the subject property” means a characteristic of the subject parcel, including only:

1. Environmental restrictions, zoning restrictions, or restrictions on permissible use;
2. Acreage;
3. Wetlands or other environmental lands that are or have been restricted in use because of such environmental features;
4. Access to usable land;
5. Any characteristic of the subject parcel which, in the property appraiser’s opinion, caused the appraisal to be clearly erroneous; or
6. Depreciation of the property that was based on a latent defect of the property which existed but was not readily discernible by inspection on January 1, but not depreciation from any other cause.

(b) The material mistake of fact, or the assessment benefiting from an exemption granted under s. 196.081(1)(b) if the application for the exemption was filed after the 25th day following the date the property appraiser mails the assessment notice under s. 200.069, may be corrected by the property appraiser, in the same manner as provided by law for performing the act in the first place only within 1 year after the approval of the tax roll pursuant to s. 193.1142. If corrected, the tax roll becomes valid ab initio and does not affect the enforcement of the collection of the tax. If the correction results in a refund of taxes paid on the basis of an erroneous assessment included on the current year’s tax roll, the property appraiser may request the department to pass upon the refund request pursuant to s. 197.182 or may submit the correction and refund
order directly to the tax collector in accordance with the notice provisions of s. 197.182(2). Corrections to tax rolls for previous years which result in refunds must be made pursuant to s. 197.182.

And the title is amended as follows:

Delete line 11

and insert:

with the property appraiser; amending s. 197.122, F.S.; providing a requirement and a procedure for a property appraiser, under certain circumstances, to correct an assessment to reflect the exemption; providing an effective
I. Summary:

CS/SB 760 amends provisions of the Marvin B. Clayton firefighters Pension Trust Fund Act (Act) to expand the Act to cover municipalities providing fire protection services to a Municipal Service Taxing Unit (MSTU) through an interlocal agreement. Currently, the Act only provides an incentive – access to insurance premium tax revenues – to municipalities organized and established by law, and it does not apply to unincorporated areas of any county or counties. The bill expands the applicability of the Act to allow a municipality that provides fire protection services to an MSTU through an interlocal agreement to receive insurance premium taxes collected within the MSTU boundary, to provide pension benefits to the municipality’s firefighters.

The bill also amends the general powers of independent special fire control districts to allow them to provide fire control and rescue services outside the geographical boundaries of a district. Fire control districts would be able to provide services outside of their district through an interlocal agreement with another governmental entity that shares powers in common with the district.

Although special districts occasionally provide services to other governmental entities outside of their geographic boundaries,¹ the Florida Supreme Court recently ruled that this practice is

unauthorized by ch. 189, F.S., the Uniform Special District Accountability Act. In Halifax Hospital Medical Center v. State (decided April 18, 2019), the court ruled that special districts only have the power to provide services and operate within the specific geographic boundaries established for a district in its charter. As contemplated in the court ruling, the bill provides statutory authority for independent special fire control districts to operate outside established geographic boundaries through interlocal agreements.

II. Present Situation:

Municipal Firefighters Pension Trust Fund

Local firefighter pension plans are governed by ch. 175, F.S., which is known as the Marvin B. Clayton Firefighters Pension Trust Fund Act (Act). The Act declares a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters. All municipal and special district firefighter retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighters’ pension trust funds.

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive – access to premium tax revenues – to encourage the establishment of firefighter pension plans by cities. In 1993, special fire control districts became eligible to participate under ch. 175, F.S.

The Act sets forth the minimum benefits or minimum standards for pensions for municipal firefighters. Municipalities may not reduce the benefits provided in the Act; however, the benefits provided in a local plan may vary from the provisions in the Act so long as the minimum standards are met.

Funding for these pension plans comes from four sources:

- Net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the premium tax);
- Employee contributions;
- Other revenue sources; and
- Mandatory payments by the city of the normal cost of the plan.

The Firefighters’ Pension Trust Fund is funded in part through an excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or special fire control district. It is payable by the insurers to the Department of Revenue, and the net proceeds are transferred to the appropriate fund at the Department of Management Services, Division of Retirement (division). The division, in coordination with the Municipal Police Officers’ and Firefighters’ Retirement Trust Funds Office, then distributes the

---

2 Section 175.021(1), F.S.
3 Id.
4 Section 175.091(1), F.S.
5 Section 175.101, F.S.
retirement trust funds to the appropriate local taxing jurisdiction. The Florida Department of Financial Services performs all trust fund market conduct exams.  

As of 2017, the Department of Management Services recorded that the membership of the pension plan consisted of 26,942 individual firefighters. In 2018, premium tax distributions to municipalities and special fire control districts from the Firefighters’ Pension Trust Fund amounted to $77.1 million.

To qualify for insurance premium tax dollars, municipalities and districts must develop pension plans that meet the requirements found in ch. 175, F.S. Responsibility for overseeing and monitoring these plans is assigned to the division; however, the day-to-day operational control rests with the local boards of trustees. The board of trustees must invest and reinvest the assets of the fund according to s. 175.071, F.S., unless specifically authorized to vary from the law. If the division deems that a firefighter pension plan created under ch. 175, F.S., is not in compliance, the sponsoring municipality could be denied its insurance premium tax revenues.

**Firefighter’s Supplemental Compensation Trust Fund**

Every firefighter is entitled to supplemental compensation from the employing agency when specified circumstances are met. The Firefighters’ Supplemental Compensation Trust Fund, created under the Department of Revenue, provides the funds necessary for firefighters to receive supplemental compensation under Florida law. Supplemental compensation is provided to firefighters who pursue higher educational opportunities that directly relate to the improvement of the health, safety, and welfare of firefighters and those who firefighters protect. The Firefighters’ Supplemental Compensation Trust Fund is funded by certain amounts appropriated from the Police and Firefighter’s Premium Tax Trust Fund.

The amount of supplemental compensation for a firefighter is determined as follows:
- Fifty dollars is paid monthly to a firefighter who receives an associate degree from a college if the degree is applicable to fire department duties; and
- One hundred and ten dollars is paid monthly to a firefighter who receives a bachelor’s degree from a college or university, regardless of whether the firefighter earned an associate degree earlier if the bachelor’s degree is applicable to fire department duties.

---

7 Department of Management Services, Police & Fire Pension Funds Membership Information, available at: [https://www.rol.frs.state.fl.us/forms/Membership_Information.pdf](https://www.rol.frs.state.fl.us/forms/Membership_Information.pdf) (last visited Feb. 3, 2020).
9 See s. 175.071, F.S.
10 See s. 175.341(1), F.S.
11 Section 633.422, F.S.
12 Id.
13 Id. at (1)
14 Id. at (3)
15 Id. at (2)
Municipal Services Taxing Units

A Municipal Service Taxing Unit (MSTU) is a funding mechanism for community members to create, through approval of the Board of County Commissioners, a special taxing unit to make improvements to a community area or provide additional services based on community needs.\(^\text{16}\)

The legislative and governing body of a county has the power to carry on the county government.\(^\text{17}\) This power includes the power to establish MSTUs for any part or all of the unincorporated areas of a county.\(^\text{18}\) The creation of an MSTU allows the county’s governing body to place the burden of ad valorem taxes upon property in a geographic area less than countywide to fund a particular municipal-type service or services. The MSTU is used in a county budget to separate those ad valorem taxes levied within the taxing unit itself to ensure that the funds derived from the tax levy are used within the boundaries of the taxing unit for the contemplated services. If ad valorem taxes are levied to provide these municipal services, counties are authorized to levy up to 10 mills.\(^\text{19}\)

The MSTU may encompass the entire unincorporated area, a portion of the unincorporated area, or all or part of the boundaries of a municipality. However, the inclusion of municipal boundaries within the MSTU is subject to consent by ordinance of the governing body of the affected municipality given either annually or for a term of years.\(^\text{20}\)

Special Districts

A “special district” is “a unit of local government created for a special purpose… operat[ing] within a limited geographic boundary and is created by general law, special act, local ordinance, or rule of the Governor and Cabinet.”\(^\text{21}\) Special districts are created to provide a wide variety of services, such as mosquito control,\(^\text{22}\) beach facilities,\(^\text{23}\) children’s services,\(^\text{24}\) fire control and rescue,\(^\text{25}\) or drainage control.\(^\text{26}\)

Special districts are classified as “dependent special districts” or “independent special districts.” For a special district to be classified as a dependent special district, the district must meet at least one of the following criteria:

- Membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;


\(^{17}\) Section 125.01(1), F.S.

\(^{18}\) Id. at (q).

\(^{19}\) Section 200.071(3), F.S.

\(^{20}\) Section 125.01(1)(q), F.S.

\(^{21}\) Section 189.012(6), F.S.

\(^{22}\) Section 388.021(1), F.S., (however, new independent mosquito control districts are prohibited, see s. 388.021(2), F.S.).

\(^{23}\) See Section 189.011, F.S.

\(^{24}\) Section 125.901(1), F.S.

\(^{25}\) Section 191.002, F.S.

\(^{26}\) Section 298.01, F.S.
• The members of its governing body are subject to removal at will by the governing body of a single county or single municipality, during their unexpired terms; or
• The district has a budget that requires approval or can be vetoed by the governing body of a single county or a single municipality.27

Alternatively, an independent special district is any special district that does not meet the definition of a “dependent special district.”28 Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely within the borders of a single municipality.29

Excluding community development districts, the charter creating an independent special district must contain the following information:
• The purpose of the special district;
• The powers, functions, and duties of the special district relating to ad valorem taxes, bonds and other revenue-raising abilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and certificates for non-ad valorem assessments and contractual agreements;
• Method for establishing the district and amending the district charter;
• The membership, organization, compensation, and administrative duties of the governing board and its members;
• Applicable financial disclosure, noticing, and reporting requirements;
• Procedures and requirements for bond issues, if the special district will issue bonds;
• Election procedures and requirements;
• Method for financing the district;
• Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;
• Planning requirements; and
• District boundaries.

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.30

Special districts may enter into interlocal agreements with one or more other local governmental units, provided that the special district is authorized to operate in the geographic bounds of the other local government unit.31 Under such an agreement, the special district may exercise jointly with the other participating local governments, those powers, privileges, or authorities which they have in common, and each may exercise separately.32

27 Section 189.012(2), F.S.
28 Section 189.012(3), F.S.
29 Id.
30 FLA. CONST. Art. VII, s. 9(a),.
31 Sections 163.01(2) and (3)(b), F.S.
32 Section 163.10(4), F.S.
**Independent Special Fire Control Districts**

Chapter 191, F.S., the “Independent Special Fire Control District Act” (Fire Control Act or Act), establishes standards and procedures for the operation and governance of independent special fire control districts and provides greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of districts. There are currently 64 fire control districts established by ch. 191, F.S., operating across Florida.

Unless otherwise exempted by special or general law, each district, whether created by special act, a general law of local application, or county ordinance, must comply with the Fire Control Act. The Act supersedes any special act or general law of local application containing the charter of a district, excluding provisions addressing district boundaries and geographical sub-districts for the election of members of the governing board.

The Fire Control Act prescribes procedures for the election, composition, and general administration of a district’s governing board, and contains a broad list of the district’s general powers to be exercised by a majority vote of the governing board. The Act grants districts special powers related to facilities and duties, and are required to provide for fire suppression and prevention by establishing and maintaining fire stations and substations, and by acquiring and maintaining firefighting and fire protection equipment necessary to prevent or fight fires. All construction must comply with applicable state, regional, and local regulations, including applicable comprehensive plans and land development regulations.

A fire control district may levy ad valorem taxes up to 3.75 mills unless a greater millage rate is authorized by law, subject to a referendum as required by the Florida Constitution and the Fire Control Act. Districts may also be authorized to levy special assessments, user charges, and impact fees under the Fire Control Act. Boundaries of a district may be modified, extended, or enlarged only upon approval or ratification by the Legislature. New independent fire control districts may be created only by the Legislature under s. 189.031, F.S.

Fire control districts are authorized to cooperate or contract with other persons or entities, including other governmental agencies, as necessary, convenient, incidental, or proper in connection with providing effective mutual aid and furthering any power, duty, or the purpose authorized by the Fire Control Act. Additionally, the Act affords districts the right to issue usage charges for special emergency services, including firefighting occurring in or to structures outside the district, if called to render such emergency services.

---

33 Section 191.002, F.S.
35 Section 191.004, F.S.
36 Section 191.006, F.S.
37 Section 191.008, F.S.
38 Section 191.009, F.S.
39 Section 191.014, F.S.
40 Section 191.006(13), F.S.
41 Section 191.009(3)(a), F.S.
Florida Interlocal Cooperation Act of 1969

The Florida Interlocal Cooperation Act provides local governmental units the right to enter into mutually advantageous agreements to provide services or facilities to other localities. This section of the law allows public agencies of the state to exercise jointly with any other public agency of the state, of any other state, or the United States Government any power, privilege, or authority which such agencies share in common and which each might exercise separately. To effectuate interlocal cooperation under this section, local governmental units jointly exercising power must form and execute a contract detailing the terms and conditions of the interlocal relationship. 

Halifax Hospital Medical Center v. State, 278 So.3d 545 (Fla. 2019)

Created in 1925 as the Halifax Hospital District, the Halifax Hospital Medical Center (commonly known as Halifax Health) is an independent special district located in a portion of Volusia County. As originally adopted, the charter for Halifax Hospital District authorized the establishment, construction, operation, and maintenance of hospitals as necessary for the use of the people in the district. The 1925 enabling act and subsequent amendments were recodified in 1979. Halifax Hospital Medical Center interpreted a change in the first sentence of the basic authorization section in the 1979 charter as allowing the district to provide services and open facilities outside the borders of the district.

Applying this interpretation, the district established and operated extra-territorial facilities and services for several years. The text on which the district relies was substantially unchanged...
when the 1979 charter and subsequent amending acts\textsuperscript{54} were again recodified in 2003.\textsuperscript{55} Each version of the charter for the Halifax Hospital Medical Center required the act to be liberally interpreted to achieve its stated purposes.\textsuperscript{56}

On November 6, 2017, Deltona and the Halifax district entered into an interlocal agreement for the district to construct and operate health facilities within the City.\textsuperscript{57} To finance the development and completion of the Deltona hospital, on January 8, 2018, the Board of the Halifax district adopted a resolution to issue \$115 million in bonds using the district’s authority.\textsuperscript{58} Following the statutory procedure,\textsuperscript{59} the district filed a complaint in the Circuit Court to validate the bonds.\textsuperscript{60} The Circuit Court found the district was not authorized to construct the Deltona hospital outside the geographical boundaries of the district, and accordingly refused to validate the proposed bond issue.\textsuperscript{61} On April 18, 2019, the Supreme Court affirmed the decision of the circuit court, holding that the district’s enabling law and ch. 189, F.S., did not expressly authorize any operation outside the district boundaries.\textsuperscript{62}

III. Effect of Proposed Changes:

The bill expands the applicability of ch. 175, F.S., the Marvin B. Clayton Firefighters Pension Trust Fund Act (Act), to provide that the Act applies to municipalities providing fire protection services to an MSTU through an interlocal agreement. The bill authorizes municipalities to receive insurance premium taxes collected within the boundaries of an MSTU to afford pension benefits to firefighters serving the area. It conforms ch. 175, F.S., to authorize the levy and imposition of the insurance premium tax within an MSTU in the same manner as prescribed for municipalities and fire control districts. The bill requires that certain pension trust fund money not distributed to an MSTU be appropriated to the Firefighters’ Supplemental Compensation Trust Fund.

The bill also amends s. 191.006, F.S., to expressly provide that independent special fire control districts have all powers and duties provided in ch. 189, F.S., (Uniform Special District Accountability Act), ch. 191, F.S., (Fire Control Act), and s. 163.01, F.S., (Florida Interlocal Cooperation Act), including the exercise of such powers within or without the independent special fire control district’s boundary in cooperation with another governmental agency when such agency shares such powers in common with the district.

The bill takes effect on July 1, 2020.

\textsuperscript{54} Chapters 79-578, 84-539, 89-409, 91-352, Laws of Fla.
\textsuperscript{55} Chapter 2003-374, Laws of Fla.
\textsuperscript{56} Chapter 11272, s. 20, Laws of Fla. (1925); chapter 79-577, s. 15, Laws of Fla.; chapter 2003-374, s. 15 of s. 3, Laws of Fla.
\textsuperscript{57} Appellant’s Initial Brief, 10. \textit{See} s. 163.01, F.S.
\textsuperscript{58} Appellant’s Initial Brief, 10. \textit{See} chapter 2003-374, s. 8 of s. 3, Laws of Fla.
\textsuperscript{59} Chapter 75, F.S.
\textsuperscript{60} \textit{Halifax Hospital Medical Center v. State of Florida, et al.}, Case no. 2018 30059 CICI, in the 7\textsuperscript{th} Judicial Circuit Court in and for Volusia County, Florida.
\textsuperscript{62} \textit{Halifax Hospital Medical Center v. State of Florida}, 278 So.3d 545, No. SC18-683 (Fla. Apr. 18, 2019).
IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:
   None.

B. Public Records/Open Meetings Issues:
   None.

C. Trust Funds Restrictions:
   None.

D. State Tax or Fee Increases:
   None.

E. Other Constitutional Issues:
   None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

   The Revenue Estimating Conference has determined that the provisions of the bill
pertaining to the insurance premium tax will reduce General Revenue receipts by
$100,000 in fiscal year 2020-2021, with a recurring reduction of $300,000 beginning in
fiscal year 2021-2022. The bill will increase local government receipts by $100,000 in
fiscal year 2020-2021, with a recurring increase of $300,000 beginning in fiscal year
2021-2022.63

B. Private Sector Impact:
   None.

C. Government Sector Impact:

   The bill specifies that a municipality is entitled to premium tax distributions provided by
chapter 175, F.S., for providing fire services to MSTUs. As a result, the bill will have a
negative fiscal impact on state revenues. Premium taxes paid by an insurer to fund a
municipal firefighter retirement plan are credited against the total premium taxes paid to
the state by the insurance company.64 Numerations allocated to MSTU firefighter pension

---

63 Revenue Estimating Conference, Fire Control District Surtax, HB 1331 (Jan. 30, 2020), available at:
64 See s. 624.509(4), F.S.
funds would be deducted from the general revenue fund of the state and would not increase or decrease premium taxes paid by insurers.\textsuperscript{65}

The bill will result in a positive fiscal impact on local governments because the bill provides that a municipality may collect insurance premium tax revenues within the MSTU boundary receiving firefighter services if the municipality provides a municipal firefighter retirement plan as provided for in ch. 175, F.S.

The bill may also have a positive fiscal impact on special independent fire control districts. These districts may be able to increase revenues by entering interlocal agreements and providing services outside the specific geographic boundaries established in a district charter.

\textbf{VI. Technical Deficiencies:}

None.

\textbf{VII. Related Issues:}

None.

\textbf{VIII. Statutes Affected:}

This bill substantially amends the following sections of the Florida Statutes: 175.032, 175.041, 175.071, 175.101, 175.111, 175. 121, 175.122, 175.351, 175.381, 175.411, 191.006, and 633.422.

\textbf{IX. Additional Information:}

\begin{enumerate}
  \item \textbf{Committee Substitute – Statement of Substantial Changes:}
    (Summarizing differences between the Committee Substitute and the prior version of the bill.)

    \textbf{CS by Community Affairs on February 3, 2020:}
    The committee substitute adds provisions allowing municipalities that provide fire protection services to a municipal services taxing unit (MSTU) through an interlocal agreement to receive insurance premium taxes collected within the boundaries of an MSTU in order to provide pension benefits to the municipality’s firefighters serving the MSTU.

  \item \textbf{Amendments:}

    None.
\end{enumerate}

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

\textsuperscript{65} \textit{Id.}
The Committee on Community Affairs (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (14) of section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the term:
“Local law plan” means a retirement plan that includes both a defined benefit plan component and a defined contribution plan component for firefighters, or for firefighters and police officers if both are included, as described in s. 175.351, established by municipal ordinance, special district resolution, or special act of the Legislature, which enactment sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if minimum benefits and minimum standards are met. However, any such variance must provide a greater benefit for firefighters, or firefighters and police officers if both are included. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 175.261(2).

Section 2. Section 175.041, Florida Statutes, is amended to read:

175.041 Firefighters’ Pension Trust Fund created; applicability of provisions.—For any municipality, municipal services taxing unit, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) There shall be established a special fund exclusively for the purpose of this chapter, which in the case of chapter plans shall be known as the “Firefighters’ Pension Trust Fund,” in each municipality, municipal services taxing unit, and each special fire control district of this state heretofore or hereafter created which now has or which may hereafter have a constituted fire department or an authorized volunteer fire department, or any combination thereof.

(2) To qualify as a fire department or volunteer fire...
department or combination thereof under the provisions of this chapter, the department shall own and use apparatus for the fighting of fires that was in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus at the time of purchase.

(3) The provisions of this chapter shall apply only to municipalities organized and established under the laws of the state and to special fire control districts. This chapter does not apply to the unincorporated areas of any county or counties except with respect to municipal services taxing units established in unincorporated areas for the purpose of receiving fire protection services from a municipality and special fire control districts that include unincorporated areas. This chapter also does not, nor shall the provisions hereof apply to any governmental entity whose firefighters are eligible to participate in the Florida Retirement System.

(a) Special fire control districts that include, or consist exclusively of, unincorporated areas of one or more counties may levy and impose the tax and participate in the retirement programs created by this chapter.

(b) With respect to the distribution of premium taxes, a single consolidated government consisting of a former county and one or more municipalities, consolidated under Art. VIII of the State Constitution, is also eligible to participate under this chapter. The consolidated government shall notify the division when it has entered into an interlocal agreement to provide fire services to a municipality within its boundaries. The municipality may enact an ordinance
levying the tax as provided in s. 175.101. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

(c) Any municipality that has entered into an interlocal agreement to provide fire protection services to any other incorporated municipality, in its entirety, or a municipal services taxing unit in an unincorporated area, in its entirety, for a period of 12 months or more may be eligible to receive the premium taxes reported for such other municipality or municipal services taxing unit. In order to be eligible for such premium taxes, the municipality providing the fire services must notify the division that it has entered into an interlocal agreement with another municipality or a county on behalf of a municipal services taxing unit. The municipality receiving the fire services, or a county on behalf of the municipal services taxing unit receiving the fire services, may enact an ordinance levying the tax as provided in s. 175.101. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality or municipal services taxing unit receiving the fire services to the participating municipality providing the fire services as long as the interlocal agreement is in effect.

(4) No municipality shall establish more than one retirement plan for public safety officers which is supported in whole or in part by the distribution of premium tax funds as provided by this chapter or chapter 185, nor shall any municipality establish a retirement plan for public safety
Section 3. Section 175.071, Florida Statutes, is amended to read:

175.071 General powers and duties of board of trustees.—For any municipality, municipal services taxing unit, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:
(1) The board of trustees, subject to the fiduciary standards in ss. 112.656, 112.661, and 518.11 and the Code of Ethics in ss. 112.311-112.3187, may:
(a) Invest and reinvest the assets of the firefighters’ pension trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the firefighters’ pension trust fund are entitled under this chapter and pay the initial and subsequent premiums thereon.
(b) Invest and reinvest the assets of the firefighters’ pension trust fund in:
1. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings, building, and loan association insured by the Savings Association Insurance Fund administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.
2. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the
United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, if:
   a. The corporation is listed on any one or more of the recognized national stock exchanges or on the National Market System of the NASDAQ Stock Market and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service; and
   b. The board of trustees may not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor may the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of that company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the assets of the fund.

This paragraph applies to all boards of trustees and participants. However, if a municipality, municipal services taxing unit, or special fire control district has a duly enacted pension plan under pursuant to, and in compliance with, s. 175.351, and the trustees desire to vary the investment procedures, the trustees of such plan must request a variance of the investment procedures as outlined herein only through a municipal ordinance, special act of the Legislature, or resolution by the governing body of the special fire control district; if a special act, or a municipality by ordinance
adopted before July 1, 1998, permits a greater than 50-percent equity investment, such municipality is not required to comply with the aggregate equity investment provisions of this paragraph. Notwithstanding any other provision of law, this section may not be construed to take away any preexisting legal authority to make equity investments that exceed the requirements of this paragraph. Notwithstanding any other provision of law, the board of trustees may invest up to 25 percent of plan assets in foreign securities on a market-value basis. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law.

(c) Issue drafts upon the firefighters’ pension trust fund pursuant to this act and rules prescribed by the board of trustees. All such drafts must be consecutively numbered, be signed by the chair and secretary, or by two individuals designated by the board who are subject to the same fiduciary standards as the board of trustees under this subsection, and state upon their faces the purpose for which the drafts are drawn. The treasurer or depository of each municipality or special fire control district shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money may be otherwise drawn from the fund.

(d) Convert into cash any securities of the fund.

(e) Keep a complete record of all receipts and disbursements and the board’s acts and proceedings.

(2) Any and all acts and decisions shall be effectuated by vote of a majority of the members of the board; however, no trustee shall take part in any action in connection with the
trustee’s own participation in the fund, and no unfair
discrimination shall be shown to any individual firefighter
participating in the fund.

(3) The board’s action on all claims for retirement under
this act shall be final, provided, however, that the rules and
regulations of the board have been complied with.

(4) The secretary of the board of trustees shall keep a
record of all persons receiving retirement payments under the
provisions of this chapter, in which shall be noted the time
when the pension is allowed and the time when the pension shall
cease to be paid. In this record, the secretary shall keep a
list of all firefighters employed by the municipality, municipal
services taxing unit, or special fire control district. The
record shall show the name, address, and time of employment of
such firefighters and when they cease to be employed by the
municipality, municipal services taxing unit, or special fire
control district.

(5) The sole and exclusive administration of, and the
responsibilities for, the proper operation of the firefighters’
pension trust fund and for making effective the provisions of
this chapter are vested in the board of trustees; however,
nothing herein shall empower a board of trustees to amend the
provisions of a retirement plan without the approval of the
municipality, municipal services taxing unit, or special fire
control district. The board of trustees shall keep in convenient
form such data as shall be necessary for an actuarial valuation
of the firefighters’ pension trust fund and for checking the
actual experience of the fund.

(6)(a) At least once every 3 years, the board of trustees
shall retain a professionally qualified independent consultant who shall evaluate the performance of any existing professional money manager and shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in the same manner as for any meeting of the board.

(b) For purposes of this subsection, the term “professionally qualified independent consultant” means a consultant who, based on education and experience, is professionally qualified to evaluate the performance of professional money managers, and who, at a minimum:

1. Provides his or her services on a flat-fee basis.
2. Is not associated in any manner with the money manager for the pension fund.
3. Makes calculations according to the American Banking Institute method of calculating time-weighted rates of return. All calculations must be made net of fees.
4. Has 3 or more years of experience working in the public sector.

(7) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(a) Employ independent legal counsel at the pension fund’s expense.

(b) Employ an independent enrolled actuary, as defined in s. 175.032, at the pension fund’s expense.

(c) Employ such independent professional, technical, or other advisers as it deems necessary at the pension fund’s
If the board chooses to use the municipality’s, municipal services taxing unit’s, or special district’s legal counsel or actuary, or chooses to use any of the municipality’s, municipal services taxing unit’s, or special district’s other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

(8) Notwithstanding paragraph (1)(b) and as provided in s. 215.473, the board of trustees must identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in that section, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company beginning January 1, 2010. The divestiture of any such security must be completed by September 30, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by s. 215.473, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund.
based upon the divestiture of any security pursuant to this subsection.

Section 4. Section 175.101, Florida Statutes, is amended to read:

175.101 State excise tax on property insurance premiums authorized; procedure.—For any municipality, municipal services taxing unit, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) Each municipality, municipal services taxing unit, or special fire control district in this state described and classified in s. 175.041, having a lawfully established firefighters’ pension trust fund or municipal fund, or special fire control district fund, by whatever name known, providing pension benefits to firefighters or firefighters and police officers if both are included, as provided under this chapter, or receiving fire protection services from a municipality participating under this chapter, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereinafter engage in or carry on, the business of property insurance as shown by the records of the Office of Insurance Regulation of the Financial Services Commission, an excise tax in addition to any lawful license or excise tax now levied by each of the municipalities, municipal services taxing units, or special fire control districts, respectively, amounting to 1.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the corporate limits of such municipalities or within the
legally defined boundaries of municipal services taxing units or special fire control districts, respectively. Whenever the boundaries of a special fire control district that has lawfully established a firefighters’ pension trust fund encompass a portion of the corporate territory of a municipality that has also lawfully established a firefighters’ pension trust fund, or a municipal services taxing unit receiving fire protection services from a municipality participating under this chapter, that portion of the tax receipts attributable to insurance policies covering property situated both within the municipality or municipal services taxing unit and the special fire control district shall be given to the fire service provider. For the purpose of this section, the boundaries of a special fire control district include an area that has been annexed until the completion of the 4-year period provided for in s. 171.093(4), or other agreed-upon extension, or if a special fire control district is providing services under an interlocal agreement executed in accordance with s. 171.093(3). The agent shall identify the fire service provider on the property owner’s application for insurance. Remaining revenues collected under this chapter shall be distributed to the municipality or special fire control district according to the location of the insured property.

(2) In the case of multiple peril policies with a single premium for both the property and casualty coverages in such policies, 70 percent of such premium shall be used as the basis for the 1.85-percent tax.

(3) This excise tax shall be payable annually on March 1 of each year after the passage of an ordinance, in the case of a
municipality or municipal services taxing unit, or resolution, in the case of a special fire control district, assessing and imposing the tax authorized by this section. Installments of taxes shall be paid according to the provision of s. 624.5092(2)(a), (b), and (c).

This section also applies to any municipality consisting of a single consolidated government which is made up of a former county and one or more municipalities, consolidated under pursuant to the authority in s. 3 or s. 6(e), Art. VIII of the State Constitution, and to property insurance policies covering property within the boundaries of the consolidated government, regardless of whether the properties are located within one or more separately incorporated areas within the consolidated government, provided the properties are being provided fire protection services by the consolidated government. This section also applies to any municipality or municipal services taxing unit in an unincorporated area, as provided in s. 175.041(3)(c), which has entered into an interlocal agreement to receive fire protection services from another municipality participating under this chapter. The excise tax may be levied on all premiums collected on property insurance policies covering property located within the corporate limits of the municipality or municipality services taxing unit receiving the fire protection services, but will be available for distribution to the municipality providing the fire protection services.

Section 5. Section 175.111, Florida Statutes, is amended to read:

175.111 Certified copy of ordinance or resolution filed;
insurance companies' annual report of premiums; duplicate files; book of accounts.—For any municipality, municipal services taxing unit, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, whenever any municipality, or any county on behalf of a municipal services taxing unit, passes an ordinance or whenever any special fire control district passes a resolution establishing a chapter plan or local law plan assessing and imposing the taxes authorized in s. 175.101, a certified copy of such ordinance or resolution shall be deposited with the division. Thereafter every insurance company, association, corporation, or other insurer carrying on the business of property insurance on real or personal property, on or before the succeeding March 1 after the date of the passage of the ordinance or resolution, shall report fully in writing and under oath to the division and the Department of Revenue a just and true account of all premiums by such insurer received for property insurance policies covering or insuring any real or personal property located within the corporate limits of each such municipality, municipal services taxing unit, or special fire control district during the period of time elapsing between the date of the passage of the ordinance or resolution and the end of the calendar year. The report shall include the code designation as prescribed by the division for each piece of insured property, real or personal, located within the corporate limits of each municipality and within the legally defined boundaries of each special fire control district and municipal services taxing unit. The aforesaid insurer shall annually thereafter, on March 1, file with the Department of Revenue a
similar report covering the preceding year’s premium receipts, and every such insurer at the same time of making such reports shall pay to the Department of Revenue the amount of the imposed tax hereinbefore mentioned. Every insurer engaged in carrying on such insurance business in the state shall keep accurate books of accounts of all such business done by it within the corporate limits of each such municipality and within the legally defined boundaries of each such special fire control district and municipal services taxing unit, and in such manner as to be able to comply with the provisions of this chapter. Based on the insurers’ reports of premium receipts, the division shall prepare a consolidated premium report and shall furnish to any municipality, municipal services taxing unit, or special fire control district requesting the same a copy of the relevant section of that report.

Section 6. Section 175.121, Florida Statutes, is amended to read:

175.121 Department of Revenue and Division of Retirement to keep accounts of deposits; disbursements.—For any municipality, municipal services taxing unit, or special fire control district having a chapter or local law plan established under pursuant to this chapter:

(1) The Department of Revenue shall keep a separate account of all moneys collected for each municipality, municipal services taxing unit, and each special fire control district under the provisions of this chapter. All moneys so collected must be transferred to the Police and Firefighters’ Premium Tax Trust Fund and shall be separately accounted for by the division. The moneys budgeted as necessary to pay the expenses
of the division for the daily oversight and monitoring of the firefighters’ pension plans under this chapter and for the oversight and actuarial reviews conducted under part VII of chapter 112 are annually appropriated from the interest and investment income earned on the moneys collected for each municipality, municipal services taxing unit, or special fire control district and deposited in the Police and Firefighters’ Premium Tax Trust Fund. Interest and investment income remaining thereafter in the trust fund which is unexpended and otherwise unallocated by law shall revert to the General Revenue Fund on June 30 of each year.

(2) The Chief Financial Officer shall, on or before July 1 of each year, and at such other times as authorized by the division, draw his or her warrants on the full net amount of money then on deposit in the Police and Firefighters’ Premium Tax Trust Fund under pursuant to this chapter, specifying the municipalities, municipal services taxing units, and special fire control districts to which the moneys must be paid and the net amount collected for and to be paid to each municipality, municipal services taxing unit, or special fire control district, respectively, subject to the limitation on disbursement under s. 175.122. The sum payable to each municipality, municipal services taxing unit, or special fire control district is appropriated annually out of the Police and Firefighters’ Premium Tax Trust Fund. The warrants of the Chief Financial Officer shall be payable to the respective municipalities, municipal services taxing units, and special fire control districts entitled to receive them and shall be remitted annually by the division to the respective municipalities, municipal services taxing units, and special fire control districts respectively.
municipalities, municipal services taxing units, and special fire control districts. In lieu thereof, the municipality, municipal services taxing unit, or special fire control district may provide authorization to the division for the direct payment of the premium tax to the board of trustees. In order for a municipality, municipal services taxing unit, or special fire control district and its pension fund to participate in the distribution of premium tax moneys under this chapter, all the provisions shall be complied with annually, including state acceptance under pursuant to part VII of chapter 112.

(3)(a) All moneys not distributed to municipalities, municipal services taxing units, and special fire control districts under this section as a result of the limitation on disbursement contained in s. 175.122, or as a result of any municipality, municipal services taxing unit, or special fire control district not having qualified in any given year, or portion thereof, shall be transferred to the Firefighters’ Supplemental Compensation Trust Fund administered by the Department of Revenue, as provided in s. 633.422.

(b)1. Moneys transferred under paragraph (a) but not needed to support the supplemental compensation program in a given year shall be redistributed pro rata to those participating municipalities, municipal services taxing units, and special fire control districts that transfer any portion of their funds to support the supplemental compensation program in that year. Such additional moneys shall be used to cover or offset costs of the retirement plan.

2. To assist the Department of Revenue, the division shall identify those municipalities, municipal services taxing units,
and special fire control districts that are eligible for redistribution as provided in s. 633.422(3)(c)2., by listing the municipalities, municipal services taxing units, and special fire control districts from which funds were transferred under paragraph (a) and specifying the amount transferred by each.

Section 7. Section 175.122, Florida Statutes, is amended to read:

175.122 Limitation of disbursement.—For any municipality, municipal services taxing unit, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, any municipality, municipal services taxing unit, or special fire control district participating in the firefighters’ pension trust fund under pursuant to the provisions of this chapter, whether under a chapter plan or local law plan, is limited to receiving any moneys from such fund in excess of that produced by one-half of the excise tax, as provided for in s. 175.101; however, any such municipality, municipal services taxing unit, or special fire control district receiving less than 6 percent of its fire department payroll from such fund is entitled to receive from such fund the amount determined under s. 175.121, in excess of one-half of the excise tax, not to exceed 6 percent of its fire department payroll. Payroll amounts of members included in the Florida Retirement System are not included.

Section 8. Section 175.351, Florida Statutes, is amended to read:

175.351 Municipalities, municipal services taxing units, and special fire control districts that have their own
retirement plans for firefighters.—In order for a municipality, municipal services taxing unit, or special fire control district that has its own retirement plan for firefighters, or for firefighters and police officers if both are included, to participate in the distribution of the tax fund established under s. 175.101, a local law plan must meet minimum benefits and minimum standards, except as provided in the mutual consent provisions in paragraph (1)(g) with respect to the minimum benefits not met as of October 1, 2012.

(1) If a municipality, municipal services taxing unit, or special fire control district has a retirement plan for firefighters, or for firefighters and police officers if both are included, which in the opinion of the division meets minimum benefits and minimum standards, the board of trustees of the retirement plan must place the income from the premium tax in s. 175.101 in such plan for the sole and exclusive use of its firefighters, or for firefighters and police officers if both are included, where it shall become an integral part of that plan and be used to fund benefits as provided herein. Effective October 1, 2015, for noncollectively bargained service or upon entering into a collective bargaining agreement on or after July 1, 2015:

(a) The base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality, municipal services taxing unit, or special fire control district.

(b) Of the additional premium tax revenues received that are in excess of the amount received for the 2012 calendar year, 50 percent must be used to fund minimum benefits or other
retirement benefits in excess of the minimum benefits as
determined by the municipality, municipal services taxing unit,
or special fire control district, and 50 percent must be placed
in a defined contribution plan to fund special benefits.

(c) Additional premium tax revenues not described in
paragraph (b) must be used to fund benefits that are not
included in the minimum benefits. If the additional premium tax
revenues subject to this paragraph exceed the full annual cost
of benefits provided through the plan which are in excess of the
minimum benefits, any amount in excess of the full annual cost
must be used as provided in paragraph (b).

(d) Of any accumulations of additional premium tax revenues
which have not been allocated to fund benefits in excess of the
minimum benefits, 50 percent of the amount of the accumulations
must be used to fund special benefits, and 50 percent must be
applied to fund any unfunded actuarial liabilities of the plan;
provided that any amount of accumulations in excess of the
amount required to fund the unfunded actuarial liabilities must
be used to fund special benefits.

(e) For a plan created after March 1, 2015, 50 percent of
the insurance premium tax revenues must be used to fund defined
benefit plan component benefits, with the remainder used to fund
defined contribution plan component benefits.

(f) If a plan offers benefits in excess of the minimum
benefits, such benefits, excluding supplemental plan benefits in
effect as of September 30, 2014, may be reduced if the plan
continues to meet minimum benefits and minimum standards. The
amount of insurance premium tax revenues previously used to fund
benefits in excess of minimum benefits before the reduction,
excluding the amount of any additional premium tax revenues distributed to a supplemental plan for the 2012 calendar year, must be used as provided in paragraph (b). However, benefits in excess of minimum benefits may not be reduced if a plan does not meet the minimum percentage amount of 2.75 percent of the average final compensation of a full-time firefighter, as required by s. 175.162(2)(a)1., or provides an effective benefit that is below 2.75 percent as a result of a maximum benefit limitation as described in s. 175.162(2)(a)2.

(g) Notwithstanding paragraphs (a)-(f), the use of premium tax revenues, including any accumulations of additional premium tax revenues which have not been allocated to fund benefits in excess of minimum benefits, may deviate from the provisions of this subsection by mutual consent of the members’ collective bargaining representative or, if there is no representative, by a majority of the firefighter members, or firefighter and police officer members if both are included, of the fund, and by consent of the municipality, municipal services taxing unit, or special fire control district, provided that the plan continues to meet minimum benefits and minimum standards; however, a plan that operates under pursuant to this paragraph and does not meet minimum benefits as of October 1, 2012, may continue to provide the benefits that do not meet the minimum benefits at the same level as was provided as of October 1, 2012, and all other benefit levels must continue to meet the minimum benefits. Such mutually agreed deviation must continue until modified or revoked by subsequent mutual consent of the members’ collective bargaining representative or, if none, by a majority of the firefighter members, or firefighter and police officer members.
if both are included, of the fund, and the municipality, municipal services taxing unit, or special fire control district. An existing arrangement for the use of premium tax revenues contained within a special act plan or a plan within a supplemental plan municipality is considered, as of July 1, 2015, to be a deviation for which mutual consent has been granted.

(2) The premium tax provided by this chapter must be used in its entirety to provide retirement benefits to firefighters, or to firefighters and police officers if both are included. Local law plans created by special act before May 27, 1939, are deemed to comply with this chapter.

(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality, municipal services taxing unit, special fire control district, or, if where required, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the proposed plan or proposed plan change shall be furnished to the division before the last public hearing on the proposal is held. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter. Notwithstanding any other provision, only those local law plans created by special act of legislation before May 27, 1939, are deemed to meet minimum benefits and minimum standards.
(4) Notwithstanding any other provision, with respect to any supplemental plan municipality:

(a) A local law plan and a supplemental plan may continue to use their definition of compensation or salary in existence on March 12, 1999.

(b) Section 175.061(1)(b) does not apply, and a local law plan and a supplemental plan shall continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000.

(5) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing, and copies made available to the participants and to the general public.

(6) In addition to the defined benefit plan component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2015, for noncollectively bargained service, upon entering into a collective bargaining agreement on or after July 1, 2015, or upon the creation date of a new participating plan. Depending upon the application of subsection (1), a defined contribution plan component may or may not receive any funding.

(7) Notwithstanding any other provision of this chapter, a municipality, municipal services taxing unit, or special fire control district that has implemented or proposed changes to a local law plan based on the municipality’s, municipal services taxing unit’s, or district’s reliance on an interpretation of this chapter by the Department of Management Services on or
after August 14, 2012, and before March 3, 2015, may continue
the implemented changes or continue to implement proposed
changes. Such reliance must be evidenced by a written collective
bargaining proposal or agreement, or formal correspondence
between the municipality, municipal services taxing unit, or
district and the Department of Management Services which
describes the specific changes to the local law plan, with the
initial proposal, agreement, or correspondence from the
municipality, municipal services taxing unit, or district dated
before March 3, 2015. Changes to the local law plan which are
otherwise contrary to minimum benefits and minimum standards may
continue in effect until the earlier of October 1, 2018, or the
effective date of a collective bargaining agreement that is
contrary to the changes to the local law plan.

Section 9. Section 175.381, Florida Statutes, is amended to
read:

175.381 Applicability.—This act shall apply to all
municipalities, municipal services taxing units, special fire
control districts, chapter plans, local law municipalities,
local law special fire control districts, or local law plans
presently existing or to be created under pursuant to this
chapter. Those plans presently existing under pursuant to s.
175.351 and not in compliance with the provisions of this act
must comply no later than December 31, 1999. However, the plan
sponsor of any plan established by special act of the
Legislature shall have until July 1, 2000, to comply with the
provisions of this act, except as otherwise provided in this act
with regard to establishment and election of board members. The
provisions of This act shall be construed to establish minimum
standards and minimum benefit levels, and nothing contained in this act or in chapter 175 shall operate to reduce presently existing rights or benefits of any firefighter, directly, indirectly, or otherwise.

Section 10. Section 175.411, Florida Statutes, is amended to read:

175.411 Optional participation.—A municipality, municipal services taxing unit, or special fire control district may revoke its participation under this chapter by rescinding the legislative act, ordinance, or resolution which assesses and imposes the taxes authorized in s. 175.101, and by furnishing a certified copy of such legislative act, ordinance, or resolution to the division. Thereafter, the municipality, municipal services taxing unit, or special fire control district is prohibited from participating under this chapter, and is not eligible for future premium tax moneys. Premium tax moneys previously received shall continue to be used for the sole and exclusive benefit of firefighters, or firefighters and police officers if both are included, and no amendment, legislative act, ordinance, or resolution shall be adopted which has the effect of reducing the then-vested accrued benefits of the firefighters, or firefighters and police officers if both are included, retirees, or their beneficiaries. The municipality, municipal services taxing unit, or special fire control district shall continue to furnish an annual report to the division as provided in s. 175.261. If the municipality, municipal services taxing unit, or special fire control district subsequently terminates the defined benefit plan, they shall do so in compliance with the provisions of s. 175.361.
Section 11. Subsection (13) of section 191.006, Florida Statutes, is amended to read:

191.006 General powers.—The district shall have, and the board may exercise by majority vote, the following powers:

(13) To cooperate or contract with other persons or entities, including other governmental agencies, as necessary, convenient, incidental, or proper in connection with providing effective mutual aid and furthering any power, duty, or purpose authorized by this act. The district shall have, and the board may exercise, all powers and duties provided in s. 163.01, chapter 189, and this chapter, including such powers within or without the district’s boundary in cooperation with another governmental agency when such agency shares such powers in common with the district.

Section 12. Paragraph (c) of subsection (3) of section 633.422, Florida Statutes, is amended to read:

633.422 Firefighters; supplemental compensation.—

(3) FUNDING.—

(c) There is appropriated from the Police and Firefighter’s Premium Tax Trust Fund to the Firefighters’ Supplemental Compensation Trust Fund, which is created under the Department of Revenue, all moneys which have not been distributed to municipalities, municipal services taxing units, and special fire control districts in accordance with s. 175.121 as a result of the limitation contained in s. 175.122 on the disbursement of revenues collected under pursuant to chapter 175 or as a result of any municipality, municipal services taxing unit, or special fire control district not having qualified in any given year, or portion thereof, for participation in the distribution of the
revenues collected under pursuant to chapter 175. The total required annual distribution from the Firefighters’ Supplemental Compensation Trust Fund shall equal the amount necessary to pay supplemental compensation as provided in this section, provided that:

1. Any deficit in the total required annual distribution shall be made up from accrued surplus funds existing in the Firefighters’ Supplemental Compensation Trust Fund on June 30, 1990, for as long as such funds last. If the accrued surplus is insufficient to cure the deficit in any given year, the proration of the appropriation among the counties, municipalities, municipal services taxing units, and special fire service taxing districts shall equal the ratio of compensation paid in the prior year to county, municipal, municipal services taxing unit, and special fire service taxing district firefighters under pursuant to this section. This ratio shall be provided annually to the Department of Revenue by the division. Surplus funds that have accrued or accrue on or after July 1, 1990, shall be redistributed to municipalities, municipal services taxing units, and special fire control districts as provided in subparagraph 2.

2. By October 1 of each year, any funds that have accrued or accrue on or after July 1, 1990, and remain in the Firefighters’ Supplemental Compensation Trust Fund following the required annual distribution shall be redistributed by the Department of Revenue pro rata to those municipalities, municipal services taxing units, and special fire control districts identified by the Department of Management Services as being eligible for additional funds under pursuant to s.
Section 13. This act shall take effect July 1, 2020.

And the title is amended as follows:
Delete everything before the enacting clause and insert:

A bill to be entitled An act relating to fire control districts and firefighter pensions; amending s. 175.041, F.S.; revising applicability of the Firefighters’ Pension Trust Fund; authorizing a municipality that provides fire protection services to a municipal services taxing unit under an interlocal agreement to receive property insurance premium taxes; authorizing a county to enact an ordinance levying a tax on behalf of a municipal services taxing unit receiving fire protection services; amending s. 175.101, F.S.; authorizing a municipal services taxing unit that enters into an interlocal agreement for fire protection services with a municipality to impose an excise tax on property insurance premiums; amending s. 175.111, F.S.; requiring a municipal services taxing unit to provide the Division of Retirement of the Department of Management Services with a certified copy of an ordinance assessing and imposing certain taxes; amending ss. 175.121, 175.122, and 175.351, F.S.; revising provisions relating to the disbursement of moneys by the division and the Department of
Revenue and the limitation of disbursement to conform to changes made by the act; amending s. 175.411, F.S.; authorizing a municipal services taxing unit to revoke its participation and cease to receive property insurance premium taxes under certain conditions; amending s. 191.006, F.S.; requiring an independent special fire control district to have, and authorizing the board of such district to exercise by majority vote, specified powers; amending ss. 175.032, 175.071, 175.381, and 633.422, F.S.; conforming provisions to changes made by the act; providing an effective date.
This form is part of the public record for this meeting.

While it is 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.

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

Representing the North Caller Fire Control District: [ ] Yes [ ] No

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

(For Independent Special Fire District, drop in the following:
Appearing at request of Chair: [ ] Yes [ ] No

Representing the North Caller Fire Control District: [ ] Yes [ ] No

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

(For Independent Special Fire District, drop in the following:
Appearing at request of Chair: [ ] Yes [ ] No

Representing the North Caller Fire Control District: [ ] Yes [ ] No

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

(For Independent Special Fire District, drop in the following:
Appearing at request of Chair: [ ] Yes [ ] No

Representing the North Caller Fire Control District: [ ] Yes [ ] No

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

(For Independent Special Fire District, drop in the following:
Appearing at request of Chair: [ ] Yes [ ] No

Representing the North Caller Fire Control District: [ ] Yes [ ] No

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

(For Independent Special Fire District, drop in the following:
Appearing at request of Chair: [ ] Yes [ ] No

Representing the North Caller Fire Control District: [ ] Yes [ ] No

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

(For Independent Special Fire District, drop in the following:
Appearing at request of Chair: [ ] Yes [ ] No

Representing the North Caller Fire Control District: [ ] Yes [ ] No

(Vote) The Chair will read this information into the record.
While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Appraising at request of Chair: [ ] Yes
[ ] No

Representing
Legislator
Fina Distric:

(Appearing with legislator: [ ] Yes
[ ] No

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

The Chair will read this information into the record.

Against
In Support
Weave Speaking: [ ] Yes
[ ] No

Information
Against
For

City
State
Zip

Address

Division: [ ] Support
[ ] Oppose

Phone

Email

Sheet

Name

Topic

Meeting Date

(Include both copies of this form to the Senator or Senate Professional Staff conducting the meeting.)

FLOIDA SENATE

Appearence RECORD

ADDRESS RECORD

Deliver both copies of this form to the Senator or Senate Professional Staff conducting the meeting.)
This form is part of the public record for this meeting.

While it is 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.

Appearing at request of Chair: Yes □ No □
Representing: □ Yes □ No

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

[ ] In Support
[ ] Against

Appears Registered with Legislature: Yes □ No □
Waive Speaking: □ Yes □ No

[ ] For □ Against

[ ] Yes □ No

Em ail:

Phone:

Address:

City:

State:

Zip:

Street:

Job Title:

Name:

Support of B ill:

Topic:

Bill Number (if applicable):

Meeting Date:

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

APPEARANCE RECORD

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

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.

Lobbyist Registered with Legislature: Yes □ No □

Appearing at Request of Chair: Yes □ No □

Representing Florida Association of Special Districts?

The Chair will read this information into the record.

Waive Speaking: In Support Against

Email: chris.lyn@law.com

Phone: 850.233.5702

Address: 315 S. College St., Tallahassee, FL 32304

Job Title: Chris Lyon

Name: Chris Lyon

Topic:

Meeting Date: 2/13/20

Appealance Record

The Florida Senate
I. Summary:

CS/SB 888 amends s. 60.05, F.S., which generally provides for the enjoinment of public nuisances. The bill amends this statute to:

- Extend and increase the frequency of notice, so a property owner has sufficient time to receive a notice and correct the use of the property;
- Provide more detail on what must be provided in the notice and serving the notice; and
- Afford property owners the ability to respond to notices with details of actions taken to abate a nuisance that may result in an extended timeframe for abatement before an application for a temporary injunction is filed.

The bill also amends s. 823.05, F.S., relating to public nuisances, to:

- Delete the requirement that a criminal gang or member or associate of such gang must use a location “on two or more occasions” to engage in criminal gang-related activity for such use to qualify as a public nuisance that can be abated or enjoined;
- Provide that any place or premises that has been used on more than two occasions within six months as the site of dealing in stolen property, assault, aggravated assault, battery, aggravated battery, burglary, theft, or robbery by sudden snatching, may be declared a public nuisance and may be abated or enjoined; and
- Provide that a rental property that is declared a public nuisance based upon the previously-described circumstances may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the owner of the property and the property owner commences rehabilitation of the property within 30
days after the property is declared a public nuisance and completes the rehabilitation within a reasonable time thereafter.

The bill also amends s. 893.138, F.S., to authorize a declaration of a public nuisance and abated, if a place or premises has been used on more than two occasions within six months as the site of any combination of the following offenses: murder; attempted felony murder; aggravated battery with a deadly weapon; or aggravated assault with deadly weapon without intent to kill. Additionally, the bill clarifies that a rental property that is declared a nuisance may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the offense was committed by someone other than the property owner, and the owner commences rehabilitation of the property within 30 days of it being declared a nuisance.

The abatement or enjoining of a public nuisance described in the bill may result in a cost-savings or cost-avoidance to homeowners or businesses if they have sustained an economic loss, and a cost-savings or cost-avoidance to local governments if they have sustained an economic loss. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2020.

II. Present Situation:

Enjoining or Abating a Public Nuisance (ss. 60.05 and 60.06, F.S.)

Public nuisances are generally enjoined under s. 60.05, F.S., and abated under s. 60.06, F.S.\(^1\) Section 60.05(1), F.S., authorizes the Attorney General, state attorney, city attorney, county attorney, and any citizen of the county to sue in the name of the state to enjoin the nuisance, the person(s) maintaining it, and the owner or agent of the building or ground on which the nuisance exists. The court, based on evidence\(^2\) or affidavit, may issue a temporary injunction enjoining:

- The maintaining of a nuisance;
- The operating and maintaining of the place or premises where the nuisance is maintained;
- The owner or agent of the building or ground upon which the nuisance exists; and
- The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of the nuisance.\(^3\)

The injunction must specify the activities enjoined and must not preclude the operation of any lawful business not conducive to the maintenance of the alleged nuisance.\(^4\) If the existence of a nuisance is shown at the final hearing, the court must issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance.\(^5\) The court must adjudge that the costs are a lien on all personal property found in the place of the nuisance; however, if

\(^1\) Section 823.05(1), (2)(b) and (c), and (3), F.S.
\(^2\) Evidence of the general reputation of the alleged nuisance and place is admissible to prove the existence of a nuisance. Section 60.05(3), F.S.
\(^3\) Section 60.05(2), F.S.
\(^4\) Section 60.05(2), F.S. At least 3 days’ notice in writing shall be given to the defendant of the time and place of application for the temporary injunction. \textit{Id.}
\(^5\) Section 60.05(4), F.S.
the property fails to bring enough to pay costs, the lien is on the real estate occupied by the nuisance.6

Section 60.06, F.S., requires the court, upon “proper” proof, to order the abatement of all nuisances mentioned in s. 823.05, F.S., and authorizes the court to enforce injunctions by contempt. However, this jurisdiction does not repeal or alter s. 823.01, F.S., which provides criminal penalties for nuisances described in that section.7

Public Nuisances: Places and Groups Engaged in Criminal Gang-Related Activity (s. 823.05, F.S.)

Section 823.05(1), F.S., provides that a person is guilty of maintaining a public nuisance8 if he or she erects, establishes, continues, or maintains, owns or leases any building, booth, tent or place which tends to annoy the community or injure the health of the community or become manifestly injurious to the morals or manners of the people as described in s. 823.01, F.S., or any house or place of prostitution, assignation, lewdness, or place or building where games of chance are engaged in a violation of law or any place where a person violates a law of the state. The building, erection, place, tent or booth, and the furniture, fixtures, and contents are declared a public nuisance.

Section 823.05(2), F.S., provides that a criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity9 is a public nuisance,10 and the use of a location on two or more occasions by a criminal gang or member or associate of such gang to engage in criminal gang-related activity is also a public nuisance.11

Section 823.05(2), F.S., does not prevent a local governing body from adopting and enforcing laws consistent with ch. 823, F.S., relating to criminal gangs and gang violence.12 Further, the

6 Id. However, no lien attaches to the real estate of any person other than the person establishing or maintaining the nuisance unless five days’ written notice has been given to the owner or owner’s agent who fails to abate the nuisance within this five-day period. Id.
7 Section 60.06, F.S.
8 Although s. 823.05(1), F.S., refers to a person being “guilty of maintaining a public nuisance,” s. 823.05, F.S., does not make maintaining a public nuisance a crime. However, s. 823.01, F.S., provides that all nuisances that tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are second degree misdemeanors, except that a violation of s. 823.10, F.S., is a third degree felony. Section 823.10(1), F.S., provides that certain places visited by persons for the purpose of unlawfully using any controlled substance under ch. 893, F.S. (Florida Comprehensive Drug Abuse Prevention and Control Act), or any drugs as described in ch. 499, F.S. (Florida Drug and Cosmetic Act), or for the illegal keeping, selling, or delivering of such substance or drug, are a public nuisance. Any person who willfully keeps or maintains, or aids or abets another in keeping or maintaining, such public nuisance commits a third degree felony, if such public nuisance is a warehouse, structure, or building. Id.
9 Section 823.05(2)(a), F.S., defines the terms “criminal gang,” “criminal gang member,” “criminal gang associate,” and “criminal gang-related activity” by reference to the definitions of those terms in s. 874.03, F.S.
10 Section 823.05(2)(b), F.S. Section 893.138(2)(d), F.S., also provides that any place or premises that has been used by a criminal gang for the purpose of conducting criminal gang activity may be declared a public nuisance. Additionally, if the place or premises has been used on more than two occasions within a six-month period as the site of dealing in stolen property or a violation of ch. 499, F.S., such location may be declared a public nuisance. Unlike s. 823.05, F.S., a public nuisance described in s. 893.138, F.S., is abated pursuant to procedures provided in that section. Section 893.138(2)-(7), F.S. However, the public nuisance may be enjoined pursuant to s. 60.05, F.S. Section 893.138(9), F.S.
11 Section 823.05(2)(c), F.S.
12 Section 823.05(2)(d), F.S.
state, through the Department of Legal Affairs or any state attorney, or any of the state’s agencies, instrumentalities, subdivisions, or municipalities having jurisdiction over conduct in violation of a provision of ch. 823, F.S., may institute civil proceedings under s. 823.05(2)(e), F.S., and, pending final determination, the circuit court may enter injunctions, prohibitions, or restraining orders or take such other actions it deems proper.\textsuperscript{13}

Local Administrative Action to Abate Prohibited Activity Relating to Drugs, Prostitution, Stolen Property, or Criminal Street Gangs (s. 893.138, F.S.)

Section 893.138(2), F.S., provides that a place or premises may be declared a public nuisance, which may be abated if the place or premises has been used:

- On more than two occasions within 6 months, as the site of a violation of s. 796.07, F.S. (prostitution and related acts);
- On more than two occasions within 6 months, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony, and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- By a criminal gang to conduct criminal gang activity;
- On more than two occasions within 6 months, as the site of a violation of s. 812.019, F.S. (stolen property); or
- On two or more occasions within 6 months, as the site of a violation of ch. 499, F.S. (the “Florida Drug and Cosmetic Act”).

A county or municipality, by ordinance, may create an administrative board to hear complaints regarding the nuisances described in s. 893.138(2), F.S. Any employee, officer, or resident of the county or municipality may bring a complaint before the board after giving not less than 3 days’ written notice of such complaint to the owner of the place or premises at his or her last known address. After a hearing in which the board may consider any evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises has an opportunity to present evidence in his or her defense, the board may declare the place or premises to be a public nuisance.\textsuperscript{14}

If the board declares a place or premises to be a public nuisance, it may enter an order requiring the owner of the place or premises to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance or it may enter an order immediately prohibiting:

- The maintaining of the nuisance;
- The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof; or
- The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.\textsuperscript{15}

\textsuperscript{13} Section 823.05(2)(e), F.S.
\textsuperscript{14} Section 893.138(4), F.S.
\textsuperscript{15} Section 893.138(5), F.S. The order expires after 1 year or at such earlier time as is stated in the order. Section 893.138(6), F.S. The order may be enforced pursuant to the procedures contained in s. 120.69, F.S., which provides for enforcement of an
The board may also bring a complaint under s. 60.05, F.S., seeking temporary and permanent injunctive relief against any public nuisance described in s. 893.138(2), F.S. Further, nothing contained in s. 893.138, F.S., prohibits a county or municipality from proceeding against a public nuisance by any other means.

Section 893.138, F.S., may be supplemented by a county or municipal ordinance. The ordinance may include but is not limited to, provisions that:

- Establish additional penalties for public nuisances, including fines not to exceed $250 per day;
- Provide for the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances;
- Provide for continuing jurisdiction for 1 year over any place or premises that has been or is declared to be a public nuisance;
- Establish penalties, including fines not to exceed $500 per day for recurring public nuisances;
- Provide for the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order;
- Provide that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and
- Provide for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure.

Real Property and the Florida Contraband Forfeiture Act

The “Florida Contraband Forfeiture Act” (Act) authorizes the seizure and civil forfeiture of real property used in violation of the provisions of the Act. The seizure may only occur if the owner of the property is arrested for a criminal offense that forms the basis for determining that the property belongs to a person who is acting in violation of the Act. The Act also provides that forfeiture proceedings are addressed in s. 932.704, F.S., and disposition of liens and forfeited property are addressed in s. 932.7055, F.S.

Sections 932.701-932.7062, F.S. See s. 932.701(1), F.S.

20 Section 932.703(1)(a), F.S. Real property may not be seized or restrained, other than by lis pendens, subsequent to a violation of the Florida Contraband Forfeiture Act until the persons entitled to notice are afforded the opportunity to attend the preseizure adversarial preliminary hearing. Section 932.703(3)(b), F.S. “A notice of lis pendens is an instrument which may be filed with the clerk of the circuit court in connection with actions involving the ownership of, or interest in, property. It is intended to operate as constructive notice to persons dealing with the property that is the subject matter of litigation.” Op. Att’y Gen. Fla. 58-135 (1958). Other requirements relating to seizure are specified in s. 932.703, F.S. Forfeiture proceedings are addressed in s. 932.704, F.S., and disposition of liens and forfeited property are addressed in s. 932.7055, F.S.

21 Section 932.703(1)(a), F.S.
property is a “contraband article” under s. 932.701, F.S., or when one or more statutorily-specified exceptions to this arrest requirement apply. For example, one specified exception is when the property is not owned by the person arrested for a criminal offense that forms the basis for determining that the property is a “contraband article,” but the owner of the property had actual knowledge of the criminal activity.

As previously noted, s. 823.05, F.S., in part, addresses criminal gang-related activity. Section 874.08, F.S., provides that the following are subject to seizure and forfeiture under the Florida Contraband Forfeiture Act:

- All profits, proceeds, and instrumentalities of criminal gang activity;
- All property used or intended or attempted to be used to facilitate the criminal activity of any criminal gang or any criminal gang member;
- All profits, proceeds, and instrumentalities of criminal gang recruitment; and
- All property used or intended or attempted to be used to facilitate criminal gang recruitment.

III. Effect of Proposed Changes:

Public nuisances may be enjoined under s. 60.05, F.S. The bill amends this statute to increase the notice requirements from one three-day notice to two notices (if needed) with a total of 25 days to abate the nuisance. The defendant must be given written notice (first notice) to abate the public nuisance within 10 days after issuance of the notice. The first notice must inform the defendant that an application for a temporary injunction will be filed if the nuisance is not timely abated.

If the nuisance is not timely abated, the defendant must be given a second written notice that informs the defendant that an application for a temporary injunction will be filed if the nuisance is not abated within 15 days after the end of the initial 10-day period. However, the defendant must be given a second written notice providing the defendant with an extended time period to abate the nuisance sufficient to comply with another law or this state or contract terms, if the defendant responds to the first notice in writing within the initial 10-day period, and in such response alleges and provides proof that:

- Nuisance abatement involves compliance with another law of this state and the requirements of such law make nuisance abatement within 10 days impossible; or
- The terms of an executed contract to perform services necessary to abate the nuisance require more than 10 days to complete.

Contents of the notice must also include:

- If applicable, a description of the building, booth, tent, or place that is declared an alleged nuisance;

---

22 The definition of “contraband article” in s. 932.701(2), F.S., includes an extensive list of tangible items. One of these items is real property used or attempted to be used as an instrumentality in the commission of, or in aiding or abetting the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Act. Section 932.701(2)(a)6., F.S. See s. 932.702, F.S. (unlawful acts involving a contraband article).

23 Section 932.703(1)(a), F.S.

24 Section 932.703(1)(a)3., F.S. Evidence that the owner received notification from a law enforcement agency and acknowledged receipt of the notification in writing, that the seized asset had been used in violation of the Act on a prior occasion by the arrested person, may be used to establish actual knowledge. Id.
• A statement of the activities that led to the nuisance allegations;
• A statement of the actions necessary to abate the public nuisance; and
• A statement that costs will be assessed if abatement of the public nuisance is not completed and if the court determines that the public nuisance exists.

Required notices must be sent by personal service to the owner at his or her address as it appears on the latest tax assessment roll or to the tenant of such an address. If an address is not found for the owner, notices must be sent to the location of the declared nuisance and displayed prominently and conspicuously at that location. The notice timeframe before a lien may attach when the property is owned by someone other than the person causing the public nuisance is extended from five days to the time frame provided in the second notice (as provided by the bill and previously described).

The bill also amends s. 823.05, F.S., relating to public nuisances, to:
• Delete the requirement that a criminal gang or member or associate of such gang must use a location “on two or more occasions” to engage in criminal gang-related activity for such use to qualify as a public nuisance that can be abated or enjoined;
• Provide that any place or premises that has been used on more than two occasions within 6 months as the site of dealing in stolen property (s. 812.019, F.S.), assault (s. 784.011, F.S.), aggravated assault (s. 784.021, F.S.), battery (s. 784.03, F.S.), aggravated battery (s. 784.045, F.S.), burglary (s. 810.02, F.S.),25 theft (s. 812.014, F.S.), or robbery by sudden snatching (s. 812.131, F.S.), may be declared a public nuisance and may be abated or enjoined as provided in s. 60.05, F.S., or s. 60.06, F.S.; and
• Provide that a rental property that is declared a public nuisance based upon the previously-described circumstances may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the owner of the property and the property owner commences rehabilitation of the property within 30 days after the property is declared a public nuisance and completes the rehabilitation within a reasonable time thereafter.

The bill restructures the conditions for a public nuisance, enjoinder, and abatement in s. 823.05(1), F.S. These changes are non-substantive.

The bill also amends s. 893.138, F.S., relating to public nuisances, to authorize a place or premises to be declared a public nuisance, which may be abated, if the place or premises has been used on more than two occasions within 6 months as the site of any combination of the following offenses: murder (s. 782.04, F.S.); attempted felony murder (s. 782.051, F.S.); aggravated battery with a deadly weapon (s. 784.045(1)(a)2., F.S.); or aggravated assault with deadly weapon without intent to kill (s. 784.021(1)(a), F.S.). Additionally, the bill clarifies that a rental property that is declared a nuisance may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the offense was committed by someone other than the property owner, and the owner commences rehabilitation of the property within 30 days of it being declared a nuisance.

The bill takes effect on July 1, 2020.

25 Armed burglary is also included in this section. See s. 810.02(2)(b), F.S.
IV. **Constitutional Issues:**

A. **Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. **Public Records/Open Meetings Issues:**

None.

C. **Trust Funds Restrictions:**

None.

D. **State Tax or Fee Increases:**

None.

E. **Other Constitutional Issues:**

None identified.

V. **Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

None.

B. **Private Sector Impact:**

The abatement or enjoining of a public nuisance described in the bill may result in a cost-savings or cost-avoidance to homeowners or businesses if they have sustained an economic loss (e.g., decreased home and business property values and loss of customers) as a result of the presence of the nuisance.

C. **Government Sector Impact:**

The abatement or enjoining of a public nuisance described in the bill may result in a cost-savings or cost-avoidance to local governments if they have sustained an economic loss (e.g., decreased local tax revenues, increased local law enforcement costs, and increased local ordinance or code enforcement costs) as a result of the presence of the nuisance.

VI. **Technical Deficiencies:**

None.
VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 60.05, 823.05, and 893.138.

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 February 3, 2020:**
   
   The committee substitute:
   
   - Allows individuals receiving a written notice to abate a nuisance to respond within 10 days with proof that other provisions of law or the terms of an executed contract make it impossible to abate the nuisance within 10 days;
   
   - Provides that the above response will receive a second written notice that must grant a time extension for nuisance abatement, and detail the time and location where an application for a temporary injunction will be filed if the nuisance is not abated;
   
   - Removes language which allowed notice requirements to be waived if the nuisance presented a danger of immediate and irreparable injury to a person or the safety of a community.
   
   - Clarifies that a rental property that is declared a nuisance may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the offense was committed by someone other than the property owner, and the owner commences rehabilitation of the property within 30 days of it being declared a nuisance.

B. **Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Community Affairs (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 64 - 338 and insert:

initial 10-day period. However, if the defendant responds to the first notice in writing within the initial 10-day period, and in such response alleges and provides proof that:

1. Nuisance abatement involves compliance with another law of this state and the requirements of such law make nuisance abatement within 10 days impossible; or
2. The terms of an executed contract to perform services necessary to abate the nuisance require more than 10 days to complete,

the defendant must be given a second written notice providing the defendant with an extended time period to abate the nuisance sufficient to comply with such other law or contract terms.

(b) A second notice sent under paragraph (a) must also provide the location where the application will be filed and the time when it will be filed. If the nuisance is not timely abated as provided in the second notice, the application for the temporary injunction must be filed as indicated in the notice.

(c) In addition to the information required under paragraphs (a) and (b), each notice must:

1. If applicable, describe the building, booth, tent, or place that is an alleged nuisance.

2. State the activities that led to the nuisance allegations.

3. State the actions necessary to abate the nuisance.

4. State that costs will be assessed if abatement of the nuisance is not completed and if the court determines that the nuisance exists.

(d) The notices provided in this subsection must be sent by personal service to the owner at his or her address as it appears on the latest tax assessment roll or to the tenant of such address. If an address is not found for the owner, the notices must be sent to the location of the alleged nuisance and displayed prominently and conspicuously at that location.

(4) Evidence of the general reputation of the alleged
nuisance and place is admissible to prove the existence of the
nuisance. An action filed by a citizen may not be
dismissed unless the court is satisfied that it should be
dismissed. Otherwise the action shall continue and the state
attorney notified to proceed with it. If the action is brought
by a citizen and the court finds that there was no reasonable
ground for the action, the costs shall be taxed against the
citizen.

(5) On trial if the existence of a nuisance is shown,
the court shall issue a permanent injunction and order the costs
to be paid by the persons establishing or maintaining the
nuisance and shall adjudge that the costs are a lien on all
personal property found in the place of the nuisance and on the
failure of the property to bring enough to pay the costs, then
on the real estate occupied by the nuisance. A lien may not
attach to the real estate of any other than such persons unless a second 5 days’ written notice has been given in
accordance with paragraph (3)(a) to the owner or his or her
agent who fails to begin to abate the nuisance within the time
specified therein said 5 days. In a proceeding abating a
nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has
been convicted of an offense under chapter 893 or s. 796.07, the
court may order the tenant to vacate the property within 72
hours if the tenant and owner of the premises are parties to the
nuisance abatement action and the order will lead to the
abatement of the nuisance.

(6) If the action was brought by the Attorney General, a
state attorney, or any other officer or agency of state
government; if the court finds either before or after trial that
there was no reasonable ground for the action; and if judgment
is rendered for the defendant, the costs and reasonable attorney
attorney’s fees shall be taxed against the state.

Section 2. Section 823.05, Florida Statutes, is amended to
read:

823.05 Places and groups engaged in certain activities
criminal gang-related activity declared a nuisance; abatement
and enjoinder massage establishments engaged in prohibited
activity, may be abated and enjoined.–

(1) A person who erects, establishes, continues, maintains,
owns, or leases any of the following is deemed to be maintaining
a nuisance, and the building, erection, place, tent, or booth,
and the furniture, fixtures, and contents of such structure, are
declared a nuisance, and all such places or persons shall be
abated or enjoined as provided in ss. 60.05 and 60.06:

(a) Whoever shall erect, establish, continue, or
maintain, own or lease any building, booth, tent, or place that
which tends to annoy the community or injure the health of the
community, or becomes manifestly injurious to the morals
or manners of the people as described in s. 823.01, or

(b) Any house or place of prostitution, assignation, or
lewdness, or

(c) A place or building in which persons engage in where
games of chance are engaged in violation of law, or

(d) A any place where any law of the state is violated,
shall be deemed guilty of maintaining a nuisance, and the
building, erection, place, tent or booth and the furniture,
fixtures, and contents are declared a nuisance. All such places
or persons shall be abated or enjoined as provided in ss. 60.05
2) (a) As used in this subsection, the terms “criminal gang,” “criminal gang member,” “criminal gang associate,” and “criminal gang-related activity” have the same meanings as provided in s. 874.03.

(b) A criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity is a public nuisance. Any and all such persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(c) The use of a location on two or more occasions by a criminal gang, criminal gang members, or criminal gang associates for the purpose of engaging in criminal gang-related activity is a public nuisance. Such use of a location as a public nuisance shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(d) Nothing in this subsection does not shall prevent a local governing body from adopting and enforcing laws consistent with this chapter relating to criminal gangs and gang violence. Where local laws duplicate or supplement this chapter, this chapter shall be construed as providing alternative remedies and not as preempting the field.

(e) The state, through the Department of Legal Affairs or any state attorney, or any of the state’s agencies, instrumentalities, subdivisions, or municipalities having jurisdiction over conduct in violation of a provision of this chapter may institute civil proceedings under this subsection. In any action brought under this subsection, the circuit court shall proceed as soon as practicable to the hearing and determination. Pending final determination, the circuit court
may at any time enter such injunctions, prohibitions, or
restraining orders, or take such actions, including the
acceptance of satisfactory performance bonds, as the court may
deem proper.

(3) A massage establishment as defined in s. 480.033(7)
which operates in violation of s. 480.0475 or s. 480.0535(2) is declared a nuisance and may be abated or enjoined
as provided in ss. 60.05 and 60.06.

(4)(a) Any place or premises that has been used on more
than two occasions within a 6-month period as the site of any of
the following violations is declared a nuisance and may be
abated or enjoined as provided in ss. 60.05 and 60.06:

1. Section 812.019, relating to dealing in stolen property.
2. Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
relating to assault and battery.
3. Section 810.02, relating to burglary.
4. Section 812.014, relating to theft.
5. Section 812.131, relating to robbery by sudden
snatching.

(b) Notwithstanding any other law, a rental property that
is declared a nuisance under this subsection may not be abated
or subject to forfeiture under the Florida Contraband Forfeiture
Act if the nuisance was committed by someone other than the
owner of the property and the property owner commences
rehabilitation of the property within 30 days after the property
is declared a nuisance and completes the rehabilitation within a
reasonable time thereafter.

Section 3. Section 893.138, Florida Statutes, is amended to
read:
893.138 Local administrative action to abate certain activities declared drug-related, prostitution-related, or stolen-property-related public nuisances and criminal gang activity.—

(1) It is the intent of this section to promote, protect, and improve the health, safety, and welfare of the citizens of the counties and municipalities of this state by authorizing the creation of administrative boards with authority to impose administrative fines and other noncriminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances in counties and municipalities under circumstances when a pending or repeated violation continues to exist.

(2) Any place or premises that has been used:

(a) On more than two occasions within a 6-month period, as the site of a violation of s. 796.07;

(b) On more than two occasions within a 6-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(c) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(d) By a criminal gang for the purpose of conducting criminal gang activity as defined by s. 874.03;

(e) On more than two occasions within a 6-month period, as the site of a violation of s. 812.019 relating to dealing in stolen property; or
(f) On two or more occasions within a 6-month period, as the site of a violation of chapter 499; or

(g) On more than two occasions within a 6-month period, as the site of a violation of any combination of the following:

1. Section 782.04, relating to murder;
2. Section 782.051, relating to attempted felony murder;
3. Section 784.045(1)(a)2., relating to aggravated battery with a deadly weapon; or
4. Section 784.021(1)(a), relating to aggravated assault with a deadly weapon without intent to kill,

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

(3) Any pain-management clinic, as described in s. 458.3265 or s. 459.0137, which has been used on more than two occasions within a 6-month period as the site of a violation of:

(a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045, relating to assault and battery;
(b) Section 810.02, relating to burglary;
(c) Section 812.014, relating to theft;
(d) Section 812.131, relating to robbery by sudden snatching; or
(e) Section 893.13, relating to the unlawful distribution of controlled substances,

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

(4) Any county or municipality may, by ordinance, create an administrative board to hear complaints regarding the nuisances
described in subsection (2). Any employee, officer, or resident
of the county or municipality may bring a complaint before the
board after giving not less than 3 days’ written notice of such
complaint to the owner of the place or premises at his or her
last known address. After a hearing in which the board may
consider any evidence, including evidence of the general
reputation of the place or premises, and at which the owner of
the premises shall have an opportunity to present evidence in
his or her defense, the board may declare the place or premises
to be a public nuisance as described in subsection (2).

(5) If the board declares a place or premises to be a
public nuisance, it may enter an order requiring the owner of
such place or premises to adopt such procedure as may be
appropriate under the circumstances to abate any such nuisance
or it may enter an order immediately prohibiting:

(a) The maintaining of the nuisance;

(b) The operating or maintaining of the place or premises,
including the closure of the place or premises or any part
thereof; or

(c) The conduct, operation, or maintenance of any business
or activity on the premises which is conducive to such nuisance.

(6) An order entered under subsection (5) shall expire
after 1 year or at such earlier time as is stated in the order.

(7) An order entered under subsection (5) may be enforced
pursuant to the procedures contained in s. 120.69. This
subsection does not subject a municipality that creates a board
under this section, or the board so created, to any other
provision of chapter 120.

(8) The board may bring a complaint under s. 60.05 seeking
permanent injunctive relief against any nuisance described in subsection (2).

(9) This section does not restrict the right of any person to proceed under s. 60.05 against any public nuisance.

(10) As used in this section, the term “controlled substance” includes any substance sold in lieu of a controlled substance in violation of s. 817.563 or any imitation controlled substance defined in s. 817.564.

(11) The provisions of this section may be supplemented by a county or municipal ordinance. The ordinance may include, but is not limited to, provisions that establish additional penalties for public nuisances, including fines not to exceed $250 per day; provide for the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances; provide for continuing jurisdiction for a period of 1 year over any place or premises that has been or is declared to be a public nuisance; establish penalties, including fines not to exceed $500 per day for recurring public nuisances; provide for the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order; provide that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and provide for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under s. 4, Art. X of the
State Constitution. Where a local government seeks to bring an administrative action, based on a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one site, conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant. The total fines imposed pursuant to the authority of this section shall not exceed $15,000. Nothing contained within this section prohibits a county or municipality from proceeding against a public nuisance by any other means.

(12) Notwithstanding any other law, a rental property that is declared a nuisance under this section may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the owner of the property and the property owner commences rehabilitation of the property within 30 days after the property is declared a nuisance and completes the rehabilitation within a reasonable time thereafter.

And the title is amended as follows:

Delete line 23

and insert:

specified procedures; providing a property owner an opportunity to remedy a nuisance before specified legal actions may be taken against the property under
certain circumstances; providing an effective date.
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 1336
INTRODUCER: Community Affairs Committee and Senator Perry
SUBJECT: Preemption of Local Occupational Licensing
DATE: February 4, 2020

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1336 expressly preempts the licensing of occupations to the state and supersedes any local government licensing of occupations. However, any local government licensing of occupations authorized by general law or those local occupational licenses adopted prior to October 1, 2020 are exempt from this preemption. In addition, nothing in the bill is intended to prevent or restrict a local government’s ability to enact residency requirements for licenses or licensees.

The bill specifically prohibits local governments from requiring a license for a person whose job scope does not substantially correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board, within the Department of Business and Professional Regulation. It specifically precludes local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

Finally, the bill authorizes counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is the current practice by counties and municipalities. Local journeyman licensing is exempt from the preemption in the bill.
II. Present Situation:

Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law. Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors. Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.

Unlike counties or municipalities, independent special districts do not possess home rule power. Therefore, the powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district’s charter or general law. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.

Revenue Sources Authorized in the Florida Constitution

The Florida Constitution limits the ability of local governments to raise revenue for their operations. The Florida Constitution provides:

No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.

However, not all local government revenue sources are taxes requiring general law authorization. When a county or municipal revenue source is imposed by ordinance, the question is whether the

---

1 FLA. CONST. art. VIII, s. 1(f).
2 FLA. CONST. art. VIII, s. 1(g).
3 FLA. CONST. art. VIII, s. 2(b). See also s. 166.021(1), F.S.
4 See s. 189.031(3)(b), F.S. See also State ex rel. City of Gainesville v. St. Johns River Water Mgmt. Dist., 408 So.2d 1067, 1068 (Fla. 1st DCA 1982).
7 Pursuant to s. 192.001(1), F.S., “ad valorem tax” means a tax based upon the assessed value of property.
8 FLA. CONST. art. VII, s. 1(a).
9 FLA. CONST. art. VII, s. 9(a).
charge is a valid assessment or fee. As long as the charge is not deemed a tax, the imposition of the assessment or fee by ordinance is within the constitutional and statutory home rule powers of county and municipal governments. If the charge is not a valid assessment or fee, it is deemed a revenue source requiring general law authorization.

**Local Government Revenue Sources Based on Home Rule Authority**

Pursuant to home rule authority, counties and municipalities may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. Because special districts do not possess home rule powers, they may impose only those taxes, assessments, or fees authorized by special or general law.

**Preemption**

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred. Express preemption of a field by the Legislature must be accomplished by clear language stating that intent. In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended. In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void. Implied preemption is actually a decision by the courts to create preemption in the absence of an explicit legislative directive. Preemption of a

---

13 See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 5 So.3d 309 (Fla. 2008).
14 *Mulligan*, 934 So.2d at 1243.
15 *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).
16 Examples of activities “expressly preempted to the state” include: operator use of commercial mobile radio services and electronic communications devices in motor vehicles, s. 316.0075, F.S.; regulation of the use of cameras for enforcing provisions of the Florida Uniform Traffic Control Law, s. 316.0076, F.S.; and, the adoption of standards and fines related to specified subject areas under the purview of the Department of Agriculture and Consumer Services, s. 570.07, F.S.
17 See, e.g., *Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).
18 *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.
local government enactment is implied only where the legislative scheme is so pervasive as to
evidence an intent to preempt the particular area, and strong public policy reasons exist for
finding preemption.\textsuperscript{19} Implied preemption is found where the local legislation would present the
danger of conflict with the state's pervasive regulatory scheme.\textsuperscript{20}

\textbf{Professions and Occupations}

General law directs a number of state agencies and licensing boards to regulate certain
professions and occupations. For example, the Department of Business and Professional
Regulation (DBPR) currently regulates approximately 25 professions and occupations.\textsuperscript{21}

General law determines whether local governments are able to regulate occupations and
businesses, and to what degree.\textsuperscript{22} If state law preempts regulation for an occupation, then,
generally, local governments may not regulate that occupation.\textsuperscript{23} Florida law currently preempts
local regulation with regard to the following:

- Assessing local fees associated with providing proof of licensure as a contractor, or
  providing, recording, or filing evidence of worker’s compensation insurance coverage by a
  contractor;\textsuperscript{24}
- Assessing local fees and rules regarding low-voltage alarm system projects;\textsuperscript{25}
- Smoking;\textsuperscript{26}
- Firearms and ammunition;\textsuperscript{27}
- Employment benefits;\textsuperscript{28}
- Polystyrene products;\textsuperscript{29}
- Public lodging establishments and public food service establishments;\textsuperscript{30} and
- Disposable plastic bags.\textsuperscript{31}

Conversely, Florida law also specifically grants local jurisdictions the right to regulate
businesses, occupations and professions in certain circumstances.\textsuperscript{32} Florida law authorizes local
regulations relating to:

- Zoning and land use;\textsuperscript{33}

\textsuperscript{19} Id.
\textsuperscript{20} Sarasota Alliance for Fair Elections, Inc., 28 So.3d at 886.
\textsuperscript{21} Section 20.165, F.S.
\textsuperscript{22} See Fla. Const art. VIII, s. 1(f), art. VIII, s. 2(b), and ss. 125.01(1) and 166.021(1), F.S.
\textsuperscript{23} See James R. Wolf and Sarah Harley Bolinder, \textit{The Effectiveness of Home Rule: A Preemptions and Conflict Analysis}, 83
Fla. B.J. 92 (June 2009) available at https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-
\textsuperscript{24} Section 553.80(7)(d), F.S.
\textsuperscript{25} Section 489.503(14), F.S.
\textsuperscript{26} Section 386.209, F.S.
\textsuperscript{27} Section 790.33(1), F.S.
\textsuperscript{28} Section 218.077, F.S.
\textsuperscript{29} Section 500.90, F.S.
\textsuperscript{30} Section 509.032(7), F.S.
\textsuperscript{31} Section 403.7033, F.S.
\textsuperscript{32} See James R. Wolf and Sarah Harley Bolinder, \textit{The Effectiveness of Home Rule: A Preemptions and Conflict Analysis}, 83
Fla. B.J. 92 (June 2009) available at https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-
\textsuperscript{33} See part II, ch. 163, F.S.
• The levy of “reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter;”\textsuperscript{34}
• The levy of local business taxes;\textsuperscript{35}
• Building code inspection fees;\textsuperscript{36}
• Tattoo establishments;\textsuperscript{37}
• Massage practices;\textsuperscript{38}
• Child care facilities;\textsuperscript{39}
• Taxis and other vehicles for hire;\textsuperscript{40} and
• Waste and sewage collection.\textsuperscript{41}

\textbf{Construction Professional Licenses}

Chapter 489, F.S., relates to “contracting,” with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting.

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within DBPR.\textsuperscript{42} The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate.\textsuperscript{43} The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.\textsuperscript{44}

"Certified contractors” are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.\textsuperscript{45}

“Certified specialty contractors” are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.\textsuperscript{46}

\textsuperscript{34} Section 166.221, F.S.
\textsuperscript{35} Chapter 205, F.S.
\textsuperscript{36} Section 166.222, F.S.
\textsuperscript{37} Section 381.00791, F.S.
\textsuperscript{38} Section 480.052, F.S.
\textsuperscript{39} Section 402.306, F.S.
\textsuperscript{40} Section 125.01(1)(n), F.S.
\textsuperscript{41} Section 125.01(1)(k), F.S.
\textsuperscript{42} See ss. 489.105, 489.107, and 489.113, F.S.
\textsuperscript{43} See ss. 489.105(6)-(8) and (11), F.S.
\textsuperscript{44} See ss. 489.108, 489.113, 489.117, 489.131, F.S.
\textsuperscript{45} See ss. 489.105(6)-(8) and (11), F.S.
“Registered contractors” are individuals that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.\(^\text{47}\)

The table on the next page provides examples of CILB licenses for types of contractors.\(^\text{48}\)

<table>
<thead>
<tr>
<th>Statutory Licenses</th>
<th>Specialty Licenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Air Conditioning- Classes A, B, and C</td>
<td>• Drywall</td>
</tr>
<tr>
<td>• Building</td>
<td>• Demolition</td>
</tr>
<tr>
<td>• General</td>
<td>• Gas Line</td>
</tr>
<tr>
<td>• Internal Pollutant Storage Tank Lining Applicator</td>
<td>• Glass and Glazing</td>
</tr>
<tr>
<td>• Mechanical</td>
<td>• Industrial Facilities</td>
</tr>
<tr>
<td>• Plumbing</td>
<td>• Irrigation</td>
</tr>
<tr>
<td>• Pollutant Storage Systems</td>
<td>• Marine</td>
</tr>
<tr>
<td>• Pool/Spa- Classes A, B, and C</td>
<td>• Residential Pool/Spa Servicing</td>
</tr>
<tr>
<td>• Precision Tank Tester</td>
<td>• Solar Water Heating</td>
</tr>
<tr>
<td>• Residential</td>
<td>• Structure</td>
</tr>
<tr>
<td>• Roofing</td>
<td>• Swimming Pool Decking</td>
</tr>
<tr>
<td>• Sheet Metal</td>
<td>• Swimming Pool Excavation</td>
</tr>
<tr>
<td>• Solar</td>
<td>• Swimming Pool Finishes</td>
</tr>
<tr>
<td>• Underground Excavitation</td>
<td>• Swimming Pool Layout</td>
</tr>
<tr>
<td></td>
<td>• Swimming Pool Piping</td>
</tr>
<tr>
<td></td>
<td>• Swimming Pool Structural</td>
</tr>
<tr>
<td></td>
<td>• Swimming Pool Trim</td>
</tr>
<tr>
<td></td>
<td>• Tower</td>
</tr>
</tbody>
</table>

Current law provides that local jurisdictions may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction.\(^\text{49}\) Local jurisdictions are not barred from issuing and requiring construction licenses that are outside the scope of practice for a certified contractor or certified specialty contractor, such as painting and fence erection licenses. Local governments may only collect licensing fees that cover the cost of regulation.\(^\text{50}\)

Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license. However, persons holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or a certified specialty contractor are not required to register with DBPR.\(^\text{51}\)

\(^{47}\) Section 489.117, F.S.

\(^{48}\) See s. 489.105(a)-(q), F.S., and Rules 61G4-15.015-040, F.A.C.

\(^{49}\) Sections 489.117 and 489.131, F.S.


\(^{51}\) Sections 489.105 and 489.117(4), F.S.
Electrical contractors, alarm system contractors, and electrical specialty contractors are certified or registered under the Electrical Contractors’ Licensing Board (ECLB). Certified contractors can practice statewide and are licensed and regulated by ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may only practice within that locality.

Electrical contractors are contractors who have the ability to work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form. The scope of an electrical contractor’s license includes alarm system work.

Alarm system contractors are contractors who are able to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems. An “alarm system” is defined as “any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.”

Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. The ECLB creates electrical certified specialty contractor licenses through rulemaking. Certified electrical specialty contractors can practice statewide. The ECLB has created the following certified specialty contractor licenses:

- Lighting Maintenance Specialty Contractor;
- Sign Specialty Electrical Contractor;
- Residential Electrical Contractor;
- Limited Energy Systems Specialty Contractor;
- Utility line electrical contractor; and

**Journeyman**

A journeyman is a skilled worker in a building trade or craft. There is no state requirement for licensure as a journeyman, but the construction and electrical contractor practice acts account for the fact that counties and municipalities issue journeyman licenses. A person with a journeyman license must always work under the supervision of a licensed contractor, but the state does not regulate journeymen activities or issue journeymen licenses.

However, ch. 489, F.S., allows tradesman to be licensed as a journeyman in one local jurisdiction and work in multiple jurisdictions without having to take another examination or pay an additional licensing fee to qualify to work in the other jurisdictions (county or municipality). Specifically, s. 489.1455(1) of part I, F.S., specifies:

---

52 See Sections 489.505(3) and 489.507, F.S.
53 See s. 489.505(16), F.S.
54 Sections 489.505(12) and 489.537(7), F.S.
55 Sections 489.505(1)-(2), F.S.
56 Sections 489.507(3) and 489.511(4), F.S.
57 Sections 489.505(19) and 489.511(4), F.S.; Rule 61G6-7.001, F.A.C.
58 Sections 489.103, 489.1455, 489.503, and 489.5335, F.S.
An individual who holds a valid, active journeyman license in the plumbing/pipe fitting, mechanical, or HVAC trades issued by any county or municipality in this state may work as a journeyman in the trade in which he or she is licensed in any county or municipality of this state without taking an additional examination or paying an additional license fee.

The statutory criteria for licensure reciprocity between local jurisdictions for journeymen include:\(^{59}\)
- Scoring at least 75 percent on an approved proctored examination for that construction trade;
- Completing a registered apprenticeship program and demonstrating verifiable practical experience in the particular trade;
- Completing coursework approved by the Florida Building Commission specific to the discipline; and
- Not having a license suspended or revoked within the last 5 years.

**Residency Requirements for Contracting Licenses**

Some local governments have adopted policies to promote the usage of local residents for contracting activities within their jurisdictions. For example, it is the policy of Miami-Dade County that, except where federal or state laws or regulations mandate to the contrary, all contractors and subcontractors of any tier performing on a county construction contract, shall satisfy the requirements of the Miami-Dade County Residents First Training and Employment Program.\(^{60}\) These requirements include that the contractor will make its best reasonable efforts to promote employment opportunities for local residents and seek to achieve a project goal of having 51 percent of all construction labor hours performed by Miami-Dade County residents.\(^{61}\)

**III. Effect of Proposed Changes:**

**Section 1** creates s. 163.21, F.S., to define the following terms:
- "Licensing" means any training, education, test, certification, registration, or license that is required for a person to perform an occupation along with any associated fee.
- “Local government” means a county, municipality, special district, or political subdivision of the state.
- “Occupation” means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.

This section of the bill expressly preempts occupational licensing to the state. This preemption supersedes any local government licensing requirement of occupations unless:
- The local licensing scheme for an occupation was imposed before October 1, 2020, or
- The licensing of occupations by local governments is authorized by general law.

---

\(^{59}\) Section 489.1455, F.S. A similar reciprocity option applies to journeyman in the electrical trades. Section 489.5335, F.S.


\(^{61}\) Id.
In addition, this section of the bill prohibits local governments that license an occupation that qualifies for the exemption until October 1, 2022, from imposing additional licensing requirements on that occupation and from modifying such licensing. Any local licensing of an occupation not authorized under the provisions of the bill or otherwise authorized by general law does not apply and may not be enforced.

Nothing in the bill is intended to prevent or restrict a local government’s ability to enact residency requirements for licenses or licensees.

**Section 2** amends s. 489.117, F.S., to provide that the bill’s preemption applies to licensing that is outside the scope of state contractor licensing provisions. Specifically, it provides that a county or municipality may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the Construction Industry Licensing Board. The bill specifically precludes counties and municipalities from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

**Sections 3 and 4** amend ss. 489.1455 and 489.5335, F.S., to authorize counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is the current practice by counties and municipalities. Therefore, local journeyman licensing is exempt from the preemption in the bill.

**Section 5** provides an effective date of July 1, 2020.

**IV. Constitutional Issues:**

A. **Municipality/County Mandates Restrictions:**

None.

B. **Public Records/Open Meetings Issues:**

None.

C. **Trust Funds Restrictions:**

None.

D. **State Tax or Fee Increases:**

None.

E. **Other Constitutional Issues:**

None identified.
V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Certain professionals will avoid paying local licensing and/or examination fees due to the preemption of occupational licensure to the state. This may have a positive impact on the number of individuals practicing certain professions. The impact on construction costs and workers’ wages is indeterminate.

C. Government Sector Impact:

The bill will have indeterminate impact on local government costs and revenues linked to licensing.

VI. Technical Deficiencies:

Line 76 of the bill provides a job scope description of “canvas awning.” The job scope may be better captured by “canvas awning installation.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 489.117, 489.1455, 489.5335.

This bill creates section 163.21 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on February 3, 2020:

The committee substitute:

- Removes “procedure” from the list of terms that mean licensing.
- Allows a local government that imposes a license on an occupation before October 1, 2020, to retain such licensing scheme so long as the local government does not impose additional licensing requirements or modify such licensing.
- Provides that nothing in the bill is intended to prevent or restrict a local government’s ability to enact residency requirements for licenses or licensees.
B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Community Affairs (Perry) recommended the following:

**Senate Amendment**

1. Delete line 29
2. and insert:
3. certification, registration, or license that is
The Committee on Community Affairs (Farmer) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 42 - 53
and insert:

occupations before October 1, 2020.

(b) Any local government licensing of occupations authorized by general law.

(3) EXISTING LICENSING LIMIT.—A local government that licenses occupations and retains such licensing as set forth in paragraph (2)(a) may not impose additional licensing
requirements on that occupation or modify such licensing.

(4) LOCAL LICENSING NOT AUTHORIZED.—Local licensing of an occupation that is not authorized under this section or otherwise authorized by general law does not apply and may not be enforced.

Nothing in this section is intended to prevent or restrict a local government’s ability to enact residency requirements for licenses.

================ T I T L E A M E N D M E N T ================
And the title is amended as follows:
Delete line 10
and insert:
be enforced; providing construction; amending s. 489.117, F.S.; specifying
The Committee on Community Affairs (Farmer) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 42 - 53 and insert:

occupations before October 1, 2020.

(b) Any local government licensing of occupations authorized by general law.

(3) EXISTING LICENSING LIMIT.—A local government that licenses occupations and retains such licensing as set forth in paragraph (2)(a) may not impose additional licensing
requirements on that occupation or modify such licensing.

(4) LOCAL LICENSING NOT AUTHORIZED.—Local licensing of an occupation that is not authorized under this section or otherwise authorized by general law does not apply and may not be enforced.

Nothing in this section is intended to prevent or restrict a local government’s ability to enact residency requirements for licenses or licensees.

And the title is amended as follows:

Delete line 10 and insert:

be enforced; providing construction; amending s. 489.117, F.S.; specifying
The Committee on Community Affairs (Farmer) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 42 - 53 and insert:

occupations before October 1, 2020.

(b) Any local government licensing of occupations authorized by general law.

(3) EXISTING LICENSING LIMIT.—A local government that licenses occupations and retains such licensing as set forth in paragraph (2)(a) may not impose additional licensing
requirements on that occupation or modify such licensing.

(4) LOCAL LICENSING NOT AUTHORIZED.—Local licensing of an occupation that is not authorized under this section or otherwise authorized by general law does not apply and may not be enforced.

Nothing in this section is intended to prevent or restrict a local government’s ability to enact residency requirements for licenses or licensees.

And the title is amended as follows:
Delete line 10
and insert:
be enforced; providing construction; amending s. 489.117, F.S.; specifying
The Committee on Community Affairs (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 42 - 53 and insert:

occupations before October 1, 2020. However, any such local government licensing of occupations expires on July 1, 2022.

(b) Any local government licensing of occupations authorized by general law.

(3) EXISTING LICENSING LIMIT.—A local government that licenses occupations and retains such licensing as set forth in
paragraph (2)(a) may not impose additional licensing
requirements on that occupation or modify such licensing.

(4) LOCAL LICENSING NOT AUTHORIZED.—Local licensing of an
occupation that is not authorized under this section or
otherwise authorized by general law does not apply and may not
be enforced.

Nothing in this section is intended to prevent or restrict a
local government’s ability to enact state residency requirements
for licenses or licensees.

And the title is amended as follows:

Delete line 10
and insert:

be enforced; providing construction; amending s.
489.117, F.S.; specifying
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. 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.

Appearing at Request of Chair: Yes ☐ No ☐

Representing

(Lobbyist registered with Legislature: Yes ☐ No ☐)

Statement of Witness: ☐

Waive Speaking:

In Support ☐ Against ☐

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

Speaking Information

For ☐ Against ☐

City

Zip

State

Street

Address

693 Foner Bldg

Job Title

Lever sterilizer

Name

L. Lewis

License No

1336

Meeting Date

2-3-20

(If applicable) Bill Number

Appearsance Record

The Florida Senate
Appearing at request of Chair: Yes

Lobbyist registered with Legislature: Yes

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 wish to speak may be asked to limit their remarks so that as many persons as possible can be heard.

Appearing at request of Chair: No

Representing: For Property

The Chair will read this information into the record:

Waving Speaking: Against

Speaking: Against

For

City

State

Zip

Email

Phone

Address

Job Title

Name

Topic

Meeting Date

2/13/20

3-001(10/14/14)

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

APPEARANCE RECORD

THE FLORIDA SENATE

(1336)

Amendment barcode (if applicable)
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak at this meeting.

Appearing at Request of Chair: Yes ☐ No ☑

Representing: "Chris Towle"

Waive Speaking: ☐ Against ☐ In Support of (Specify):

Email: ___________________________
Phone: ___________________________
Address: ___________________________

Job Title: _________________________
Name: _____________________________
Relevant Local Occupational Licensure:

Topic: ____________________________
Meeting Date: 2-3-2020

Submit both copies of this form to the Senator or Senate Professional Staff conducting the meeting.

APPEARANCE RECORD

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

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.

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

[ ] Representing: Myself

[ ] Speaking: For [ ] Against

[ ] Waive Speaking: In Support [ ] Against

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

Email

Phone

Address

Job Title

Electrical

Name

 변경된 조항의 제출 및 고지

Meeting Date: 1/31/2003

Deliver both copies of the form to the senator or Senate Professional Staff conducting the meeting.
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak at this meeting to do so.

Appearing at request of Chair: No

Representing myself

The Chair will read this information into the record.

Waving in support: Against

Speaking: Mr. Koehler

Email: Kayla.Koehler@Camoil.com

Phone: 850-341-7948

Address: 140 NE 17th Ave

Job Title: Apprentice Electrician

Name: Kayla Koehler

Topic: Preparation of Local Occupational Licensing

Meeting Date: 2/13/20

Appearence Record

The Florida Senate
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. 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.

Appearing at request of Chair: □ Yes □ No
Representing: Myself

Waving Speaking: □ In Support □ Against

Email _________________
Phone _________________

State _________________
City _________________
Zip _________________
Address _________________
Street _________________
Job Title _________________
Name _________________
Local Occupation/City/State _________________

Topic _________________
Meeting Date _________________

Appearing Record

THE FLORIDA SENATE
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.

Appearing at request of Chair: No
Representing: Myself
Waive Speaking: For Against Information
Speaking: In Support Against

Email: 352-615-4086
Phone: 320-38
Zip: 32038
State: Fl
City: Fort Walton
Street: So 51, Brooks Creek
Address: Elections
Election: General
Name: Bess Famm
Topic: General Occupation/License
Meeting Date: 2/13/12
Bill Number (if applicable): 3/1336
Amendment barcode (if applicable):
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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.

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

(Waive registered with Legislature: [ ] Yes [ ] No)

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

Waving: Speaking: Against: For: Against

For: Against

Email

In Support Against

Address

City/County

Street

Zip

State

Phone

Job Title

Electrical Apprentice

Name

Samantha Stahr

Preemption of Local Occupational Licensing

Topic

Meeting Date 12/13/20

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

APPEARANCE RECORD

THE FLORIDA SENATE
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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.

Appointee Registerd with Legislature: □ Yes □ No

Appearing at Request of Chair: □ Yes □ No

Representing:

For □ For Against □ □

Speaking:

In Support □ Against □ □

The Chair will read this information into the record.

Email: Andy@LibertyFlorida.com

Phone: 352-874-5087

Address: 2201 Prado Blvd

City: Homestead, FL 33173

State: FL

Zip: 33173

Amendment Barcode (if applicable)

Bill Number (if applicable) 1336

Appearace Record

The Florida Senate

( Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting )
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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. Representing

Appearing at request of Chair: Yes No

(In Support AGAINST)

Waive Speaking: V

(Chair will read this information into the record)

Email  WMCrisky@sunrise.com

Phone  352-874-5458

Amendment Barcode (if applicable)

Bill Number (if applicable)  1336

APPEARANCE RECORD

The Florida Senate

Tallahassee, Florida, F3 35237

Meeting Date  1/3/20

PREPARED AND FILED OFFICIAL SENATE COPIES OF THIS FORM TO THE SENATOR OR SENATE PROFESSIONAL STAFF CONDUCTING THE MEETING.

PREPARED AND FILED OFFICIAL SENATE COPIES OF THIS FORM TO THE SENATOR OR SENATE PROFESSIONAL STAFF CONDUCTING THE MEETING.

PREPARED AND FILED OFFICIAL SENATE COPIES OF THIS FORM TO THE SENATOR OR SENATE PROFESSIONAL STAFF CONDUCTING THE MEETING.
This form is a part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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. Therefore, those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Appearing at request of Chair: ☐ Yes ☐ No

Plenary Association of Counties

Representing

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

Waive Speaking: ☐ In Support ☐ Against

[ ] Agree [ ] Disagree [ ] Against

☐ Agree [ ] Disagree [ ] Against

Speaker:

Speaking Information: ☐ Agree [ ] Disagree [ ] Against

Name

Address

City

State

Zip

Phone

Email

Job Title

Legislative Course

Meeting Date

[ ] Agree [ ] Disagree [ ] Against

Topic

Preemption of Local Legislation

Appearence Record

The Florida Senate

( Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting.)
This form is part of the public record for this meeting.

The following persons may speak: [Name]

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

Appearing at request of Chair: [Name]

Lobbyist Registered with Legislature: [Name]

Representing: [Company]

Email: [Email]

Phone: [Phone]

Address: [Address]

Job Title: [Title]

Name: [Name]

Meeting Date: 02/13/2020

Appearence Record

The Senate

SB 1336

(Delete BOTH copies of this form to the Senate or Senate Professional Staff conducting the meeting.)
While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Lobbyist Registered with Legislature: □ Yes □ No
Appearing at request of Chair: □ Yes □ No

Congressional Preferences for America:
Representing:
Waving, Speaking:
In Support □ □ Against □
Against □ □ For □
Information:
City:
State:
Zip:
Street:
Address:
Job Title:

Name:
Diego Escarelan
Professional Licenses:
Topic:
Meeting Date:
3-20-20

Bill Number (if applicable): SB 1336

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

APPEARANCE RECORD

THE FLORIDA SENATE
Appearing at Request of Chair: Yes □ no □

Representing (The Chair will read this information into the record):

Email: [redacted]

Phone: 761-3676

Bill Number (if applicable)

1336

Amendment Barcode (if applicable)

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.

The Florida Senate

Appealance Record

Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting.
This form is part of the public record for this meeting.

Meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Appearing at request of Chair: Yes ☑ No

Representing
MIA-MI-DADE COUNTY

State
FL

City
MAMI

Street

Address
111 NY 1ST STREET, SUITE 2810

Job Title
ASSISTANT COUNTY ATTORNEY

Name
JESS MCCRORY

Topic

Meeting Date 2-3-20

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

APPEARANCE RECORD
THE FLORIDA SENATE
This form is part of the public record for this meeting.

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.

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

Representing:
Tobacco, Lung, and Cancer Coalition (TLC)

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

Waving Speaking:
In Support [ ] Against [ X ]

State of Florida (Senator/Staff conducting meeting)

Address:

City:

Email:

Phone:

Job Title:

Name:

Topic:

Bill Number (if applicable):

Meeting Date:

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

APPARENTCE RECORD

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

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.

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

Representing:

[ ] Myself

Waive Speaking: [ ] In Support [ ] Against

The Chair will read this information into the record.

The Florida Senate

Appearence Record

Email:

Phone: (305) 216-7070

Amendment Barcode: 5E 1336

Bill Number

Meeting Date 02-03-2020
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak at this meeting to be heard.

Appearing at Request of Chair: Yes □ No □

Representing

County

Address

City

State

Zip

Email

Phone

Topic

Job Title

Legislative Committee

Address

Name

Legislative and Budgetary Liaisons

Bill Number (if applicable)

Area Code - 554-824-1155

Amendment Barcodes (if applicable)

Appearances Record

The Florida Senate

Meeting Date

2/3/2022

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

Appearing at request of Chair: Yes

Representing: 

Lobbyist registered with Legislature: Yes

Waive Speaking: 

Information 

Against 

Stockholder 

Support 

Address 1040 Madison St

Legislative Counsel

Name

Job Title Legislative Liaison

Topic Presentation of Local Occupational Legislation

Meeting Date 2-3-20

APPEARANCE RECORD

THE FLORIDA SENATE
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. 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.

Appearing at request of Chair: 
Representing

(Waive speaking: 
In support Against

Amendment Bar code (if applicable)

Bill Number (if applicable)

APPEARANCE RECORD

The Florida Senate

Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting.)
This form is part of the public record for this meeting. 

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.

Appearing at Request of Chair: □ Yes □ No

Representing

(For addresses, use the City, State, and Zip)

Email

Phone

Amendment Bill Number (if applicable)

SB 888

Appealsance Record

The Florida Senate
I. Summary:

SB 1424 revises provisions relating to the board of directors of a special neighborhood improvement district including authorizing the appointment of a three-, five-, or seven-member board and requiring the board of directors to be landowners in the district. The bill requires counties or municipalities to specify the number of directors in the ordinance creating the special neighborhood improvement district.

II. Present Situation:

Safe Neighborhood Improvement Districts

Purposes and Creation

Part IV of ch. 163, F.S., is known as the “Safe Neighborhoods Act.” The intent of the Act is to:
- Guide and accomplish the coordinated, balanced, and harmonious development of safe neighborhoods;
- Promote the health, safety, and general welfare of these areas and their inhabitants, visitors, property owners, and workers;
- Establish, maintain, and preserve property values and preserve and foster the development of attractive neighborhoods and business environments;
- Prevent overcrowding and congestion;
- Improve or redirect traffic and provide pedestrian safety;
- Reduce crime rates and the opportunities for the commission of crime; and
- Provide improvements in neighborhoods so they are defensible against crime.¹

---

¹ See s. 163.502(3), F.S.
Section 163.503(1), F.S., defines the term “safe neighborhood improvement district” (SNID) or “neighborhood improvement district” to mean:

A district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security or defensible space techniques, or through community policing innovations.

The Safe Neighborhoods Act allows county or municipal governing bodies to create SNIDs through the adoption of a planning ordinance. Each SNID that is established is required to register within 30 days with both the Department of Economic Opportunity (DEO) and the Department of Legal Affairs (DLA) and provide the name, location, size, type of SNID, and such other information that the departments may require. Under current law, there are four types of SNIDs:

- Local government SNIDs;
- Property owners’ association SNIDs;
- Community redevelopment SNIDs; and
- Special SNIDs, which are further classified as either residential or business.

As of January 25, 2020, there are 27 active SNIDs in the state of Florida. Twenty-four of these are local government SNIDs; two are special residential SNIDs; and one is classified as a property owners’ association SNID.

**SNID Boards and Revenue Sources**

The board of directors of a local government SNID is the local governing body of the municipality or county that created the SNID; however, as an alternative, a majority of the local governing body may also appoint a different board. The board of a property owners’ association SNID is comprised of the officers of the property owners’ association.

The board of a special SNID is a three-member body, appointed by the governing body of the municipality or county that created the SNID, who are residents of the area and serve staggered terms of 3 years. The board of a community redevelopment SNID is the community redevelopment board of commissioners, which is designated by the governing body of the municipality or county that created the community redevelopment agency.

---

2 Section 163.5055(1)(a), F.S.
3 See ss. 163.506-163.512, F.S.
5 Sections 163.506(1)(e) and (3), F.S.
6 Section 163.508(1)(e), F.S.
7 Sections 163.511(1)(f), and (8), F.S.
8 Section 163.512(1)(d), F.S.
Local government SNIDs and special SNIDs are authorized to levy ad valorem taxes up to 2 mills annually.⁹ Local government SNIDs are authorized to levy tax without a referendum; however, special SNIDs require a referendum to levy ad valorem taxes.¹⁰ For a special residential SNID, taxes are approved by a majority of the electors voting in the referendum.¹¹ For a special business SNID, taxes are approved by freeholders representing in excess of 50 percent of the assessed value of the property within the SNID.¹²

All SNIDs are also authorized to make and collect special assessments, but all special assessments are subject to referendum approval.¹³ Special assessments are approved by a majority of registered voters residing in the SNID.¹⁴ Assessments may be collected pursuant to ss. 197.3632 and 197.3635, F.S. (the uniform method for collection of non-ad valorem assessments). Assessments may not exceed $500 for each individual parcel of land per year.

Community redevelopment SNIDs may also utilize community redevelopment trust funds to implement district planning and programming.¹⁵

**SNID Dissolutions**

Local government and community redevelopment SNIDs may be dissolved by the governing body that established them.¹⁶ Property owners’ association SNIDs continue in perpetuity as long as the property owners’ association exists.¹⁷ Special SNIDs are dissolved at the end of the tenth fiscal year of operation.¹⁸

### III. Effect of Proposed Changes:

**Section 1** amends s. 163.511, F.S., to revise several provisions relating to the board of directors of a special SNID. Specifically, the bill provides for the appointment of a three-, five-, or seven-member board rather than the 3-member board currently required by law. The number of appointed directors must be specified in the local planning ordinance, and the members must be elected to staggered terms of four years. Additionally, the board of directors must be landowners in the district, whereas current law only requires the board of directors to be residents of the area.

**Section 2** provides the bill takes effect July 1, 2020.

---

⁹ Sections 163.506(1)(c), F.S., and 163.511(1)(b), F.S.
¹⁰ Section 163.511(1)(a) and (b), F.S.
¹¹ Section 163.511(3)(g), F.S. Although the word “elector” is used in s. 163.511(3)(g), F.S., it appears that the intent is that the vote be made by residents within the district that are registered voters. See s. 163.511(3)(b), F.S.
¹² Section 163.511(4)(g), F.S.
¹³ Section 163.514(16), F.S. This authority and any of the other SNID powers enumerated in s. 163.514, F.S., may be prohibited by the SNID’s enacting ordinance.
¹⁴ Id. See also Footnote 11 regarding the term “elector.”
¹⁵ Section 163.512(1)(c), F.S.
¹⁶ Sections 163.506(4) and 163.512(3), F.S.
¹⁷ Section 163.508(4), F.S.
¹⁸ Section 163.511(13), F.S. Special SNIDs may continue for subsequent 10-year periods if the continuation of the district is approved through referendum.
IV. Constitutional Issues:
   A. Municipality/County Mandates Restrictions:
      None.
   B. Public Records/Open Meetings Issues:
      None.
   C. Trust Funds Restrictions:
      None.
   D. State Tax or Fee Increases:
      None.
   E. Other Constitutional Issues:
      None identified.

V. Fiscal Impact Statement:
   A. Tax/Fee Issues:
      None.
   B. Private Sector Impact:
      None.
   C. Government Sector Impact:
      None.

VI. Technical Deficiencies:
   None.

VII. Related Issues:
   None.

VIII. Statutes Affected:
   This bill substantially amends section 163.511 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.
I. Summary:

CS/SB 856 provides a method for the reduction of specified property taxes to incentivize certain workforce housing projects. The reduction is conditioned upon taxpayer application and is only available to projects located in a county with a population greater than 825,000 that have not received an existing property tax discount for charitable-purpose affordable housing. Additional qualifying criteria for housing projects is defined and includes the number of units that may be built and conditions related to specified proportions of resident area median income levels. The 25-year tax reduction period features a base reduction rate in operating taxes that would have otherwise been assessed for the first 16 years and recalculated assessed reduction rates during years 17-25. Provisions to limit the total number of all qualifying projects in a county are outlined.

The bill also allows a local government to waive impact fees for the construction of supportive housing developed by a not-for-profit corporation under certain circumstances. The income level definition of supportive housing mirrors that as used for low income persons in the State Housing Initiatives Partnership Program. In addition, to qualify as supportive housing, a development must provide mental health, substance abuse, or domestic abuse treatment via on-premises social and community support services.
II. **Present Situation:**

**Affordable Housing**

Affordable housing is generally defined in relation to the annual area median income of the household living in the housing adjusted for family size. Section 420.9071(2), F.S., within the State Housing Initiatives Partnership (SHIP)\(^1\) Program defines “affordable” to mean that monthly rents or monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of that amount which represents the percentage of the median annual gross income for:

- Very-low-income households, i.e., total annual gross household income does not exceed 50 percent of the median annual income for the area;\(^2\)
- Low-income households, i.e., total annual gross household income does not exceed 80 percent of the median annual income for the area;\(^3\)
- Moderate-income households, i.e., total annual gross household income does not exceed 120 percent of the median annual income for the area.\(^4\)

With respect to rental units, a household’s annual income at initial occupancy may not exceed the three threshold percentages above. While occupying the unit, the household’s annual income may increase to an amount not to exceed 140 percent.\(^5\)

**State Affordable Housing Programs**

Principal state funding for affordable housing, if appropriated, comes from documentary stamp tax revenues distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.\(^6\) Programs supported by the two trust funds include the State Apartment Incentive Loan Program (SAIL)\(^7\) and the State Housing Initiatives Partnership Program (SHIP)\(^8\) both of which are administered by the Florida Housing Finance Corporation (Florida Housing).\(^9\)

SAIL provides gap financing to developers through non-amortizing, low-interest loans to leverage mortgage revenue bonds or federal Low Income Housing Tax Credit resources and obtain the full financing needed to construct affordable rental units for very low-income families.\(^10\) The SHIP program provides funds to all 67 counties and Florida’s larger cities on a population based formula to finance and preserve affordable housing for very low, low, and moderate income families based on locally adopted housing plans.

---

\(^1\) See ss. 420.907-420.9089, F.S. Administered by Florida Housing Finance Corporation, the SHIP Program provides funds to all 67 counties and Florida’s larger cities on a population based formula to finance and preserve affordable housing for very low, low, and moderate income families based on locally adopted housing plans.

\(^2\) Section 420.9071(28), F.S.

\(^3\) Section 420.9071(19), F.S.

\(^4\) Section 420.9071(20), F.S.

\(^5\) See ss. 420.9071(19), (20), and (28), F.S.

\(^6\) Section 201.15, F.S.

\(^7\) Section 420.5087, F.S.

\(^8\) Sections 420.907-420.9089, F.S.

\(^9\) As a public corporation of the state, Florida Housing Finance Corporation (Florida Housing) acts primarily as a financial institution. It utilizes federal and state resources to finance the development and preservation of affordable homeowner and rental housing and assist eligible homebuyers with financing and down payment assistance.

\(^10\) SAIL funds must be made available for specified groups such as commercial fishing workers and farmworkers, and persons who are homeless, elderly or who have special needs.
SAIL Funding Parameters: County-Size, Tenant Groups, and Loan Terms

The need and demand for SAIL funding must be determined by using the most recent statewide low-income rental housing market study conducted every 3 years.\(^{11}\) Section 420.5087, F.S., specifies both geographic- and demographic-based allocation guidance. Based on the 2019 Rental Market Study, the geographic allocations to counties for 2019-2021 is:

- County population of 825,000 or more: 53.8 percent
- County population of more than 100,000 but less than 825,000: 36.2 percent
- County population of 100,000 or less: 10.0 percent\(^{12}\)

Counties that currently have a population of 825,000 or more are Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, and Pinellas.

Workforce Housing

As used in the Community Workforce Housing Innovation Pilot Program (CWHIP)\(^{13}\) provided by ch. 2006-69, L.O.F., “workforce housing” means housing affordable to natural persons or families whose total annual household income does not exceed 140 percent of AMI, adjusted for household size, or 150 percent of AMI, adjusted for household size, in areas of critical state concern designated under s. 380.05, F.S.,\(^{14}\) for which the Legislature has declared its intent to provide affordable housing.\(^{15}\)

Proviso language in recent General Appropriations Acts has dedicated SAIL funding to construct workforce housing to primarily serve low-income persons as defined in s. 420.0004, F.S.\(^{16}\) This low-income persons definition for workforce housing stipulates that total household income does not exceed 80 percent of AMI within the state or within the county, whichever is greater.

---


\(^{12}\) See Florida Housing Finance Corporation, Board Meeting Action Items: Corrected Geographic Allocation for 2019 through 2021 SAIL Funding Cycles (Jun. 21, 2019) available at [https://www.floridahousing.org/docs/default-source/programs/action-items17fc83c2fb0d6f6b9f3ff00004a6e0f.pdf?sfvrsn=14f1ec7b_3](https://www.floridahousing.org/docs/default-source/programs/action-items17fc83c2fb0d6f6b9f3ff00004a6e0f.pdf?sfvrsn=14f1ec7b_3) (last visited Jan 29, 2020).

While the 2019 Rental Market Study reflects a 3.1 percent housing need for small counties, statute requires at least 10 percent be available to each county category. Per statute, the large county category was reduced by 6.9 percent.

\(^{13}\) Designed to use regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private sources, Florida Housing administered the pilot program in 2006 and 2007.

\(^{14}\) Section 380.0552, F.S., designates the Florida Keys as an area of critical state concern, and includes legislative intent to provide affordable housing in close proximity to places of employment in the Florida Keys. Section 380.0555, F.S., provides a like designation and affordable housing legislative intent to the Apalachicola Bay Area.

\(^{15}\) Section 420.5095(1)(a), F.S. Per the subsection, the intent to provide affordable housing also applies to areas that were designated as areas of critical state concern for at least 20 consecutive years prior to removal of the designation.

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

The Florida Constitution prohibits the state from levying ad valorem taxes, and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.

The just valuation standard generally requires the property appraiser to consider the highest and best use of property; 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; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.

Millage Categories and Rate Limitations

Property tax rates, or millage rates, are set by each taxing authority and vary throughout the state. Millage rates are limited by both the Florida Constitution and by general law.

Section 200.001(1)-(2), F.S., provides for county and municipal millages composed of four categories of millage rates as follows:

- General county or municipal millage, which shall be that nonvoted millage rate set by the governing body of the county or municipality.

---

17 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.
18 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).
19 See s. 192.001(2) and (16), F.S.
20 FLA. CONST. art VII, s. 1(a).
21 See FLA. CONST. art. VII, s. 4.
22 Section 193.011(2), F.S.
23 FLA. CONST. art VII, s. 4(a).
24 FLA. CONST. art VII, s. 4(b).
25 FLA. CONST. art VII, s. 4(e).
26 FLA. CONST. art VII, s. 4(j).
• County or municipal debt service millage, which shall be that millage rate necessary to raise taxes for debt service as authorized by a vote of the electors pursuant to s. 12, Art. VII of the State Constitution.

• County or municipal voted millage, which shall be that millage rate set by the governing body of the county or municipality as authorized by a vote of the electors pursuant to s. 9(b), Art. VII of the State Constitution.

• County or municipal dependent special district millage.27

The Florida Constitution limits counties, municipalities, and school districts to levies of 10 mills (or one percent).28 By referendum, local voters may authorize counties, municipalities, and school districts to levy additional mills above the 10-mill limitation to repay bonds to finance capital projects and for other purposes for a period of no longer than two years.29 Counties providing municipal services may also levy up to an additional 10 mills above the 10-mill county limitation within those areas receiving municipal-type services.30

Independent special district millage rates are limited by the law establishing the district and must be approved by the voters within the district. Dependent special district millage rates are included in the limitation applicable to the authority to which they are dependent. The Florida Constitution authorizes up to an additional 1 mill to be levied for water management purposes, except in northwest Florida where the limit is 0.05 mill.31

Exemption of Property Tax for Charitable Purposes and Affordable Housing

The Florida Constitution provides that portions of property used predominately for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.32

In 1999, the Legislature authorized a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption.33 The property must be owned entirely by a not-for-profit corporation, used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.34 In order to qualify for the exemption, the property must comply with s. 196.195, F.S., for determining non-profit status of the property owner and s. 196.196, F.S., for determining exempt status of the use of the property.

27 Section 200.001(5), F.S., provides that dependent special district millage rates shall be set by the board of county commissioners or the governing body of a municipality identified as to the area covered; as to the taxing authority to which the district is dependent; and as to whether authorized by a special act, authorized by a special act and approved by the electors, authorized pursuant to s. 15, Art. XII of the State Constitution, authorized by s. 125.01(1)(q), F.S., or otherwise authorized.

28 Fla. Const. art. VII, s. 9. A rate of 1 mill equates to $1 of tax per $1,000 of taxable value, or 0.1 percent.

29 Fla. Const. art. VII, s. 9.

30 Fla. Const. art. VII, s. 9(b); s. 125.01(1)(q), F.S.

31 Fla. Const. art. VII, s. 9.

32 Fla. Const. art. VII, s. 3.

33 Chapter 99-378, s. 15, Laws of Fla. (creating s. 196.1978, F.S, effective July 1, 1999).

34 The not-for-profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. See 26 U.S.C. § 501(c)(3) (“charitable purposes” include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).
In 2017, the Legislature created s. 196.1978(2), F.S., to provide that property used as affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount if the property:

- Provides affordable housing to natural persons or families meeting the extremely-low, very-low, or low-income limits specified in s. 420.0004, F.S.;
- Provides housing in a multifamily project in which at least 70 units are provided to the above group; and
- Is subject to an agreement with Florida Housing to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.  

The discount begins on January 1 of the year following the 15th year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount terminates when the property is no longer serving extremely-low, very-low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

**Local Government Impact Fees**

Pursuant to home rule authority, counties and municipalities may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. As one type of regulatory fee, impact fees are charges imposed by local governments against new development to provide for capital facilities’ costs made necessary by such growth. Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government’s determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee. With respect to a school impact fee, the fee is imposed by the respective board of county commissioners at the request of the school board.

Chapter 2019-165, L.O.F., amended s. 163.31801, F.S., to codify the ‘dual rational nexus test’ for impact fees, as articulated in case law. This test requires an impact fee to be proportional and have a reasonable connection, or rational nexus, between 1) the proposed new development and the need and the impact of additional capital facilities, and 2) the expenditure of funds and the benefits accruing to the proposed new development. Local governments are prohibited from requiring the payment of impact fees prior to issuing a property’s building permit.

---

35 Section 196.1978(2)(a), F.S. and ch. 2017-36, s. 6, Laws of Fla.
37 Id. Special assessments are typically used to construct and maintain capital facilities or to fund certain services.
38 See supra note 4.
39 Section 163.31801(3)(f) and (g), F.S.
40 Section 163.31801(3)(e), F.S.
Additionally, ch. 2019-165, L.O.F, established that impact fee funds must be earmarked for capital facilities that benefit new residents and may not be used to pay existing debt unless specific conditions are met.\textsuperscript{41} Provisions also authorized a local government to provide an exception or waiver for an impact fee for affordable housing. If a local government provides such an exception or waiver, it is not required to use any revenues to offset the impact.\textsuperscript{42} Impact fee provisions in s. 163.31801, F.S., do not apply to water and sewer connection fees.

**Permanent Supportive Housing**

Through a combination of affordable housing and individualized support services, permanent supportive housing is designed for people with disabilities who are unlikely to be able to maintain stable housing without service-enriched housing.\textsuperscript{43}

Typically, supportive housing is rental housing with a standard lease. The permanent supportive housing apartments may be scattered through the community in mainstream apartment complexes or may be project-based rental units in one or more developments. In some cases, supportive housing apartments are set aside units in larger affordable subsidized housing complexes.

Combined with the rental housing are the individualized, flexible, and accessible supportive services. These services may vary widely and often include case management, health care coordination, behavioral health coordination, job and education coaching, assistance with daily living skills, transportation assistance, and assistance accessing mainstream resources such as food assistance and disability income.\textsuperscript{44}

Florida Housing rental programs feature competitive rental resource allocations to develop permanent supportive housing. In 2019, Florida Housing provided financing to build smaller permanent supportive housing properties for persons with developmental disabilities and to persons with special needs.\textsuperscript{45}

**Verification of Documents; Third Degree Felonies; Back Taxes**

A verified document is a document that has been signed or executed by a person who must state under oath (or affirmation) that the facts or matters made therein are true, or other words to that effect.\textsuperscript{46} A written declaration means the following: “Under penalties of perjury, I declare that I

\textsuperscript{41} Section 163.31801(3)(h) and (i), F.S.  
\textsuperscript{42} Section 163.31801(8), F.S.  
\textsuperscript{44} Id.  
\textsuperscript{46} Section 92.525(4)(c), F.S.
have read the foregoing [document] and that the facts stated in it are true,” followed by the
signature of the person making the declaration.47

A third degree felony is punishable by up to 5 years’ incarceration and a fine of up to $5,000.48

Section 193.092, F.S., provides for the assessment of property for “back taxes,” or taxes on
property that has escaped taxation because such property was not accounted for on the tax roll.
The statute provides a mechanism for the collection of up to three years of back taxes. The tax
arrears attach to the property regardless of who currently owns the property.

III. Effect of Proposed Changes:

Section 1 amends s.16.3181, F.S., to allow a local government to waive impact fees for the
development of supportive housing constructed by a not-for-profit corporation that derives 75
percent of its revenues from contracts or services provided to a state or federal agency. The local
government is not required to use any revenues to offset the impact. Supportive housing is
defined to mean affordable housing for low-income persons or households as delineated in the
SHIP program which provides treatment for mental health, substance abuse, or domestic
violence via on-premises social or community support services.

Section 2 amends 196.1978, F.S., to provide a tax reduction for specified affordable housing. A
number of terms used in the section are defined, including:

- “Workforce housing project,” which means a rental housing project that provides at least four
but not more than 70 dwelling units for natural persons or households, and in which:
  o At least 10 percent of the rental units are set aside for residents with a total annual gross
  household income greater than 60 percent and up to 80 percent of AMI adjusted for
  family size;
  o At least 20 percent of the rental units are set aside for residents with a total annual gross
  household income greater than 60 percent and up to 100 percent of AMI adjusted for
  family size; and
  o Rents for the rental units are set aside at the applicable income limitations established by
  Florida Housing for the county in which the rental housing project is located. For rental
  units which are not set aside as outlined above, the taxpayer may offer the units at rents it
determines at its sole discretion.

- “Qualifying project,” which means a workforce housing project that:
  o Is located in a county with a population of 825,000 or more; and
  o Has not received an affordable housing property exemption pursuant to s. 196.1978(2),
    F.S., (i.e., affordable housing considered as a charitable purpose and qualifying for a 50
    percent property tax discount).

- “Reduction term,” which means the 25-year tax reduction period beginning the year in which
the qualifying project is first assessed and certified by the county property appraiser as
eligible to receive a reduction in operating taxes.

47 Section 92.525(2), F.S. When a verification on information or belief is permitted by law, the words “to the best of my
knowledge and belief” may be added.
48 Sections 775.082, 775.083, and 775.084, F.S.
• “Taxpayer,” which means the person or other legal entity in whose name property is assessed as in s. 192.001, F.S.
• “Base tax” which means the operating taxes remitted to a project taxing authority in the tax year immediately preceding the reduction term.
• “Operating taxes,” which means the nonvoted millage portion of county millage and municipal millage.
• “Project taxing authority,” which means a county or municipality, which is authorized to levy operating taxes against real property in the jurisdiction in which a qualifying project is located.

The bill provides a legislative finding that property used to provide affordable, elderly, and workforce housing to natural persons and households that meet the low-income or moderate-income limits is a charitable purpose.

Notwithstanding current statutory provisions that a property tax exemption granted for religious, literary, scientific, or charitable use of property requires the applicant to be a nonprofit, a taxpayer who builds or renovates a qualifying project after July 1, 2021, may receive a reduction in operating taxes that would otherwise be assessed, if the following criteria are met:
• The taxpayer timely files an application for the tax reduction with the property appraiser no later than March 1 of the year immediately following the year in which the qualifying project is first assessed.
• The taxpayer records a covenant running with the land which restricts the rents of units within the qualifying project.

For the first 16 years of the reduction term, a qualifying project shall be assessed operating taxes in an amount equal to the base tax for the operating project, which base tax shall be increased annually thereafter by 2.5 percent or the Consumer Price Index for the county in which the qualifying project is located, whichever is less.

Beginning in year 17 of the reduction term, the property appraiser shall determine the assessed value of the project and reduce the assessed value in accordance with the percentages set forth below:

<table>
<thead>
<tr>
<th>Year of Tax Reduction</th>
<th>Workforce Housing Reduction Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>90 percent</td>
</tr>
<tr>
<td>18</td>
<td>80 percent</td>
</tr>
<tr>
<td>19</td>
<td>70 percent</td>
</tr>
<tr>
<td>20</td>
<td>60 percent</td>
</tr>
<tr>
<td>21</td>
<td>50 percent</td>
</tr>
<tr>
<td>22</td>
<td>40 percent</td>
</tr>
<tr>
<td>23</td>
<td>30 percent</td>
</tr>
<tr>
<td>24</td>
<td>20 percent</td>
</tr>
<tr>
<td>25</td>
<td>10 percent</td>
</tr>
</tbody>
</table>
If the property appraiser approves the application, the taxpayer must submit the covenant running with the land for recording. The property appraiser shall apply the authorized tax reductions beginning in the appropriate tax year. The taxpayer submitting the application is responsible for the cost of recording the covenant.

A taxpayer who receives a tax reduction is required to submit a report annually to the property appraiser confirming compliance with the rent restrictions required for the tax reduction. The report must include the written declaration set forth in s. 92.525(2), F.S. A taxpayer who falsifies the written declaration commits a felony of the third degree.

Each county with a population of 825,000 or more may, by the adoption of an ordinance and after conducting a public hearing noticed in a newspaper of general circulation, limit the total number of qualifying projects the property appraiser may approve annually. The limit is conditioned upon a finding that such a limitation is necessary to avoid a substantial impairment of the taxing authority’s ability to meet its financial obligations to fund other necessary public services.

If the property appraiser determines that a qualifying project that was granted a tax reduction failed to offer rents as required in the recorded covenant, the taxpayer is liable for the payment of any back taxes, penalties, and interest.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

State mandates on local governments are generally described in the Florida Constitution as general laws requiring counties or municipalities to spend funds, limiting their ability to raise revenue, or reducing the percentage of a state-shared tax revenue. In 1991, Senate President Margolis and House Speaker Wetherell created a memo to guide the House and Senate in the review of local government mandates.49

Article VII, Section 18(a) of the Florida Constitution, provides that counties and municipalities are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. However, the mandate requirement does not apply to laws having an

49 Memorandum to Members of The Florida House and The Florida Senate from Gwen Margolis, President of the Senate, and T.K. Wetherell, Speaker of the House, County and Municipal Mandates Analysis, (March 7, 1991) (on file with the Senate Committee on Community Affairs).
insignificant impact, which for Fiscal Year 2019-2020 is forecast at approximately $2.2 million.\textsuperscript{50,51,52}

Article VII, Section 18(b) 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. As in Subsection 18(a), the mandate requirement does not apply to laws having an insignificant impact.

While qualifying taxpayer applicants for the bill’s property tax reduction would reduce a local government’s authority to raise revenues, the bill provides a process for the local government to limit the number of applications to avoid an impairment of a taxing authority’s ability to meet its financial obligations. The process for implementing a limitation requires a noticed public hearing and the adoption of an ordinance the execution of which may require the local government to spend funds. If either of the above issues are deemed a mandate, final passage of the bill would require approval by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The Florida Constitution provides that portions of property used predominately for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.\textsuperscript{53} It appears that the bill will allow the portions of specified housing projects used for such purposes as well as those not used for such purposes to receive a tax reduction.

\textsuperscript{50} \textit{FLA. CONST.} art. VII, s. 18(d).
\textsuperscript{51} 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, \textit{Interim Report 2012-115: Insignificant Impact}, (Sept. 2011), available at: \url{http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf} (last visited Jan. 7, 2020).
\textsuperscript{52} Based on the Florida Demographic Estimating Conference’s July 8, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at: \url{http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf} (last visited Jan. 7, 2020).
\textsuperscript{53} \textit{FLA. CONST.} art. VII, s. 3.
V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

B. Private Sector Impact:

Developers of qualifying workforce housing projects will pay less property taxes.

C. Government Sector Impact:

Local governments will experience reduced revenues from their general nonvoted county or municipal millage. According to the Florida Department of Revenue (DOR), if the bill as originally filed passed, DOR would need to amend Form DR-504 and Rule 12D-16.002, F.A.C. It is unclear if this is still the case for the committee substitute.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOR analysis of the original bill provided comments related to the definition of base tax, the compliance report a taxpayer must file with the property appraiser, and issues related to the value adjustment board. It is unclear if these comments are still relevant for the committee substitute.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 163.31801 and 196.1978.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on February 3, 2020:

The committee substitute:

- Provides that the incentivizing tax reduction only applies to specified workforce housing projects.
- Clarifies how the base reduction rate in operating taxes is assessed for the first 16 years of the reduction period and how the recalculated assessed reduction rates are established during years 17-25.
- Allows a local government to waive impact fees for the construction of supportive housing by a non-profit under certain circumstances.

Florida Department of Revenue, SB 856 Agency Analysis (Jan. 28, 2020) (on file with the Senate Committee on Community Affairs).

Id.
B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Community Affairs (Pizzo) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (8) of section 163.31801, Florida Statutes, is amended to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

(8) A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or
construction of housing that is affordable, as defined in s. 420.9071, or for the development and construction of supportive housing by a not-for-profit corporation that derives at least 75 percent of its annual revenues from contracts or services provided to a state or federal agency. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact. For purposes of this subsection, the term “supportive housing” means affordable housing for low-income persons and low-income households, as those terms are defined in s. 420.9071(19), which provides treatment for persons who suffer from mental health, substance abuse, or domestic violence, which provides on-premises social and community support services, including job training, life skills training, alcohol and substance abuse disorder treatment, child care, and client case management services.

Section 2. Subsection (3) is added to section 196.1978, Florida Statutes, to read:

196.1978 Affordable housing property exemption; workforce housing property reductions.—

(3)(a) As used in this subsection, the term:

1. “Base tax” means the operating taxes remitted to the taxing authority in the tax year immediately preceding the reduction term.


3. “Household” has the same meaning as in s. 196.075(1).

4. “Operating taxes” means the nonvoted millage portion of the county millage and the municipal millage as identified in s.
200.001(1)(a) and (2)(a), respectively.

5. “Project taxing authority” means a county or municipality, as those terms are defined in s. 200.001(8)(a) and (b), respectively, which is authorized to levy operating taxes against real property in the jurisdiction in which a qualifying project is located.

6. “Qualifying project” means a workforce housing project that:
   a. Is located in a county that has a population of 825,000 or more; and
   b. Has not received a property tax discount pursuant to subsection (2).

7. “Reduction term” means the 25-year tax reduction period beginning the year in which the qualifying project is first assessed under s. 192.042(1) and certified by the county property appraiser as eligible to receive a tax reduction in operating taxes.

8. “Taxpayer” has the same meaning as in s. 192.001.

9. “Workforce housing project” means a rental housing project that provides at least 4 but not more than 70 dwelling units for natural persons or families and in which:
   a. At least 10 percent of the rental units are set aside for one or more natural persons or a family with a total annual gross household income greater than 60 percent but less than 80 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever is greatest.
   b. At least 20 percent of the rental units are set aside
for one or more natural persons or a family with a total annual gross household income greater than 60 percent but less than 100 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever is greatest.

c. Rents for the rental units set aside pursuant to sub-subparagraphs a. and b. comply with the income limitations established by the corporation for the county in which the rental units are located. Rents for the rental units within the project that are not subject to the set-asides may be offered at rents determined by the taxpayer in his or her sole discretion.

(b) The Legislature finds that property used to provide workforce housing to natural persons and households that meet the low-income or moderate-income limits is a charitable purpose. Therefore, notwithstanding s. 196.195(4), a taxpayer who builds or renovates a qualifying project after July 1, 2021, may receive a tax reduction in operating taxes that would otherwise be assessed if the following criteria are met:

1. The taxpayer timely files an application for the tax reduction with the property appraiser no later than March 1 of the year immediately following the year in which the qualifying project is first assessed under s. 192.042(1).

2. The taxpayer records a covenant running with the land that restricts the rents of rental units within the qualifying project in accordance with the requirements set forth in subparagraph (a)9.

(c) For the first 16 years of the reduction term, a qualifying project shall be assessed operating taxes in an
amount equal to the base tax for the qualifying project, which base tax shall be increased annually thereafter by 2.5 percent or the Consumer Price Index for the county in which the qualifying project is located, whichever is less. Beginning in Year 17 of the reduction term, the property appraiser shall determine the assessed value of the qualifying project and reduce the assessed value of the property in accordance with the percentages set forth below:

<table>
<thead>
<tr>
<th>Year of Tax Reduction</th>
<th>Workforce Housing Reduction Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>90 percent</td>
</tr>
<tr>
<td>18</td>
<td>80 percent</td>
</tr>
<tr>
<td>19</td>
<td>70 percent</td>
</tr>
<tr>
<td>20</td>
<td>60 percent</td>
</tr>
<tr>
<td>21</td>
<td>50 percent</td>
</tr>
<tr>
<td>22</td>
<td>40 percent</td>
</tr>
<tr>
<td>23</td>
<td>30 percent</td>
</tr>
<tr>
<td>24</td>
<td>20 percent</td>
</tr>
<tr>
<td>25</td>
<td>10 percent</td>
</tr>
</tbody>
</table>
(d) If the property appraiser approves the application, the taxpayer must record the covenant. The property appraiser shall apply the authorized tax reductions beginning in the appropriate tax year. The taxpayer is responsible for the cost of recording the covenant.

(e) Each taxpayer who receives a tax reduction must submit a report annually to the property appraiser confirming his or her compliance with the rent restrictions required for the receipt of the reduction. The report must be executed by the taxpayer or an authorized representative of the taxpayer, and must include the written declaration set forth in s. 92.525(2). A taxpayer who falsifies the written declaration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f) Each county may limit the total number of qualifying projects that the property appraiser may approve annually if:

1. It conducts a public hearing noticed in a newspaper of general circulation.

2. It adopts a resolution that finds and is supported by competent substantial evidence that a limitation is necessary to avoid the substantial impairment of the taxing authority’s ability to meet its financial obligations to fund other public services that are necessary to ensure the public safety and welfare.

(g) 1. If the property appraiser determines that a qualifying project that was granted a tax reduction has failed to offer rents as required in the recorded covenant and as set
forth in this subsection, the taxpayer shall be liable for the payment of any back taxes, penalties, and interest, as well as any other remedies authorized pursuant to s. 193.092.

2. If the property appraiser improperly grants a tax reduction as a result of a clerical mistake or an omission, the taxpayer improperly receiving the reduction shall not be assessed back taxes, penalties, or interest, or be held liable for any other remedies authorized under s. 193.092.

Section 3. This act shall take effect July 1, 2020.

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled An act relating to affordable housing tax reductions; amending s. 163.31801, F.S.; authorizing counties, municipalities, and special districts to provide an exception or waiver of impact fees for certain not-for-profit corporations for specified purposes; defining the term “supportive housing” for certain purposes; amending s. 196.1978, F.S.; defining terms; providing legislative findings; providing a tax reduction to certain entities that provide affordable housing to identified groups; providing criteria for receiving such reduction; providing a formula for determining the amount of the reduction; requiring a taxpayer to submit a covenant for recording that provides specified information; requiring a taxpayer
who receives a tax reduction to file an annual report; providing specifications for such report; providing penalties for falsification of reports; authorizing a county to limit the number of qualifying projects that may be approved under specified conditions; requiring a taxpayer to pay back taxes, penalties, and interest under specified circumstances; providing exceptions; providing an effective date.
March 21, 1991

Members of The Florida House
and The Florida Senate
The Capitol
Tallahassee, Florida

Dear Members:

Last fall the voters approved a constitutional amendment concerning the imposition of mandates on municipalities and counties. These provisions are now contained in Article VII, Section 18 of the Florida Constitution. Staff of the House and Senate have been working together over the past few weeks to recommend a set of guidelines for interpreting the new constitutional provisions. These guidelines are attached. Please read them carefully. It is our intention that both houses follow the interpretations contained in the attached document in dealing with any issues arising with regard to Article VII, Section 18 during the current session.

Sincerely,

Gwen Margolis
President

T.K. Wetherell
Speaker
COUNTY AND MUNICIPALITY MANDATES ANALYSIS

The purpose of this document is to assist legislative staff in analyzing bills that potentially fall under Article VII, Section 18 of the Florida Constitution, the provision relating to county and municipality mandates. This constitutional provision contains three criteria which describe types of bills considered to be mandates on municipalities and counties. There are eight exemptions contained in subsection (d) which, if applicable, exempt the bill from the constitutional restrictions. In addition, under each criterion there are exceptions which, if met, also exclude the bill from the restrictions. For the second and third criteria, one of the exceptions is passage of the bill by a two-thirds vote of the membership of each house. For an exception to the first criterion, that vote must be coupled with a legislative determination of an important state interest.

In preparing a staff analysis, any bill which meets one or more of the criteria should be identified as a mandate, even if an exemption or an exception applies. The analysis should describe the issue causing the mandate and state the constitutional criterion which is met. If appropriate, a fiscal analysis of the required expenditures and/or revenue impacts should be provided. If one of the "substantive" exemptions or exceptions (other than the two-thirds vote) apply, this should be stated and explained. If the exemptions or exceptions do not apply, leaving the two-thirds vote as the only possibility for exception, this should also be stated.

OVERVIEW:

The accompanying chart provides a procedure for doing a mandates analysis. The bill should first be analyzed to determine if it or one of its provisions meet the constitutional criteria. If not, the bill is not a mandate. If one of the criteria is met, the analyst should then examine the exemptions. If one or more are applicable, the bill is exempt from the mandates requirements. If not, the exceptions under each applicable criterion should be examined. If any exception other than the two-thirds vote applies, this should be stated. If the only exception available is for the Legislature to pass the bill by a two-thirds vote, this should also be stated.

GENERAL CONSIDERATIONS:

* In analyzing a bill or amendment to a bill for an Article VII, Section 18 impact, each issue of the bill or amendment must be analyzed individually.

* The mandates analysis applies only to general laws and not to special laws (local bills).

* The requirements of Article VII, Section 18 apply only to cities and counties.
CRITERIA:

The bill should first be analyzed to determine if it or any of its provisions meet one or more of the mandates criteria. These are:

A. **A law requiring cities or counties to spend funds or to take action requiring expenditure.**

B. **A law that reduces the authority of cities or counties to raise revenues in the aggregate as such authority existed on 2/1/89.**

   1. In analyzing this criterion, the term "in the aggregate" means that effects on cities and counties are to be considered together. It also means that decreases in the authority to raise revenues should be offset against increases in such authority.

   2. The term "authority" applies to:

      a) the power to levy a tax;
      b) the vote required to levy the tax, e.g., increasing the required vote from majority to majority plus one;
      c) the tax rate which can be levied; and
      d) the base against which the tax is levied, e.g., a bill providing a sales tax exemption should be considered a reduction in authority because counties have authority to levy local option sales taxes against the state sales tax base.

C. **A law that reduces the percentage of a state tax shared with cities and counties as an aggregate on 2/1/89.**

This criterion indicates that the percentage of each shared state tax that the counties and cities receive cannot be reduced. Provisions that reduce the base of a shared tax while leaving the percentage shared with cities and counties unchanged, however, do not meet this criterion.

If it is determined, after an initial reading, that a bill falls within one of the above, the analysis outlined in the remainder of this paper should be performed. If it does not fall within one of these criteria, no further mandates analysis need be done.
EXEMPTIONS:

Determine whether the bill's provisions fall under one of the following exemptions set out in subsection (d) of Article VII, Section 18:

1. **Requires Funding of Pension Benefits Existing on January 8, 1991** -- This applies only to additional funding that is necessary to assure the actuarial soundness of pension funds in providing only those benefits that existed on January 8, 1991. In order to qualify for exemption, the funding cannot apply to an expansion of either specific benefits or classes of people receiving the benefits.

2. **Criminal law** – This applies to any bill relating to the following:
   * Defining the types of behaviors for which individuals are subject to arrest and criminal sanction and the penalties associated with these behaviors.
   * Relating to the processes of arrest and pretrial detention.
   * Relating to defense and prosecution.
   * Relating to adjudication, sentencing, and implementation of criminal sanctions.

3. **Election Laws** – Generally, this applies to any bill relating to the required processes and procedures of holding public elections.

4. **The General Appropriations Act**

5. **Special Appropriations Acts**

6. **Laws Re-authorizing but not Expanding Then-existing Statutory Authority** -- Look to authority existing at the time the bill would become effective. Where a bill would expand, in addition to re-authorize, only the re-authorizing provisions would be exempt. This exemption includes sunset bills, sundown bills, reviser's bills, re-adoptions of statutes, and laws extending repeal dates.
7. **Laws Having Insignificant Fiscal Impact** — This exemption is to be determined on an aggregate basis for all cities and counties in the state. If, in aggregate, the bill would have an insignificant fiscal impact, it is exempt.

For purposes of legislative application of Article VII, Section 18, the term "insignificant" means an amount not greater than the average statewide population for the applicable fiscal year times ten cents. Thus, for fiscal year 1991-92, a bill that would have a statewide annual fiscal impact on counties and municipalities, in aggregate, of $1.4 million or less is exempt.

Bills should also be analyzed over the long term. The appropriate length of the long-term analysis will vary with the issue being considered, but in general should be adequate to insure that no unusual long-term consequences occur. In determining fiscal significance or insignificance, the average fiscal impact, including any offsetting effects over the long term, should be considered. For instance, if a program would require recycling costs of $5 million statewide, but would generate $4 million statewide in revenues from the sale of scrap metal and paper, the fiscal impact would be insignificant.

8. **Laws Creating, Modifying, or Repealing Noncriminal Infractions** — Apply the definition of "noncriminal violation" in s. 775.08, F.S.

If a bill or one of its provisions meets the definition or description of one of the exemptions above, the bill or provision is not subject to further Article VII, Section 18 analysis. However, the mandates provision and the exemption should still be discussed in the bill analysis.

**EXCEPTIONS:**

After determining that a bill or its provisions do not fall under one of the exemptions, the exceptions applicable to each relevant criterion should be analyzed. If one of the exceptions is applicable, this should be stated in the analysis. If no exception other than the two-thirds vote is applicable, this should also be stated.

A. **General bills requiring cities and counties to spend funds or to take action requiring expenditure.**

It is not feasible for the Legislature to analyze the effects of possible mandates legislation on each city and county individually. Thus, for purposes of legislative analysis and determination of the offsetting
appropriations or other funding sources as described below, analysis should be made on an aggregate basis for all counties and municipalities as a whole.

Cities and counties will have to comply with a provision requiring expenditures if:

1. **The Legislature Determines That It Fulfills an Important State Interest:**

   This determination should be made by the Legislature itself and not by staff. The most effective means of doing this would be the insertion of a provision into the bill.

2. **Condition #1 must be met and any one of the following exceptions:**

   a. **Funds are appropriated that are estimated to be sufficient to fund such expenditure.**

      As stated above, the question of whether this exception is met should be analyzed on an aggregate basis including all counties and municipalities.

   b. **The Legislature authorizes or has authorized a county or city to enact, by a simple majority vote of the governing board, a funding source not available on 2/1/89. The source must be estimated to fund the expenditure.**

      In addition to the granting of new authority to enact funding sources, this exception also includes the broadening of tax bases against which cities and counties already have the authority to levy taxes by a majority vote.

      As stated above, the question of whether this exception is met should be analyzed on an aggregate basis, including all counties and municipalities.

   c. **The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.**
In analyzing this exception, the makeup of the group which should be considered "similarly situated" should first be determined. Once this determination has been made, the exception can be considered applicable if all members of the group are treated similarly, even though the group may only contain governmental entities or even only local governmental entities.

The determination of similarly situated should be independent of a local government's status as a local government. However, if only cities and counties are affected by the issue, this exception does not apply. If, on the other hand, by the nature of the issue in the bill being analyzed, only local governments (all local governments, not just cities and counties) could be affected and these are treated similarly, the exception is met. If there are entities in the private sector or in state government which also could be affected by the bill, but are not treated similarly because they are not local governments, or for other reasons not inherently connected to the issue being analyzed, the exception is not met.

An example of a bill in which the exception is met would be one affecting the Florida Retirement System (FRS). This system includes employees of the state government, school districts and local governments. As long as classes of employees were not deliberately manipulated to apply only to cities and counties, all in the system would be similarly situated and changes in retirement benefits would be excepted.

d. The expenditure is required to comply with a federal requirement or federal entitlement which contemplates action by cities or counties.

If any one of the exceptions (a) through (d) is met, no further analysis is necessary with respect to Article VII, Section 18. The bill is excepted from the provisions of that section as long as the Legislature also determines that an important state interest exists.

If none of the exceptions (a) through (d) are met, the Legislature must find an important state interest and the bill must pass by a 2/3 vote to effectively bind cities and counties.
B. A law that reduces the authority of cities or counties to raise revenues in the aggregate as such authority existed on 2/1/89.

There is only one exception applicable to this criterion. A bill determined to meet this criterion may only take effect if passed by 2/3 vote of each house.

C. A law that reduces the percentage of a state tax shared with cities and counties as an aggregate on 2/1/89.

The exceptions by which this criterion does not apply are:

1. Enhancements to state taxes shared with counties and municipalities enacted after 2/1/89. For example, assume that the base of a shared tax source has been expanded since 2/1/89 (and the percentage shared not reduced) so that cities and counties receive more money. It would be permissible under this exception for the Legislature to reduce the percentage shared with cities and counties up to the point where such governments would be receiving the same amount of money they would have received if the tax base had not been expanded.

2. During a fiscal emergency; or

3. If replacement state shared revenues sufficient to replace the aggregate loss are provided.

If exceptions (1), (2) or (3) are not satisfied, the bill must pass by a 2/3 vote of each house in order to take effect.
# 2020 AGENCY LEGISLATIVE BILL ANALYSIS
## DEPARTMENT OF REVENUE

### BILL INFORMATION

<table>
<thead>
<tr>
<th>BILL NUMBER:</th>
<th>SB 856</th>
</tr>
</thead>
<tbody>
<tr>
<td>BILL TITLE:</td>
<td>Affordable Housing Tax Reductions</td>
</tr>
<tr>
<td>BILL SPONSOR:</td>
<td>Senator Pizzo</td>
</tr>
<tr>
<td>EFFECTIVE DATE:</td>
<td>July 1, 2020</td>
</tr>
</tbody>
</table>

### COMMITTEES OF REFERENCE
1) Community Affairs  
2) Finance and Tax  
3) Appropriations  
4)  
5)  

### CURRENT COMMITTEE
Community Affairs

### SIMILAR BILLS

<table>
<thead>
<tr>
<th>BILL NUMBER:</th>
<th>HB 1459</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPONSOR:</td>
<td>Representative Silvers</td>
</tr>
</tbody>
</table>

### IDENTICAL BILLS

<table>
<thead>
<tr>
<th>BILL NUMBER:</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPONSOR:</td>
<td></td>
</tr>
</tbody>
</table>

### PREVIOUS LEGISLATION
- year bill number/sponsor/last action:
  - 2019 SB 1314/Senator Pizzo/Died in Local, Federal and Veterans Affairs Subcommittee  
  - 2019 HB 1211/Representative Fernandez/Withdrawn from further consideration

### BILL ANALYSIS INFORMATION

<table>
<thead>
<tr>
<th>DATE OF ANALYSIS:</th>
<th>January 28, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEAD AGENCY ANALYST:</td>
<td>Debbie Longman (850) 617-8324</td>
</tr>
</tbody>
</table>
POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

Section 1. Affordable housing property tax reduction (pp. 1-7):

PRESENT SITUATION
Section 196.1978, Florida Statutes, provides the authorization for the affordable housing property exemption and describes the requirements for certain entities to be eligible to receive the exemption.

EFFECT OF THE BILL
This bill creates section 196.1979, F.S. to provide affordable housing property reductions as a third type of exemption for affordable housing properties.

This bill defines the following terms to be used for section 196.1979(1), F.S.:

- Affordable housing project
- Base tax
- Corporation
- Elderly housing project
- Household
- Mass transit station
- Operating taxes
- Project taxing authority
- Qualifying project
- Reduction term
- Taxpayer
- Workforce housing project

The bill describes three types of "qualifying project" at section 196.1979(1)(h), F.S.:

- "Affordable housing project" at section 196.1979(1)(a), F.S.
- "Elderly housing project" at section 196.1979(1)(d), F.S., and
- "Workforce housing project" at section 196.1979(1)(k), F.S.

The qualifying project must be in a county with a population of 825,000 or more, not be exempt under section 196.1978(2), F.S.

An affordable housing project is one that receives a four percent low-income housing tax credit from the corporation (FHFC) pursuant to section 420.5099, F.S., or receives bonds for qualifying housing developments from a housing finance authority after July 1, 2020 or both.

An elderly housing project is one that receives a nine percent low-income housing tax credit from the corporation (FHFC) pursuant to section 420.5099, F.S., and:

a. reserves at least 80 percent of the rental unit occupancy in the project for the elderly
b. offers all rental units to eligible persons, and
c. implements standards and processes adopted by FHFC rules to reduce barriers to rental housing entry.

A workforce housing project is one containing four or more dwelling units, that has not received low-income housing tax credit from the corporation (FHFC) pursuant to section 420.5099, F.S, has not received a loan pursuant to section 420.5087, F.S., has not received bond proceeds pursuant to section 159.612, F.S, and that offers specified percentages of rental units to natural persons or households whose incomes meet the specified income thresholds.
Section 196.1979(2), F.S., provides Legislative findings that property used to provide affordable, elderly, and workforce housing to natural persons and households that meet the low-income or moderate-income limits is a charitable purpose. A taxpayer who builds a qualifying project after July 1, 2020, may receive a tax reduction in operating taxes that would otherwise be assessed, if:

- The taxpayer files an application with the property appraiser by March 1 after immediately following the year in which the qualifying project is first assessed, and
- The taxpayer records a covenant running with the land that restricts the rents of units within the qualifying project.

Section 196.1979(3), F.S., provides a formula for providing the reduction. For the first 16 years, a qualifying project (affordable housing, workforce housing, and elderly housing) is assessed operating taxes in an amount equal to the base tax, subject to an annual adjustment equal to 2.5 percent beginning in year 2 of the reduction term or the percentage change in the Consumer Price Index for the county in which the qualifying project is located, whichever is less.

For each year for the next 9 years, this bill provides a chart with percentages of the reduction that an affordable housing project, workforce housing project, and elderly housing project will receive.

Section 196.1979(4), F.S., provides that if the property appraiser approves the application, the taxpayer submits the covenant for recording.

Section 196.1979(5), F.S., requires the taxpayer submit an annual report to the property appraiser confirming the taxpayer is in compliance with the rent restrictions required to get the reduction.

Section 196.1979(6), F.S., requires that counties where a qualifying project may be located may, conduct a public hearing to adopt an ordinance that limits the total number of qualifying projects the property appraiser may approve annually. The ordinance can pass only if a finding supported by competent substantial evidence shows that a limitation is necessary in order to avoid a substantial impairment of the taxing authority's ability to meet its financial obligations to fund other public services that are necessary to ensure the public safety and welfare.

Section 196.1979(7), F.S., provides that if the property appraiser determines that a project has failed to offer rents required in the covenant, the taxpayer is liable for any back taxes, penalties, and interest. Also, if a property appraiser improperly grants a tax reduction as a result of a clerical mistake or an omission, the taxpayer improperly receiving the reduction shall not be assessed back taxes, penalties, or interest.

Section 2. Effective date (p. 7): This act will be effective on July 1, 2020.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES?  ☑ YES  ☐ NO

<table>
<thead>
<tr>
<th>If yes, explain:</th>
<th>Amend Form DR-504</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rule(s) impacted</td>
<td>Rule 12D-16.002, F.A.C.</td>
</tr>
<tr>
<td>(provide references to F.A.C., etc.):</td>
<td></td>
</tr>
</tbody>
</table>

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A
4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? □ YES □ NO

If yes, provide a description:

Date Due:

Bill Section Number(s):

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? □ YES □ NO

Board:

Board Purpose:

Who Appoints:

Changes:

Bill Section Number(s):

---

**FISCAL ANALYSIS**

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

<table>
<thead>
<tr>
<th>Revenues:</th>
<th>The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures:</td>
<td>□ YES □ NO □ YES, BUT INSIGNIFICANT □ UNABLE TO DETERMINE</td>
</tr>
<tr>
<td><em>only expenditure impacts on the Department are identified</em></td>
<td>See Additional Comments section below if it is determined there is a significant operational impact to the Department.</td>
</tr>
</tbody>
</table>

| Does the legislation contain an appropriation to the Department? | □ YES □ NO |

8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? The Department of Revenue does not conduct this analysis.

9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

---

**TECHNOLOGY IMPACT**

If any, see attached Fiscal Impact Analysis.
FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: Section 196.1979, F.S.

11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION? □ YES ☒ NO
   If no, go to #12. If yes:
   
   A. Identify bill number or source.

   B. Were issues/problems identified? □ YES ☒ NO
      
      a. If yes, have they been resolved? □ YES □ NO If no, briefly explain.

   C. Are new issues/problems created? □ YES ☒ NO If yes, briefly identify.

12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT? □ YES ☒ NO

13. OTHER:

The sponsor may want to consider including the July 1, 2020 date in the definition of workforce housing project, similarly to the definition of affordable housing project that includes the date.

The definition of base tax, should be revised to replace “remitted” with “assessed.” Section 196.1979(3) of the bill provides that a qualifying project shall be assessed operating taxes.

The bill creates 196.1979(5), F.S., that provides the taxpayer must file a “report” annually to the property appraiser confirming compliance with the rent restrictions required for the receipt of the reduction. No deadline for filing the report is provided.

The bill does not specify which type of special magistrate would hear appeals at the value adjustment board pursuant to sections 194.035 and 194.034, F.S., which currently provide for appraiser magistrates to hear value petitions and attorney magistrates to hear exemption and classification and portability petitions.
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. 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.

Appearing at request of Chair: Yes No

Representing

The Chair will read this information into the record.

Waving: Speaking:

In Support Against

Email: Phone:

State Zip:

Address:

Senator:

Job Title:

Name:

Affordable Housing/Real Estate:

Amendment Barcode (if applicable)

Bill Number (if applicable)

2/3/10

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

ApPEArANCE REcORD

THE FLORIDA SENATE
I. Summary:

CS/SB 1302 increases the per-occurrence limit on the collectability of judgments against government entities from $300,000 to $500,000 and eliminates the $200,000-per-claimant limit. These new limits will apply to lawsuits that have not been adjudicated before the effective date of the bill.

The bill further allows government entities to settle claims in any amount without the approval of a claim bill by the Legislature. In contrast, current law allows government entities to settle and pay amounts exceeding the sovereign immunity caps only to the extent of insurance coverage. Otherwise, current law requires that the payment of the portion of a claim or judgment exceeding the sovereign immunity caps be approved by the Legislature in a claim bill.

II. Present Situation:

Sovereign immunity is a principle under which a government cannot be sued without its consent.\(^1\) Article X, s. 13 of the Florida Constitution allows the Legislature to waive this immunity. Under Article X, s. 13 of the Florida Constitution, s. 768.28(1), F.S., allows for suits in tort against the State and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28 applies only to

\(^1\) Sovereign immunity, Legal Information Institute (available at https://www.law.cornell.edu/wex/sovereign_immunity).
“injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment ....”

Section 768.28(5), F.S., caps tort recovery from a governmental entity at $200,000 per person and $300,000 per accident. “Although an ‘excess’ judgment may be entered, the statutory caps make it impossible, absent a special claim bill passed by the legislature, for a claimant to collect more than the caps provide.”

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment unless the damages result from the employee’s acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard from human rights, safety, or property. A government entity is not liable for any damages resulting for actions by an employee outside the scope of his or her employment and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.

The phrase “bad faith,” as used in s. 768.28(9)(a), has been “equated with the actual malice standard.” The phrase “malicious purpose,” as used in s. 768.28(9)(a), has been interpreted as meaning the conduct was committed with “ill will, hatred, spite, [or] an evil intent.” The phrase “wanton and willful disregard of human rights [or] safety,” as used in s. 768.28(9)(a), F.S. has been interpreted as “conduct much more reprehensible and unacceptable than mere intentional conduct,” and “conduct that is worse than gross negligence.” While case law describes what “wanton and willful disregard of human rights [or] safety” is ‘more than’ or ‘worse than,’ neither of those references, nor any other case … have interpreted what ‘wanton and willful disregard of human rights [or] safety’ actually means as used in section 768.28(9)(a). However, according to the Florida Standard Jury Instructions, “wanton” means “with a conscious and intentional indifference to consequences and with the knowledge that damage is likely to be done to persons or property” and “willful means” “intentionally, knowingly and purposely.”

A law enforcement agency may be liable for injury, death, or property damage by a person fleeing one of its law enforcement officers if the pursuit involves conduct by the officer so reckless as to constitute disregard for human rights, the officer did not initiate pursuit under the

---

2 City of Pembroke Pines v. Corrections Corp. of America, Inc., 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).
3 Section 768.28(5), F.S.
4 Breaux v. City of Miami Beach, 899 So. 2d 1059 (Fla. 2005).
5 Section 768.28(9)(a), F.S.
6 Id.
8 Id. (quoting Eiras v. Florida, 239 F. Supp. 3d 1331, 1343 (M.D. Fla. 2017)).
9 Id. (quoting Richardson v. City of Pompano Beach, 511 So. 2d 1121, 1123 (Fla. 4th DCA 1987); Sierra v. Associated Marine Insts., Inc., 850 So. 2d 582, 593 (Fla. 2d DCA 2003)).
10 Id.
11 Id. (citing Fla. Std. Jury Instr. (Crim.) 7.9 (Vehicular or Vessel Homicide); Fla. Std. Jury Instr. (Crim.) 28.5 (Reckless Driving); Fla. Std. Jury Instr. (Crim.) 28.19 (Reckless Operation of a Vessel).
reasonable belief that the fleeing person had committed a forcible felony, and the pursuit was not conducted according to a written policy. While s. 768.28(9)(a), F.S., grants individual state officers immunity from judgment and suit (“qualified immunity”) in certain cases, s. 768.28(9)(d), F.S., only grants employing agencies immunity from judgment.

**Damages**

The caps in s. 768.28(5), F.S., apply to “all of the elements of the monetary award to a plaintiff against a sovereignly immune entity.” In other words, a plaintiff’s entire recovery, including damages, back pay, attorney fees, and any other costs, are limited by the caps in s. 768.28, F.S.

“Generally speaking, damages are of two kinds, compensatory and punitive.” “Actual damages are compensatory damages.” “Compensatory damages are awarded as compensation for the loss sustained to make the party whole so far as that is possible.” “They arise from actual and indirect pecuniary loss.” Section 768.28, F.S., does not allow for the recovery of punitive damages, and, as such, only allows recovery for compensatory damages.

**Claim Bills**

A plaintiff may recover an amount over the caps described in s. 768.28(5), F.S., by way of a claim bill. “A claim bill is not an action at law, but rather is a legislative measure that directs the Chief Financial Officer of Florida, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation.” Such obligations typically arise from the negligence of officers or employees of the State or a local governmental agency. Legislative claim bills are used either after the procurement of a judgment in an action at law or as a mechanism to avoid actions at law altogether. The amount awarded is based on the Legislature’s concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable. Unlike civil judgments, private relief acts are not obtainable by right upon the claimant’s proof of his entitlement. Private relief acts are granted strictly as a matter of legislative grace.

Once a legislative claim bill is formally introduced, a special master conducts a quasi-judicial hearing. “This hearing may at times resemble a trial during which the claimant offers testimony as well as documentary and physical evidence necessary to establish the claim. Trial records may

---

12 Section 768.28(9)(d), F.S.
13 *Ross v. City of Jacksonville*, 274 So. 3d 1180, 1186 (Fla. 1st DCA 2019).
14 *Gallagher v. Manatee Cty.*, 927 So. 2d 914, 918 (Fla. 2d DCA 2006).
15 Section 380.0552, F.S., designates the Florida Keys as an area of critical state concern, and includes legislative intent to provide affordable housing in close proximity to places of employment in the Florida Keys. Section 380.0555, F.S., provides a like designation and affordable housing legislative intent to the Apalachicola Bay Area.
16 *United States v. State Road Department of Florida*, 189 F.2d 591 (5th Cir.1951), cert. denied, 342 U.S. 903 (1952).
17 *Fisher v. City of Miami*, 172 So. 2d 455 (Fla. 1965).
18 *Margaret Ann Supermarkets, Inc. v. Dent*, 64 So.2d 291 (Fla. 1953).
19 *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007)
20 Id.
21 *City of Miami v. Valdez*, 847 So. 2d 1005 (Fla. 3d DCA 2003).
22 *Wagner*, 960 So. 2d at 788 (citing Kahn, Legislative Claim Bills, Fla. B. Journal (April 1988)).
24 *Wagner*, 960 So. 2d at 788 (citing Kahn, at 26).
be substituted for witness testimony. Witnesses who testify are sworn and subject to cross examination.  

A responding agency may present a defense to contest the claim, and the special master must then prepare a report with an advisory recommendation to the Legislature.

The beneficiary of a claim bill recovers by its enactment, regardless of whether the governmental tortfeasor purchased liability insurance to pay an excess judgment. However, where the governmental tortfeasor has liability insurance above the statutory cap, and the claimant receives compensation above that statutory cap through a claim bill, the claim bill is paid with funds of the insured, not general revenue.

A government entity may, without a claim bill, settle a claim against it for an amount above the caps in s. 768.28, F.S., if that amount is within the limits of insurance coverage.

Workers’ Compensation

When an employer is a governmental entity, a “co-employee” tortfeasor is immune from personal liability for torts under s. 768.28(9)(a), F.S. “Under this provision, any negligence claim arising under the unrelated works exception against a public employee must be brought against the governmental entity employer.” In the case of a private employer, if the “unrelated works” exception is found to apply, the employee can make common law tort claims against the employer directly based upon the doctrine of respondeat superior if the tortfeasor-employee is acting within the scope of employment.

Other Jurisdictions

At least twenty-seven other state legislatures have placed monetary caps on recovery from actions in tort against their state or political subdivisions:

- Colorado: $350,000 for one person in a single occurrence and $990,000 for two or more people in a single occurrence, limited to $350,000 per person.
- Georgia: $1 million for one person in a single occurrence and $3 million per occurrence.
- Idaho: $500,000 per occurrence, regardless of the number of people, unless the government is insured above the limit.
- Illinois: $2,000,000.
- Indiana: $700,000 per person and $5 million per occurrence.

---

25 Id.
26 Id.
27 Servs. Auto Ass’n v. Phillips, 740 So. 2d 1205 (Fla. 2d DCA 1999).
29 Michigan Millers Mut. Ins. Co. v. Burke, 607 So. 2d 418, 421-22 (Fla. 1992); Section 768.28(5), F.S.
30 Section 380.0552, F.S., designates the Florida Keys as an area of critical state concern, and includes legislative intent to provide affordable housing in close proximity to places of employment in the Florida Keys. Section 380.0555, F.S., provides a like designation and affordable housing legislative intent to the Apalachicola Bay Area.
34 Idaho Code §6-926.
36 Ind. Code §34-13-3-4.
• Kanas: $500,000 per occurrence.\(^{37}\)
• Louisiana: $500,000 per occurrence.\(^{38}\)
• Maine: $400,000 per occurrence.\(^{39}\)
• Maryland: $400,000 per person per occurrence.\(^{40}\)
• Massachusetts: $100,000.\(^{41}\)
• Minnesota: $500,000 per person and $1,500,000 per occurrence.\(^{42}\)
• Mississippi: $500,000 per occurrence.\(^{43}\)
• Missouri: $300,000 per person and $2 million per occurrence.\(^{44}\)
• Montana: $750,000 per claim and $1.5 million per occurrence.\(^{45}\)
• New Hampshire: $475,000 per claimant and $3.75 million per occurrence.\(^{46}\)
• New Mexico: $200,000 per claim of property damage, $300,000 per claim of medical expenses, $400,000 for claims other than property damages or medical expenses. All limited to $750,000 per occurrence.\(^{47}\)
• North Carolina: $1 million per occurrence.\(^{48}\)
• North Dakota: $250,000 per person and $1 million per occurrence.\(^{49}\)
• Oklahoma: $125,000 per person and $1 million per occurrence.\(^{50}\)
• Pennsylvania: $250,000 per person and $1 million per occurrence.\(^{51}\)
• Rhode Island: $100,000.\(^{52}\)
• South Carolina: $300,000 per person or $600,000 per occurrence.\(^{53}\)
• Tennessee: $300,000 per person or $1 million per occurrence.\(^{54}\)
• Texas: $250,000 per person and $500,000 per occurrence ($100,000 per claim of destruction of personal property).
• Utah: $233,600 for property damage and $583,900 for personal injury person and $3 million per occurrence.\(^{55}\)
• Vermont: $500,000 per person a $2 million per occurrence.\(^{56}\)
• Virginia: $100,000.\(^{57}\)

---

\(^{44}\) Mo. Ann. Stat. §537.610.
\(^{47}\) N.M. Stat. Ann. §41-4-19
\(^{48}\) N.C. Gen. Stat. §143-299.2.
\(^{49}\) N.D. Cent. Code §32-12.2-02.
\(^{50}\) Okla. Stat. tit. 51, §154.
\(^{55}\) Utah Code Ann. §63G-7-604.
\(^{57}\) Va. Code §8.01-195.3.
III. Effect of Proposed Changes:

The bill increases the cap on the collectability of damages against the state and its agencies and subdivisions for torts to $500,000 per occurrence and eliminates the per-person cap.

The bill allows a government entity to settle a claim against it over the $500,000 cap on the collectability of damages without a claim bill. Under current law, amounts exceeding the sovereign immunity caps may be paid without the approval of the Legislature only from the proceeds of an insurance policy. The bill also states that the payment of claims from a government entity’s liability insurance may not be conditioned on a claim bill. This revision proscribes contractual provisions that work to bar recovery for claimants and have been implemented at least on occasion.58

The bill states that the sovereign immunity caps in s. 768.28, F.S., shall be adjusted on July 1 of each year beginning in 2021 to “reflect changes” in the Consumer Price Index. To be clearer, the Legislature may wish to revise the language to state that the caps shall be adjusted upward or downward using the percentage change in the Consumer Price Index.59 The caps in place at the time of the entry of a final judgment apply to a claim.

The bill takes effect on October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

58 See Martin v. Nation Union Fire Ins. Co. of Pittsburgh, Pa., 616 So. 2d 1143, 1144 (Fla. 4th DCA 1993) (“The trial court found a legislative claims bill was a condition precedent to any further recovery by the Martins, and dismissed their suit with prejudice”).

59 See Coastal Fuels Marketing, Inc. v. Leasco Investments, 662 So. 2d 375, 376 (Fla. 5th DCA 1995) (citing to leasing agreement containing an adjustment based on changes in the Consumer Price Index).
E. Other Constitutional Issues:

Article I, s. 10 of the Florida Constitution prohibits laws that impair the obligations of existing contracts. Because the bill bars insurance conditioned on the payment of a claim bill, the Legislature should specify that this provision applies to insurance contracts entered into or renewed on or after the effective date of the bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may enable more individuals who have tort claims against the state or one of its agencies or subdivisions to receive larger payments without the need to pursue a claim bill. The ability to collect larger settlements or judgments against government entities may also serve as an incentive for private attorneys to represent claimants in these matters. However, the bill may reduce government services to the public in proportion to additional amounts paid to satisfy tort claims.

C. Government Sector Impact:

By increasing the sovereign immunity cap and allowing the settlement and payment of claims exceeding the cap without the necessity of a claim bill, the bill increases the possibility that the state and its agencies and subdivisions will spend more of their resources to satisfy tort claims. The provision of larger payments in satisfaction of tort claims, however, may also reduce the demand for other government services that would have otherwise been necessary for the claimants.

The bill states that the “limitations of liability in effect on the date of a final judgment is entered apply to the claim.” As a result, the increased limits on liability exposure will apply to causes of action that have accrued before the effective date of the bill. Accordingly, the Legislature may wish to provide that the increased limits of the sovereign immunity caps apply only to causes of action accruing on or after the effective date of the bill.

Though the bill may reduce the workload of the Legislature by reducing the number of claim bills filed, the bill may reduce the oversight of claims against government entities provided by the legislative process.

VI. Technical Deficiencies:

None.

60 Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State, 209 So. 3d 1181, 1190 (Fla. 2017).
VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 768.28, 29.0081, 39.8297, 163.01, 252.36, 260.0125, 288.9625, 316.6146, 321.24, 324.022, 381.0056, 403.0862, 456.048, 458.320, 459.0085, 589.19, 616.242, 624.461, 624.462, 627.733, 760.11, 766.1115, 766.118, 768.1315, 768.135, 944.713, 984.09, 985.037, 1002.55, 1002.88, 1004.41, 1004.43, 1004.447, 1006.261, 45.061, 110.504, 111.071, 190.043, 213.015, 284.31, 284.38, 337.19, 341.302, 373.1395, 375.251, 393.075, 403.706, 409.993, 455.221, 455.32, 456.009, 472.006, 497.167, 548.046, 556.106, 768.295, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.77, and 1002.83.

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 Judiciary on January 21, 2020:
The committee substitute differs from the underlying bill by:

- Lowering the proposed increases in the per-occurrence liability cap to $500,000 from $1 million.
- No longer expanding the liability of a government entity for damages resulting from the actions of a state employee acting in bad faith, with a malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights (the underlying bill stated that the state would be liable for these damages over the statutory caps).

B. Amendments:

None.
This form is part of the public record for this meeting.

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

Appearing at Request of Chair: 

Representing: 

The Chair will read this information into the record.

Amendment Barcode (if applicable)

Bill Number (if applicable)

Appearence Record

The Florida Senate

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
This form is part of the public record for this meeting.

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard. To ensure fair opportunity to be heard, those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

Representing:

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

Waive Speaking: [ ] In Support [ ] Against

Information [ ] For [ ] Against

Email

Phone

Zip

City

Street

Address

35 South Capitol

Job Title

Name

Male [ ] Female [ ]

Topic

Meeting Date 2/13

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

APPEARANCE RECORD

THE FLORIDA SENATE
This form is part of the public record for this meeting. While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Appearing at Request of Chair: [ ] Yes [ ] No
Lobbyist Registered with Legislature: [ ] Yes [ ] No

Representing
[ ] Farm Beach County Government

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

For [ ] Against [ ]

City [ ] Zip
Email
Phone

Amendment Barcode (if applicable)

Bill Number (if applicable) 1302

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

APPEARANCE RECORD
THE FLORIDA SENATE
This form is part of the public record for this meeting.

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

Appearing at request of Chair: ☐ No ☑ Yes

Representing

Email: [Redacted]
Phone: 561-846-1165

Address: 10S. Andrews Ave, Main Lobby, Suite 8-97

Legislative Contact:

Topic: [Redacted]

Meeting Date: 3/13/2020

Distribute BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting.

APPEARANCE RECORD
THE FLORIDA SENATE
This form is part of the public record for this meeting.

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

Appearing at Request of Chair: Yes □ No □

Representing: [ ] For □ Against □

Waive Speaking: [ ] In Support □ Against □

The Chair will read this information into the record.

Email

Phone

Address

Legislative Committee

Job Title

Name

Sovereign Family

Topic

Meeting Date

2/13/20

Bill Number (if applicable) 1302

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

Appearence Record

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

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

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

Representing

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

Waive Speaking: [ ] In Support  [ ] Against

Information

For: [ ] Against: [ ]

Name

Job Title

Address

City

State

Zip

Phone

Email

Other:

Amendment barcode (if applicable)

Bill Number (if applicable)

Bill 1307

Meeting Date 3/13/09

APPEARANCE RECORD

THE FLORIDA SENATE
Representing FL Sheriffs Assoc. / Monce Cauth

Appearing at request of Chair: No

Lobbyist Registered with Legislature: Yes

The Chair will read this information into the record.

Speaking: For

Information Against

In Support Against

City Tallahassee

State FL

Zip 32390

Phone (850) 244-8511

Email

Address Box 10930

Job Title Lobbyist

Name Rhon Mathews

Topic Sovereign Immunity

Bill Number (if applicable) 1302

Meeting Date 2/13/20

APPEARANCE RECORD

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

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

Representing [ ] City of [ ] Town/County/Agency [ ] Other:

Appearing on behalf of: [ ] Yes [ ] No

Address:

Phone:

E-mail:

Mail/In-hand delivery: [ ] Yes [ ] No

Waive Speaking: [ ] For [ ] Against

City of [ ] Town/County [ ] Other Agency:

Zip:

State:

Street:

Date of attendance/Date of arrival:

Name:

Job Title:

Meeting Date:

Bill Number (if applicable):

Address:

Representing:

Topic:

Apparance Record

The Florida Senate
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak at this meeting to be heard.

Appearing at Request of Chair:

Representing

(Read A Statement of Counties)

(Wave Speaking)

In Support

Against

Email

Phone

State:

City

Address:

Job Title

Name

Topic

Meeting Date

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

APPEARANCE RECORD

THE FLORIDA SENATE
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.

Appearing at request of Chair: Yes ☐ No ☐

Representing:

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

Waive Speaking: [ ] In Support [ ] Against

Spending Information: [ ] For [ ] Against

 Amendement Barcode (if applicable) [ ]

Bill Number (if applicable) SB 1302
This form is part of the public record for this meeting. 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.

Apparenting at Request of Chair: □ Yes □ No

Representing Town of Snodgrass  

(For or against Information)

Waving Speaking: □ In Support □ Against

Amendment Barcode (if applicable)

Bill Number (if applicable)

Email: Snodgrass.E.Snodgrass

Phone 850-388-9467

Address  

City: Tallahassee  

Job Title: City Manager

Name: Linda Bell  

Governs: Informationally

Meeting Date 4-3-2020

Deliever BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting.

APPEARANCE RECORD
THE FLORIDA SENATE
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Appearing at request of Chair: Yes ☑ No ☐

Lobbyist/Registered with Legislature: Yes ☑ No ☐

Representing self ☑

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

Waving Speaking: Against ☑ In Support ☐

Information for Against ☑ For ☐

Speaking: ☐

Email: jenger@gray-robinson.com

Phone 577-9090

(Appendix to record)

Bill Number (if applicable) 1302

Meeting Date: Feb 3, 2020

APPEARANCE RECORD

THE FLORIDA SENATE
This form is part of the public record for this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

Representing
Safety Net Hospital Alliance of Florida
( ) The Chair will read this information into the record.
Waive Speaking: [ ] In Support [ ] Against
Information For: [ ] Against [ ] For
Speaking: [ ] In Support [ ] Against

Email: [ ] In Support [ ] Against
Email: [ ] In Support [ ] Against

Phone: 850-349-7200
Phone: 850-349-7200

Amendment Barcode (if applicable) (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Bill Number (if applicable) (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

APPEARANCE RECORD
THE FLORIDA SENATE
The Florida Senate

APPAREANCE RECORD

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

1302

Meeting Date:
2-3-20

Theme:
Services

Job Title:
Assistant County Attorney

Name:
JESS MCCARTY

Address:
111 NW 1st Street, Suite 2810

City:
MIAMI

State:
FL

Zip:
33128

Phone:
305-979-7110

Email:
JMM2@Miamidade.gov

Representing:
MIAMI-DADE COUNTY

Appearing at Request of Chair:
Yes [ ] No [ ]

Lobbyist Registered with Legislature:
Yes [ ] No [ ]

Appearing at Request of lobbyist:
Yes [ ] No [ ]

Waive Speaking:
In Support [ ] Against [ ]

The Chair will read this information into the record.

Bill Number (if applicable):
1302

Amendment Barcode (if applicable):
4:05:40 PM Roll call
4:05:50 PM Quorum present
4:06:02 PM Chair opening remarks
4:06:20 PM Take up SB1424
4:07:20 PM Senator Grueter explains bill
4:07:31 PM Senator Grueter waives close
4:08:17 PM Roll call on SB 1424
4:08:28 PM SB 1424 reported favorable
4:08:41 PM SB 724 and SB 1662 both Temporarily Postponed
4:09:11 PM Tab 3 SB 760
4:09:37 PM Senator Brandes explains the bill
4:09:57 PM Take up amendment 624798 Strike all
4:10:57 PM Amendment adopted
4:11:22 PM Appearance cards
4:11:34 PM Senator Brandes waives close
4:12:09 PM Roll call on SB 760 reported favorably
4:12:26 PM SB 856 Tab 7 by Senator Pizzo
4:12:38 PM Amendment 746852 by Senator Pizzo
4:13:10 PM Senator Pizzo explains amendment
4:13:20 PM Senator Simmons asks for Pizzo to explain differences in bill filed
4:14:04 PM Senator Pizzo explains
4:14:19 PM Amendment is adopted
4:14:35 PM Back on bill as amended
4:14:43 PM Senator Farmers debates
4:15:23 PM Senator Pizzo closes on bill as amended
4:16:22 PM Roll call on SB 856 reported favorably
4:16:41 PM Senator Bronson introduces his family
4:17:15 PM Take up tab 4 SB 888
4:17:23 PM Senator Perry explains bill
4:17:35 PM Amendment 553860 by Senator Perry
4:17:54 PM Senator Perry explains amendment
4:18:14 PM Amendment adopted
4:18:34 PM Appearance cards
4:18:41 PM Back on bill as amended
4:18:48 PM Senator Perry waives close
4:19:00 PM SB 888 as reported favorably
4:19:12 PM SB 1336 by Senator Perry
4:19:24 PM Senator Perry explains bill
4:19:34 PM Senator Pizzo asks question
4:20:06 PM Take up amendment 132314 by Senator Farmer
4:20:58 PM Senator Farmer explains amendment
4:21:47 PM Senator Pizzo asks for further explanation
4:22:04 PM Senator Farmer explaines appearance cards
4:22:18 PM amendment adopted
4:24:04 PM amendment 812038 withdrawn
4:24:20 PM appearance cards
4:24:49 PM Senator Simmons as question of Mr. Pitzer
4:26:32 PM Mr. Pitzer answers
4:27:54 PM follow up question by Senator Simmons
4:28:55 PM back to appearance cards
4:31:57 PM Senator Pizzo asks for someone in opposition to explain why the oppose
4:32:57 PM Brett Ferrell Electriction is against the bill
4:34:37 PM Senator Pizzo ask Brett question
4:35:37 PM Senator Pizzo has a series of questions to Brett Ferrell
4:35:57 PM back to appearance cards
4:38:40 PM Senator Pizzo asks question
4:39:39 PM follow up question by Senator Pizzo
4:41:17 PM Senator Pizzo respond
4:45:51 PM Senator Simmons ask question to Association of Counties
4:46:52 PM Senator Simmons ask a series of question
4:48:36 PM back to appearance cards
4:50:36 PM Diago Echeverri, Legislative Liason speaks on support of the bill
4:51:36 PM Chair Flores ask question to Diago Echeverri
4:52:04 PM Senator Pizzo ask question to Diago Echeverri
4:53:04 PM David Crews, Florida League of Cities speaks in opposition of the bill
4:53:42 PM Teresa King, Florida Building Trades speaks to concerbs in the bill
4:54:44 PM Senator Pizzo asks question to Teresa King
4:56:30 PM Teresa King respond
4:57:45 PM Ed Labrador Legislative Counsel speaks in neutrel of the bill
4:58:45 PM Senator Pizzo debates that he'd like to work with Senator Perry further on the bill
4:59:12 PM Senator Perry closes on bill and ask people in opposition to please come speak to him
4:59:57 PM roll call on SB 1336 as amended reported favorably
5:00:53 PM SB 1302 by Senator Flores
5:01:06 PM Vice Chair Farmer take gavel
5:01:23 PM Chair Flores explaines the bill
5:02:29 PM Senator Pizzo to debate bill
5:03:29 PM Chair Flores responds
5:04:16 PM Senator Pizzo debates further
5:05:14 PM Chair Flores expaines
5:06:53 PM Senator Pizzo follow up
5:07:52 PM Senator Broxson is recognized to ask question ro Chair Flores
5:08:33 PM Chair Flores responds
5:09:51 PM Senator Broxson question to Senator Simmons
5:10:52 PM Senator Simmons responds
5:12:38 PM Vice Chair Farmer responds
5:13:38 PM appearance cards
5:13:50 PM Jason Unger attorney in tallahassee
5:15:40 PM Senator Simmons ask question to Jason Unger
5:17:08 PM Jason Unger responds to Senator Simmons
5:18:54 PM Senator Pizzo asks question to Jason Unger
5:19:05 PM Jason Unger responds
5:19:13 PM Senator Pizzo follow up
5:20:00 PM Jason Unger responds
5:20:35 PM Senator Broxson asks question to Jason Unger
5:21:35 PM Jason Unger responds
5:22:00 PM Senator Broxson asks further question
5:22:42 PM Vice Chair Farmer asks question to Jason Unger
5:23:24 PM Vice Chair Farmer follow up
5:24:16 PM Linds Bell, Attorney for Town of Sneads
5:25:36 PM Linds Bell explains that premiums go up with Sovereign Immunity goes up
5:26:37 PM Senator Pizzo asks question to Linda Bell
5:27:00 PM Linda Bell responds
5:27:49 PM Senator Pizzo follow up about premiums
5:29:24 PM Senator Simmons asks question
5:30:24 PM Linda Bell responds
5:31:22 PM Vice Chair Farmer asks question
5:31:58 PM Lori Yoemans, Florida Assoc of Counties speaks on concerns on bill
5:33:36 PM Senator Pizzo asks question to Lori Yoemans
5:34:50 PM Mark Ryan, Atty for the Town of Riveria Beach
5:36:07 PM Ryan Mathews, Monroe County Florida Sheriff’s Assoc
5:37:09 PM Senator Simmons asks question to Ryan Mathews
5:40:15 PM Bill Shillinger, Monroe County Attorney
5:41:16 PM David Crews Florida League of Cities
5:43:18 PM Vice Chair Farmer asks question to David Crews
5:44:18 PM Edward Labrador, Broward County opposes bill
5:45:01 PM Senator Pizzo asks question to Edward Labrador
5:46:17 PM Vice Chair Farmer speaks
5:47:17 PM Senator Pizzo motion for time certain vote at 5:58 pm
5:47:52 PM Senator Broxson debate on the bill
5:48:05 PM Senator Pizzo debates
5:48:27 PM Senator Simmons debates
5:49:36 PM Vice Chair Farmer speaks on Sovereign Immunity
5:51:54 PM Chair Flores comments and closes on bill
5:54:40 PM Roll call on SB1302 voted favorably
5:55:20 PM Senator Simmons moves to adjourn