

Tab 1	SB 184 by Polsky (CO-INTRODUCERS) Pizzo ; (Identical to H 00101) Homestead Exemption for First Responders					
Tab 2	SB 248 by Martin ; Public Records/Personal Identifying Information of Certain Victims					
Tab 3	SB 250 by Martin ; Natural Emergencies					
333250	A	S	RCS	CA, Martin	Delete L.99 - 417:	03/17 04:28 PM
725358	AA	S	RCS	CA, Gruters	Delete L.212:	03/17 04:28 PM
Tab 4	SB 346 by DiCeglie ; (Similar to CS/H 00383) Public Construction					
524380	A	S	RCS	CA, DiCeglie	Delete L.48 - 272:	03/17 04:28 PM
Tab 5	SB 380 by Garcia (CO-INTRODUCERS) Rouson, Osgood ; (Identical to H 00587) Protection from Surgical Smoke					
Tab 6	SB 672 by Avila ; (Identical to H 00717) Homestead Property Tax Exemptions					
Tab 7	SB 718 by Yarborough ; (Similar to CS/H 00653) Municipal Boundaries					
768478	A	S		CA, Yarborough	Delete L.119 - 132:	03/14 08:23 AM
Tab 8	SB 762 by Wright ; (Similar to H 00747) Property Tax Exemption for Surviving Spouses of Veterans					
Tab 9	SB 1018 by Trumbull ; (Identical to H 00859) Flood Damage Prevention					
Tab 10	SB 7002 by EN ; (Identical to H 07027) Ratification of Rules of the Department of Environmental Protection					
177856	A	S	L RCS	CA, Brodeur	Delete L.19:	03/17 04:29 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Calatayud, Chair
Senator Osgood, Vice Chair

MEETING DATE: Wednesday, March 15, 2023

TIME: 1:00—3:00 p.m.

PLACE: James E. "Jim" King, Jr Committee Room, 401 Senate Building

MEMBERS: Senator Calatayud, Chair; Senator Osgood, Vice Chair; Senators Baxley, Berman, Bradley, Brodeur, Gruters, Martin, and Pizzo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 184 Polsky (Identical H 101)	Homestead Exemption for First Responders; Exempting from ad valorem taxation the homestead property of the surviving spouse of a first responder who dies in the line of duty while employed by the United States Government; expanding the definition of "first responder" to include certain federal law enforcement officers; providing applicability, etc. CA 03/15/2023 Favorable FT AP	Favorable Yeas 9 Nays 0
2	SB 248 Martin	Public Records/Personal Identifying Information of Certain Victims; Defining the term "victim"; exempting from public records requirements the personal identifying information of certain victims held by the Division of Emergency Management for a specified timeframe; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CA 03/15/2023 Favorable FP	Favorable Yeas 9 Nays 0
3	SB 250 Martin	Natural Emergencies; Prohibiting counties and municipalities, respectively, from prohibiting temporary shelters on residential property for a specified timeframe under certain circumstances; authorizing independent special fire control districts to file a specified report on an alternative schedule under certain circumstances; requiring the Division of Emergency Management to post a model contract for debris removal on its website by a specified date; increasing the timeframe to exercise rights under a permit or other authorization; encouraging local governmental entities to develop an emergency financial plan for major disasters, etc. CA 03/15/2023 Fav/CS FP	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 15, 2023, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 346 DiCeglie (Similar CS/H 383)	Public Construction; Providing that applications for approval of a development permit or development order which are under review by a municipality are deemed approved after a specified timeframe; requiring a certain list to include a dollar valuation using reasonable market rates of the estimated cost to complete items on the list; revising the timeframe within which proceedings must commence to resolve disputes between vendors and local governmental entities; revising the conditions that require a public entity to pay or release amounts subject to certain disputes or claims, etc. CA 03/15/2023 Fav/CS GO RC	Fav/CS Yeas 6 Nays 3
5	SB 380 Garcia (Identical H 587)	Protection from Surgical Smoke; Defining the terms "smoke evacuation system" and "surgical smoke"; requiring hospitals and ambulatory surgical centers to, by a specified date, adopt and implement policies requiring the use of smoke evacuation systems during certain surgical procedures, etc. HP 03/06/2023 Favorable CA 03/15/2023 Favorable RC	Favorable Yeas 9 Nays 0
6	SB 672 Avila (Identical H 717)	Homestead Property Tax Exemptions; Requiring, rather than authorizing, a property appraiser to grant the homestead property tax exemption for certain permanently and totally disabled veterans or their surviving spouses if certain conditions are met; requiring, rather than authorizing, the transfer of the exemption to a surviving spouse's new residence under certain circumstances, etc. CA 03/15/2023 Favorable FT AP	Favorable Yeas 9 Nays 0
7	SB 718 Yarborough (Similar CS/H 653)	Municipal Boundaries; Specifying the measurement of land during annexation procedures; removing certain procedures regarding elector votes during annexation procedures; revising contraction procedures when qualified voters desire to be excluded from municipal boundaries; prohibiting contraction under certain circumstances, etc. CA 03/15/2023 Not Considered GO RC	Not Considered

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Wednesday, March 15, 2023, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 762 Wright (Similar H 747)	Property Tax Exemption for Surviving Spouses of Veterans; Authorizing a surviving spouse of a veteran who predeceased the issuance of a certain letter from the Federal Government to produce the letter before the property appraiser, etc. CA 03/15/2023 Favorable FT AP	Favorable Yeas 9 Nays 0
9	SB 1018 Trumbull (Identical H 859)	Flood Damage Prevention; Citing this act as the "Flood Damage Prevention Act of 2023"; providing voluntary freeboard requirements for all new construction and substantial improvements to existing construction; prohibiting voluntary freeboard from being used in the calculation of the maximum allowable height for certain construction in applicable zoning districts; authorizing local governments to adopt by ordinance a minimum freeboard requirement or a maximum voluntary freeboard that exceeds the minimum requirements in the Florida Building Code or established in the act, etc. CA 03/15/2023 Favorable EN RC	Favorable Yeas 9 Nays 0
10	SB 7002 Environment and Natural Resources (Identical H 7027)	Ratification of Rules of the Department of Environmental Protection; Ratifying specified rules relating to standards for onsite sewage treatment and disposal systems and for domestic wastewater facility planning for facilities expansion, collection/transmission systems, and an operation and maintenance manual for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs, etc. CA 03/15/2023 Fav/CS RC	Fav/CS Yeas 9 Nays 0
11	Other Related Meeting Documents		

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 184

INTRODUCER: Senators Polsky and Pizzo

SUBJECT: Homestead Exemption for First Responders

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 184 expands both the ad valorem tax exemption for surviving spouses of first responders who died in the line of duty and the ad valorem tax exemption for first responders rendered totally and permanently disabled in the line of duty to include federal law enforcement officers. The bill does not otherwise substantively amend the requirements to receive those tax exemptions.

The Revenue Estimating Conference has determined the bill will reduce local government ad valorem receipts by an insignificant amount, less than \$100,000 total.

The bill takes effect January 1, 2024, and will first apply to the 2024 ad valorem tax roll.

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

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.

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 taxes,⁷ and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁸

The Florida Constitution prohibits the state from levying ad valorem taxes⁹ and limits the Legislature's authority to provide for property valuations at less than just value unless expressly authorized.¹⁰

Homestead Exemptions

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads, property owned and maintained as a person's primary residence, with an exemption from taxes.¹¹ Second, the homestead provisions protect the homestead from forced sale by creditors.¹² Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.¹³

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.¹⁴ 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.¹⁵

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 1.¹⁶ The application for exemption must be filed with the property appraiser on or

⁴ See Florida Department of Revenue, Florida Property Tax Calendar, *available at*: <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Mar 9, 2023).

⁵ See Florida Department of Revenue, Tax Collector Calendar - Property Tax Oversight, *available at*: <https://floridarevenue.com/property/Documents/tccalendar.pdf> (last visited Mar 9, 2023).

⁶ *Id.*

⁷ FLA. CONST. art. VII, s. 1(a).

⁸ See FLA. CONST. art. VII, s. 4.

⁹ FLA. CONST. art. VII, s. 1(a).

¹⁰ See FLA. CONST. art. VII, s. 4.

¹¹ FLA. CONST. art. VII, s. 6.

¹² FLA. CONST. art. VII, s. 4.

¹³ *Id.* at (c).

¹⁴ FLA. CONST. art VII, s. 6(a).

¹⁵ *Id.*

¹⁶ Section 196.011(1)(a), F.S.

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.¹⁷

Exemption for Totally and Permanently Disabled First Responders

The homestead property of a first responder who has a total and permanent disability as a result of an injury or injuries sustained in the line of duty while serving as a first responder or during an operation in another state or country authorized by this state is exempt from taxation.¹⁸

To be eligible for this exemption, the first responder must be a permanent resident of Florida on January 1 of the year in which the exemption is sought, and must present documentation showing disability and causation to the property appraiser.¹⁹

This exemption may carry over to the benefit of the first responder's surviving spouse so long as the surviving spouse holds title to the homestead property, permanently resides thereon, and does not remarry.²⁰ The amount exempted may be carried forward to a new homestead if the property is sold.²¹

"First responder" is defined as a law enforcement or correctional officer as defined in s. 943.10, F.S.; a firefighter as defined in s. 633.102, F.S.; or an emergency medical technician or paramedic as defined in s. 401.23, F.S.²²

Exemption for Surviving Spouses of First Responders

The homestead property of the surviving spouse of a first responder who died in the line of duty while employed by the state or any political subdivision thereof is exempt from taxation.²³

To be eligible for this exemption, the first responder and their spouse must have been permanent residents of Florida on January 1 of the year in which the first responder died, and a letter must have been issued by the proper employing authority legally recognizing and certifying that the first responder died in the line of duty.²⁴

¹⁷ Section 196.011(5) and (9)(a), F.S.

¹⁸ Section 196.102 (2), F.S.

¹⁹ *Id.*; Section 196.102(5), F.S.

²⁰ Section 196.102(8), F.S.

²¹ *Id.*

²² Section 196.102(1)(c), F.S., referring to Section 196.081(6)(c)1., F.S.

²³ Section 196.081(6), F.S.

²⁴ *Id.*

This exemption continues so long as the surviving spouse holds title to the homestead property, permanently resides thereon, and does not remarry.²⁵ The amount exempted may be carried forward to a new homestead if the property is sold.²⁶

“First responder” is defined as a law enforcement or correctional officer as defined in s. 943.10, F.S.; a firefighter as defined in s. 633.102, F.S.; or an emergency medical technician or paramedic as defined in s. 401.23, F.S.²⁷

III. Effect of Proposed Changes:

The bill amends s. 196.081, F.S., to revise the definition of “first responder” to include federal law enforcement officers as defined in s. 901.1505(1), F.S.²⁸ This revision expands both the ad valorem tax exemption for surviving spouses of first responders who died in the line of duty and the ad valorem tax exemption for first responders rendered totally and permanently disabled in the line of duty to include federal law enforcement officers. The bill does not otherwise substantively amend the requirements to receive those tax exemptions.

The bill provides that the amendments made therein first apply to the 2024 ad valorem tax roll.

The bill takes effect January 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution may apply because the bill requires local governments to expend funds to produce a business impact statement for each ordinance prior to consideration for adoption. Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. None of the constitutional exceptions appear to apply.

Article VII, section 18(d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an “insignificant fiscal impact” are exempt from the mandate requirements, which for Fiscal Year 2022-2023 is

²⁵ Section 196.081(6)(b), F.S.

²⁶ *Id.*

²⁷ Section 196.081(6)(c)1., F.S.

²⁸ Section 901.1505(1), F.S., provides that the term “federal law enforcement officer” means “a person who is employed by the Federal Government as a full-time law enforcement officer as defined by the applicable provisions of the United States Code, who is empowered to effect an arrest for violations of the United States Code, who is authorized to carry firearms in the performance of her or his duties, and who has received law enforcement training equivalent to that prescribed in s. 943.13.”

forecast at approximately \$2.3 million.^{29,30} The Revenue Estimating Conference estimated that the impact would be insignificant, or less than \$100,000.

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 the bill will reduce local government ad valorem receipts by an insignificant amount, less than \$100,000 total.³¹

B. Private Sector Impact:

The bill may positively impact surviving spouses of first responders employed by the federal government who take advantage of the granted homestead exemption.

C. Government Sector Impact:

The bill may negatively impact local governments who furnish the homestead exemption to newly eligible property owners.

VI. Technical Deficiencies:

None.

²⁹ FLA. CONST. art. VII, s. 18(d).

³⁰ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 10, 2023).

³¹ Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: HB 101 / SB 184*, 8-9 (Feb. 24, 2023), available at: http://edr.state.fl.us/content/conferences/revenueimpact/archives/2023/_pdf/impact0224.pdf (last visited Mar. 10, 2023).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.081, Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Polsky

30-00619-23

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A bill to be entitled
An act relating to homestead exemption for first responders; amending s. 196.081, F.S.; exempting from ad valorem taxation the homestead property of the surviving spouse of a first responder who dies in the line of duty while employed by the United States Government; expanding the definition of "first responder" to include certain federal law enforcement officers; providing applicability; providing an effective date.

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

Section 1. Subsection (6) of section 196.081, Florida Statutes, is amended to read:

196.081 Exemption for certain permanently and totally disabled veterans and for surviving spouses of veterans; exemption for surviving spouses of first responders who die in the line of duty.—

(6) Any real estate that is owned and used as a homestead by the surviving spouse of a first responder who died in the line of duty while employed by the United States, the state, or any political subdivision of the state, including authorities and special districts, and for whom a letter from the United States Government, the state, or appropriate political subdivision of the state, or other authority or special district, has been issued which legally recognizes and certifies that the first responder died in the line of duty while employed as a first responder is exempt from taxation if the first

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30 responder and his or her surviving spouse were permanent
31 residents of this state on January 1 of the year in which the
32 first responder died.

33 (a) The production of the letter by the surviving spouse
34 which attests to the first responder's death in the line of duty
35 is prima facie evidence that the surviving spouse is entitled to
36 the exemption.

37 (b) The tax exemption applies as long as the surviving
38 spouse holds the legal or beneficial title to the homestead,
39 permanently resides thereon as specified in s. 196.031, and does
40 not remarry. If the surviving spouse sells the property, an
41 exemption not to exceed the amount granted under the most recent
42 ad valorem tax roll may be transferred to his or her new
43 residence if it is used as his or her primary residence and he
44 or she does not remarry.

45 (c) As used in this subsection only, and not applicable to
46 the payment of benefits under s. 112.19 or s. 112.191, the term:

47 1. "First responder" means a federal law enforcement
48 officer as defined in s. 901.1505(1), a law enforcement officer
49 or correctional officer as defined in s. 943.10, a firefighter
50 as defined in s. 633.102, or an emergency medical technician or
51 paramedic as defined in s. 401.23 who is a full-time paid
52 employee, part-time paid employee, or unpaid volunteer.

53 2. "In the line of duty" means:

54 a. While engaging in law enforcement;

55 b. While performing an activity relating to fire
56 suppression and prevention;

57 c. While responding to a hazardous material emergency;

58 d. While performing rescue activity;

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e. While providing emergency medical services;

f. While performing disaster relief activity;

g. While otherwise engaging in emergency response activity;

or

h. While engaging in a training exercise related to any of the events or activities enumerated in this subparagraph if the training has been authorized by the employing entity.

A heart attack or stroke that causes death or causes an injury resulting in death must occur within 24 hours after an event or activity enumerated in this subparagraph and must be directly and proximately caused by the event or activity in order to be considered as having occurred in the line of duty.

Section 2. The amendments made by this act to s. 196.081(6), Florida Statutes, first apply to the 2024 ad valorem tax roll.

Section 3. This act shall take effect January 1, 2024.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 248

INTRODUCER: Senator Martin

SUBJECT: Public Records/Personal Identifying Information of Certain Victims

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Favorable
2.			FP	

I. Summary:

SB 248 provides a 30 day public records exemption for records held by the Division of Emergency Management identifying a victim of a disaster or emergency in which a state of emergency is declared by the Governor. A “victim” is defined as a person who is critically injured and death appears to be imminent or a person killed during such an event.

The specific personal information made exempt from public records disclosure requirements includes the victim’s name, address, date of birth, and home and cellular telephone numbers.

In its statement of public necessity, the bill provides that during and immediately after an emergency or a disaster, a victim and his or her family are in a vulnerable state as they attempt to recover from the emergency situation, and that the public availability of the specified information may leave the victim or the victim’s family vulnerable to exploitation from those seeking to take advantage of the victim’s misfortune.

The bill is subject to the Open Government Sunset Review Act and is repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill takes effect upon becoming a law.

II. Present Situation:

Access to Public Records - Generally

The state constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three

¹ FLA. CONST. art. I, s. 24(a).

branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

Section 119.011(12), F.S., defines “public records” to include:

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2020-2022).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹¹ (the Act), prescribe a legislative review process for newly created or substantially amended¹² public records or open meetings exemptions, with specified exceptions.¹³ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁴

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁵ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;¹⁶
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however; only personal identifying information is exempt;¹⁷ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.¹⁸

The Act also requires specified questions to be considered during the review process.¹⁹ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ Section 119.15, F.S.

¹² An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹³ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁴ Section 119.15(3), F.S.

¹⁵ Section 119.15(6)(b), F.S.

¹⁶ Section 119.15(6)(b)1., F.S.

¹⁷ Section 119.15(6)(b)2., F.S.

¹⁸ Section 119.15(6)(b)3., F.S.

¹⁹ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁰ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²¹

General exemptions from the public records requirements are contained in the Public Records Act.²² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.²³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.²⁴ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.²⁵ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.²⁶

State Emergency Management Act

The State Emergency Management Act (act), ch. 252, F.S., was enacted to be the legal framework for this state’s emergency management activities, recognizing the state’s vulnerability to a wide range of emergencies, including natural, manmade, and technological disasters.²⁷ In order to reduce the state’s vulnerability to these circumstances and to prepare to respond to them, the act promotes the state’s emergency readiness through enhanced coordination, long-term planning, and adequate funding.²⁸

The act creates the Division of Emergency Management (division) within the Executive Office of the Governor and grants the division with powers and duties necessary to mitigate the vulnerability of life, property, and economic prosperity due to natural and manmade disasters.²⁹ The responsibilities of the division include:

- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁰ See generally s. 119.15, F.S.

²¹ Section 119.15(7), F.S.

²² See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

²³ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

²⁴ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

²⁵ *Id.*

²⁶ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

²⁷ Section 252.311(1), F.S.

²⁸ Section 252.311(2), F.S.

²⁹ Sections 252.32(1)(a) and 252.34(3), F.S.

- Carrying out the State Emergency Management Act;
- Maintaining a comprehensive statewide program of emergency management; and
- Coordinating with efforts of the federal government with other departments and agencies of state government, with county and municipal governments and school boards, and with private agencies that have a role in emergency management.³⁰

The act also delineates the Governor's authority to declare a state of emergency, issue executive orders, and otherwise lead the state during emergencies. If the Governor finds that an emergency³¹ has occurred or is imminent, he or she must declare a state of emergency.³² An executive order or proclamation of a state of emergency shall identify whether the state of emergency is due to a minor,³³ major,³⁴ or catastrophic³⁵ disaster.³⁶ The state of emergency must continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.³⁷ Additionally, the Legislature may end a state of emergency by passing a concurrent resolution.³⁸

In a state of emergency, the Governor has broad power to perform necessary actions to ensure Floridians' health, safety, and welfare. A state of emergency provides the Governor with additional authority not otherwise present, such as the ability to impose curfews, order evacuations, determine means of ingress and egress to and from affected areas, and commandeer or utilize private property subject to compensation.³⁹ To effectively facilitate emergency measures, the Governor has the power to issue executive orders, proclamations, and rules, which have the force and effect of law.⁴⁰

III. Effect of Proposed Changes:

The bill creates s. 252.3591 F.S., to provide a 30 day public records exemption for records held by the Division of Emergency Management identifying victims of a disaster or emergency in which a state of emergency is declared by the Governor. A "victim" is defined as a person who is critically injured and death appears to be imminent or a person killed during such an event.

The specific personal information made exempt from public records disclosure requirements includes the victim's name, address, date of birth, and home and cellular telephone numbers.

³⁰ Section 252.35(1) and (2), F.S.

³¹ "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property (s. 252.34(4), F.S.).

³² Section 252.36(2), F.S.

³³ "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance (s. 252.34(2)(c), F.S.).

³⁴ "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance (s. 252.34(2)(b), F.S.).

³⁵ "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement (s. 252.34(2)(a), F.S.)

³⁶ Section 252.36(4)(c), F.S.

³⁷ *Supra* note 32

³⁸ Section 252.36(3), F.S.

³⁹ *See* s. 252.36(6), F.S.

⁴⁰ Section 252.36(1)(b), F.S.

The bill provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution, which provides, in part, that during and immediately after an emergency or a disaster, a victim and his or her family are in a vulnerable state as they attempt to recover from the emergency situation, and that the public availability of the victim's name, address, date of birth, and home and cellular telephone numbers may leave the victim or the victim's family vulnerable to exploitation from those seeking to take advantage of the victim's misfortune. The bill is subject to the Open Government Sunset Review Act and is repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for the personal identifying and location information for persons who are critically injured and death appears to be imminent or a person killed, during a disaster or emergency in which a state of emergency is declared by the Governor, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2. of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The stated purpose of the law is to protect victims of a declared state of emergency as the person and their family attempt to recover from such an event, and that personal identifying information may leave a victim or their family vulnerable to exploitation. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

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 may cause the Division of Emergency Management to incur costs associated with redacting the exempt information of disaster victims. However, such costs are likely insignificant and can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 252.3591 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Martin

33-00827E-23

2023248__

A bill to be entitled
An act relating to public records; creating s.
252.3591, F.S.; defining the term "victim"; exempting
from public records requirements the personal
identifying information of certain victims held by the
Division of Emergency Management for a specified
timeframe; providing for future legislative review and
repeal of the exemption; providing a statement of
public necessity; providing an effective date.

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

Section 1. Section 252.3591, Florida Statutes, is created
to read:

252.3591 Public records exemption; emergency identification
and notification information.—

(1) As used in this section, the term "victim" means a
critically injured person whose death appears to be imminent or
a person killed during a disaster or emergency in which a state
of emergency is declared by the Governor pursuant to this
chapter.

(2) The name, address, date of birth, and home and cellular
telephone numbers of a victim which are held by the division are
exempt from s. 119.07(1) and s. 24, Art. I of the State
Constitution for 30 days after the date the state of emergency
is declared.

(3) This section is subject to the Open Government Sunset
Review Act in accordance with s. 119.15 and shall stand repealed
on October 2, 2028, unless reviewed and saved from repeal

33-00827E-23

2023248__

30 through reenactment by the Legislature.

31 Section 2. The Legislature finds that it is a public
32 necessity that the names, addresses, dates of birth, and home
33 and cellular telephone numbers of victims of an emergency or
34 disaster in which the Governor has declared a state of emergency
35 be made exempt from s. 119.07(1), Florida Statutes, and s.
36 24(a), Article I of the State Constitution for 30 days after the
37 date the state of emergency is declared. During and subsequent
38 to an emergency or a disaster, a victim and his or her family
39 are in a vulnerable state as they attempt to recover from the
40 emergency situation. The public availability of the victim's
41 name, address, date of birth, and home and cellular telephone
42 numbers may leave the victim or the victim's family vulnerable
43 to exploitation from those seeking to take advantage of the
44 victim's misfortune. The availability of such personal
45 identifying information may also leave the victim's property
46 subject to theft or damage. Additionally, the public
47 availability of the victim's name, address, date of birth, and
48 home and cellular telephone numbers may also leave the victim or
49 the victim's family vulnerable to media intrusion before an
50 emergency official, a law enforcement officer, or other official
51 notifies the victim's emergency contact of the victim's status.
52 Therefore, it is necessary that the name, address, date of
53 birth, and home and cellular telephone numbers of a victim of a
54 declared emergency or disaster be protected to ensure that
55 victims of such incidents, or their families, are not taken
56 advantage of or otherwise subjected to additional pain and
57 suffering.

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

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 250

INTRODUCER: Community Affairs Committee and Senator Martin

SUBJECT: Natural Emergencies

DATE: March 17, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Fav/CS
2.			FP	

I. Summary:

CS/SB 250 makes various changes throughout Florida Statutes regarding the preparation and response activities of local governments when natural emergencies impact the state.

Specifically, the bill:

- Requires the Division of Emergency Management to post on its website a model debris removal contract for the benefit of local governments.
- Encourages local governments to create emergency financial plans in preparation for major natural disasters.
- Provides that counties and municipalities cannot prohibit a resident from placing a temporary residential structure on their property for up to 36 months following a natural emergency under certain circumstances.
- Authorizes local governments to create specialized building inspection teams following a natural disaster and encourages interlocal agreements for additional building inspection services during a state of emergency.
- Requires local governments to expedite the issuance of permits following a natural disaster.
- Increases the extension of certain building permits following a declaration of a state of emergency from six to 24 months and capping such extension at 48 months in the event of multiple natural emergencies.
- Prohibits counties and municipalities within the disaster declaration for Hurricane Ian or Hurricane Nicole from increasing building fees until October 1, 2024.
- Allows registered contractors to engage in contracting for the types of work covered by their registration within areas for which a state of emergency has been declared.
- Prohibits counties and municipalities within the disaster declaration for Hurricane Ian or Hurricane Nicole from adopting more restrictive or burdensome procedures to its comprehensive plan or land development regulations concerning review, approval, or issuance of a site plan, development permit, or development order before October 1, 2024.

- Extends the date for fire control districts to submit the statutorily-required performance reviews in the event of a natural disaster or a major hurricane.
- Amends the Consultants' Competitive Negotiation Act to allow for additional disaster-related construction projects to utilize the "continuing contracts" provision through June 30, 2025.
- Makes the Local Government Emergency Bridge Loan Program a *revolving* program and makes funds available for local governments impacted by federally declared disasters until July 1, 2038. Additionally, the bill appropriates \$50 million in nonrecurring funds from the General Revenue Fund to the program.
- Provides clarification regarding the 45 day grace period following a hurricane in which owners must bring a derelict vessel into compliance before being charged with a violation.

The bill takes effect on July 1, 2023, unless otherwise expressly provided.

II. Present Situation:

The present situation for each issue in the bill is described below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Present Situation:

State Emergency Management Act

The State Emergency Management Act, ch. 252, F.S., was enacted to be the legal framework for this state's emergency management activities, recognizing the state's vulnerability to a wide range of emergencies, including natural, manmade, and technological disasters.¹ In order to reduce the state's vulnerability to these circumstances and to prepare to respond to them, the act promotes the state's emergency readiness through enhanced coordination, long-term planning, and adequate funding.²

The act creates the Division of Emergency Management (division) within the Executive Office of the Governor and grants the division with powers and duties necessary to mitigate the vulnerability of life, property, and economic prosperity due to natural and manmade disasters.³ The responsibilities of the division include:

- Carrying out the State Emergency Management Act;
- Maintaining a comprehensive statewide program of emergency management; and
- Coordinating with efforts of the federal government with other departments and agencies of state government, with county and municipal governments and school boards, and with private agencies that have a role in emergency management.⁴

The act also delineates the Governor's authority to declare a state of emergency, issue executive orders, and otherwise lead the state during emergencies. If the Governor finds that an

¹ Section 252.311(1), F.S.

² Section 252.311(2), F.S.

³ Sections 252.32(1)(a) and 252.34(3), F.S.

⁴ Section 252.35(1) and (2), F.S.

emergency⁵ has occurred or is imminent, he or she must declare a state of emergency.⁶ An executive order or proclamation of a state of emergency shall identify whether the state of emergency is due to a minor,⁷ major,⁸ or catastrophic⁹ disaster.¹⁰ The state of emergency must continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.¹¹ Additionally, the Legislature may end a state of emergency by passing a concurrent resolution.¹²

In a state of emergency, the Governor has broad power to perform necessary actions to ensure Floridians' health, safety, and welfare. A state of emergency provides the governor with additional authority not otherwise present, such as the ability to impose curfews, order evacuations, determine means of ingress and egress to and from affected areas, and commandeer or utilize private property subject to compensation.¹³ To effectively facilitate emergency measures, the Governor has the power to issue executive orders, proclamations, and rules, which have the force and effect of law.¹⁴

Through this emergency power, the Governor can suspend the provisions of any regulatory statute if compliance would prevent, hinder, or delay necessary action to deal with the emergency. Further, as designated by the Governor or in emergency management plans, state agencies, local governments, and others can make, amend, and rescind orders and rules as necessary for emergency management purposes. However, these orders and rules cannot conflict with orders of the Governor, the division, or other state agencies delegated emergency powers by the Governor.

Presidential Disaster and Emergency Declarations

When there is a disaster in the United States, the Governor of an affected state must request an emergency and major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.¹⁵ All emergency and disaster declarations are made at the discretion of the President of the United States.¹⁶ There are two types of disaster declarations, emergency

⁵ “Emergency” means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. *See* s. 252.34(4), F.S.

⁶ Section 252.36(2), F.S.

⁷ “Minor disaster” means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance. *See* s. 252.34(2)(c), F.S.

⁸ “Major disaster” means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance. *See* s. 252.34(2)(b), F.S.

⁹ “Catastrophic disaster” means a disaster that will require massive state and federal assistance, including immediate military involvement. *See* s. 252.34(2)(a), F.S.

¹⁰ Section 252.36(4)(c), F.S.

¹¹ *Supra* note 6.

¹² Section 252.36(3), F.S.

¹³ *See* s. 252.36(6), F.S.

¹⁴ Section 252.36(1)(b), F.S.

¹⁵ 2 U.S.C. §§ 5121-5207

¹⁶ FEMA, *How a Disaster Gets Declared*, available at: <https://www.fema.gov/disaster/how-declared> (last visited March 14, 2023.)

declarations and major disaster declarations.¹⁷ Both declarations allow for federal assistance to states and local governments, however they differ in scope, types, and amount of assistance available.¹⁸ Primary federal disaster assistance administered by the Federal Emergency Management Agency (FEMA) is provided via the Individual Assistance Program and the Public Assistance Grant Program. The scope of an event will determine which categories within each program are available to affected states.

One component of the Public Assistance Grant Program is the provision of direct assistance or reimbursement to state and local governments for the costs of removing debris and wreckage from public and private property.

Effect of Proposed Changes:

Section 1 creates s. 125.023, F.S., to provide that a county must allow for a resident to place a temporary structure on residential property if the permanent residential structure was damaged and rendered uninhabitable during a natural emergency¹⁹ for which the Governor declared a state of emergency. The temporary structure may be placed on the property for up to 36 months after the date of the declaration of emergency or until a certificate of occupancy is issued for the permanent residential structure, whichever occurs first. A temporary structure includes, but is not limited to, a recreational vehicle, trailer, or similar structure.

Residents must live in the temporary structure and be making a good faith effort to rebuild or renovate the damaged permanent residential structure including, but not limited to, applying for a building permit, submitting a plan or design to the county, or obtaining a construction loan. The temporary shelter must be connected to water and electric utilities and cannot present a threat to health and human safety.

Section 2 creates s. 166.0335, F.S., to make identical changes to section 1, as applied to municipalities.

Section 4 amends s. 252.35(2), F.S., to require the Division of Emergency Management to post a model of a local government contract for debris removal to their website no later than June 1, 2023, and to post an updated model no later than June 1 of each subsequent year.

This section also requires the Division of Emergency Management to prioritize technical assistance and training to fiscally constrained counties²⁰ as defined in s. 218.67, F.S., on aspects of safety measures, preparedness, prevention, response, recovery, and mitigation relating to natural disasters and emergencies.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ “Natural emergency” means an emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake. *See* s. 252.34(8), F.S.

²⁰ Each county that is entirely within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656 or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1, shall be considered a fiscally constrained county. There are currently 29 fiscally constrained counties.

This section is effective upon becoming law.

Section 6 creates s. 252.391, F.S., to encourage local governmental entities to create emergency financial plans for major natural disasters, including, among other things, a calculation of the costs for the event and the financial resources available to recover from the event. The plan should also identify alternative funding strategies in the event that the local governmental entity would be unable to financially address the natural disaster.

Present Situation:

Registered Contractors

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within the Department of Business and Professional Regulation (DBPR).²¹ The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate.²² The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.²³

"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.²⁴

"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.²⁵

"Registered contractors" are individuals who have taken and passed a local competency examination and may practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.²⁶

Effect of Proposed Changes:

Section 11 amends s. 489.117, F.S., to allow registered contractors to engage in contracting for the types of work covered by their registration within any area for which a state of emergency has been declared for a natural emergency. This authorization will end 24 months after the expiration of the declared state of emergency. The local jurisdiction that licenses the registered contractor may discipline the contractor for violations occurring outside the licensing jurisdiction under these circumstances.

²¹ See ss. 489.105, 489.107, and 489.113, F.S.

²² Section 489.107(1), F.S.

²³ Section 489.107, F.S.

²⁴ See ss. 489.105(6)-(8) and (11), F.S.

²⁵ See ss. 489.108, 489.113, 489.117, and 489.131, F.S.

²⁶ Section 489.117, F.S.

This section is effective upon becoming a law.

Present Situation:

Building Permits and Inspections

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.²⁷

Every local government must enforce the Florida Building Code and issue building permits.²⁸ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit.²⁹

A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.³⁰ Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.³¹ Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with training, review of building plans, building inspections, reinspections, building permit processing, and fire inspections.³² Local governments must post all building permit and inspection fee schedules on its website.³³

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the building code. The building code requires certain building, electrical, plumbing, mechanical, and gas inspections.³⁴ Construction work may not be done beyond a certain point until it passes an inspection.

Current law provides a set of deadlines for ordinary processing of a building permit, chief among them that a local government must approve, approve with conditions, or deny an application for a building permit within 120 days following receipt of a completed application.³⁵ Various laws require or encourage local governments to further expedite the permitting process in certain situations, such as for the construction of public schools, state colleges and universities³⁶ and affordable housing.³⁷

²⁷ Section 553.72, F.S.

²⁸ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

²⁹ Sections 125.56(4)(a), 553.79(1), F.S.

³⁰ Section 553.80 F.S.

³¹ *Id.*

³² Section 553.80 (7)(a)(1)

³³ Section 125.56 (4)(c) F.S., Section 166.222(2) F.S.

³⁴ Section 110 Seventh edition of the Florida Building Code (Building).

³⁵ Section 553.792(1)(a), F.S.

³⁶ Section 553.80(6)(b)2., F.S.

³⁷ See sections 403.973(3), 420.5087(6)(c)8., and 553.80(6)(b)1., F.S.

In addition to the inspections required by the Building Code, a building official may require other inspections of any construction work to ascertain compliance with the provisions of the Building Code and other laws that are enforced by the government entity.³⁸

Effect of Proposed Changes:

Section 7 amends s. 252.40, F.S., to encourage municipalities and counties to create inspection teams to review and approve expedited permits for temporary housing solutions, repairs, and renovations following a natural disaster, and establish interlocal agreements with other jurisdictions to provide additional building inspection services during a state of emergency.

The bill additionally encourages local governments to develop and adopt plans to provide accommodations for contractors, utility workers, first responders, and others dispatched to aid in hurricane recovery efforts. The bill provides that public areas such as fairgrounds and parking lots may be used for tents and trailers for temporary accommodations.

Section 12 creates s. 553.7922, F.S., to require local governments to approve special processing procedures to expedite the issuance of permits following a natural emergency for which the Governor has declared a state of emergency. Permits to be expedited pursuant to this section are those which do not require technical review, including, but not limited to permits for: roof repairs; reroofing; electrical repairs; service changes; or the replacement of one window or door. Local governments are also permitted to waive application and inspection fees for permits expedited under this section.

Section 13 amends s. 553.80, F.S., to, as of January 1, 2023, prohibit local governments located in areas designated in the FEMA disaster declarations for Hurricanes Ian and Nicole³⁹ from raising building inspection fees until October 1, 2024.

This section expires on June 30, 2025, and is effective upon becoming law.

Present Situation:

Tolling of Permits during Emergencies

Under s. 252.363, F.S., when the Governor declares a state of emergency for a natural emergency, the period to exercise rights under a permit or other authorization is tolled for the duration of the emergency. The period remaining to exercise such rights is extended for six months in addition to the tolled period.

The emergency tolling and extension expressly applies to the following permits and authorizations:

- Expiration of a development order issued by a local government;
- Expiration of a building permit;

³⁸ S. 110.3.10, Seventh Edition of the Florida Building Code (Building).

³⁹ All 67 counties in Florida were designated within the FEMA disaster declaration for Hurricane Ian and 61 counties for Hurricane Nicole.

- Expiration of an environmental resource permit issued by the Department of Environmental Protection (DEP) or a water management district under ch. 373, part IV, F.S.; or
- Expiration of consumptive use permits issued by DEP or a water management district under Part II of ch. 373, F.S. related to land subject to a development agreement in which the permittee and developer are the same or a related entity.
- The buildout date for a development of regional impact or any extension of such date under s. 380.06(7)(c), F.S.
- Expiration of development permits and development agreements authorized by state law, including those authorized under the Florida Local Government Development Agreement Act, or issued by a local government or other governmental entity⁴⁰

To receive the benefit of tolling and extension of a permit, the holder must follow the procedure outlined in s. 252.363(1)(b), F.S. Specifically, within 90 days after the emergency declaration's termination, the permit holder must provide written notice of the intent to exercise the tolling and extension. The written notice must identify the specific permit or authorization qualifying for the extension to the issuing authority. Once the permitholder has satisfied this procedure, the tolling and extension are granted as a matter of law, and no further action on the part of the issuing authority is needed.⁴¹

The tolling and extension of permits and other authorizations does not apply to the following:

- A permit or other authorization for a building, improvement, or development located outside the geographic area for which the declaration of a state of emergency applies;
- A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers;
- The holder of a permit or other authorization who is determined by the authorizing agency to be in significant noncompliance with the conditions of the permit or other authorization through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or an equivalent action; and
- A permit or other authorization that is subject to a court order specifying an expiration date or buildout date that would conflict with the extensions granted due to a state of emergency.⁴²

Effect of Proposed Changes:

Section 5 amends s. 252.363(1)(a), F.S., to increase the extension of certain building permits following a declaration of a state of emergency from six to 24 months. The extension is capped at 48 months in the event of multiple natural emergencies.

⁴⁰ Section 252.363(1)(a), F.S.

⁴¹ “Nothing in the statute imposes an obligation on the municipality to take any action extending development orders, rather, it appears that the Legislature intended to place that burden on the holder of the permit who must provide written notification to the issuing authority of his or her intent to exercise the tolling and extension of the statute.” *See* Op. Att’y Gen. Fla. 12-13 (2012), available at <http://www.myfloridalegal.com/ago.nsf/Opinions/0DF58A091F0DDBE8C852579EB00743D48> (last visited Mar. 13, 2023).

⁴² Section 252.363(1)(d), F.S.

Present Situation:**Independent Special Fire Control District Performance Reviews**

Independent special fire control districts are created by the Legislature to provide fire suppression and related activities within the territorial jurisdiction of the district.⁴³ The Independent Special Fire Control District Act⁴⁴ provides standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of members to the governing boards.⁴⁵

Fire control districts may levy ad valorem taxes on real property within the district of no more than 3.75 mills unless a greater amount was previously authorized.⁴⁶ A district also may levy non-ad valorem assessments.⁴⁷ The district board may adopt a schedule of reasonable fees for services performed.⁴⁸ Additionally, the district board may impose an impact fee if so authorized by law and the local general purpose government has not adopted an impact fee for fire services that is distributed to the district for construction.⁴⁹

In 2021,⁵⁰ the Legislature mandated a performance review schedule of certain independent special districts, which included fire control districts, to evaluate district programs, activities, and functions.⁵¹ Beginning October 1, 2022, and every five years thereafter, every independent special fire control district must have a performance review conducted.⁵² The Office of Program Policy Analysis and Government Accountability must conduct the performance review for special fire control districts that are located in a rural area of opportunity.⁵³ The final report of the performance review must be filed with the governing board of the district, the Auditor General, the President of the Senate, and the Speaker of the House of Representatives no later than 9 months from the beginning of the district's fiscal year (i.e., July 1st).⁵⁴

Effect of Proposed Changes:

Section 3 amends s. 189.0695, F.S., to allow independent special fire control districts to submit performance reviews 15 months after the beginning of the district's fiscal year in the event of a natural disaster, or 24 months after the beginning of the fiscal year in the event of a hurricane rated category 3 or higher. This section applies retroactively to the reviews required to have been conducted by October 1, 2022, and the final report otherwise due by July 1, 2023.

⁴³ Section 191.003(5), F.S.

⁴⁴ Chapter 191, F.S.

⁴⁵ Section 191.002, F.S.

⁴⁶ Sections 191.009(1), F.S. *see* art. VII, s. 9, Fla. Const. (special districts may not levy an ad valorem tax in excess of the millage "authorized by law approved by vote of the electors.")

⁴⁷ Section 191.009(2), F.S.

⁴⁸ Section 191.009(3), F.S.

⁴⁹ Section 191.009(4), F.S.

⁵⁰ Chapter 2021-226 Laws of Fla.

⁵¹ Section 189.0695, F.S.

⁵² Section 189.0695(2)(d), F.S.

⁵³ Section 189.0695 (2)(b), F.S.

⁵⁴ Section 189.0695(2)(c), F.S. The fiscal years of each independent special fire control district begins October 1 of a calendar year.

Present Situation:**Consultants' Competitive Negotiation Act**

In 1972, Congress passed the Brooks Act,⁵⁵ which requires federal agencies to use a qualifications-based selection process for architectural, engineering, and associated services, such as mapping and surveying. Qualifications-based selection is a process whereby service providers are retained on the basis of competency, qualifications, and experience, rather than price. In 1973, the Florida Legislature enacted the Consultants' Competitive Negotiation Act (CCNA),⁵⁶ which is modeled after the Brooks Act. The CCNA requires state and local government agencies to procure the professional services of an architect, professional engineer, landscape architect, or registered surveyor and mapper using a qualifications-based selection process.⁵⁷

CCNA Procurement Process

The CCNA establishes a three-phase process for procuring professional services:

- Phase 1 – Public announcement and qualification.
- Phase 2 – Competitive selection.
- Phase 3 – Competitive negotiation.

During Phase 1, the public announcement and qualification phase, state and local agencies must publicly announce each occasion when professional services will be purchased for one of the following:

- A project, when the basic construction cost is estimated by the agency to exceed \$325,000; or
- A planning or study activity, when the fee for professional services exceeds \$35,000.⁵⁸

During Phase 2, the competitive selection phase, an agency must evaluate the qualifications and past performance of interested consultants and select at least three consultants, ranked in order of preference, that it considers the most highly qualified to perform the required services. During this phase, the CCNA prohibits the agency from requesting, accepting, or considering proposals for the compensation to be paid.

During Phase 3, the competitive negotiation phase, an agency must first negotiate compensation with the highest ranked consultant. If the agency is unable to negotiate a satisfactory contract with that consultant at a price the agency determines to be fair, competitive, and reasonable, negotiations with the consultant must be formally terminated. The agency must then negotiate with the remaining ranked consultants, in order of rank, and follow the same process until an agreement is reached. If the agency is unable to negotiate a satisfactory contract with any of the ranked consultants, the agency must select additional consultants, ranked in the order of

⁵⁵ Public Law 92-582, 86 Stat. 1278 (1972).

⁵⁶ Chapter 73-19, Laws of Fla., codified as s. 287.055, F.S.

⁵⁷ Section 287.055, F.S.

⁵⁸ Section 287.055(3)(a)1., F.S.

competence and qualification without regard to price, and continue negotiations until an agreement is reached.⁵⁹

Continuing Contracts under the CCNA

The CCNA explicitly states it does not prohibit a continuing contract⁶⁰ between a firm and an agency.⁶¹ A continuing contract is a contract for professional services entered into in accordance with the CCNA between an agency and a firm whereby the firm provides professional services to the agency for projects.⁶² The CCNA prohibits firms that are parties to a continuing contract from being required to bid against one another.⁶³

Current law authorizes the use of a continuing contract for construction projects in which the estimated construction cost of each project does not exceed \$4 million, for study activities if the fee for professional services for each study does not exceed \$500,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except the contract must include a termination clause.⁶⁴

Effect of Proposed Changes:

Section 8 amends s. 287.055(2)(g), F.S., to temporarily allow continuing contracts under the CCNA for construction projects related to natural disaster response or relief that do not exceed \$15 million per project. This provision applies to contracts executed through June 30, 2025, and is effective upon becoming a law.

Section 9 provides for the future expiration and reversion of statutory text in section 8 on July 1, 2026.

Present Situation:

Community Planning

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.⁶⁵ Each county and municipality must maintain a comprehensive plan to guide future development.⁶⁶

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.⁶⁷ A comprehensive plan is intended to provide for the future use of land, which contemplates a

⁵⁹ Section 287.055(5), F.S.

⁶⁰ Section 287.055(2)(g), F.S.

⁶¹ Section 287.055(4)(d), F.S.

⁶² Section 287.055(2)(g), F.S.

⁶³ *Id.*

⁶⁴ Section 287.055(2)(g), F.S.

⁶⁵ Section 163.3167(1), F.S.

⁶⁶ Section 163.3167(2), F.S.

⁶⁷ Section 163.3194(3), F.S.

gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.⁶⁸

A comprehensive plan is implemented through the adoption of land development regulations⁶⁹ that are consistent with the plan, and which contain specific and detailed provisions necessary to implement the plan.⁷⁰ Such regulations must, among other prescriptions, regulate the subdivision of land and the use of land for the land use categories in the land use element of the comprehensive plan.⁷¹ Substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the comprehensive plan.⁷²

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board, and subsequently by the governing board.⁷³

Development Permits and Orders

The Community Planning Act defines "development" as "the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels."⁷⁴ When a party wishes to engage in development activity, they must seek a development permit from the appropriate local government having jurisdiction. Under the Community Planning Act, a development permit includes "any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land."⁷⁵ Once a local government has officially granted or denied a development permit, the official action constitutes a development order.⁷⁶ A development order vests certain rights related to the land.⁷⁷

⁶⁸ Section 163.3177(6), F.S. The 10 required elements include capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Throughout statutes exist plans and programs that may be added as optional elements.

⁶⁹ "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213. See s. 163.3164(26), F.S.

⁷⁰ Section 163.3202, F.S.

⁷¹ *Id.*

⁷² Section 163.3213, F.S.

⁷³ Sections 163.3174(4)(a) and 163.3184, F.S.

⁷⁴ Section 163.3164(14), F.S.

⁷⁵ *Id.* at (16).

⁷⁶ See *id.* at (15).

⁷⁷ See s. 163.3167(3), F.S.

Effect of Proposed Changes:

Section 14 provides that a county or municipality in an area designated as a disaster declaration for Hurricane Ian or Hurricane Nicole⁷⁸ may not adopt more restrictive or burdensome procedures to its comprehensive plan or land development regulations concerning the review, approval or issuance of a site plan, development permit, or development order, or propose any such adoption of amendment before October 1, 2024. This subsection applies retroactively to September 29, 2022. Any comprehensive plan amendment, land development regulation, development permit, or development order approved by a county or municipality under procedures adopted before the effective date of this act may be enforced.

Present Situation:**Derelict Vessels**

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent.⁷⁹ It is unlawful to store, leave, or abandon any derelict vessel in this state.⁸⁰

Abandoned Vessels

“Abandoned property”⁸¹ means all tangible personal property that does not have an identifiable owner and that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels, as defined in state law.

When a derelict vessel or a vessel declared to be a public nuisance is on the waters of the state, a law enforcement officer must place a notice of removal on the vessel. The law enforcement agency must then contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner, and must mail a copy of the notice to the owner.⁸²

If, after 21 days of posting and mailing the notice, the owner has not removed the vessel from the waters of the state or shown reasonable cause for failure to do so, the law enforcement agency may remove, destroy, or dispose of the vessel.⁸³ A person may not be charged with a violation by law enforcement within 45 days after a hurricane has passed over the state.⁸⁴

⁷⁸ All 67 counties in Florida were designated within the federal disaster declaration for Hurricane Ian, and 61 counties for Hurricane Nicole.

⁷⁹ Section 823.11(1)(b), F.S.

⁸⁰ Section 376.15, F.S.; s. 823.11(2), F.S.

⁸¹ Section 705.101(3), F.S.

⁸² Section 705.103(2), F.S.

⁸³ *Id.*

⁸⁴ Section 823.11 (2)(b)2.b, F.S.

The owner of a derelict vessel or a vessel declared to be a public nuisance who does not remove the vessel after receiving notice, is liable to the law enforcement agency for all costs of removal, storage, and destruction of the vessel, less any salvage value obtained by its disposal.⁸⁵ Upon the final disposition of the vessel, the law enforcement officer must notify the owner of the amount owed. A person who neglects or refuses to pay the amount owed is not entitled to be issued a certificate of registration for the vessel, or any other vessel, until such costs have been paid.⁸⁶

Local governments are authorized to enact and enforce regulations to implement the procedures for abandoned or lost property that allow a local law enforcement agency, after providing written notice, to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property.⁸⁷

Removal of Derelict Vessels

The FWC's Division of Law Enforcement and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officers have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.⁸⁸ Sections 376.15 and 823.11, F.S., both address the treatment of derelict vessels. Much of the language between the two statutes is duplicative.⁸⁹

Both state and local law enforcement are authorized and empowered to relocate, remove, store, destroy, or dispose of a derelict vessel from waters of the state if the derelict vessel threatens navigation or is a danger to the environment, property, or persons.⁹⁰ The FWC officers and other law enforcement agency officers or contractors who perform relocation or removal activities at the FWC's direction are required to be licensed, insured, and properly equipped to perform the services to be provided.⁹¹

The costs incurred by the FWC or another law enforcement agency for relocating or removing a derelict vessel are recoverable against the vessel owner.⁹² A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by its disposal, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.⁹³

The FWC has the authority to provide grants, funded from the Marine Resource Conservation Trust Fund or the Florida Coastal Protection Trust Fund, to local governments for the removal of derelict vessels from waters of this state, if funds are appropriated for the grant program.⁹⁴ However, each fiscal year, if all program funds are not requested by and granted to local

⁸⁵ Section 705.103(4), F.S.

⁸⁶ *Id.*

⁸⁷ Section 327.60(5), F.S.

⁸⁸ Section 327.70, F.S.

⁸⁹ Section 376.15, F.S.; s. 823.11, F.S.

⁹⁰ Section 823.11(3), F.S.; s. 376.15(3)(a), F.S.

⁹¹ Section 823.11(3)(c), F.S.; s. 376.15(3)(c), F.S.

⁹² Section 823.11(3)(a), F.S.; s. 376.15(3)(a), F.S.

⁹³ Section 705.103(4), F.S.

⁹⁴ Section 376.15, F.S.

governments for the removal of derelict vessels by the end of the third quarter, the FWC may use the remainder of the funds to remove, or pay private contractors to remove, derelict vessels.⁹⁵ Pursuant to this, the FWC established the Derelict Vessel Removal Grant Program in 2019.⁹⁶ Grants are awarded based on a set of criteria outlined in FWC rules.⁹⁷

Effect of Proposed Changes:

Section 15 amends s. 823.11(2), F.S., to provide clarification regarding the 45 day grace period following a hurricane owners have to bring a derelict vessel into compliance before they will be charged with a violation and the vessel will be removed.

Present Situation:

Local Government Emergency Response Bridge Loan

Early in 2023, the Legislature created s. 288.066, F.S., to establish the Local Government Emergency Response Bridge Loan within the Department of Economic Opportunity (DEO)⁹⁸ to provide financial assistance to local governments impacted by Hurricane Ian or Hurricane Nicole. The purpose of the loan program is to assist these local governments in maintaining operations by bridging the gap between the time that the declared disaster occurred and the time that additional funding sources or revenues are secured to provide them with financial assistance.⁹⁹

The loans may be issued during the 2022-2023 fiscal year or the 2023-2024 fiscal year, subject to appropriation.¹⁰⁰ The loans are interest-free with the loan amount determined based upon demonstrated need.¹⁰¹ The loans must be paid back within one year, unless extended by up to six months by the DEO based on the local government's financial condition.¹⁰²

To be eligible a local government must be a county or municipality located in an area designated in the Federal Emergency Management Agency disaster declarations for Hurricane Ian or Hurricane Nicole.¹⁰³ Also, the local government must show that it may suffer or has suffered substantial loss of its tax or other revenues as a result of the hurricane and demonstrate a need for financial assistance to enable it to continue to perform its governmental operations.¹⁰⁴

⁹⁵ Section 376.15, F.S.

⁹⁶ FWC, *FWC Derelict Vessel Removal Grant Program Guidelines*, 2 (2019), available at <https://myfwc.com/media/22317/dv-grant-guidelines.pdf> (last visited March 11, 2023). Incorporated by reference in Fla. Admin. Code R. 68-1.003.

⁹⁷ *Id.*

⁹⁸ Section 288.066 F.S.

⁹⁹ Section 288.066 (1), F.S.

¹⁰⁰ Section 288.066 (6)(a), F.S.

¹⁰¹ Section 288.066 (3), F.S.

¹⁰² Section 288.066 (3)(c), F.S.

¹⁰³ Section 288.066 (2), F.S.

¹⁰⁴ *Id.*

A local government may only use loan funds to continue local governmental operations or to expand and modify such operations to meet disaster-related needs.¹⁰⁵ The funds may not be used to finance or supplant funding for capital improvements or to repair or restore damaged public facilities or infrastructure. The DEO must coordinate with the Division of Emergency Management to assess whether such loans would affect reimbursement under federal programs for disaster-related expenses.¹⁰⁶

This program expires June 30, 2027. As loans are repaid, the DEO will remit the payments back to the General Revenue Fund and upon expiration, the DEO must return all unencumbered funds and loan payments back to the General Revenue Fund.¹⁰⁷

Effect of Proposed Changes:

Section 10 amends s. 288.066, F.S., requiring the Local Government Emergency Bridge Loan Program to become a revolving program and make funds available for local governments impacted by federally declared disasters until July 1, 2038. The program is renamed the Local Government Emergency Revolving Bridge Loan Program.

Upon the issuance of a federal disaster declaration, the DEO shall provide notice of application requirements and the total amount of funds available and make loan information available to eligible local governments. The eligible local government must submit a loan application within 12 months from the date that a federal disaster was declared. The section further creates an application process and sets forth the conditions that must be met by a local government in order to receive funds under the program. Reasons for a loan application denial may include, but are not limited to, the loan risk, an incomplete application, failure to demonstrate need, or the fact that receiving a loan may negatively affect the local government's eligibility for other federal programs. Lastly, this section sets forth the obligations of the DEO to administer the program and manage repayments.

Section 16 appropriates \$50 million in nonrecurring funds from the General Revenue Fund to the Economic Development Trust Fund of the DEO for the bridge loan program. This section also directs any funds that have not been loaned to a local government pursuant to a loan agreement as of July 1, 2023, to be transferred to the Economic Development Trust Fund to be used for the Local Government Emergency Revolving Bridge Loan Program established by the bill. Lastly, all loans made pursuant to the existing Local Government Emergency Bridge Loan Program must be repaid into the Economic Development Trust Fund and be made available for loans under the revolving loan program provided in the bill.

Effective Date

Section 17 provides that the bill will take effect on July 1, 2023, unless otherwise expressly provided.

¹⁰⁵ *Id.*

¹⁰⁶ Section 288.066 (6)(b), F.S.

¹⁰⁷ Section 288.066(8), F.S.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill may have a positive, yet indeterminate fiscal impact on private sector businesses that provide professional services under the CCNA, by allowing those entities to enter into larger contracts for specified disaster relief projects under a continuing contract.

Registered contractors who are able to work outside of their jurisdiction during a state of emergency may see increased positive fiscal impact due to increased business.

C. Government Sector Impact:

The bill will likely have an insignificant negative fiscal impact on local governments, as many of the bill provisions are permissive rather than mandatory. Provisions that limit a local government's ability to raise building fees for a defined period of time or that require local governments to expedite building permits during emergencies may have a negative, but likely insignificant, fiscal impact.

By allowing state and local governments to enter into larger contracts for specified disaster relief construction projects under a continuing contract, the state or a local government may save on contractual and workload expenditures associated with the procurement of such projects.

The bill appropriates \$50 million in nonrecurring funds from the General Revenue Fund to the Economic Development Trust Fund of the DEO for the Local Government Emergency Revolving Bridge Loan Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.023, 166.0335, 189.0695, 252.35, 252.363, 252.391, 252.40, 287.055, 288.066, 489.117, 553.7922, 553.80, and 823.11.

The bill creates undesignated sections of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Community Affairs on March 15, 2023:

The committee substitute makes clarifying changes as it relates to temporary residential structures, tolling and extension of permits, expedited approval of certain permits, registered contractors, and the prohibition on adopting procedures to comprehensive plans and land development regulations.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 99 - 417
and insert:
to the contrary, following the declaration of a state of
emergency issued by the Governor for a natural emergency as
defined in s. 252.34(8) during which a permanent residential
structure was damaged and rendered uninhabitable, a county may
not prohibit the placement of one temporary shelter on the
residential property for up to 36 months after the date of the



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declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, if all of the following circumstances apply:

(a) The resident makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the county, or obtaining a construction loan.

(b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(c) The resident lives in the temporary structure.

Section 2. Section 166.0335, Florida Statutes, is created to read:

166.0335 Temporary shelter prohibition.—

(1) For the purposes of this section, the term "temporary shelter" includes, but is not limited to, a recreational vehicle, trailer, or similar structure placed on a residential property.

(2) Notwithstanding any other law, ordinance, or regulation to the contrary, following the declaration of a state of emergency issued by the Governor for a natural emergency as defined in s. 252.34(8) during which a permanent residential structure was damaged and rendered uninhabitable, a municipality may not prohibit the placement of one temporary shelter on the residential property for up to 36 months after the date of the declaration or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, if all of the following circumstances apply:

(a) The resident makes a good faith effort to rebuild or



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renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the municipality, or obtaining a construction loan.

(b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(c) The resident lives in the temporary structure.

Section 3. Subsection (4) is added to section 189.0695, Florida Statutes, to read:

189.0695 Independent special districts; performance reviews.—

(4) Notwithstanding the timeframe specified in paragraph (2)(c), an independent special fire control district may file its final report of the performance review no later than 15 months from the beginning of the district's fiscal year if the special district is within an area for which a state of emergency for a natural disaster was declared pursuant to s. 252.36 or no later than 24 months from the beginning of the district's fiscal year if the special district is within an area for which a state of emergency was declared pursuant to s. 252.36 for a hurricane rated category 3 or higher. This subsection applies retroactively to the final reports required to have been conducted by October 1, 2022.

Section 4. Effective upon becoming a law, paragraphs (bb) and (cc) are added to subsection (2) of section 252.35, Florida Statutes, to read:

252.35 Emergency management powers; Division of Emergency Management.—



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(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties, the division shall:

(bb) Post on its website a model of a local government contract for debris removal to be used by political subdivisions. The initial model contract must be posted to the website no later than June 1, 2023, and, thereafter, the model contract must be annually updated and posted to the website no later than June 1.

(cc) Prioritize technical assistance and training to fiscally constrained counties as defined in s. 218.67 on aspects of safety measures, preparedness, prevention, response, recovery, and mitigation relating to natural disasters and emergencies.

Section 5. Paragraph (a) of subsection (1) of section 252.363, Florida Statutes, is amended to read:

252.363 Tolling and extension of permits and other authorizations.—

(1)(a) The declaration of a state of emergency issued by the Governor for a natural emergency tolls the period remaining to exercise the rights under a permit or other authorization for the duration of the emergency declaration. Further, the emergency declaration extends the period remaining to exercise the rights under a permit or other authorization for 24 ~~6~~ months in addition to the tolled period. The extended period to exercise the rights under a permit or other authorization may not exceed 48 months in total in the event of multiple natural emergencies for which the Governor declares a state of emergency. This paragraph applies to the following:



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1. The expiration of a development order issued by a local government.

2. The expiration of a building permit.

3. The expiration of a permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373.

4. Permits issued by the Department of Environmental Protection or a water management district pursuant to part II of chapter 373 for land subject to a development agreement under ss. 163.3220-163.3243 in which the permittee and the developer are the same or a related entity.

5. The buildout date of a development of regional impact, including any extension of a buildout date that was previously granted as specified in s. 380.06(7)(c).

6. The expiration of a development permit or development agreement authorized by Florida Statutes, including those authorized under the Florida Local Government Development Agreement Act, or issued by a local government or other governmental agency.

Section 6. Section 252.391, Florida Statutes, is created to read:

252.391 Emergency financial plans.—

(1) As used in this section, the term "local governmental entity" means a county, municipality, or district school board.

(2) Each local governmental entity is encouraged to develop an emergency financial plan for major natural disasters that may impact its jurisdiction. Disasters include, but are not limited to, hurricanes, tornadoes, floods, and wildfires.

(3) Each emergency financial plan should be based on the



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likely frequency of the disaster's occurrence. The financial plan should include a calculation of the costs for the natural disaster event and a determination of the financial resources available to the local governmental entity. If insufficient funds are available to address the disaster event, the emergency financial plan should identify strategies to close the gap between the disaster event costs and the local governmental entity's financial capacity. Such strategies may include rainy day funds, reprioritizing its annual budget, and borrowing.

(4) Local governmental entities should annually review their emergency financial plans to address changes in conditions.

Section 7. Subsections (3) and (4) are added to section 252.40, Florida Statutes, to read:

252.40 Mutual aid arrangements.—

(3) Local governments may create inspection teams to review and approve expedited permits for temporary housing solutions, repairs, and renovations after a natural disaster. Local governments are encouraged to establish interlocal agreements with other jurisdictions to provide additional inspection services during a state of emergency.

(4) Municipalities and counties are encouraged to develop and adopt plans to provide temporary accommodations for contractors, utility workers, first responders, and others dispatched to aid in hurricane recovery efforts. Public areas, including, but not limited to, fairgrounds and parking lots, may be used for tents and trailers for such temporary accommodations.

Section 8. Effective upon becoming a law, paragraph (g) of



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subsection (2) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(g) A “continuing contract” is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$4 million, for study activity if the fee for professional services for each individual study under the contract does not exceed \$500,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another. The term “continuing contract” includes contracts executed through June 30, 2025, for professional services to the agency for projects related to natural disaster response or relief in which the estimated construction cost for each individual project does not exceed \$15 million.

Section 9. The amendments made by this act to s. 287.055(2)(g), Florida Statutes, expire on July 1, 2026, and the text of that paragraph shall revert to that in existence on the day before the date that this act became a law, except that any



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amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of the text which expire pursuant to this section.

Section 10. Section 288.066, Florida Statutes, as created by section 1 of chapter 2023-1, Laws of Florida, is amended to read:

288.066 Local Government Emergency Revolving Bridge Loan Program.—

(1) CREATION.—The Local Government Emergency Revolving Bridge Loan Program is created, ~~subject to appropriation,~~ within the department to provide financial assistance to local governments impacted by federally declared disasters ~~Hurricane Ian or Hurricane Nicole~~. The purpose of the loan program is to assist these local governments in maintaining government operations by bridging the gap between the time that the declared disaster occurred and the time that additional funding sources or revenues are secured to provide them with financial assistance.

(2) ELIGIBILITY.—To be eligible for a loan under the program, a local government must be a county or a municipality located in an area designated in a the Federal Emergency Management Agency disaster declaration ~~declarations for Hurricane Ian or Hurricane Nicole~~. The local government must show that it may suffer or has suffered substantial loss of its tax or other revenues as a result of the disaster ~~hurricane~~ and demonstrate a need for financial assistance to enable it to continue to perform its governmental operations.

(3) LOAN TERMS.—



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(a) The department may provide interest-free loans to eligible local governments through a promissory note or other form of written agreement evidencing an obligation to repay the borrowed funds to the department.

(b) The amount of each loan must be based upon demonstrated need ~~and must be disbursed to the local government in a lump sum~~.

(c) The term of the loan is up to 1 year, ~~unless otherwise extended by the department~~. However, the department may extend loan terms for up to 6 months based on the local government's financial condition.

(4) APPLICATION.—The department shall prescribe a loan application and any other information determined necessary by the department to review and evaluate the application. The eligible local government must submit a loan application within the 12 months after the date that the federal disaster was declared. Upon receipt of an application, the department shall review the application and may request additional information as necessary to complete the review and evaluation. The department shall determine the amount to be loaned, which may be a lower amount than requested, based on the information provided and the total amount of funds available to be loaned and in relation to demonstrated need from other eligible applicants. The department may deny a loan application. Reasons for a loan application denial may include, but are not limited to, the loan risk, an incomplete application, failure to demonstrate need, or the fact that receiving a loan may negatively affect the local government's eligibility for other federal programs.

(5) ~~(4)~~ USE OF LOAN FUNDS.—A local government may use loan



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funds only to continue local governmental operations or to expand or modify such operations to meet disaster-related needs. The funds may not be used to finance or supplant funding for capital improvements or to repair or restore damaged public facilities or infrastructure.

(6)~~(5)~~ LOAN REPAYMENT.—

(a) The local government may make payments against the loan at any time without penalty. Early repayment is encouraged as other funding sources or revenues become available to the local government.

(b) Loans become due and payable in accordance with the terms of the agreement.

(7)~~(6)~~ ADMINISTRATION.—

(a) Upon the issuance of a federal disaster declaration, the department shall provide notice of application requirements and the total amount of funds available and make loan information available to eligible local governments. Based upon the amount of funds in the Economic Development Trust Fund available to be loaned and anticipated balances, the department may make funds available in an amount reasonably related to the anticipated need, based upon the impacts of the federal disaster, up to the total amount available ~~The department may approve loans in the 2022-2023 fiscal year or the 2023-2024 fiscal year up to the total amount appropriated.~~

(b) The department must coordinate with the Division of Emergency Management or other applicable state agencies to assess whether such loans would affect reimbursement under federal programs for disaster-related expenses.

(c) All repayments of principal and interest shall be



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returned to the loan fund and made available as provided in this section. Notwithstanding s. 216.301, funds appropriated for this program are not subject to reversion ~~Upon receipt of any loan payment from a local government, the department shall transfer the funds to the General Revenue Fund.~~

(8) ~~(7)~~ RULES.—The department may adopt rules to implement this section.

(9) ~~(8)~~ EXPIRATION.—This section expires July 1, 2038 ~~June 30, 2027~~. A loan may not be awarded after June 30, 2038. Upon expiration, all unencumbered funds and loan repayments made on or after July 1, 2038, shall be transferred ~~revert~~ to the General Revenue Fund.

Section 11. Effective upon becoming a law, subsection (5) is added to section 489.117, Florida Statutes, to read:

489.117 Registration; specialty contractors.—

(5) Notwithstanding paragraph (1)(b), a registered contractor may engage in contracting only for work covered by the registration within an area for which a state of emergency is declared pursuant to s. 252.36 for a natural emergency. This authorization terminates 24 months after the expiration of the declared state of emergency. The local jurisdiction that licenses the registered contractor may discipline the registered contractor for violations occurring outside the licensing jurisdiction which occur during the period such work is authorized under this subsection.

Section 12. Section 553.7922, Florida Statutes, is created to read:

553.7922 Local government-expedited approval of certain permits.—Following a state of emergency declared pursuant to



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252.36 for a natural emergency, local governments impacted by the emergency shall approve special processing procedures to expedite permit issuance for permits that do not require technical review, including, but not limited to, roof repairs, reroofing, electrical repairs, service changes, or the replacement of one window or one door. Local governments may waive application and inspection fees for permits expedited under this section.

Section 13. Effective upon becoming a law, present subsections (8) and (9) of section 553.80, Florida Statutes, are redesignated as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

553.80 Enforcement.—

(8) Effective January 1, 2023, local governments located in areas designated in the Federal Emergency Management Agency disaster declarations for Hurricane Ian or Hurricane Nicole may not raise building inspection fees, as authorized by s. 125.56(2) or s. 166.222 and this section, before October 1, 2024. This subsection expires June 30, 2025.

Section 14. A county or municipality located in an area designated in a Federal Emergency Management Agency disaster declaration for Hurricane Ian or Hurricane Nicole shall not adopt more restrictive or burdensome procedures to its comprehensive plan or land development regulations, concerning review, approval, or issuance of a site plan, development permit or development order, to the extent those terms are defined by s. 163.3164, Florida Statutes, or propose any such adoption or amendment before October 1, 2024. This subsection applies retroactively to September 29, 2022.



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(2) Any comprehensive plan amendment, land development
regulation, site plan, development permit, or development order
approved by

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

And the title is amended as follows:

Delete lines 67 - 77

and insert:

governments impacted by certain emergencies to approve
special processing procedures to expedite certain
permits; amending s. 553.80, F.S.; prohibiting certain
local governments from raising building inspection
fees during a certain timeframe; providing for future
expiration; prohibiting counties and municipalities
located in areas included in certain federal disaster
declarations from adopting or amending certain
procedures for a specified period; providing for
retroactive application; providing that certain
comprehensive plan amendments, land development
regulations, site plans, and development permits or



725358

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2023	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (333250)

Delete line 212
and insert:
continue to perform its governmental operations. Access to and
eligibility for the loan program supersedes any local government
charter or borrowing limitations that would otherwise
financially constrain the local government's ability to recover
from a disaster.

By Senator Martin

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A bill to be entitled
An act relating to natural emergencies; creating ss.
125.023 and 166.0335, F.S.; defining the term
"temporary shelter"; prohibiting counties and
municipalities, respectively, from prohibiting
temporary shelters on residential property for a
specified timeframe under certain circumstances;
amending s. 189.0695, F.S.; authorizing independent
special fire control districts to file a specified
report on an alternative schedule under certain
circumstances; providing for retroactive application;
amending s. 252.35, F.S.; requiring the Division of
Emergency Management to post a model contract for
debris removal on its website by a specified date;
requiring the model contract to be annually updated by
a specified date; requiring the division to prioritize
technical assistance and training relating to natural
disasters and emergencies to fiscally constrained
counties; amending s. 252.363, F.S.; increasing the
timeframe to exercise rights under a permit or other
authorization; limiting the timeframe to exercise
rights under a permit or other authorization to a
certain timeframe when multiple natural emergencies
occur; creating s. 252.391, F.S.; defining the term
"local governmental entity"; encouraging local
governmental entities to develop an emergency
financial plan for major disasters; providing the
contents of the emergency financial plan; recommending
annual review of the emergency financial plan;

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amending s. 252.40, F.S.; authorizing local governments to create inspection teams for the review and approval of certain expedited permits; encouraging local governments to establish certain interlocal agreements; encouraging local governments to develop plans related to temporary accommodations of certain individuals; amending s. 287.055, F.S.; revising the definition of the term "continuing contract"; providing for the future expiration and reversion of specified statutory text; amending s. 288.066, F.S.; creating the Local Government Emergency Revolving Bridge Loan Program within the Department of Economic Opportunity to provide certain financial assistance to local governments impacted by federally declared disasters; conforming provisions to changes made by the act; authorizing the department to provide interest-free loans to eligible local governments through specified means; requiring the department to prescribe a loan application; requiring the department to determine the loan amount based on certain factors; authorizing the department to deny a loan application and providing specified reasons for such denial; requiring the department to provide certain notice and make loan information available to eligible local governments; requiring loan repayments to be returned to the loan fund; providing that funds appropriated for the program are not subject to reversion; providing for expiration; amending s. 489.117, F.S.; authorizing a registered contractor to engage in

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contracting under certain circumstances; providing an expiration timeframe for such authorization; authorizing the local jurisdiction to discipline the registered contractor under certain circumstances; creating s. 553.7922, F.S.; requiring local governments impacted by natural emergencies to approve special processing procedures to expedite certain permits; amending s. 553.80, F.S.; prohibiting certain local governments from raising building inspection fees during a certain timeframe; providing for future expiration; prohibiting counties and municipalities located in areas included in certain federal disaster declarations from amending processes for proposing amendments to their comprehensive plan or land development regulations or issuing development permits or development orders for a specified period; providing for retroactive application; providing that certain comprehensive plan amendments, land development regulations, and development permits or orders may be enforced; providing for expiration; amending s. 823.11, F.S.; authorizing certain persons to engage in a process relating to the removal and destruction of derelict vessels; providing an appropriation; providing for the transfer of certain appropriated funds to the Economic Development Trust Fund of the Department of Economic Opportunity; requiring that loan repayments be repaid to the Economic Development Trust Fund; providing effective dates.

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

Section 1. Section 125.023, Florida Statutes, is created to read:

125.023 Temporary shelter prohibition.—

(1) For the purposes of this section, the term "temporary shelter" includes, but is not limited to, a recreational vehicle, trailer, or similar structure placed on a residential property.

(2) Notwithstanding any other law, ordinance, or regulation to the contrary, a county may not prohibit the placement of one temporary shelter on a residential property for up to 36 months or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, following a natural emergency as defined in s. 252.34(8) if all of the following circumstances apply:

(a) The resident makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the county, or obtaining a construction loan.

(b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(c) The resident lives in the temporary structure.

Section 2. Section 166.0335, Florida Statutes, is created to read:

166.0335 Temporary shelter prohibition.—

(1) For the purposes of this section, the term "temporary

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shelter" includes, but is not limited to, a recreational vehicle, trailer, or similar structure placed on a residential property.

(2) Notwithstanding any other law, ordinance, or regulation to the contrary, a municipality may not prohibit the placement of one temporary shelter on a residential property for up to 36 months or until a certificate of occupancy is issued on the permanent residential structure on the property, whichever occurs first, following a natural emergency as defined in s. 252.34(8) if all of the following circumstances apply:

(a) The resident makes a good faith effort to rebuild or renovate the damaged permanent residential structure, including, but not limited to, applying for a building permit, submitting a plan or design to the municipality, or obtaining a construction loan.

(b) The temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety.

(c) The resident lives in the temporary structure.

Section 3. Subsection (4) is added to section 189.0695, Florida Statutes, to read:

189.0695 Independent special districts; performance reviews.—

(4) Notwithstanding the timeframe specified in paragraph (2)(c), an independent special fire control district may file its final report of the performance review no later than 15 months from the beginning of the district's fiscal year if the special district is within an area for which a state of emergency for a natural disaster was declared pursuant to s.

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252.36 or no later than 24 months from the beginning of the district's fiscal year if the special district is within an area for which a state of emergency was declared pursuant to s. 252.36 for a hurricane rated category 3 or higher. This subsection applies retroactively to the final reports required to have been conducted by October 1, 2022.

Section 4. Effective upon becoming a law, paragraphs (bb) and (cc) are added to subsection (2) of section 252.35, Florida Statutes, to read:

252.35 Emergency management powers; Division of Emergency Management.—

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties, the division shall:

(bb) Post on its website a model of a local government contract for debris removal to be used by political subdivisions. The initial model contract must be posted to the website no later than June 1, 2023, and, thereafter, the model contract must be annually updated and posted to the website no later than June 1.

(cc) Prioritize technical assistance and training to fiscally constrained counties as defined in s. 218.67 on aspects of safety measures, preparedness, prevention, response, recovery, and mitigation relating to natural disasters and emergencies.

Section 5. Paragraph (a) of subsection (1) of section 252.363, Florida Statutes, is amended to read:

252.363 Tolling and extension of permits and other authorizations.—

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(1) (a) The declaration of a state of emergency issued by the Governor for a natural emergency tolls the period remaining to exercise the rights under a permit or other authorization for the duration of the emergency declaration. Further, the emergency declaration extends the period remaining to exercise the rights under a permit or other authorization for 24 6 months in addition to the tolled period. In the event that multiple natural emergencies occur within the period of authorization, the period to exercise the rights under the permit is extended for no longer than 48 months in addition to the tolled period.

This paragraph applies to the following:

1. The expiration of a development order issued by a local government.

2. The expiration of a building permit.

3. The expiration of a permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373.

4. Permits issued by the Department of Environmental Protection or a water management district pursuant to part II of chapter 373 for land subject to a development agreement under ss. 163.3220-163.3243 in which the permittee and the developer are the same or a related entity.

5. The buildout date of a development of regional impact, including any extension of a buildout date that was previously granted as specified in s. 380.06(7)(c).

6. The expiration of a development permit or development agreement authorized by Florida Statutes, including those authorized under the Florida Local Government Development Agreement Act, or issued by a local government or other

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governmental agency.

Section 6. Section 252.391, Florida Statutes, is created to read:

252.391 Emergency financial plans.—

(1) As used in this section, the term "local governmental entity" means a county, municipality, or district school board.

(2) Each local governmental entity is encouraged to develop an emergency financial plan for major natural disasters that may impact its jurisdiction. Disasters include, but are not limited to, hurricanes, tornadoes, floods, and wildfires.

(3) Each emergency financial plan should be based on the likely frequency of the disaster's occurrence. The financial plan should include a calculation of the costs for the natural disaster event and a determination of the financial resources available to the local governmental entity. If insufficient funds are available to address the disaster event, the emergency financial plan should identify strategies to close the gap between the disaster event costs and the local governmental entity's financial capacity. Such strategies may include rainy day funds, reprioritizing its annual budget, and borrowing.

(4) Local governmental entities should annually review their emergency financial plans to address changes in conditions.

Section 7. Subsections (3) and (4) are added to section 252.40, Florida Statutes, to read:

252.40 Mutual aid arrangements.—

(3) Local governments may create inspection teams to review and approve expedited permits for temporary housing solutions, repairs, and renovations following a natural disaster. Local

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governments are encouraged to establish interlocal agreements with other jurisdictions to provide additional inspection services during a state of emergency.

(4) Municipalities and counties are encouraged to develop and adopt plans to provide temporary accommodations for contractors, utility workers, first responders, and others dispatched to aid in hurricane recovery efforts. Public areas, including, but not limited to, fairgrounds and parking lots, may be used for tents and trailers for such temporary accommodations.

Section 8. Effective upon becoming a law, paragraph (g) of subsection (2) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(g) A “continuing contract” is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed \$4 million, for study activity if the fee for professional services for each individual study under the contract does not exceed \$500,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination

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clause. Firms providing professional services under continuing contracts shall not be required to bid against one another. The term "continuing contract" includes contracts executed through June 30, 2025, for professional services to the agency for projects related to natural disaster response or relief in which the estimated construction cost for each individual project does not exceed \$15 million.

Section 9. The amendments made by this act to s. 287.055(2)(g), Florida Statutes, expire on July 1, 2026, and the text of that paragraph shall revert to that in existence on the day before the date that this act became a law, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of the text which expire pursuant to this section.

Section 10. Section 288.066, Florida Statutes, as created by section 1 of chapter 2023-1, Laws of Florida, is amended to read:

288.066 Local Government Emergency Revolving Bridge Loan Program.—

(1) CREATION.—The Local Government Emergency Revolving Bridge Loan Program is created, ~~subject to appropriation,~~ within the department to provide financial assistance to local governments impacted by federally declared disasters ~~Hurricane Ian or Hurricane Nicole~~. The purpose of the loan program is to assist these local governments in maintaining government operations by bridging the gap between the time that the declared disaster occurred and the time that additional funding sources or revenues are secured to provide them with financial

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291 assistance.

292 (2) ELIGIBILITY.—To be eligible for a loan under the
293 program, a local government must be a county or a municipality
294 located in an area designated in a the Federal Emergency
295 Management Agency disaster declaration ~~declarations for~~
296 ~~Hurricane Ian or Hurricane Nicole~~. The local government must
297 show that it may suffer or has suffered substantial loss of its
298 tax or other revenues as a result of the disaster ~~hurricane~~ and
299 demonstrate a need for financial assistance to enable it to
300 continue to perform its governmental operations.

301 (3) LOAN TERMS.—

302 (a) The department may provide interest-free loans to
303 eligible local governments through a promissory note or other
304 form of written agreement evidencing an obligation to repay the
305 borrowed funds to the department.

306 (b) The amount of each loan must be based upon demonstrated
307 need ~~and must be disbursed to the local government in a lump~~
308 ~~sum~~.

309 (c) The term of the loan is up to one year, ~~unless~~
310 ~~otherwise extended by the department~~. However, the department
311 may extend loan terms for up to 6 months based on the local
312 government's financial condition.

313 (4) APPLICATION.—The department shall prescribe a loan
314 application and any other information determined necessary by
315 the department to review and evaluate the application. The
316 eligible local government must submit a loan application within
317 12 months from the date that the federal disaster was declared.
318 Upon receipt of an application, the department shall review the
319 application and may request additional information as necessary

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320 to complete the review and evaluation. The department shall
321 determine the amount to be loaned, which may be a lower amount
322 than requested, based on the information provided and the total
323 amount of funds available to be loaned and in relation to
324 demonstrated need from other eligible applicants. The department
325 may deny a loan application. Reasons for a loan application
326 denial may include, but are not limited to, the loan risk, an
327 incomplete application, failure to demonstrate need, or the fact
328 that receiving a loan may negatively affect the local
329 government's eligibility for other federal programs.

330 (5)~~(4)~~ USE OF LOAN FUNDS.—A local government may use loan
331 funds only to continue local governmental operations or to
332 expand or modify such operations to meet disaster-related needs.
333 The funds may not be used to finance or supplant funding for
334 capital improvements or to repair or restore damaged public
335 facilities or infrastructure.

336 (6)~~(5)~~ LOAN REPAYMENT.—

337 (a) The local government may make payments against the loan
338 at any time without penalty. Early repayment is encouraged as
339 other funding sources or revenues become available to the local
340 government.

341 (b) Loans become due and payable in accordance with the
342 terms of the agreement.

343 (7)~~(6)~~ ADMINISTRATION.—

344 (a) Upon the issuance of a federal disaster declaration,
345 the department shall provide notice of application requirements
346 and the total amount of funds available and make loan
347 information available to eligible local governments. Based upon
348 the amount of funds in the Economic Development Trust Fund

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349 available to be loaned and anticipated balances, the department
350 may make funds available in an amount reasonably related to the
351 anticipated need, based upon the impacts of the federal
352 disaster, up to the total amount available ~~The department may~~
353 ~~approve loans in the 2022-2023 fiscal year or the 2023-2024~~
354 ~~fiscal year up to the total amount appropriated.~~

355 (b) The department must coordinate with the Division of
356 Emergency Management or other applicable state agencies to
357 assess whether such loans would affect reimbursement under
358 federal programs for disaster-related expenses.

359 (c) All repayments of principal and interest shall be
360 returned to the loan fund and made available as provided in this
361 section. Notwithstanding s. 216.301, funds appropriated for this
362 program may not be subject to reversion ~~Upon receipt of any loan~~
363 ~~payment from a local government, the department shall transfer~~
364 ~~the funds to the General Revenue Fund.~~

365 (8)-(7) RULES.—The department may adopt rules to implement
366 this section.

367 (9)-(8) EXPIRATION.—This section expires July 1, 2038 ~~June~~
368 ~~30, 2027.~~ A loan may not be awarded after June 30, 2038. Upon
369 expiration, all unencumbered funds and loan repayments made on
370 or after July 1, 2038, shall be transferred ~~revert~~ to the
371 General Revenue Fund.

372 Section 11. Effective upon becoming a law, subsection (5)
373 is added to section 489.117, Florida Statutes, to read:

374 489.117 Registration; specialty contractors.—

375 (5) Notwithstanding paragraph (1)(b), a registered
376 contractor may engage in contracting only for work covered by
377 the registration within an area for which a state of emergency

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is declared pursuant to s. 252.36. This authorization terminates 24 months after the expiration of the declared state of emergency. The local jurisdiction that licenses the registered contractor may discipline the registered contractor for violations occurring outside the licensing jurisdiction which occur during the period such work is authorized under this subsection.

Section 12. Section 553.7922, Florida Statutes, is created to read:

553.7922 Local government expedited approval of certain permits.—Following a natural emergency, as defined in s. 252.34(8), local governments impacted by the natural emergency shall approve special processing procedures to expedite permit issuance for permits that do not require technical review, including, but not limited to, roof repairs, reroofing, electrical repairs, service changes, or the replacement of one window or one door. Local governments may waive application and inspection fees for permits expedited under this section.

Section 13. Effective upon becoming a law, present subsections (8) and (9) of section 553.80, Florida Statutes, are redesignated as subsections (9) and (10), respectively, and a new subsection (8) is added to that section, to read:

553.80 Enforcement.—

(8) Effective January 1, 2023, local governments located in areas designated in the Federal Emergency Management Agency disaster declarations for Hurricane Ian or Hurricane Nicole may not raise building inspection fees, as authorized by s. 125.56(2) or s. 166.222 and this section, before October 1, 2024. This subsection expires June 30, 2025.

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Section 14. (1) A county or municipality located in an area designated in a Federal Emergency Management Agency disaster declaration for Hurricane Ian or Hurricane Nicole may not adopt more restrictive procedures for proposing amendments to its comprehensive plan or land development regulations, or for issuing a development permit or development order, as those terms are defined by s. 163.3164, Florida Statutes, before October 1, 2024. This subsection applies retroactively to September 29, 2022.

(2) Any comprehensive plan amendment, land development regulation, development permit, or development order approved by a county or municipality under procedures adopted before the effective date of this act may be enforced.

(3) This section shall take effect upon becoming a law and expires June 30, 2025.

Section 15. Paragraph (d) is added to subsection (2) of section 823.11, Florida Statutes, to read:

823.11 Derelict vessels; relocation or removal; penalty.—

(2)

(d) Notwithstanding the additional 45 days provided in subparagraph (b)2.b. during which an owner or a responsible party may not be charged for a violation of this section, the commission, an officer of the commission, a law enforcement agency or officer specified in s. 327.70, or, during a state of emergency declared by the Governor, the Division of Emergency Management or its designee, may immediately begin the process set forth in s. 705.103(2)(a) and, once that process has been completed and the 45 days provided herein have passed, any vessel that has not been removed or repaired such that it is no

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longer derelict upon the waters of this state may be removed and destroyed as provided therein.

Section 16. (1) For the 2023-2024 fiscal year, the sum of \$50 million in nonrecurring funds is appropriated from the General Revenue Fund to the Economic Development Trust Fund of the Department of Economic Opportunity to fund the Local Government Emergency Revolving Bridge Loan Program.

(2) Funds appropriated in section 3 of chapter 2023-1, Laws of Florida, for the Local Government Emergency Bridge Loan Program which have not been loaned to a local government pursuant to a loan agreement as of July 1, 2023, shall be transferred by nonoperating budget authority to the Economic Development Trust Fund of the Department of Economic Opportunity to be used for the Local Government Emergency Revolving Bridge Loan Program.

(3) Notwithstanding sections 1 and 3 of chapter 2023-1, Laws of Florida, all loan repayments for loans made under the Local Government Emergency Bridge Loan Program shall be repaid into the Economic Development Trust Fund and be made available for loans under the Local Government Emergency Revolving Bridge Loan Program.

Section 17. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/15/23

Meeting Date

Community Affairs

Committee

250

Bill Number or Topic

333250

Amendment Barcode (if applicable)

Name

Richard Collins

Phone

321-624-9182

Address

1660 Ringling Blvd

Street

Email

Rcollins@scgov.net

Sarasota

City

FL

State

32136

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD3/15/2023

Meeting Date

Community Affairs

Committee

Deliver both copies of this form to
Senate professional staff conducting the meetingSB250

Bill Number or Topic

333250

Amendment Barcode (if applicable)

850 766-1952

Name

Bob McKee

Phone

Address

100 S Monroe

Email

bmckee@fl-counties.com

Street

Tallahassee FL 32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information**OR**Waive Speaking: ☒ In Support ☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☐ I am appearing without
compensation or sponsorship.☒ I am a registered lobbyist,
representing:☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

3-15-23
Community Affairs

Committee

Name

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Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FLORIDA HOME BUILDERS ASSN.

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

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 346

INTRODUCER: Community Affairs Committee and Senator DiCeglie

SUBJECT: Public Construction

DATE: March 17, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 346 requires each contract for construction services between a local government entity and a contractor to include the estimated cost of each item necessary to complete the work. Payment of the contract balance, subject to certain exceptions, must be made within 20 days after providing such a list.

The bill limits the ability of local governments to withhold certain amounts under the contract only to those subject to good faith disputes in writing or claims against public surety bonds. The deadline for a state entity to submit a payment request to the CFO is shortened to 14 days after its receipt. Payment by a local government for undisputed portions of an invoice or payment request must be made according to the terms of the contract or 20 days after receiving the request, whichever is sooner. A local government must commence proceedings to resolve a disputed invoice or payment request within 30 days after receipt and must render its final decision within 45 days from receipt.

The bill revises the definition of “public works project” to prohibit the imposition of certain requirements on contractors for certain public construction projects that exceed \$350,000, in which either state or local funds are used.

The bill takes effect July 1, 2023.

II. Present Situation:

Payments for Public Construction Contracts

Contracts between local governments and private contractors for construction of public projects are subject to prompt payment requirements. The Local Government Prompt Payment Act¹ provides for timely payment by local governmental entities² to construction contractors.³ If payment need not be approved by an agent of the local government, payment is due 20 business days after the payment request or invoice is submitted.⁴ If agent approval is required, payment is due 25 business days after proper receipt.⁵ A local government must identify its agent, employee, facility, or office, to which the contractor may submit a payment request.⁶ A contractor's submitting a payment request to the identified agent, employee, facility, or office of the local government shall be stamped as received and begins the time period for payment or rejection of a payment request.⁷ If a payment request does not meet the contract requirements, the local government must reject the request in writing within 20 business days after the date on which the payment request is stamped as received. The rejection must specify the deficiency and the action necessary to make the proper request.⁸

If a payment request is rejected and the contractor submits a request correcting the deficiency, the corrected payment request or invoice must be paid or rejected on the later of 10 business days after the date of receipt, or if the local governmental entity is required by ordinance, charter, or other law to approve or reject the corrected payment request or invoice, the first business day after the next regularly scheduled meeting of the local government held after the corrected payment request or invoice is received.⁹

If a dispute between the local government and the contractor cannot be resolved by the above procedure, the dispute must be resolved using the dispute resolution procedure or applicable ordinance provided in the contract.¹⁰ Absent a prescribed procedure, the dispute must be determined pursuant to a dispute resolution procedure established by the local government.¹¹

If a local government disputes a portion of a payment request or an invoice, the undisputed portion must be paid timely.¹² A contractor receiving payment from a local government for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor must remit payment due to those subcontractors and suppliers within 10 days after the receiving payment. A subcontractor receiving payment from a contractor for amounts due to

¹ Section 218.70, F.S.

² A county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board, bureau, commission, department, branch, division, or institution thereof. Section 218.72(5), F.S.

³ Section 218.71, F.S. A contractor is one who contracts directly with a local government to provide construction services. Section 218.72(3), F.S.

⁴ Section 218.735(1)(b), F.S.

⁵ Section 218.735(1)(a), F.S.

⁶ Section 218.735, F.S. This requirement must be included in the contract or provided by the local governmental in a separate written notice, as required under the contract, no later than 10 days after the contract award or notice to proceed.

⁷ Section 218.735(1)(b), F.S.

⁸ Section 218.735(2), F.S.

⁹ Section 218.735(3), F.S.

¹⁰ Section 218.735(4), F.S.

¹¹ Section 218.76(2), F.S.

¹² Section 218.735(5), F.S.

subcontractors and suppliers hired by the subcontractor must remit payment due to those subcontractors and suppliers within 7 days after receiving payment.¹³

Each contract for construction services between a local government and a contractor must provide for the development of a single list of items required to render complete, satisfactory, and acceptable the construction services purchased by the local governmental entity.¹⁴ The contract must specify the process and a reasonable time for developing the list, including the responsibilities of the local government and the contractor in developing and reviewing the list.¹⁵ For construction projects with an estimated cost less than \$10 million, the list must be developed within 30 calendar days after reaching substantial completion of construction as defined in the contract or, if not so defined, upon reaching beneficial occupancy or use.¹⁶ For projects with an estimated cost of \$10 million or more, the list must be developed within 30 calendar days, or, if extended by contract, up to 60 calendar days after reaching substantial completion of construction as defined in the contract or, if not so defined, upon reaching beneficial occupancy or use.¹⁷

The contract must also specify a date for the delivery of the list of items, not to exceed 5 days after the list is developed and reviewed. If the project relates to more than one building or structure, or involves a multi-phased project, the contract must provide for the development of the list of items pertaining to all the construction services purchased under the contract for each building, structure, or phase of the project within the time limitations.¹⁸

The final contract completion date must be at least 30 days after the delivery of the list of items. If the list is not provided to the contractor by the agreed upon date for delivery, the contract time for completion must be extended by the number of days the local government exceeded the list delivery date. Damages may not be assessed against a contractor for failing to complete a project within the time required by the contract unless the contractor failed to complete the project within the contract period as extended.¹⁹ The failure to include any corrective work or pending items not yet completed on the list does not alter the responsibility of the contractor to complete all the construction services purchased pursuant to the contract.²⁰

Upon completing all items on the list, the contractor may submit a payment request for all remaining retainage withheld by the local government. If a good faith dispute exists as to whether one or more items identified on the list have been properly completed, the local government may continue to withhold up to 150 percent of the total costs to complete such items.²¹ All items requiring correction to complete the contract and that are identified after preparation and delivery of the list remain the obligation of the contractor as defined by the contract.²² Warranty items or items not included in the list may not affect the final payment of

¹³ Section 218.735(6), F.S.

¹⁴ Section 218.735(7), F.S.

¹⁵ Section 218.735(7)(a), F.S.

¹⁶ Section 218.735(7)(a)1., F.S.

¹⁷ Section 218.735(7)(a)2., F.S.

¹⁸ Section 218.735(7)(b), F.S.

¹⁹ Section 218.735(7)(c), F.S.

²⁰ Section 218.735(7)(d), F.S.

²¹ Section 218.735(7)(e), F.S.

²² Section 218.735(7)(f), F.S.

retainage nor payment as provided in contracts between the contractor and its subcontractors and suppliers.²³ Retainage may not be held by a local government or a contractor to secure payment of insurance premiums and the final payment of retainage may not be delayed pending a final audit by the local government's or contractor's insurance provider.²⁴

If a local government fails to develop the list in a timely manner, the contractor may submit a payment request for all remaining retainage withheld by the local government and payment of any remaining undisputed contract amounts, less any amount withheld under the contract for incomplete or uncorrected work, which must be paid within 20 business days after receipt of a request. If the local government provides the contractor written notice specifying the failure to meet contract requirements in developing the list of items, the local government need not pay or process any payment request for retainage if the contractor failed to cooperate in developing the list or performing its contractual responsibilities.²⁵

If an improper payment request is submitted by a vendor, within 10 days after receiving the request the local government must notify the vendor, in writing, that the payment request is improper and indicate what corrective action is required.²⁶

If a dispute arises between a vendor and a local government concerning a payment request, the dispute is adjudicated under the dispute resolution procedure established the local governmental entity. Proceedings to resolve the dispute must begin within 45 days after the date the payment request was received and the local government must render its final decision within 60 days after the date the payment request was received. If the dispute is resolved in favor of the local government, interest begins to accrue 15 days after the final decision. If the dispute is resolved in favor of the vendor, interest accrual relates back to the original date the payment became due.²⁷

State government public construction contracts are subject to the Florida Prompt Payment Act.²⁸ If a public entity²⁹ disputes a portion of a payment request, the undisputed portion must be timely paid.³⁰

Under procedures established by the public entity, each payment request is marked as received on the date it is delivered to the agent, employee, designated facility or office of the public entity. If the terms under which a purchase is made allow for partial deliveries and a payment request is submitted for a partial delivery, the time for such payment must be calculated from the time of the partial delivery and the submission of the payment request. A public entity must submit a payment request to the Chief Financial Officer for payment no more than 20 days after receipt.³¹

²³ Section 218.735(7)(g), F.S.

²⁴ Section 218.735(7)(h), F.S.

²⁵ Section 218.735(7)(i), F.S.

²⁶ Section 218.76(1), F.S.

²⁷ Section 218.76(2)(a), F.S.

²⁸ Section 255.0705, F.S. This act expressly excludes local governments as defined in s. 218.72, F.S. Section 255.072(5), F.S.

²⁹ The state, or any office, board, bureau, commission, department, branch, division, or institution thereof. Section 255.072(5), F.S.

³⁰ Section 255.073(2), F.S.

³¹ Section 255.074, F.S.

Prohibited Governmental Actions Related to Public Works Projects

Except as required by federal or state law, the state or any political subdivision³² that contracts for a public works project³³ may not:

- Prevent a certified, licensed, or registered contractor, subcontractor, or material supplier or carrier, from participating in the bidding process based on the geographic location of the company headquarters or offices of the contractor, subcontractor, or material supplier or carrier submitting a bid on a public works project or the residences of employees of such contractor, subcontractor, or material supplier or carrier;
- Require a contractor, subcontractor, or material supplier or carrier engaged in the project to:
 - Pay employees a predetermined amount of wages or prescribe any wage rate;
 - Provide employees a specified type, amount, or rate of employee benefits;
 - Control, limit, or expand staffing; or
 - Recruit, train, or hire employees from a designated, restricted, or single source.
- Prohibit any contractor, subcontractor, or material supplier or carrier from submitting a bid on the project if such individual is able to perform the work described and is qualified, licensed, or certified as required by state law.³⁴

The foregoing governmental actions are prohibited only for projects that:

- Exceed \$1 million in value;
- Are paid for with any state-appropriated funds; and
- Are to construct, maintain, repair, renovate, remodel, or improve any building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof that is owned in whole or in part by any political subdivision.³⁵

Under current law, a political subdivision, for instance, may impose the otherwise prohibited requirements on contractors for projects that are paid for entirely with local funds or, if state funds are used, for projects up to \$1 million.

III. Effect of Proposed Changes:

Prompt Pay for Public Construction

The bill amends the requirements for construction service contracts between local government and contractors for public construction projects. The local government's list of items required to

³² "Political subdivision" means a separate agency or unit of local government created or established by law or ordinance and the officers thereof. The term includes, but is not limited to, a county; a city, town, or other municipality; or a department, commission, authority, school district, taxing district, water management district, board, public corporation, institution of higher education, or other public agency or body thereof authorized to expend public funds for construction, maintenance, repair, or improvement of public works. *See* s. 255.0992(1)(a), F.S.

³³ "Public works project" means an activity exceeding \$1 million in value that is paid for with any state-appropriated funds and which consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof that is owned in whole or in part by any political subdivision. *See* s. 255.0992(1)(b), F.S.

³⁴ Section 255.0992, F.S.

³⁵ Section 255.0992(1)(b), F.S.

render complete, satisfactory, and acceptable the construction services required under the contract must include a dollar valuation reasonably determined by the contractor as a portion of the contract value to complete the items on the list. The bill amends the deadline for developing the list of items required for construction contracts with an estimated cost of \$10 million or more, removing the option to extend the deadline beyond 30 days. The bill also adds a new requirement specifying the date for delivering the list of items. The local government must pay the contractor the remaining balance of the contract within 20 days after developing the list, including remaining retainage withheld, less an amount that equals the estimated cost to complete the items on the list. For state government entities, similar language for timely payment under construction contracts are incorporated for project closeout and payment of retainage.

The bill requires that if a local government has provided written notice to the contractor specifying the failure to meet contract requirements in the development of the list of items to be completed, the local government must pay the contractor the remaining balance of the contract, less an amount equal to 150 percent of the estimated cost to complete the items that the local governmental entity intended to include on the list.

The bill removes the authority of a local government to withhold any amounts for payment or release that are subject to a claim or demand by the local government or contractor, limiting withholding only for good faith disputes in writing pursuant to the contract or certain bond claims. The bill conforms the language for timely payment for purchases of construction services with public construction retainage.

The bill reduces the time a dispute proceeding must be commenced by a local government to 30 days after the date the payment request was received by the local governmental entity. The time for the local government to make a final determination on such a dispute is reduced to 45 days after the date the payment request was received by the local government.

The bill amends the requirement for payment of undisputed portions of construction contractor payment requests, requiring payment as required under the contract or 20 days after receipt of the request, whichever is earlier.

The bill amends the time a public entity must submit a payment request to the Chief Financial Officer for payment from 20 days after receipt of the payment request to 14 days.

Public Works Projects

The bill amends the definition of “public works project” in s. 255.0992, F.S., to reduce the project threshold from \$1 million to \$350,000, for which the governmental actions identified in s. 255.0992(2)(b)-(c), F.S., are prohibited. The bill also applies those prohibited governmental actions to public works projects paid for with local funds.

With this change, political subdivisions,³⁶ cannot, for example, exclude certain contractors from bidding on a public works project or impose certain wage and employment conditions on

³⁶ “Political subdivision” means a separate agency or unit of local government created or established by law or ordinance and the officers thereof. The term includes, but is not limited to, a county; a city, town, or other municipality; or a department, commission, authority, school district, taxing district, water management district, board, public corporation, institution of

contractors if the value of the project exceeds \$350,000 and is paid for with any local or state-appropriated funds.

The bill takes effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive financial impact on building contractors to the extent payments of undisputed amounts under contracts are paid more promptly.

The change to the definition of “public works project” may result in a shift in the award of certain construction contracts among locally-based and out of town contractors. Preventing political subdivisions from imposing certain predetermined wage, benefit, and staffing requirements for certain public works projects may have a positive fiscal impact on contractors and a potential negative fiscal impact on contractor employees.

higher education, or other public agency or body thereof authorized to expend public funds for construction, maintenance, repair, or improvement of public works. *See* s. 255.0992(1)(a), F.S.

C. Government Sector Impact:

The bill may have a negative fiscal impact on local governments to the extent they must settle construction contracts under shorter deadlines.

The change to the definition of “public works project” may increase competition and lower costs for local public construction projects exceeding \$350,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 166.033, 218.735, 218.76, 255.073, 255.074, 255.077, 255.078, and 255.0992.

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

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

CS by Community Affairs on March 15, 2023:

The CS removes section 1 of the bill relating to issuing development permits and orders.

As it pertains to the prompt pay provisions, the CS requires that the estimated costs to complete all items on a construction list must be “a dollar valuation, reasonably determined by the contractor as a portion of the contract value.” The bill as filed required estimated costs to be calculated “using reasonable market rates.”

The CS restores the ability for political subdivisions to impose the governmental actions identified in s. 255.0992(2)(b)-(c), F.S., for public works projects, but only for those projects that do not exceed \$350,000.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 48 - 272
and insert:

Section 1. Subsection (7) and paragraph (c) of subsection (8) of section 218.735, Florida Statutes, are amended to read:
218.735 Timely payment for purchases of construction services.—

(7) Each contract for construction services between a local governmental entity and a contractor must provide for the



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development of a single list of items required to render complete, satisfactory, and acceptable the construction services purchased by the local governmental entity, which must include a dollar valuation, as reasonably determined by the contractor as a portion of the contract value, of the estimated cost to complete each item on the list.

(a) The contract must specify the process for developing the list, including the responsibilities of the local governmental entity and the contractor in developing and reviewing the list and a reasonable time for developing the list:

1. For construction projects having an estimated cost of less than \$10 million, within 30 calendar days after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use; or

2. For construction projects having an estimated cost of \$10 million or more, within 30 calendar days, ~~or, if extended by contract, up to 60 calendar days~~ after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use.

The contract must also specify a date for the delivery of the list of items, not to exceed 5 days after the list of items has been developed and reviewed in accordance with the time periods set forth in subparagraphs 1. and 2.

(b) If the contract between the local governmental entity and the contractor relates to the purchase of construction



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services on more than one building or structure, or involves a multiphased project, the contract must provide for the development of a list of items required to render complete, satisfactory, and acceptable all the construction services purchased pursuant to the contract for each building, structure, or phase of the project within the time limitations provided in paragraph (a).

(c) The final contract completion date must be at least 30 days after the delivery of the list of items. If the list is not provided to the contractor by the agreed upon date for delivery of the list, the contract time for completion must be extended by the number of days the local governmental entity exceeded the delivery date. Damages may not be assessed against a contractor for failing to complete a project within the time required by the contract, unless the contractor failed to complete the project within the contract period as extended under this paragraph.

(d) The failure to include any corrective work or pending items not yet completed on the list does not alter the responsibility of the contractor to complete all the construction services purchased pursuant to the contract.

(e) Within 20 days after the date the list is created, the local governmental entity must pay the contractor the remaining contract balance that includes all retainage previously withheld by the local governmental entity. The remaining contract balance does not include the estimated costs to complete the items included on the list.

(f) Upon completion of all items on the list, the contractor may submit a payment request for all remaining



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contract sums ~~retainage~~ withheld by the local governmental entity pursuant to this section. If a good faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the contract, the local governmental entity may continue to withhold up to 150 percent of the total costs to complete such items.

(g) ~~(f)~~ All items that require correction under the contract which ~~and that~~ are identified after the preparation and delivery of the list remain the obligation of the contractor as defined by the contract.

(h) ~~(g)~~ Warranty items or items not included in the list of items required under paragraph (a) may not affect the final payment of retainage as provided in paragraph (e) ~~this section~~ or as provided in the contract between the contractor and its subcontractors and suppliers.

(i) ~~(h)~~ Retainage may not be held by a local governmental entity or a contractor to secure payment of insurance premiums under a consolidated insurance program or series of insurance policies issued to a local governmental entity or a contractor for a project or group of projects, and the final payment of retainage as provided in paragraph (e) ~~this section~~ may not be delayed pending a final audit by the local governmental entity's or contractor's insurance provider.

(j) ~~(i)~~ If a local governmental entity fails to comply with its responsibilities to develop the list required under paragraph (a) or paragraph (b) within the time limitations provided in paragraph (a), the contractor may submit a payment request for all remaining unpaid contract sums, including retainage withheld by the local governmental entity, and the



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local governmental entity must pay the contractor all remaining contract sums pursuant to this section; and payment of any remaining undisputed contract amount, less any amount withheld pursuant to the contract for incomplete or uncorrected work, must be paid within 20 business days after receipt of a proper invoice or payment request. If the local governmental entity has provided written notice to the contractor specifying the failure of the contractor to meet contract requirements in the development of the list of items to be completed, the local governmental entity must pay the contractor the remaining contract balance that includes retainage previously withheld by the local governmental entity. The remaining contract balance does not include 150 percent of the estimated costs to complete the items that the local governmental entity has included on its version of the list need not pay or process any payment request for retainage if the contractor has, in whole or in part, failed to cooperate with the local governmental entity in the development of the list or to perform its contractual responsibilities, if any, with regard to the development of the list or if paragraph (8)(c) applies.

(8)

(c) This section does not require the local governmental entity to pay or release any amounts that are the subject of a good faith dispute or, the subject of a claim brought pursuant to s. 255.05, ~~or otherwise the subject of a claim or demand by the local governmental entity or contractor.~~

Section 2. Paragraph (a) of subsection (2) of section 218.76, Florida Statutes, is amended to read:

218.76 Improper payment request or invoice; resolution of



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disputes.—

(2)(a) If a dispute arises between a vendor and a local governmental entity concerning payment of a payment request or an invoice, the dispute must ~~shall~~ be finally determined by the local governmental entity pursuant to a dispute resolution procedure established by the local governmental entity. Such procedure must provide that proceedings to resolve the dispute commence ~~are commenced~~ within 30 ~~45~~ days after the date the payment request or proper invoice was received by the local governmental entity and conclude ~~concluded~~ by final decision of the local governmental entity within 45 ~~60~~ days after the date the payment request or proper invoice was received by the local governmental entity. Such procedures are not subject to chapter 120 and do not constitute an administrative proceeding that prohibits a court from deciding de novo any action arising out of the dispute. If the dispute is resolved in favor of the local governmental entity, interest charges begin to accrue 15 days after the local governmental entity's final decision. If the dispute is resolved in favor of the vendor, interest begins to accrue as of the original date the payment became due.

Section 3. Subsection (2) of section 255.073, Florida Statutes, is amended to read:

255.073 Timely payment for purchases of construction services.—

(2) If a public entity disputes a portion of a payment request, the undisputed portion must be ~~timely~~ paid within the time required under the contract or within 20 days, whichever is earlier.

Section 4. Subsection (3) of section 255.074, Florida



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Statutes, is amended to read:

255.074 Procedures for calculation of payment due dates.—

(3) A public entity must submit a payment request to the Chief Financial Officer for payment no later ~~more~~ than 14 ~~20~~ days after receipt of the payment request.

Section 5. Present subsections (4) through (8) of section 255.077, Florida Statutes, are redesignated as subsections (5) through (9), respectively, a new subsection (4) is added to that section, and subsection (1) and present subsection (8) of that section are amended, to read:

255.077 Project closeout and payment of retainage.—

(1) Each contract for construction services between a public entity and a contractor must provide for the development of a list of items required to render complete, satisfactory, and acceptable the construction services purchased by the public entity. The list must include a dollar valuation, as reasonably determined by the contractor as a portion of the contract value, of the estimated cost to complete the items included on the list. The contract must specify the process for the development of the list, including responsibilities of the public entity and the contractor in developing and reviewing the list and a reasonable time for developing the list, as follows:

(a) For construction projects having an estimated cost of less than \$10 million, within 30 calendar days after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use; or

(b) For construction projects having an estimated cost of \$10 million or more, within 30 calendar days, unless otherwise



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extended by contract not to exceed 60 calendar days, after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use.

(4) Within 20 days after the date the list is created, the public entity must pay the contractor the remaining contract balance that includes all retainage previously withheld by the public entity. The remaining contract balance does not include the costs to complete the items included on the list.

(9)(8) If a public entity fails to comply with its responsibilities to develop the list required under subsection (1) or subsection (2), as defined in the contract, within the time limitations provided in subsection (1), the contractor may submit a payment request for all remaining retainage withheld by the public entity pursuant to s. 255.078 and the public entity must pay the contractor all remaining retainage previously withheld within 20 days after receipt of the payment request.

The public entity is not required to need not pay or process any payment request for retainage if the contractor has, in whole or in part, failed to cooperate with the public entity in the development of the list or failed to perform its contractual responsibilities, if any, with regard to the development of the list or if s. 255.078(3) applies.

Section 6. Subsection (3) of section 255.078, Florida Statutes, is amended to read:

255.078 Public construction retainage.—

(3) This section and s. 255.077 do not require the public entity to pay or release any amounts that are the subject of a good faith dispute or the subject of a claim brought pursuant



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to s. 255.05, ~~or otherwise the subject of a claim or demand by
the public entity or contractor.~~

Section 7. Paragraph (b) of subsection (1) of section
255.0992, Florida Statutes, is amended to read:

255.0992 Public works projects; prohibited governmental
actions.—

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

(b) "Public works project" means an activity exceeding
\$350,000 ~~\$1 million~~ in value that is paid for with any local or
state—

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete lines 3 - 35
and insert:

218.735, F.S.; requiring that a certain list include a
dollar valuation, as reasonably determined by the
contractor as a portion of the contract value, of the
estimated cost to complete each item on the list;
deleting a provision authorizing an extension by
contract for construction projects of less than \$10
million; requiring a local governmental entity to pay
a contractor the remaining contract balance within a
specified timeframe; revising the conditions that
would require a local governmental entity to pay
unpaid contract sums to a contractor if a specified
list is not developed; requiring a local governmental
entity to pay the remaining contract balance if the
local governmental entity provided a certain written



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notice to the contractor; revising the conditions that
require a local governmental entity to pay or release
amounts subject to certain disputes or claims;
amending s. 218.76, F.S.; revising the timeframe
within which proceedings must commence to resolve
disputes between vendors and local governmental
entities; revising the timeframe for such proceedings
to conclude; amending s. 255.073, F.S.; requiring that
undisputed portions of payment requests be paid within
a specified timeframe; amending s. 255.074, F.S.;
revising the timeframe for a public entity to submit a
payment request to the Chief Financial Officer;
amending s. 255.077, F.S.; requiring that a certain
list include a dollar valuation, as determined by the
contractor as a portion of the contract value, to
complete each item on the list; requiring the public

By Senator DiCeglie

18-00397-23

2023346__

A bill to be entitled

An act relating to public construction; amending s. 166.033, F.S.; providing that applications for approval of a development permit or development order which are under review by a municipality are deemed approved after a specified timeframe; amending s. 218.735, F.S.; requiring a certain list to include a dollar valuation using reasonable market rates of the estimated cost to complete items on the list; deleting a provision authorizing an extension by contract for construction projects of less than \$10 million; requiring a local governmental entity to pay a contractor the remaining contract balance within a specified timeframe; revising the conditions that would require a local governmental entity to pay unpaid contract sums to a contractor if a specified list is not developed; requiring a local governmental entity to pay the remaining contract balance if the local governmental entity provided a certain written notice to the contractor; revising the conditions that require a local governmental entity to pay or release amounts subject to certain disputes or claims; amending s. 218.76, F.S.; revising the timeframe within which proceedings must commence to resolve disputes between vendors and local governmental entities; revising the timeframe for such proceedings to conclude; amending s. 255.073, F.S.; requiring undisputed portions of payment requests to be paid within a specified timeframe; amending s. 255.074,

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F.S.; revising the timeframe for a public entity to submit a payment request to the Chief Financial Officer; amending s. 255.077, F.S.; requiring a certain list to include a dollar valuation using reasonable market rates of the estimated costs to complete the items on the list; requiring the public entity to pay the contractor the remaining contract balance within a specified timeframe; requiring a public entity to pay all remaining retainage if the public entity has not developed a specified list; amending s. 255.078, F.S.; revising the conditions that require a public entity to pay or release amounts subject to certain disputes or claims; amending s. 255.0992, F.S.; revising the definition of the term "public works project"; providing an effective date.

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

Section 1. Paragraph (f) is added to subsection (2) of section 166.033, Florida Statutes, to read:

166.033 Development permits and orders.—

(2)

(f) Notwithstanding any agreement between both parties to extend deadlines established in this section, if an application is under review 180 days after submission, the municipality must deem the application approved.

Section 2. Subsection (7) and paragraph (c) of subsection (8) of section 218.735, Florida Statutes, are amended to read:

218.735 Timely payment for purchases of construction

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59 services.—

60 (7) Each contract for construction services between a local
61 governmental entity and a contractor must provide for the
62 development of a single list of items required to render
63 complete, satisfactory, and acceptable the construction services
64 purchased by the local governmental entity. The list must
65 include a dollar valuation using reasonable market rates of the
66 estimated cost to complete the items on the list.

67 (a) The contract must specify the process for developing
68 the list, including the responsibilities of the local
69 governmental entity and the contractor in developing and
70 reviewing the list and a reasonable time for developing the
71 list:

72 1. For construction projects having an estimated cost of
73 less than \$10 million, within 30 calendar days after reaching
74 substantial completion of the construction services purchased as
75 defined in the contract, or, if not defined in the contract,
76 upon reaching beneficial occupancy or use; or

77 2. For construction projects having an estimated cost of
78 \$10 million or more, within 30 calendar days, ~~or, if extended by~~
79 ~~contract, up to 60 calendar days~~ after reaching substantial
80 completion of the construction services purchased as defined in
81 the contract, or, if not defined in the contract, upon reaching
82 beneficial occupancy or use.

83
84 The contract must also specify a date for the delivery of the
85 list of items, not to exceed 5 days after the list of items has
86 been developed and reviewed in accordance with the time periods
87 set forth in subparagraphs 1. and 2.

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(b) If the contract between the local governmental entity and the contractor relates to the purchase of construction services on more than one building or structure, or involves a multiphased project, the contract must provide for the development of a list of items required to render complete, satisfactory, and acceptable all the construction services purchased pursuant to the contract for each building, structure, or phase of the project within the time limitations provided in paragraph (a).

(c) The final contract completion date must be at least 30 days after the delivery of the list of items. If the list is not provided to the contractor by the agreed upon date for delivery of the list, the contract time for completion must be extended by the number of days the local governmental entity exceeded the delivery date. Damages may not be assessed against a contractor for failing to complete a project within the time required by the contract, unless the contractor failed to complete the project within the contract period as extended under this paragraph.

(d) The failure to include any corrective work or pending items not yet completed on the list does not alter the responsibility of the contractor to complete all the construction services purchased pursuant to the contract.

(e) Within 20 days after the date the list is created, the local governmental entity must pay the contractor the remaining contract balance that includes all retainage previously withheld by the local governmental entity. The remaining contract balance does not include the estimated costs to complete the items included on the list.

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117 (f) Upon completion of all items on the list, the
118 contractor may submit a payment request for all remaining
119 contract sums ~~retainage~~ withheld by the local governmental
120 entity pursuant to this section. If a good faith dispute exists
121 as to whether one or more items identified on the list have been
122 completed pursuant to the contract, the local governmental
123 entity may continue to withhold up to 150 percent of the total
124 costs to complete such items.

125 (g) ~~(f)~~ All items that require correction under the contract
126 which and that are identified after the preparation and delivery
127 of the list remain the obligation of the contractor as defined
128 by the contract.

129 (h) ~~(g)~~ Warranty items or items not included in the list of
130 items required under paragraph (a) may not affect the final
131 payment of retainage as provided in paragraph (e) ~~this section~~
132 or as provided in the contract between the contractor and its
133 subcontractors and suppliers.

134 (i) ~~(h)~~ Retainage may not be held by a local governmental
135 entity or a contractor to secure payment of insurance premiums
136 under a consolidated insurance program or series of insurance
137 policies issued to a local governmental entity or a contractor
138 for a project or group of projects, and the final payment of
139 retainage as provided in paragraph (e) ~~this section~~ may not be
140 delayed pending a final audit by the local governmental entity's
141 or contractor's insurance provider.

142 (j) ~~(i)~~ If a local governmental entity fails to comply with
143 its responsibilities to develop the list required under
144 paragraph (a) or paragraph (b) within the time limitations
145 provided in paragraph (a), the contractor may submit a payment

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request for all remaining unpaid contract sums including
retainage withheld by the local governmental entity, and the
local governmental entity must pay the contractor all remaining
contract sums pursuant to this section; and payment of any
remaining undisputed contract amount, less any amount withheld
pursuant to the contract for incomplete or uncorrected work,
must be paid within 20 business days after receipt of a proper
invoice or payment request. If the local governmental entity has
provided written notice to the contractor specifying the failure
of the contractor to meet contract requirements in the
development of the list of items to be completed, the local
governmental entity must pay the contractor the remaining
contract balance that includes retainage previously withheld by
the local governmental entity. The remaining contract balance
does not include 150 percent of the estimated costs to complete
the items that the local governmental entity has included on its
version of the list need not pay or process any payment request
for retainage if the contractor has, in whole or in part, failed
to cooperate with the local governmental entity in the
development of the list or to perform its contractual
responsibilities, if any, with regard to the development of the
list or if paragraph (8)(c) applies.

(8)

(c) This section does not require the local governmental
entity to pay or release any amounts that are the subject of a
good faith dispute or, the subject of a claim brought pursuant
to s. 255.05, or otherwise the subject of a claim or demand by
the local governmental entity or contractor.

Section 3. Paragraph (a) of subsection (2) of section

18-00397-23

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218.76, Florida Statutes, is amended to read:

218.76 Improper payment request or invoice; resolution of disputes.—

(2)(a) If a dispute arises between a vendor and a local governmental entity concerning payment of a payment request or an invoice, the dispute must ~~shall~~ be finally determined by the local governmental entity pursuant to a dispute resolution procedure established by the local governmental entity. Such procedure must provide that proceedings to resolve the dispute commence ~~are commenced~~ within 30 ~~45~~ days after the date the payment request or proper invoice was received by the local governmental entity and conclude ~~concluded~~ by final decision of the local governmental entity within 45 ~~60~~ days after the date the payment request or proper invoice was received by the local governmental entity. Such procedures are not subject to chapter 120 and do not constitute an administrative proceeding that prohibits a court from deciding de novo any action arising out of the dispute. If the dispute is resolved in favor of the local governmental entity, interest charges begin to accrue 15 days after the local governmental entity's final decision. If the dispute is resolved in favor of the vendor, interest begins to accrue as of the original date the payment became due.

Section 4. Subsection (2) of section 255.073, Florida Statutes, is amended to read:

255.073 Timely payment for purchases of construction services.—

(2) If a public entity disputes a portion of a payment request, the undisputed portion must be ~~timely~~ paid within the time required under the contract or within 20 days, whichever is

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earlier.

Section 5. Subsection (3) of section 255.074, Florida Statutes, is amended to read:

255.074 Procedures for calculation of payment due dates.—

(3) A public entity must submit a payment request to the Chief Financial Officer for payment no later ~~more~~ than 14 ~~20~~ days after receipt of the payment request.

Section 6. Present subsections (4) through (8) of section 255.077, Florida Statutes, are redesignated as subsections (5) through (9), respectively, a new subsection (4) is added to that section, and subsection (1) and present subsection (8) of that section are amended, to read:

255.077 Project closeout and payment of retainage.—

(1) Each contract for construction services between a public entity and a contractor must provide for the development of a list of items required to render complete, satisfactory, and acceptable the construction services purchased by the public entity. The list must include a dollar valuation using reasonable market rates of the estimated cost to complete the items included on the list. The contract must specify the process for the development of the list, including responsibilities of the public entity and the contractor in developing and reviewing the list and a reasonable time for developing the list, as follows:

(a) For construction projects having an estimated cost of less than \$10 million, within 30 calendar days after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use; or

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2023346__

(b) For construction projects having an estimated cost of \$10 million or more, within 30 calendar days, unless otherwise extended by contract not to exceed 60 calendar days, after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use.

(4) Within 20 days after the date the list is created, the public entity must pay the contractor the remaining contract balance that includes all retainage previously withheld by the public entity. The remaining contract balance does not include the costs to complete the items included on the list.

(9)-(8) If a public entity fails to comply with its responsibilities to develop the list required under subsection (1) or subsection (2), as defined in the contract, within the time limitations provided in subsection (1), the contractor may submit a payment request for all remaining retainage withheld by the public entity pursuant to s. 255.078 and the public entity must pay the contractor all remaining retainage previously withheld within 20 days after receipt of the payment request. The public entity is not required to ~~need not~~ pay or process any payment request for retainage if the contractor has, ~~in whole or in part,~~ failed to cooperate with the public entity in the development of the list or failed to perform its contractual responsibilities, if any, with regard to the development of the list or if s. 255.078(3) applies.

Section 7. Subsection (3) of section 255.078, Florida Statutes, is amended to read:

255.078 Public construction retainage.—

(3) This section and s. 255.077 do not require the public

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entity to pay or release any amounts that are the subject of a good faith dispute or, the subject of a claim brought pursuant to s. 255.05, ~~or otherwise the subject of a claim or demand by the public entity or contractor.~~

Section 8. Paragraph (b) of subsection (1) of section 255.0992, Florida Statutes, is amended to read:

255.0992 Public works projects; prohibited governmental actions.—

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

(b) "Public works project" means an activity ~~exceeding \$1 million in value~~ that is paid for with any local or state- appropriated funds and that ~~which~~ consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof ~~that is~~ owned in whole or in part by any political subdivision.

Section 9. This act shall take effect July 1, 2023.

The Florida Senate

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3/15/2023

Meeting Date

346

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Carol Bowen

Phone (954) 465-6811

Address PO Box 880448

Street

Email cbowen@caflorida.com

Boca Raton

City

FL

State

33488

Zip

Speaking: ☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Associated Builders and Contractors of FL

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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Meeting Date

Community Affairs
Committee

346
Bill Number or Topic

574380
Amendment Barcode (if applicable)

Name Carol Bowen Phone (954) 465-6811

Address PO Box 880448 Email cbowen@senate.fl.gov
Street

Boca Raton FL 33488
City State Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Associated Builders and Contractors of Florida

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Meeting Date

COMMUNITY AFFAIRS

Committee

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SB 346

Bill Number or Topic

524380

Amendment Barcode (if applicable)

Name DOROTHY BROWN-ALFARO

Phone 786-486-2377

Address 11820 MIRAMAR PKWY #227
Street

Email DORCOT @ BELL SOUTH.NET

MIRAMAR FL 33025
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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Meeting Date

Community Affairs

Committee

SB 346

Bill Number or Topic

524380

Amendment Barcode (if applicable)

Name Lisa Birchfield

Phone 954-325-9657

Address 2210 Hayes St.

Street

Email Lisa@robertstraffic.com

Hollywood FL 33020

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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Community Affairs

Committee

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SB 346

Bill Number or Topic

Amendment Barcode (if applicable)

Name

JEFF SCALA

Phone

(850) 487-0697

Address

100 S Monroe

Email

jscala@fl-counties.com

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Association of Counties

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Mayor Daniella Levine Cava

Phone

Address

111 NW 1st Street

Email

Street

Miami

FL

33128

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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3-15-23

2B 346

Meeting Date

Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.I am a registered lobbyist,
representing:I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

National Utility Contractors Assoc. of FL

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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Bill Number or Topic

524380

Amendment Barcode (if applicable)

3/15/2023

Meeting Date

Community Affairs

Committee

Name Daniela Guzman

Phone 786 714-7926

Address 15896 SW 55 terrace

Email Daniela.guzman0616@gmail

Street

Miami

City

FL

State

33185

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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Bill Number or Topic

Community Affairs

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Amendment Barcode (if applicable)

Name

Devon West

Phone

954-357-7575

Address

100 S. Andrews Ave.

Email

dewest@broward.org

Street

Ft. Lauderdale

FL

33304

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Broward County

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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Community Affairs

Committee

346

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Matt Criswell

Phone

407.671.3772

Address

3855 N. Econlockhatchee Trail

Street

Email

Orlando

City

FL

State

32817

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),

sponsored by:

FL Roofing & Sheet Metal
Contractors Association

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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3/15/23

APPEARANCE RECORD

SB 346

Meeting Date

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Community Affairs

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Committee

Amendment Barcode (if applicable)

Name **Amanda Prater**

Phone **850-766-0679**

Address **4035 Swift Way**

Email **amanda@thefga.org**

Street

Tallahassee

FL

32313

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Opportunity Solutions Project

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

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3/15/23

Meeting Date

Community Affairs

Committee

348 346

Bill Number or Topic

Amendment Barcode (if applicable)

Deliver both copies of this form to
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Name

Carolyn Johnson

Phone

Address

134 S Bronough St

Email

Street

Tallahassee

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FL Chamber of
Commerce

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 380

INTRODUCER: Senator Garcia and others

SUBJECT: Protection from Surgical Smoke

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Favorable
2.	Hackett	Ryon	CA	Favorable
3.			RC	

I. Summary:

SB 380 requires hospitals and ambulatory surgical centers to, by January 1, 2024, adopt and implement policies that require the use of a smoke evacuation system during any surgical procedure that is likely to generate surgical smoke.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Surgical Smoke

Surgical smoke is produced by the thermal destruction of tissue by use of lasers or electrosurgical devices.¹ Surgical smoke has been shown to contain toxic gases, vapors and particulates, viable and non-viable cellular material, viruses, and bacteria.²

Potential known health effects from the exposure to surgical smoke include eye, nose, and throat irritation; headache; cough; nasal congestion; and asthma and asthma-like symptoms, but little is known about the health effects from chronic exposure to surgical smoke.³ Other risks include the transmission of viruses through surgical smoke, for example the transmission of Human Papillomavirus (HPV) through surgical smoke from lasers has been documented,⁴ and some

¹ The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, *Health and Safety Practices Survey of Healthcare Workers*, last updated March 30, 2017, available at <https://www.cdc.gov/niosh/topics/healthcarehsp/smoke.html> (last visited March 2, 2023).

² *Id.*

³ *Id.*

⁴ *Id.*

researchers have suggested that surgical smoke may act as a vector for cancerous cells that may be inhaled.⁵

According to the Occupational Safety and Health Administration (OSHA), recognized controls and work practices for surgical smoke include:

- Using portable local smoke evacuators and room suction systems with in-line filters.
- Keeping the smoke evacuator or room suction hose nozzle inlet within two inches of the surgical site to effectively capture airborne contaminants.
- Having a smoke evacuator available for every operating room where plume is generated.
- Evacuating all smoke, no matter how much is generated.
- Keeping the smoke evacuator "ON" (activated) at all times when airborne particles are produced during all surgical or other procedures.
- Considering all tubing, filters, and absorbers as infectious waste and dispose of them appropriately.
- Using new tubing before each procedure and replace the smoke evacuator filter as recommended by the manufacturer.
- Inspecting smoke evacuator systems regularly to ensure proper functioning.⁶

While OSHA recognizes potential risk factors and remedial measures, it has not as of yet adopted regulations specific to surgical smoke.⁷

Additionally, the Joint Commission, a major accrediting non-profit organization for hospitals and ambulatory surgical centers, recommends the following actions to protect patients and staff from the dangers of surgical smoke:

- Implement standard procedures for the removal of surgical smoke and plume through the use of engineering controls, such as smoke evacuators and high filtration masks.
- Use specific insufflators for patients undergoing laparoscopic procedures.
- During laser procedures, use standard precautions to prevent exposure to the aerosolized blood, blood by-products and pathogens contained in surgical smoke plumes.
- Establish, review, and make available policies and procedures for surgical smoke safety and control.
- Provide surgical team members with initial and ongoing education and competency verification on surgical smoke safety, including the organization's policies and procedures.
- Conduct periodic training exercises to assess surgical smoke precautions and consistent evacuation for the surgical suite or procedural area."⁸

⁵ United States Department of Labor, Occupational Safety and Health Administration, *Surgical Suite >> Smoke Plume*, available at <https://www.osha.gov/etools/hospitals/surgical-suite/smoke-plume>, (last visited March 9, 2023).

⁶ *Id.*

⁷ United States Department of Labor, Occupational Safety and Health Administration, *Laser/Electrosurgery Plume*, available at <https://www.osha.gov/laser-electrosurgery-plume/standards> (last visited Mar. 9, 2023).

⁸ The Joint Commission, *Quick Safety Issue 56: Alleviating the Dangers of Surgical Smoke*, available at <https://www.jointcommission.org/resources/news-and-multimedia/newsletters/newsletters/quick-safety/quick-safety-issue-56/quick-safety-issue-56/> (last visited March 9, 2023).

Smoke Evacuation Systems

Smoke evacuators are devices which contain a suction unit (i.e. a vacuum), filter, hose, and inlet nozzle. They are designed, as recommended by the Center for Disease Control, to capture air from where the nozzle is targeted and filter the air through a High Efficiency Particulate Air (HEPA) filter.⁹ These systems may be stationary, with permanent construction requirements, or handheld portable systems with disposable filters, hand pieces, and hoses. While costs for these products range greatly, with installation of a stationary system far more costly than more common handheld systems, recurring costs associated with disposable parts for handheld systems are frequently cited at roughly \$19 per surgery, and total recurring costs including filter replacement between \$8,000 and \$10,000 annually depending on frequency of use.¹⁰

As of 2021, 21 states had considered legislation requiring smoke evacuator usage during surgery.¹¹ At least 10 states¹² have passed laws requiring that operating rooms are made free of surgical smoke.¹³

III. Effect of Proposed Changes:

SB 380 creates s. 395.1013, F.S., to require that hospitals and ambulatory surgical centers (ASC)¹⁴ adopt and implement policies that require the use of a smoke evacuation system during any surgical procedures that is likely to generate surgical smoke.

The bill defines:

- “Smoke evacuation system” to mean equipment that effectively captures, filters, and eliminates surgical smoke at the site of origin before the smoke makes contact with the eyes or respiratory tract of occupants in the room; and
- “Surgical smoke” to mean the gaseous byproduct produced by energy-generating devices such as lasers and electrosurgical devices. The term includes, but is not limited to, surgical

⁹ Centers for Disease Control, *Control of Smoke from Laser/Electrical Surgical Procedures*, available at <https://www.cdc.gov/niosh/docs/hazardcontrol/hc11.html> (last visited Mar. 9, 2023).

¹⁰ See Relias Media, *OR Teams Often Exposed to Toxic Chemicals in Surgical Smoke*, Mar. 1, 2021, available at <https://www.reliasmedia.com/articles/147530-or-teams-often-exposed-to-toxic-chemicals-in-surgical-smoke#:~:text=The%20estimated%20cost%20of%20using,for%20the%20standard%20electrosurgical%20pencil>. (last visited Mar. 10, 2023), Ohio Legislative Service Commission, *SB 161 Fiscal Note & Local Impact Statement*, available at <https://www.legislature.ohio.gov/download?key=17773&format=pdf> (last visited Mar. 10, 2023); Kreuger, Steven, et al., *The Effect of a Surgical Smoke Evacuation System on Surgical Site Infections of the Spine*, available at <https://www.oatext.com/pdf/CMID-3-132.pdf> (last visited Mar. 10, 2023); Utah State Legislature, *S.B. 105 Surgical Smoke Evacuation System Requirements Fiscal Note*, available at <https://le.utah.gov/~2020/bills/static/SB0105.html> (last visited Mar. 10, 2023).

¹¹ The Joint Commission, *Surgical Smoke Legislation Gaining Traction Across the Country*, Jun. 9, 2021, available at <https://www.jointcommission.org/resources/news-and-multimedia/blogs/leading-hospital-improvement/2021/06/surgical-smoke-legislation-gaining-traction-across-the-country/> (last visited Mar. 9, 2023).

¹² Arizona, Colorado, Connecticut, Georgia, Illinois, Kentucky, New York, Oregon, Rhode Island, and Washington.

¹³ AORN, *Surgical Smoke-Free OR*, available at <https://www.aorn.org/get-involved/government-affairs/policy-agenda/surgical-smoke-free-or> (Mar. 9, 2023).

¹⁴ The bill uses the term “licensed facilities,” which is defined as hospitals or ambulatory surgical centers (ASCs) licensed under ch. 315, F.S. An ASC is further defined as a facility separate from a hospital, the primary purpose of which is to provide elective surgical care with less than 24 hours’ inpatient time, not including facilities which perform abortions or dentistry. Section 395.002(3), F.S.

plume, smoke plume, bio-aerosols, laser-generated airborne contaminants, and lung-damaging dust.

The bill requires hospitals and ASCs to adopt and implement the required policies by January 1, 2024.

The bill provides an effective date of July 1, 2023.

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:

SB 380 may have a negative fiscal impact on hospitals and ASCs if the hospital or ASC is required to purchase and maintain equipment in order to meet the requirements of the bill.

C. Government Sector Impact:

To the extent that hospitals and ASCs are funded or operated by governmental entities, this bill may similarly have a negative government sector impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 395.1013 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Garcia

36-00676-23

2023380__

A bill to be entitled

An act relating to protection from surgical smoke;
creating s. 395.1013, F.S.; defining the terms "smoke
evacuation system" and "surgical smoke"; requiring
hospitals and ambulatory surgical centers to, by a
specified date, adopt and implement policies requiring
the use of smoke evacuation systems during certain
surgical procedures; providing an effective date.

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

Section 1. Section 395.1013, Florida Statutes, is created
to read:

395.1013 Smoke evacuation systems required.-

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

(a) "Smoke evacuation system" means equipment that
effectively captures, filters, and eliminates surgical smoke at
the site of origin before the smoke makes contact with the eyes
or respiratory tract of occupants in the room.

(b) "Surgical smoke" means the gaseous byproduct produced
by energy-generating devices such as lasers and electrosurgical
devices. The term includes, but is not limited to, surgical
plume, smoke plume, bio-aerosols, laser-generated airborne
contaminants, and lung-damaging dust.

(2) By January 1, 2024, each licensed facility shall adopt
and implement policies that require the use of a smoke
evacuation system during any surgical procedure that is likely
to generate surgical smoke.

Section 2. This act shall take effect July 1, 2023.

3/15/23

Meeting Date

The Florida Senate

APPEARANCE RECORD

HB 380

Bill Number or Topic

Community Affairs

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Janice Adams

Pres

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6306 Anlinga Pl

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Tampa

City

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State

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Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Nurses Association

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

APPEARANCE RECORD

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SB 380

Bill Number or Topic

3/15/23

Meeting Date

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Meghan Moroney

Director

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Tampa

City

FL

State

33611

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.I am a registered lobbyist,
representing:I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Nurses Association

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S-001 (08/10/2021)

3/15/23

The Florida Senate

#3

APPEARANCE RECORD

SB 380

Meeting Date

COMMUNITY AFFAIRS

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name

SAUNDRA FALK

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33967

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

FLORIDA NURSE ASSOCIATION



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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SB 380

Bill Number or Topic

Amendment Barcode (if applicable)

3/15/23
Meeting Date
COMMUNITY AFFAIRS
Committee

Name CONNIE VALARINOS Phone (904) 699-6204

Address 2307 FOXWOOD DRIVE
Street

ORANGE PARK FLORIDA 32073
City State Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FLORIDA NURSES ASSOCIATION

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flisenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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3-15-23

Meeting Date

SB 380

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

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City

State

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Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

FL Nurse Assoc.



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

APPEARANCE RECORD

3/15/2023

Meeting Date

Court App

Committee

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SB 380

Bill Number or Topic

Amendment Barcode (if applicable)

Name

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Email

JACK CORY @ FA

Street

Tallah

City

Fla

State

32301

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:

Florida Nursing Assoc.

☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

380

Meeting Date

Bill Number or Topic

3/15/23
Community Affairs
Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FL Assoc of Nurse Anesthetists

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 672

INTRODUCER: Senator Avila

SUBJECT: Homestead Property Tax Exemptions

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 672 clarifies that veterans, first responders, and surviving spouses receiving homestead exemptions related to disability or death sustained in the line of duty who purchase a new homestead property are entitled to retain the amount of the exemption. The bill also similarly clarifies that, upon establishing a new homestead, a person who applies for and receives such an exemption is entitled to receive a refund for the taxes paid on the homestead property in the year of acquisition.

The bill does not substantively change the procedure for applying for or being granted such an exemption or refund.

The Revenue Estimating Conference has determined the bill will have no impact on local government ad valorem receipts.

The bill takes effect July 1, 2023.

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 taxes,⁷ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁸

The Florida Constitution prohibits the state from levying ad valorem taxes⁹ and limits the Legislature’s authority to provide for property valuations at less than just value unless expressly authorized.¹⁰

Homestead Exemptions

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads, property owned and maintained as a person’s primary residence, with an exemption from taxes.¹¹ Second, the homestead provisions protect the homestead from forced sale by creditors.¹² Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.¹³

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.¹⁴ An additional \$25,000 exemption applies to homestead property value between

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.

⁴ *See* Florida Department of Revenue, Florida Property Tax Calendar, *available at*: <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Mar 9, 2023).

⁵ *See* Florida Department of Revenue, Tax Collector Calendar - Property Tax Oversight, *available at*: <https://floridarevenue.com/property/Documents/tccalendar.pdf> (last visited Mar 9, 2023).

⁶ *Id.*

⁷ FLA. CONST. art. VII, s. 1(a).

⁸ *See* FLA. CONST. art. VII, s. 4.

⁹ FLA. CONST. art. VII, s. 1(a).

¹⁰ *See* FLA. CONST. art. VII, s. 4.

¹¹ FLA. CONST. art. VII, s. 6.

¹² FLA. CONST. art. VII, s. 4.

¹³ *Id.* at (c).

¹⁴ FLA. CONST. art. VII, s. 6(a).

\$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.¹⁵

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 1.¹⁶ 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.¹⁷

Property Tax Exemptions for Veterans, First Responders, and Surviving Spouses

Florida provides several property tax exemptions for disabled veterans and first responders and their surviving spouses.¹⁸ These include exemptions for the following persons:

- A veteran or first responder¹⁹ with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead.²⁰
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.²¹
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.²²
- The unremarried surviving spouse of a veteran or first responder who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.²³

Tax Discount on Homestead Property for a Combat-disabled Veteran

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.²⁴ The discount is calculated as a

¹⁵ *Id.*

¹⁶ Section 196.011(1)(a), F.S.

¹⁷ Section 196.011(5) and (9)(a), F.S.

¹⁸ FLA. CONST. art VII, s. 6(f).

¹⁹ "First responder" in this context means a law enforcement officer or correctional officer as defined in s. 943.10, a firefighter as defined in s. 633.102, or an emergency medical technician or paramedic as defined in s. 401.23 who is a full-time paid employee, part-time paid employee, or unpaid volunteer. Section 196.081(6)(c)1., F.S.

²⁰ Sections 196.081 and 196.102, F.S.

²¹ Section 196.091(1) and (3), F.S.

²² Section 196.24, F.S.

²³ Section 196.081(4), (6) F.S.

²⁴ Section 196.082, F.S.

percentage equal to the percentage of the veteran's permanent, service-connected disability.²⁵ The discount is applied as a reduction to the taxable value of the homestead property.²⁶

Carry-Over of Exemptions to New Residences by Surviving Spouses

An exemption granted to a surviving spouse of a disabled or deceased veteran or first responder continues so long as the surviving spouse holds title to the homestead property, permanently resides thereon, and does not remarry.²⁷ The amount exempted may be carried forward to a new homestead if the first property is sold, the newly acquired property is established as a homestead, and the surviving spouse does not remarry.²⁸ Additionally, a veteran or surviving spouse who acquires new homestead property between January 1 and November 1 may receive a refund, prorated as of the date of transfer, of the ad valorem taxes paid in the year of acquisition if they apply for and receive an exemption under 198.081, F.S., in the following tax year.²⁹

III. Effect of Proposed Changes:

The bill amends s. 196.081, F.S., to clarify throughout that veterans, first responders, and surviving spouses receiving homestead exemptions related to disability or death sustained in the line of duty who purchase a new homestead property are entitled to retain the amount of the exemption.

The bill also similarly clarifies that upon establishing a new homestead a person who applies for and receives such an exemption is entitled to receive a refund for the taxes paid on the homestead property in the year of acquisition.

In order to retain an exemption or receive a refund under these provisions, the property owner must still notify the property appraiser and apply for the exemption. The bill does not substantively change the procedure for applying for or being granted such an exemption.

The language changed by the bill is, in several places, a “may” amended to “must.” The permissive nature of statutory language on homestead exemptions applies to the property owner's actions in applying for the exemption, for transferring an exemption, or to receive a refund. Because such a property owner may decide not to seek an exemption to which they are entitled, the exemption the bill has no substantive affect. The bill may, however, clarify that property appraisers do not have discretion in the discussed transfer of exemptions and issuance of refunds.

The bill takes effect July 1, 2023.

²⁵ Section 196.082(2), F.S.

²⁶ Section 196.082(5), F.S.

²⁷ Section 196.081(3), (4)(b), and (6)(b), F.S.

²⁸ *Id.*

²⁹ Section 198.081(1)(b)

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

As the Revenue Estimating Conference estimates no impact on local governments from this bill, the county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution likely do not apply. Laws having an “insignificant fiscal impact” are exempt from the mandate requirements, which for Fiscal Year 2022-2023 is forecast at approximately \$2.3 million.^{30,31}

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 the bill will have no impact on local government ad valorem receipts.³²

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

³⁰ FLA. CONST. art. VII, s. 18(d).

³¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 10, 2023).

³² Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: SB 672 & HB 717*, 106-107, (Feb. 17, 2023), available at: <http://edr.state.fl.us/content/conferences/revenueimpact/archives/2023/pdf/impact0217.pdf> (last visited Mar. 11, 2023).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.081, Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Avila

39-01415-23

2023672__

A bill to be entitled
An act relating to homestead property tax exemptions;
amending s. 196.081, F.S.; requiring, rather than
authorizing, a property appraiser to grant the
homestead property tax exemption for certain
permanently and totally disabled veterans or their
surviving spouses if certain conditions are met;
requiring, rather than authorizing, the transfer of
the exemption to a surviving spouse's new residence
under certain circumstances; requiring, rather than
authorizing, the transfer of the homestead tax
exemption for surviving spouses of certain first
responders who died in the line of duty to the
surviving spouse's new residence under certain
circumstances; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1), subsection (3),
paragraph (b) of subsection (4), and paragraph (b) of subsection
(6) of section 196.081, Florida Statutes, are amended to read:

196.081 Exemption for certain permanently and totally
disabled veterans and for surviving spouses of veterans;
exemption for surviving spouses of first responders who die in
the line of duty.—

(1)

(b) If legal or beneficial title to property is acquired
between January 1 and November 1 of any year by a veteran or his
or her surviving spouse receiving an exemption under this

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2023672__

section on another property for that tax year, the veteran or his or her surviving spouse shall ~~may~~ receive a refund, prorated as of the date of transfer, of the ad valorem taxes paid for the newly acquired property if he or she applies for and receives an exemption under this section for the newly acquired property in the next tax year. If the property appraiser finds that the applicant is entitled to an exemption under this section for the newly acquired property, the property appraiser shall immediately make such entries upon the tax rolls of the county that are necessary to allow the prorated refund of taxes for the previous tax year.

(3) If the totally and permanently disabled veteran predeceases his or her spouse and if, upon the death of the veteran, the spouse holds the legal or beneficial title to the homestead and permanently resides thereon as specified in s. 196.031, the exemption from taxation carries over to the benefit of the veteran's spouse until such time as he or she remarries or sells or otherwise disposes of the property. If the spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll shall ~~may~~ be transferred to his or her new residence, as long as it is used as his or her primary residence and he or she does not remarry.

(4) Any real estate that is owned and used as a homestead by the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran who died from service-connected causes while on active duty is

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59 exempt from taxation if the veteran was a permanent resident of
60 this state on January 1 of the year in which the veteran died.

61 (b) The tax exemption carries over to the benefit of the
62 veteran's surviving spouse as long as the spouse holds the legal
63 or beneficial title to the homestead, permanently resides
64 thereon as specified in s. 196.031, and does not remarry. If the
65 surviving spouse sells the property, an exemption not to exceed
66 the amount granted under the most recent ad valorem tax roll
67 shall ~~may~~ be transferred to his or her new residence as long as
68 it is used as his or her primary residence and he or she does
69 not remarry.

70 (6) Any real estate that is owned and used as a homestead
71 by the surviving spouse of a first responder who died in the
72 line of duty while employed by the state or any political
73 subdivision of the state, including authorities and special
74 districts, and for whom a letter from the state or appropriate
75 political subdivision of the state, or other authority or
76 special district, has been issued which legally recognizes and
77 certifies that the first responder died in the line of duty
78 while employed as a first responder is exempt from taxation if
79 the first responder and his or her surviving spouse were
80 permanent residents of this state on January 1 of the year in
81 which the first responder died.

82 (b) The tax exemption applies as long as the surviving
83 spouse holds the legal or beneficial title to the homestead,
84 permanently resides thereon as specified in s. 196.031, and does
85 not remarry. If the surviving spouse sells the property, an
86 exemption not to exceed the amount granted under the most recent
87 ad valorem tax roll shall ~~may~~ be transferred to his or her new

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88 residence if it is used as his or her primary residence and he
89 or she does not remarry.

90 Section 2. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 0672

Bill Number or Topic

3/15/2023

Meeting Date

COMMUNITY AFFAIRS

Committee

Name

BOB ASZTALOS

Phone

(850) 487-1533

Amendment Barcode (if applicable)

Address

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32399

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FDVA

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 718

INTRODUCER: Senator Yarborough

SUBJECT: Municipal Boundaries

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 718 requires a municipality to conduct a feasibility study before conducting an annexation or contraction. The bill removes the ability of a municipality to annex an area without any registered electors using an alternative mechanism. The bill removes the requirement that a municipality provide specific findings when rejecting a contraction petition.

The bill also revises municipal contraction procedures to require that if more than 70 percent of the land to be contacted is owned by private entities that are not registered electors, the area may not be contracted unless the owners of a majority of the acreage in the area consent to the contraction.

The bill takes effect on July 1, 2023.

II. Present Situation:

Municipal Annexation

A municipality may propose to annex any area of contiguous, compact, unincorporated territory by ordinance or may be petitioned for annexation by owner(s) of “contiguous... and reasonably compact” real property.¹ An area is considered “contiguous” if a substantial part of its boundary is coterminous with a part of the boundary of the municipality.² An area is compact if it is concentrated in a single area and does not create enclaves, pockets, or finger areas.³ All lands to be annexed must be in the same county as the annexing municipality.⁴

¹ Sections 171.0413(1) and 171.044(1), F.S.

² Section 171.031(11), F.S.

³ Section 171.031(12), F.S.

⁴ Section 171.045, F.S.

The governing body of a municipality may only propose annexation of an area that is contiguous, reasonably compact, and is either:⁵

- Developed for “urban purposes,” which is defined as having a resident population or at least two persons per acre, having a resident population of at least one person per acre if the area is subdivided into lots where at least 60 percent of the total number of lots are 1 acre or less in size, or at least 60 percent of the total number of lots meet one of the preceding definitions and at least 60 percent of the total acreage not used for non-residential “urban purposes” is subdivided into lots of 5 acres or less;
- Lies between the municipal boundary and an area developed for “urban purposes”; or
- Adjacent, on at least 60 percent of its external boundary, to any combination of the municipal boundary and areas developed for “urban purposes.”

A municipality may begin the annexation process by adopting a non-emergency ordinance.⁶ The municipality is required to hold two advertised public meetings before the adoption of the ordinance, one held on a weekday at least seven days after the publication of the first advertisement and one held on a weekday at least five days after the publication of the second advertisement. At least 10 days prior to the first public meeting, the governing body of the municipality must provide written notice to all residents and property owners in the area proposed for annexation.⁷ The notice must contain the annexation proposal, the time and location of the public meeting, and locations where the proposed ordinance may be inspected by the public.

Before adopting an annexation ordinance, a municipality is required to prepare a report that contains:⁸

- Plans to provide urban services to the area to be annexed;
- A map or maps of the municipality and adjacent territory showing the present and proposed municipal boundaries, the present major trunk water mains and sewer interceptors and outfalls, the proposed extensions of such mains and outfalls, and the general land use pattern in the area to be annexed;
- A statement certifying the area meets the annexation criteria specified in s. 171.043, F.S.; and
- A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation.

The governing body of the municipality must file a copy of the report with the governing body of the county within 15 days of the commencement of annexation procedures.⁹ Failure to submit the report to the county in a timely manner may invalidate the annexation.

The municipality must submit the adopted annexation ordinance to a referendum in the area to be annexed.¹⁰ The municipality may also choose to submit the ordinance to the voters of the municipality for approval. If more than 70 percent of the area to be annexed is not owned by registered voters, the municipality must obtain the consent of landowners owning at least 50

⁵ Section 171.043, F.S.

⁶ Section 171.0413(1), F.S. A non-emergency ordinance is adopted using standing procedures specified by s. 166.041, F.S.

⁷ Section 171.042(3), F.S.

⁸ Section 171.042(1), F.S.

⁹ Section 171.042(2), F.S.

¹⁰ Section 171.0413(2), F.S.

percent of area to be annexed before conducting the referendum.¹¹ The referendum may be conducted during the next regularly scheduled election or at a special election.¹² The referendum must not be held until at least 30 days after the adoption of the ordinance and must be advertised in a newspaper of general circulation in the area to be annexed.¹³ If the referendum is approved by the voters, the annexation occurs on the effective date provided by the ordinance.¹⁴ If the voters reject annexation, the municipality may not propose annexation of the same area in the two years following the referendum.

If the area to be annexed has no registered electors, the area may be annexed without a referendum if the municipality obtains the consent of landowners representing both 50 percent of acreage and 50 percent of the parcels in the area to be annexed.¹⁵

Alternatively, the owner(s) of real property in a contiguous, reasonably compact, and unincorporated area of the county may petition a municipality for annexation.¹⁶ The municipality must determine that all land owners in the area to be annexed have signed the petition and publish notice of the annexation before passing an ordinance annexing the area. A copy of the ordinance, including a map and a metes-and-bounds legal description of the area, must be filed with the clerk of the circuit court, the chief administrative officer of the county, and the Department of State within seven days after adopting the annexation ordinance. An area may not be annexed using this process if the annexation would result in the creation of an enclave.¹⁷

Municipal Contraction

A municipality may initiate the contraction of its boundaries by ordinance¹⁸ or by a petition signed by fifteen percent of the qualified voters in the area to be excluded.¹⁹ The petition must be filed with the clerk of the municipal governing body. Upon receipt of a petition, the municipality must undertake a study of the feasibility of the proposal and either initiate the proceedings or reject the petition, stating the facts upon which the rejection is based, within six months.²⁰

Once the contraction proposal is initiated, the governing body must publish notice of the proposed contraction ordinance at least once a week for two consecutive weeks in a newspaper of general circulation in the municipality.²¹ This notice must:

- Include a description of the area to be excluded;
- Show the area fails to meet the general criteria for annexation;
- Set the time and place for the municipal governing body meeting at which the proposed ordinance will be considered; and
- Advise that all affected persons may be heard.

¹¹ Section 171.0413(5), F.S.

¹² Section 171.0413(2)(a), F.S.

¹³ Section 171.0413(2)(a)-(b), F.S.

¹⁴ Section 171.0413(2)(e), F.S.

¹⁵ Section 171.0413(6), F.S.

¹⁶ Section 171.044, F.S.

¹⁷ Section 171.044(5), F.S.

¹⁸ Section 171.051(1), F.S.

¹⁹ Section 171.051(2), F.S.

²⁰ *Id.*

²¹ Section 171.051(3), F.S.

Voter approval of the contraction is required if the municipal governing body calls for a referendum election on the question in the area proposed for exclusion or residents of that area submit a petition at the public meeting signed by at least 15 percent of the area's qualified voters. The date for the referendum is determined by the method used to call for the referendum.²² The municipal governing body is required to publish notice of the referendum election at least once a week for two consecutive weeks in a newspaper of general circulation in the municipality or in the area proposed to be excluded.²³ If a majority of electors voting in the referendum opposes contraction, the municipality is prohibited from proposing the exclusion of the area in a contraction ordinance for a period of least two years.²⁴

An area removed from a municipality must fail to meet the criteria for annexation.²⁵ Under these criteria, an area to be annexed must be contiguous to the annexing municipality, must be reasonably compact, and must not be located within the boundaries of another municipality.²⁶ For annexation, an area must also meet one of the following criteria:

- The area is developed for urban purposes;²⁷
- The area links the municipality with areas developed for urban purposes;²⁸ or
- At least 60 percent of the boundary of the area is adjacent to the municipal boundary and lands developed for urban purposes.²⁹

The results of the contraction must not separate any portion of the municipality from the rest of the municipality.³⁰ The contracting ordinance must provide for apportionment of any prior existing debt and property.³¹ The county and the municipal governing body must reach an agreement determining which debt or property will be transferred to the county, the fair value of the debt or property, and the manner of transfer and financing.³² An area that has been contracted is no longer subject to municipal laws, ordinances, or regulations and becomes subject to any laws, ordinances, or regulations of the county as of the effective date of the contraction.³³

III. Effect of Proposed Changes:

This bill amends the Municipal Annexation or Contraction Act in ch. 171, F.S.

The bill requires a municipality to conduct a feasibility study before conducting an annexation or contraction. The bill defines a feasibility study as an analysis conducted by qualified staff or

²² Section 171.051(6), F.S. If a referendum is required due to the filing of a petition signed by at least 15 percent of the area's qualified voters, the referendum must occur at the next regularly scheduled election. If the referendum is called at the discretion of the municipal governing body, a special election is called no sooner than 30 days after the verification of the petition or the passage of the resolution or ordinance calling for a referendum.

²³ Section 171.051(7), F.S.

²⁴ Section 171.051(10), F.S.

²⁵ Section 171.052(1), F.S.

²⁶ Section 171.043(1), F.S.

²⁷ Section 171.043(2), F.S.

²⁸ Section 171.043(3)(a), F.S.

²⁹ Section 171.043(3)(b), F.S.

³⁰ Section 171.052(1), F.S.

³¹ Section 171.052(2), F.S.

³² Section 171.061(2), F.S.

³³ Section 171.062(3), F.S.

consultants of the economic, market, technical, financial, and management feasibility of the proposed annexation or contraction.

The bill removes the ability of a municipality to annex an area that does not have any registered electors upon consent of landowners representing a majority of the acreage and parcels in the area be annexed.

The bill removes the requirement that a municipality provide specific findings when rejecting a contraction petition.

The bill revises municipal contraction, to require that if more than 70 percent of the acres of land in an area proposed to be contracted is owned by private entities that are not registered electors, the area may not be contracted unless the owners of more than fifty percent of acreage in the area consents to the contraction. This provision mirrors requirements in current law for municipal annexation.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent that a local government must pay for a feasibility study to be undertaken there may be some costs to local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 171.031, 171.0413, 171.042, 171.051, and 171.204.

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.



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 119 - 132

and insert:

(6) Notwithstanding subsections (1) and (2), if the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. ~~In addition to the requirements of subsection (5), the area may not be annexed unless the owners of more than 50 percent of the parcels of land~~



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~~in the area proposed to be annexed consent to the annexation.~~ If
the governing body does not choose to hold a referendum of the
annexing municipality pursuant to subsection (2), then the
property owner consents required pursuant to subsection (5)
shall be obtained by the parties proposing the annexation prior
to the final adoption of the ordinance, and the annexation
ordinance shall be effective upon becoming a law or as otherwise
provided in the ordinance.

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

And the title is amended as follows:

Delete lines 6 - 7

and insert:

procedures; revising annexation procedures; amending

By Senator Yarborough

4-01249-23

2023718__

A bill to be entitled
An act relating to municipal boundaries; reordering
and amending s. 171.031, F.S.; defining the term
"feasibility study"; amending s. 171.0413, F.S.;
specifying the measurement of land during annexation
procedures; removing certain procedures regarding
elector votes during annexation procedures; amending
s. 171.042, F.S.; replacing the term "report" with
"feasibility study"; amending s. 171.051, F.S.;
revising contraction procedures when qualified voters
desire to be excluded from municipal boundaries;
prohibiting contraction under certain circumstances;
amending s. 171.204, F.S.; conforming a cross-
reference; providing an effective date.

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

Section 1. Section 171.031, Florida Statutes, is reordered
and amended to read:

171.031 Definitions.—As used in this chapter, the following
words and terms have the following meanings unless some other
meaning is plainly indicated:

(1) "Annexation" means the adding of real property to the
boundaries of an incorporated municipality, such addition making
such real property in every way a part of the municipality.

(4)~~(2)~~ "Contraction" means the reversion of real property
within municipal boundaries to an unincorporated status.

(7)~~(3)~~ "Municipality" means a municipality created pursuant
to general or special law authorized or recognized pursuant to

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s. 2 or s. 6, Art. VIII of the State Constitution.

~~(8)(4)~~ "Newspaper of general circulation" means a newspaper printed in the language most commonly spoken in the area within which it circulates, which is readily available for purchase by all inhabitants in its area of circulation, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

~~(9)(5)~~ "Parties affected" means any persons or firms owning property in, or residing in, either a municipality proposing annexation or contraction or owning property that is proposed for annexation to a municipality or any governmental unit with jurisdiction over such area.

(6) "Feasibility study" means an analysis conducted by qualified staff or consultants of the economic, market, technical, financial, and management feasibility of the proposed annexation or contraction, as applicable.

~~(10)~~ "Qualified voter" means any person registered to vote in accordance with law.

~~(11)(7)~~ "Sufficiency of petition" means the verification of the signatures and addresses of all signers of a petition with the voting list maintained by the county supervisor of elections and certification that the number of valid signatures represents the required percentage of the total number of qualified voters in the area affected by a proposed annexation.

~~(12)(8)~~ "Urban in character" means an area used intensively for residential, urban recreational or conservation parklands, commercial, industrial, institutional, or governmental purposes

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or an area undergoing development for any of these purposes.

(14)~~(9)~~ "Urban services" means any services offered by a municipality, either directly or by contract, to any of its present residents.

(13)~~(10)~~ "Urban purposes" means that land is used intensively for residential, commercial, industrial, institutional, and governmental purposes, including any parcels of land retained in their natural state or kept free of development as dedicated greenbelt areas.

(3)~~(11)~~ "Contiguous" means that a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality. The separation of the territory sought to be annexed from the annexing municipality by a publicly owned county park; a right-of-way for a highway, road, railroad, canal, or utility; or a body of water, watercourse, or other minor geographical division of a similar nature, running parallel with and between the territory sought to be annexed and the annexing municipality, may shall not prevent annexation under this act, provided the presence of such a division does not, as a practical matter, prevent the territory sought to be annexed and the annexing municipality from becoming a unified whole with respect to municipal services or prevent their inhabitants from fully associating and trading with each other, socially and economically. However, nothing in this subsection may herein ~~shall~~ be construed to allow local rights-of-way, utility easements, railroad rights-of-way, or like entities to be annexed in a corridor fashion to gain contiguity; and when any provision ~~or provisions~~ of any special law prohibits ~~or laws~~

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88 ~~prohibit~~ the annexation of territory that is separated from the
89 annexing municipality by a body of water or watercourse, then
90 that law shall prevent annexation under this act.

91 (2)~~(12)~~ "Compactness" means concentration of a piece of
92 property in a single area and precludes any action which would
93 create enclaves, pockets, or finger areas in serpentine
94 patterns. Any annexation proceeding in any county in this ~~the~~
95 state must ~~shall~~ be designed in such a manner as to ensure that
96 the area will be reasonably compact.

97 (5)~~(13)~~ "Enclave" means:

98 (a) Any unincorporated improved or developed area that is
99 enclosed within and bounded on all sides by a single
100 municipality; or

101 (b) Any unincorporated improved or developed area that is
102 enclosed within and bounded by a single municipality and a
103 natural or manmade obstacle that allows the passage of vehicular
104 traffic to that unincorporated area only through the
105 municipality.

106 Section 2. Subsections (5) and (6) of section 171.0413,
107 Florida Statutes, are amended to read:

108 171.0413 Annexation procedures.—Any municipality may annex
109 contiguous, compact, unincorporated territory in the following
110 manner:

111 (5) If more than 70 percent of the acres of land in an area
112 proposed to be annexed is owned by individuals, corporations, or
113 legal entities which are not registered electors of such area,
114 such area may ~~shall~~ not be annexed unless the owners of more
115 than 50 percent of the acres of land in such area consent to
116 such annexation. Such consent must ~~shall~~ be obtained by the

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parties proposing the annexation before ~~prior to~~ the referendum to be held on the annexation.

~~(6) Notwithstanding subsections (1) and (2), if the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. In addition to the requirements of subsection (5), the area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the governing body does not choose to hold a referendum of the annexing municipality pursuant to subsection (2), then the property owner consents required pursuant to subsection (5) shall be obtained by the parties proposing the annexation prior to the final adoption of the ordinance, and the annexation ordinance shall be effective upon becoming a law or as otherwise provided in the ordinance.~~

Section 3. Subsections (1) and (2) of section 171.042, Florida Statutes, are amended to read:

171.042 Prerequisites to annexation.—

(1) Before ~~Prior to~~ commencing the annexation procedures under s. 171.0413, the governing body of the municipality shall prepare a feasibility study ~~report~~ setting forth the plans to provide urban services to any area to be annexed, and the feasibility study must ~~report shall~~ include the following:

(a) A map or maps of the municipality and adjacent territory showing the present and proposed municipal boundaries, the present major trunk water mains and sewer interceptors and outfalls, the proposed extensions of such mains and outfalls, as required in paragraph (c), and the general land use pattern in

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the area to be annexed.

(b) A statement certifying that the area to be annexed meets the criteria in s. 171.043.

(c) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans must ~~shall~~:

1. Provide for extending urban services except as otherwise provided in this subsection ~~herein~~ to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality before ~~prior to~~ annexation.

2. Provide for the extension of existing municipal water and sewer services into the area to be annexed so that, when such services are provided, property owners in the area to be annexed will be able to secure public water and sewer service according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions.

3. If extension of major trunk water mains and sewer mains into the area to be annexed is necessary, set forth a proposed timetable for construction of such mains as soon as possible following the effective date of annexation.

4. Set forth the method under which the municipality plans to finance extension of services into the area to be annexed.

(2) Not fewer than 15 days before ~~prior to~~ commencing the annexation procedures under s. 171.0413, the governing body of the municipality shall file a copy of the feasibility study ~~report~~ required by this section with the board of county

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commissioners of the county in which ~~wherein~~ the municipality is located. Failure to timely file the feasibility study ~~report~~ as required in this subsection may be the basis for a cause of action to invalidate ~~invalidating~~ the annexation.

Section 4. Subsections (2) and (4) of section 171.051, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

171.051 Contraction procedures.—Any municipality may initiate the contraction of municipal boundaries in the following manner:

(2) A petition of 15 percent of the qualified voters in an area desiring to be excluded from the municipal boundaries, filed with the clerk of the municipal governing body, may propose such an ordinance. The municipality to which such petition is directed shall immediately undertake a feasibility study ~~of the feasibility~~ of such proposal and the governing body shall, within 6 months, evaluate the feasibility study of such proposal and either initiate proceedings under subsection (1) by introducing a contraction ordinance or reject the petition as a legislative decision, ~~specifically stating the facts upon which the rejection is based.~~

(4) If, at the meeting held for the ~~such~~ purpose of considering the contraction ordinance introduced by the governing body, a petition is filed and signed by at least 15 percent of the qualified voters resident in the area proposed for contraction requesting a referendum on the question, the governing body shall, upon verification, paid for by the municipality, of the sufficiency of the petition, and before passing such ordinance, submit the question of contraction to a

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vote of the qualified voters of the area proposed for contraction, or the governing body may vote not to contract the municipal boundaries.

(11) If more than 70 percent of the acres of land in an area proposed to be contracted is owned by individuals, corporations, or legal entities that are not registered electors of such area, such area may not be contracted unless the owners of more than 50 percent of the acres of land in such area consent to such contraction.

Section 5. Section 171.204, Florida Statutes, is amended to read:

171.204 Prerequisites to annexation under this part.—The interlocal service boundary agreement may describe the character of land that may be annexed under this part and may provide that the restrictions on the character of land that may be annexed pursuant to part I are not restrictions on land that may be annexed pursuant to this part. As determined in the interlocal service boundary agreement, any character of land may be annexed, including, but not limited to, an annexation of land not contiguous to the boundaries of the annexing municipality, an annexation that creates an enclave, or an annexation where the annexed area is not reasonably compact; however, such area must be “urban in character” as defined in s. 171.031 ~~s.~~ ~~171.031(8)~~. The interlocal service boundary agreement may not allow for annexation of land within a municipality that is not a party to the agreement or of land that is within another county. Before annexation of land that is not contiguous to the boundaries of the annexing municipality, an annexation that creates an enclave, or an annexation of land that is not

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currently served by water or sewer utilities, one of the following options must be followed:

(1) The municipality shall transmit a comprehensive plan amendment that proposes specific amendments relating to the property anticipated for annexation to the Department of Economic Opportunity for review under chapter 163. After considering the department's review, the municipality may approve the annexation and comprehensive plan amendment concurrently. The local government must adopt the annexation and the comprehensive plan amendment as separate and distinct actions but may take such actions at a single public hearing; or

(2) A municipality and county shall enter into a joint planning agreement under s. 163.3171, which is adopted into the municipal comprehensive plan. The joint planning agreement must identify the geographic areas anticipated for annexation, the future land uses that the municipality would seek to establish, necessary public facilities and services, including transportation and school facilities and how they will be provided, and natural resources, including surface water and groundwater resources, and how they will be protected. An amendment to the future land use map of a comprehensive plan which is consistent with the joint planning agreement must be considered a small scale amendment.

Section 6. This act shall take effect July 1, 2023.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 762

INTRODUCER: Senator Wright

SUBJECT: Property Tax Exemption for Surviving Spouses of Veterans

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 762 clarifies that if a veteran predeceases the issuance of a letter of total and permanent disability from the United States Department of Veterans Affairs, the veteran's surviving spouse may produce the letter to the property appraiser to establish eligibility for the homestead exemption for surviving spouses of permanently and totally disabled veterans. The bill does not substantively alter the requirements or procedure for applying for or receiving such an exemption.

The Revenue Estimating Conference has determined the bill will have no fiscal impact.

The bill takes effect January 1, 2024, and first applies to the 2024 tax roll.

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

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.

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 taxes,⁷ and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁸

The Florida Constitution prohibits the state from levying ad valorem taxes⁹ and limits the Legislature's authority to provide for property valuations at less than just value unless expressly authorized.¹⁰

Homestead Exemptions

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads, property owned and maintained as a person's primary residence, with an exemption from taxes.¹¹ Second, the homestead provisions protect the homestead from forced sale by creditors.¹² Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.¹³

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.¹⁴ 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.¹⁵

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 1.¹⁶ The application for exemption must be filed with the property appraiser on or

⁴ See Florida Department of Revenue, Florida Property Tax Calendar, *available at*: <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Mar 9, 2023).

⁵ See Florida Department of Revenue, Tax Collector Calendar - Property Tax Oversight, *available at*: <https://floridarevenue.com/property/Documents/tccalendar.pdf> (last visited Mar 9, 2023).

⁶ *Id.*

⁷ FLA. CONST. art. VII, s. 1(a).

⁸ See FLA. CONST. art. VII, s. 4.

⁹ FLA. CONST. art. VII, s. 1(a).

¹⁰ See FLA. CONST. art. VII, s. 4.

¹¹ FLA. CONST. art. VII, s. 6.

¹² FLA. CONST. art. VII, s. 4.

¹³ *Id.* at (c).

¹⁴ FLA. CONST. art VII, s. 6(a).

¹⁵ *Id.*

¹⁶ Section 196.011(1)(a), F.S.

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.¹⁷

Exemption for 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.¹⁸ 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.¹⁹

A totally and permanently disabled veteran, or his or her surviving spouse, who acquires legal or beneficial title to property between January 1 and November 1, may receive a prorated refund of the ad valorem taxes paid for the newly acquired property as of the date of the property transfer provided they were eligible for and granted the exemption on another homestead property in the previous tax year.²⁰

Application for This Exemption

The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs (USDVA) or its predecessor by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.²¹ A veteran may apply for the exemption before receiving documentation from the USDVA.²² 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.).

A letter of total and permanent disability is a document requested by a veteran from the USDVA. A veteran must file an application for disability benefits alongside supporting medical documentation of disability.²³ A surviving spouse may apply independently to the Department of Veterans Affairs for certain benefits, but a letter of total and permanent disability requires application by the veteran. In the event that a veteran applies for a letter and predeceases either

¹⁷ Section 196.011(5) and (9)(a), F.S.

¹⁸ Section 196.081(1), F.S.

¹⁹ Section 196.081(3), F.S.

²⁰ Section 196.081(1)(b), F.S.

²¹ Section 196.081(2), F.S.

²² Section 196.081(5), F.S.

²³ United States Department of Veterans Affairs, How to File A VA Disability Claim, available at <https://www.va.gov/disability/how-to-file-claim/> (last visited Mar. 11, 2023).

its issuance or presentation, however, a surviving spouse may present the letter to the property appraiser to establish eligibility for the homestead exemptions discussed.²⁴

III. Effect of Proposed Changes:

The bill amends s. 196.081(2), F.S., to clarify that if a veteran predeceases the issuance of a letter of total and permanent disability from USDVA, the veteran's surviving spouse may produce the letter to the property appraiser to establish eligibility for the homestead exemption for surviving spouses of permanently and totally disabled veterans. The bill does not substantively alter the requirements or procedure for applying for or receiving such an exemption.

The bill takes effect January 1, 2024, and first applies to the 2024 tax roll.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

As the Revenue Estimating Conference estimates no impact on local governments from this bill, the county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution likely do not apply. Laws having an “insignificant fiscal impact” are exempt from the mandate requirements, which for Fiscal Year 2022-2023 is forecast at approximately \$2.3 million.^{25,26}

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.

²⁴ Section 196.081(2), F.S., provides that “production by a veteran or the spouse *or surviving spouse* of a letter of total and permanent disability [...] is prima facie evidence of the fact that the veteran or the surviving spouse is entitled to the exemption.” (emphasis added).

²⁵ FLA. CONST. art. VII, s. 18(d).

²⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 10, 2023).

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

The Revenue Estimating Conference has determined the bill will have no impact on local government ad valorem receipts.²⁷

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 196.081, 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.

²⁷ Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: SB 762/HB747*, 190-191, (Mar. 3, 2023), available at: http://edr.state.fl.us/content/conferences/revenueimpact/archives/2023/_pdf/impact0303.pdf (last visited Mar. 11, 2023).

By Senator Wright

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A bill to be entitled
An act relating to a property tax exemption for
surviving spouses of veterans; amending s. 196.081,
F.S.; authorizing a surviving spouse of a veteran who
predeceased the issuance of a certain letter from the
Federal Government to produce the letter before the
property appraiser; providing applicability; providing
an effective date.

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

Section 1. Subsection (2) of section 196.081, Florida
Statutes, is amended to read:

196.081 Exemption for certain permanently and totally
disabled veterans and for surviving spouses of veterans;
exemption for surviving spouses of first responders who die in
the line of duty.—

(2) The production by a veteran or the spouse or surviving
spouse of a letter of total and permanent disability from the
United States Government or United States Department of Veterans
Affairs or its predecessor before the property appraiser of the
county in which property of the veteran lies is prima facie
evidence of the fact that the veteran or the surviving spouse is
entitled to the exemption. If the veteran predeceases the
issuance of the letter, the surviving spouse may produce the
letter before the property appraiser.

Section 2. The amendment to s. 196.081, Florida Statutes,
made by this act applies beginning with the 2024 tax roll.

Section 3. This act shall take effect January 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB 0762

Bill Number or Topic

3/15/2023

Meeting Date

COMMUNITY AFFAIRS

Committee

Name

Bob ASZTALOS

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(850) 487-1533

Address

400 S. MONROE ST.

Email

ASZTALOS@FDVA.STATE.FL.US

Street

TALLAHASSEE

FL

32399

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FDVA

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

SB 762

Meeting Date

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



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compensation or sponsorship.



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representing:

Volusia County



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something of value for my appearance
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While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1018

INTRODUCER: Senator Trumbull

SUBJECT: Flood Damage Prevention

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Favorable
2.			EN	
3.			RC	

I. Summary:

SB 1018, cited as the “Flood Damage Prevention Act of 2023,” provides that “voluntary freeboard” may not be used in the calculation of the maximum allowable height in the applicable zoning district for certain new and substantially improved structures. In coastal high-hazard areas, the maximum voluntary freeboard is 9 feet, and in all other areas the maximum voluntary freeboard is 4 feet.

Freeboard, in the context of flood elevation requirements, generally refers to elevating a building’s lowest floor above the Base Flood Elevation (BFE) and is usually expressed in terms of feet. The BFE is how high floodwater is likely to rise during a 1-percent-annual-chance flood event (“base flood”) and represents the minimum elevation of construction allowed. Freeboard provides an added margin of safety to address flood modeling and mapping uncertainties and can lead to reductions in flood insurance premiums.

The bill also authorizes a local government to adopt by ordinance minimum freeboard requirements or a maximum voluntary freeboard that exceeds the requirements in the bill or the Florida Building Code.

Lastly, the bill directs the Florida Building Commission to develop and adopt minimum freeboard requirements by November 1, 2023, and incorporate such requirements into the next edition of the Florida Building Code.

The bill takes effect on July 1, 2023.

II. Present Situation:

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Building Code, and that first edition replaced all local codes on March 1, 2002.²

The Building Code is updated every three years. The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.³ The next edition of the Building Code will take effect on December 31, 2023.

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (act). The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

Local governments may, not more than once every 6 months, adopt amendments to the technical provisions of the Building Code that apply solely within the jurisdiction of such government and that provide for more stringent requirements than those specified in the Building Code.⁵ A local government must determine there is a need to strengthen the requirements of the Building Code based on a review of local conditions.⁶ Such amendments may not introduce a new subject not addressed in the Building Code.⁷ Most technical amendments sunset upon adoption of the newest edition of the Building Code, unless adopted into the Building Code.⁸

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited March 10, 2023).

² *Id.*; DBPR, *Building Code Information System*, available at: <https://floridabuilding.org/c/default.aspx#> (last visited March 10, 2023).

³ *Id.*

⁴ Section 553.72(1), F.S.

⁵ Section 553.73 (4)(b), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 553.73(4)(e), F.S.

The Florida Building Commission (commission) was statutorily created to implement the Building Code. The commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The commission reviews International Codes published by the International Code Council,⁹ the National Electric Code, and other nationally adopted model codes during its triennial update of the Building Code.¹⁰

Local Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.¹¹

Every local government must enforce the Building Code and issue building permits.¹² It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.¹³

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.¹⁴ Construction work may not be done beyond a certain point until it passes an inspection.

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968.¹⁵ The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides homeowners, business owners, and renters in flood-prone areas the ability to purchase flood insurance protection from the federal government.¹⁶ The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk, and to reduce flood risk through the adoption of floodplain management standards. Communities volunteer to participate in the NFIP in order to have access to federal flood insurance, and in return are required to adopt minimum floodplain management standards that are described in FEMA regulations.

⁹ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited March 10, 2023).

¹⁰ Sections 553.73, and 553.74, F.S.

¹¹ Section 553.72, F.S.

¹² Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

¹³ Sections 125.56(4)(a), 553.79(1), F.S.

¹⁴ Section 110 Seventh edition of the Florida Building Code (Building).

¹⁵ FEMA, *50 Years of the NFIP*, available at https://www.fema.gov/sites/default/files/2020-05/NFIP_50th_Final_8.5x11_Regional_Printable.pdf (last visited March 10, 2023).

¹⁶ Benefits.gov, *National Flood Insurance Program (NFIP)*, available at <https://www.benefits.gov/benefit/435> (last visited March 10, 2023).

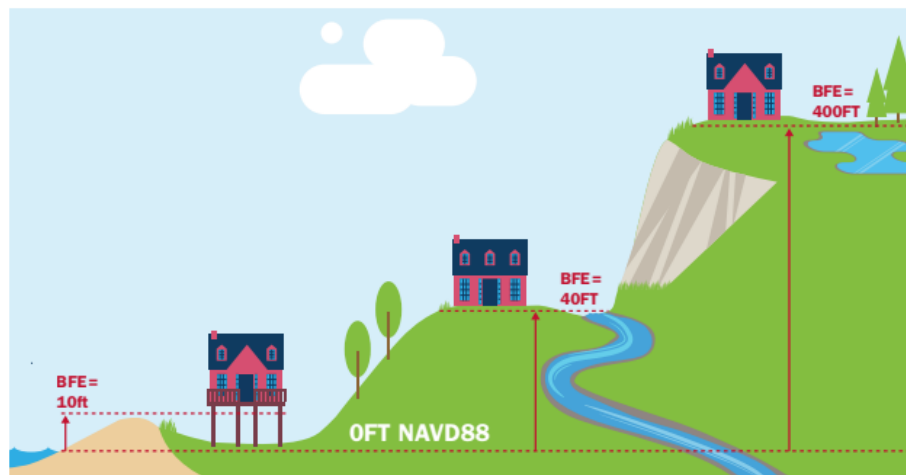
FEMA develops, in coordination with participating communities, flood maps called Flood Insurance Rate Maps (FIRMs) that depict the community's flood risk and floodplain. While FEMA is largely responsible for the creation of the FIRM, the community itself must pass the map into its local regulations in order for the map to be effective. An area of specific focus on the FIRM is the Special Flood Hazard Area (SFHA). The SFHA is intended to distinguish the flood risk zones that have a chance of flooding during a "1 in 100 year flood" or greater frequency. This means that properties in the SFHA have a risk of 1 percent or greater risk of flooding every year and a one-in-four chance of flooding during a 30-year mortgage. In a community that participates in the NFIP, owners of properties in the mapped SFHA are required to purchase flood insurance as a condition of receiving a federally backed mortgage.¹⁷

Key conditions of the NFIP minimum floodplain management standards include, among many other conditions, that communities:

- Require permits for development in the SFHA;
- Require elevation of the lowest floor of all new residential buildings in the SFHA to or above the Base Flood Elevation;
- Restrict development in floodways to prevent increasing the risk of flooding; and
- Require certain construction materials and methods that minimize future flood damage.¹⁸

Base Flood Elevation and Freeboard

The Base Flood Elevation (BFE) is how high floodwater is likely to rise during a 1-percent-annual-chance flood event ("base flood").¹⁹ BFEs are measured from a reference point called NAVD88, which is approximately equal to sea level, and vary widely across geographies.²⁰ The BFE represents the minimum elevation of construction allowed by the NFIP.



Source: FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, p. 6.

¹⁷ Such lenders include federal agency lenders, such as the Department of Veterans Affairs, government-sponsored enterprises Fannie Mae, Freddie Mac, and federally regulated lending institutions, such as banks covered by the Federal Deposit Insurance Corporation (FDIC) or the Office of the Comptroller of the Currency (OCC).

¹⁸ Congressional Research Service, *Introduction to the National Flood Insurance Program* (Updated Jan. 6, 2023), p. 6, available at <https://crsreports.congress.gov/product/pdf/R/R44593> (last visited March 12, 2023).

¹⁹ FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, p. 6, available at https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf (last visited March 12, 2023).

²⁰ *Id.*

Freeboard

Freeboard is “an additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations.”²¹ Freeboard, usually expressed in feet above flood level, helps to compensate for many unknown factors that could contribute to flooding and results in significantly lower flood insurance rates due to lower flood risk.²² Freeboard is not required by NFIP eligibility standards, but FEMA encourages communities to adopt at least one foot of freeboard.²³

The Building Code requires all buildings located in a flood hazard area to be built an additional one foot higher.²⁴ However, many Florida communities adopt requirements for additional elevation above the minimum in the Building Code, ranging from two to five feet above the BFE. Local freeboard requirements are incorporated via technical amendments to the Building Code.²⁵ Florida Statutes specifically authorizes counties and municipalities to adopt administrative or technical amendment to the Building Code relating to flood resistance in order to implement the NFIP or other incentives.²⁶ Flood-related local amendments that require a design flood elevation above the BFE are not subject to sunset upon adoption of the newest edition of the Building Code.²⁷

III. Effect of Proposed Changes:

The bill, cited as the “Flood Damage Prevention Act of 2023,” creates s. 553.845 F.S., to require that “voluntary freeboard” may not be used in the calculation of the maximum allowable height²⁸ for a structure in an applicable zoning district. Specifically, the maximum voluntary freeboard allowed for all new construction and substantial improvements²⁹ to existing construction, whether residential, commercial, industrial, or nonresidential, is 4 feet. However in coastal high-hazard area, the maximum voluntary freeboard is 9 feet.

“Coastal high-hazard area” is defined in the bill as a special flood hazard area along the coast, as delineated by a Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) that has additional hazards due to wind and wave action.

²¹ FEMA, *Freeboard*, available at <https://www.fema.gov/glossary/freeboard> (last visited March 10, 2023)

²² *Id.*

²³ *Id.*

²⁴ 6th Edition of the Florida Building Code- Residential 322.2.1, Florida Building Code-Building, Table 2-1 Minimum of the Top of the Lowest Floor

²⁵ Wilton Manors, FL. Ordinance No, 2020-004 § 2, 5-26-20, City of Miami Beach Flood Plain Management, Sec. 54-35. - Definitions

²⁶ Section 553.73 (5) F.S.

²⁷ *Id.*

²⁸ “Maximum allowable height” means the maximum height allowed for a structure in the applicable zoning district.

²⁹ “Substantial improvement” means any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the improvement or repair of the structure to its pre-damage condition equals or exceeds 50 percent of the market value of the structure either: (a) Before the improvement or repair is started; or (b) If the structure has been damaged and is being restored, before the damage occurred.

“Freeboard” is defined as the additional height, usually expressed as a factor of safety in feet, above the base flood elevation in determining the level at which a structure’s lowest floor or the bottom of the lowest horizontal structural member must be elevated in accordance with floodplain management regulations and the Florida Building Code (Building Code). If a base flood elevation is not determined for a structure that is not located in a special flood hazard area as designated by a FIRM issued by the FEMA, the term “freeboard” means the highest adjacent grade at the foundation of a structure.

“Voluntary freeboard” is defined as the additional height above the freeboard required by floodplain management regulations and the Building Code. If freeboard is not required by floodplain management regulations and the Building Code, the term “voluntary freeboard” means the additional height above the highest adjacent grade at the foundation of a structure.

The bill also authorizes a local government to adopt by ordinance minimum freeboard requirements or a maximum voluntary freeboard that exceeds the requirements in the bill or the Building Code.

Lastly, the bill directs the Florida Building Commission to develop and adopt minimum freeboard requirements by November 1, 2023, and incorporate such requirements into the next edition of the Building Code.

The bill makes substantial legislative findings regarding the importance of flood mitigation and Florida’s vulnerability to adverse effects caused by flooding.

The bill takes effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Building owners who incorporate voluntary freeboard may receive flood insurance discounts and also reduce their exposure to flood events.

C. Government Sector Impact:

The Florida Building Commission may incur costs to develop adopt new freeboard requirements. However, these costs can likely be absorbed with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 553.845 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Trumbull

2-01331A-23

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A bill to be entitled

An act relating to flood damage prevention; providing a short title; creating s. 553.845, F.S.; providing legislative findings; providing definitions; providing voluntary freeboard requirements for all new construction and substantial improvements to existing construction; prohibiting voluntary freeboard from being used in the calculation of the maximum allowable height for certain construction in applicable zoning districts; authorizing local governments to adopt by ordinance a minimum freeboard requirement or a maximum voluntary freeboard that exceeds the minimum requirements in the Florida Building Code or established in the act; requiring the Florida Building Commission to develop and adopt by rule minimum freeboard requirements by a specified date, which shall take immediate effect, and to incorporate such requirements into the next edition of the Florida Building Code; requiring the commission to review the freeboard requirements in the Florida Building Code every 5 years beginning on a specified date and make certain recommendations to the Legislature; providing an effective date.

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

Section 1. This act may be cited as the "Flood Damage Prevention Act of 2023."

Section 2. Section 553.845, Florida Statutes, is created to

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30 read:

31 553.845 Flood damage prevention.-

32 (1) The Legislature finds that:

33 (a) The state is vulnerable to the adverse effects of
34 flooding resulting from the frequency and intensity of rainfall
35 and an increase in storm surge and sea level rise. These adverse
36 effects pose a significant risk to existing and future
37 structures in the state.

38 (b) Public and private investments in our communities are
39 important for economic growth, and protecting all structures
40 from flooding is essential to maintaining resilient communities.

41 (c) The mitigation of property damage constitutes a valid
42 and recognized objective of the Florida Building Code.

43 (d) It is important to develop a consistent, statewide
44 approach to minimizing flooding in the state to mitigate
45 property damage and encourage continued investment in our
46 communities.

47 (e) Minimum freeboard requirements are critical to
48 addressing the devastating effects of flooding, and delaying the
49 adoption and implementation of such requirements constitutes a
50 threat to the health, safety, and welfare of the state.

51 (2) For purposes of this section, the term:

52 (a) "Coastal high-hazard area" means a special flood hazard
53 area along the coast, as delineated by a Flood Insurance Rate
54 Map issued by the Federal Emergency Management Agency, that has
55 additional hazards due to wind and wave action.

56 (b) "Freeboard" means the additional height, usually
57 expressed as a factor of safety in feet, above the base flood
58 elevation in determining the level at which a structure's lowest

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59 floor or the bottom of the lowest horizontal structural member
60 must be elevated in accordance with floodplain management
61 regulations and the Florida Building Code. If a base flood
62 elevation is not determined for a structure that is not located
63 in a special flood hazard area as designated by a Flood
64 Insurance Rate Map issued by the Federal Emergency Management
65 Agency, the term "freeboard" means the highest adjacent grade at
66 the foundation of a structure.

67 (c) "Maximum allowable height" means the maximum height
68 allowed for a structure in the applicable zoning district.

69 (d) "Substantial improvement" has the meaning as in s.
70 161.54(12).

71 (e) "Voluntary freeboard" means the additional height above
72 the freeboard required by floodplain management regulations and
73 the Florida Building Code. If freeboard is not required by
74 floodplain management regulations and the Florida Building Code,
75 the term "voluntary freeboard" means the additional height above
76 the highest adjacent grade at the foundation of a structure.

77 (3)(a) The maximum voluntary freeboard for all new
78 construction and substantial improvements to existing
79 construction, whether residential, commercial, industrial, or
80 nonresidential, is 4 feet.

81 (b) Within a coastal high-hazard area, the maximum
82 voluntary freeboard for all new construction and substantial
83 improvements to existing construction, whether residential,
84 commercial, industrial, or nonresidential, is 9 feet.

85 (4) For all new construction of a residential structure and
86 substantial improvements to an existing residential structure,
87 including a manufactured home, or an existing commercial,

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industrial, or nonresidential structure, voluntary freeboard may not be used in the calculation of the maximum allowable height for the structure.

(5) A local government may adopt by ordinance a minimum freeboard requirement or a maximum voluntary freeboard that exceeds the requirements in the Florida Building Code or established in this section.

(6) The commission shall develop and adopt by rule minimum freeboard requirements by November 1, 2023, which shall take immediate effect, and shall incorporate such requirements into the next edition of the Florida Building Code.

(7) Beginning in January 2028, and every 5 years thereafter, the commission shall review the freeboard requirements in the Florida Building Code and make recommendations to the Legislature regarding any necessary revisions to such requirements.

Section 3. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1018

Bill Number or Topic

Meeting Date

Committee

Amendment Barcode (if applicable)

Name

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Address

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City

State

Zip

Speaking:

☐

For

☐

Against

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Information

OR

Waive Speaking:

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In Support

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Against

PLEASE CHECK ONE OF THE FOLLOWING:

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I am appearing without
compensation or sponsorship.

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☐

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something of value for my appearance
(travel, meals, lodging, etc.),
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While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 7002

INTRODUCER: Community Affairs Committee and Environment and Natural Resources Committee

SUBJECT: Ratification of Rules of the Department of Environmental Protection

DATE: March 16, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Carroll</u>	<u>Rogers</u>		EN Submitted as Committee Bill
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 7002 ratifies Florida Administrative Code Rule 62-6.001, which incorporates more stringent permitting requirements for onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as septic systems, in areas where the Department of Environmental Protection has adopted an OSTDS remediation plan as part of a basin management action plan.

The bill also ratifies Florida Administrative Code Rules 62-600.405, 62-600.705, and 62-600.720, relating to domestic wastewater facilities, which:

- Require a pipe assessment, repair, and replacement plan and an annual report on the plan;
- Include statutory requirements for a power outage contingency plan;
- Include statutory requirements for an annual report on utilities' expenditures on pollution mitigation efforts; and
- Require certain domestic wastewater facilities' emergency response plans to address cybersecurity.

The bill takes effect upon becoming a law.

II. Present Situation:

The Clean Waterways Act

The Florida Legislature passed the Clean Waterways Act in 2020 to address a number of environmental issues relating to water quality improvement.¹ Major topics in the Act included onsite sewage treatment and disposal systems (OSTDSs), wastewater, stormwater, agriculture, and biosolids, and the Act directed the Department of Environmental Protection (DEP) to make rules to implement these policies.

The Act expanded OSTDS remediation plan requirements by requiring a remediation plan to be included in the development of a basin management action plan (BMAP) for nutrient-impaired water bodies if OSTDSs contribute at least 20 percent of the nutrient pollution or if DEP determines that remediation is necessary to achieve the total maximum daily load (TMDL). The Act authorized DEP to adopt rules to administer the requirements of an OSTDS remediation plan.

The Act also addressed prevention of sanitary sewer overflows (SSOs), underground pipe leaks, and inflow and infiltration (I&I). DEP's rules must reasonably limit, reduce, and eliminate domestic wastewater collection and transmission system pipe leakages and I&I. The Act authorized DEP to adopt rules relating to pipe assessment, repair, and replacement action plans, power outage contingency plans, and reports relating to expenditures on pollution mitigation and prevention.²

Legislative Ratification of Agency Rules

A rule is subject to legislative ratification if it:

- Has an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule;
- Has an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule; or
- Increases regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.³

If a rule requires ratification by the Legislature, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the regular legislative session. The rule may not go into effect until it is ratified by the Legislature.⁴

¹ Chapter 2020-150, Laws of Fla.

² *Id.*

³ Section 120.541(2)(a), F.S.

⁴ Section 120.541(3), F.S.

A statement of estimated regulatory costs (SERC) is an analysis prepared by an agency before the adoption, amendment, or repeal of a rule other than an emergency rule. A SERC must be prepared by an agency for a proposed rule that:

- Will have an adverse impact on small business; or
- Is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in the state within one year after the implementation of the rule.⁵

A SERC must include:

- An economic analysis showing whether the rule exceeds the thresholds requiring legislative ratification;
- A good faith estimate of the number and types of individuals and entities likely to be required to comply with the rule, and a general description of the types of individuals likely to be affected by the rule;
- A good faith estimate of the cost to the agency, and to other state and local government entities, of implementing and enforcing the proposed rule, including anticipated effects on state or local revenues;
- A good faith estimate of the transactional costs (direct business costs) likely to be incurred by individuals and entities required to comply with the requirements of the rule;
- An analysis of the impact on small businesses, small counties, and small cities; and
- A description of regulatory alternatives submitted to the agency and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.⁶

Statement of Estimated Regulatory Costs for Rule 62-6.001, F.A.C.

DEP determined that a SERC was required for rule 62-6.001, Florida Administrative Code, and prepared one in advance of rule adoption.⁷ DEP found that the rule will increase regulatory costs for OSTDS upgrades in excess of existing required costs.⁸ DEP estimates that the total cost impact over five years will be approximately \$5.7 million.⁹ Over a five-year period:

- The cost to upgrade 8,940 residential properties to nutrient-reducing OSTDSs will be approximately \$5.1 million;
- The cost to upgrade 470 OSTDSs for commercial properties will be approximately \$2.7 million; and
- The state government cost impacts for staffing to manage the increased workload will be approximately \$3.5 million.¹⁰

Statement of Estimated Regulatory Costs for Chapter 62-600, F.A.C.

DEP determined that a SERC was required for chapter 62-600, Florida Administrative Code, and prepared one in advance of rule adoption.¹¹ DEP found that the rules will increase regulatory

⁵ Section 120.54(3)(b)1., F.S.

⁶ Section 120.541(2), F.S.

⁷ DEP, *SERC, Rule 62-6.001, F.A.C.* (on file with the Senate Committee on Environment and Natural Resources).

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.* at 5.

¹¹ DEP, *SERC, Chapter 62-600, F.A.C.* (on file with the Senate Committee on Environment and Natural Resources).

costs for 1,647 wastewater facilities, including the largest municipal wastewater treatment facilities, facilities in small rural towns, and even small privately-owned wastewater treatment facilities that serve a mobile home park or similar business.¹² The key costs related to the primary rule revisions include the cost to:

- Prepare and submit an annual report for pollution mitigation;
- Prepare a power outage contingency plan;
- Develop and implement the initial collection system action plan;
- Prepared and submit annual report(s) for the collection system action plan; and
- For large facilities, update the facility emergency response plan to address cybersecurity.¹³

DEP estimates that the total increase in cost within five years of the implementation of the rules will be \$328 million.¹⁴ The cost to each wastewater treatment facility will vary according to the size of the facility.¹⁵ DEP provided the following estimates:

- A one-time cost to develop an initial collection system action plan with an asset management plan between \$4.5 million and \$74 million;
- Annual costs to implement and manage a collection system action plan between \$5.9 million and \$17 million;
- Annual costs to prepare a report for the collection system action plan between \$1.8 million and \$17 million; and
- A cost for large Type I domestic wastewater facilities to address cybersecurity concerns of \$11 million.¹⁶

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life.¹⁷ The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.¹⁸

Phosphorus and nitrogen are derived from natural and human-made sources.¹⁹ Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.²⁰

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals.²¹ Dense, harmful algal blooms can

¹² *Id.* at 3.

¹³ *Id.* at 5.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 7.

¹⁶ *Id.* at 6-7.

¹⁷ U.S. Environmental Protection Agency, *The Issue*, <https://www.epa.gov/nutrientpollution/issue> (last visited Feb. 10, 2023).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Feb 10, 2023).

²¹ EPA, *The Issue*, <https://www.epa.gov/nutrientpollution/issue> (last visited Feb. 10, 2023).

also cause human health problems, fish kills, problems for water treatment plants, and impairment of the aesthetics and taste of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.²²

Total Maximum Daily Loads

A TMDL, which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.²³ Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water Act, DEP must establish a TMDL for impaired waterbodies.²⁴

Basin Management Action Plans

DEP is the lead agency in coordinating the development and implementation of TMDLs.²⁵ BMAPs are one of the primary mechanisms DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges,²⁶ for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.²⁷

DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.²⁸ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government, community leaders, and the public to collectively determine and share water quality cleanup responsibilities.²⁹ BMAPs are adopted by secretarial order.³⁰

²² *Id.*

²³ Department of Environmental Protection (DEP), *Total Maximum Daily Loads Program*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Feb. 10, 2023).

²⁴ Section 403.067(1), F.S.

²⁵ Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

²⁶ Fla. Admin. Code R. 62-620.200(37). “Point source” is defined as “any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.” Nonpoint sources of pollution are sources of pollution that are not point sources.

²⁷ Section 403.067(7), F.S.

²⁸ *Id.*

²⁹ DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Feb. 10, 2023).

³⁰ Section 403.067(7)(a)5., F.S.

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years, and revisions to the BMAP must be made as appropriate.³¹

In 2020, the Clean Waterways Act required BMAPs for nutrient TMDLs to include an OSTDS remediation plan if DEP identifies OSTDSs as contributors of at least 20 percent of nutrient pollution or if DEP determines that remediation is necessary to achieve the TMDLs.³² This was an expansion of the statutory requirement that an OSTDS remediation plan must be developed if DEP determines that OSTDSs within a spring priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or that remediation is necessary to achieve the TMDL.³³ OSTDS remediation plans for springs BMAPs can be found in Appendix D of the BMAPs.³⁴ Appendix D remediation plan elements include requirements for the installation of new OSTDSs, modification and repair of existing OSTDSs, and other plan elements, such as:

- An evaluation of credible scientific information on the effect of nutrients on springs and spring systems;
- Options for repair, upgrade, replacement, drain field modification, the addition of effective nitrogen-reducing features, connection to a central sewer system, or other action;
- A public education plan to provide area residents with reliable, understandable information about OSTDSs and springs;
- Cost-effective and financially feasible projects necessary to reduce the nutrient impacts of OSTDSs; and
- A priority ranking for each project for funding contingent on appropriations in the General Appropriations Act.³⁵

Onsite Sewage Treatment and Disposal Systems

OSTDSs, commonly referred to as “septic systems,” generally consist of two basic parts: the septic tank and the drainfield.³⁶ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.³⁷

³¹ Section 403.067(7)(a)6., F.S.

³² Chapter 2020-150, Laws of Fla.

³³ Section 373.807, F.S.

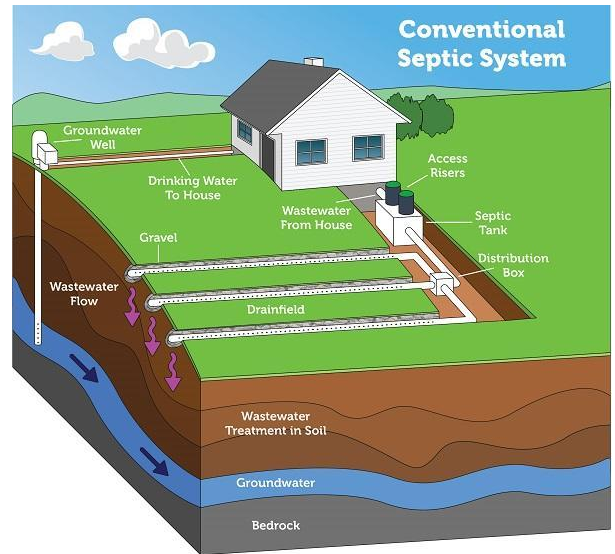
³⁴ See, e.g., DEP, *Wacissa River and Wacissa Spring Group Basin Management Action Plan*, 56-61 (June 2018) available at <https://floridadep.gov/sites/default/files/Wacissa%20Final%202018.pdf>.

³⁵ *Id.* at 56-57.

³⁶ DOH, *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Feb, 2023); EPA, *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited Feb. 10, 2023) (showing the graphic provided in the analysis).

³⁷ *Id.*

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.³⁸ In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.³⁹ For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.⁴⁰ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.⁴¹



Please note: Septic systems vary. Diagram is not to scale.

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.⁴² This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.⁴³

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as “advanced” or “nutrient-reducing” septic systems).⁴⁴ DEP publishes on its website approved products and resources on advanced systems.⁴⁵ Determining which advanced system is the best option can depend on site-specific conditions.

³⁸ DEP, *Onsite Sewage Program*, <https://floridadep.gov/water/onsite-sewage/#:~:text=Onsite%20sewage%20treatment%20and%20disposal%20systems%20%28OSTDS%29%2C%20commonly,represents%2012%25%20of%20the%20United%20States%E2%80%99%20septic%20systems> (last visited Feb. 10, 2023).

³⁹ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/documents/costs-implement-mandatory-statewide-inspection.pdf> (last visited Feb. 10, 2023).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study, Final Report 2008-2015*, 21 (Dec. 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf>; see Fla. Admin. Code R. 64E-6.006(2).

⁴³ University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Oct. 2020), available at <http://edis.ifas.ufl.edu/pdf/SS/SS55000.pdf> (last visited Feb. 10, 2023).

⁴⁴ DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (updated May 2021), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/products/documents/bmap-n-reducing-tech-18-10-29.pdf>.

⁴⁵ DEP, *Onsite Sewage Program, Product Listings and Approval Requirements*, <https://floridadep.gov/water/onsite-sewage/content/product-listings-and-approval-requirements> (last visited Feb. 10, 2023).

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.⁴⁶ Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from DEP.⁴⁷

In 2020, the Clean Waterways Act provided for the transfer of the Onsite Sewage Program from the Department of Health (DOH) to DEP.⁴⁸ The Onsite Sewage Program will be transferred over a period of five years, and guidelines for the transfer are provided by an interagency agreement.⁴⁹ Per the agreement, DEP has the primary powers and duties of the Onsite Sewage Program, meaning that the county departments of health will implement the OSTDS program under the direction of DEP instead of DOH.⁵⁰ The county departments of health still handle permitting and inspection of OSTDS.⁵¹ In the event of an alleged violation of OSTDS laws, county departments of health will be responsible for conducting an inspection to gather information regarding the allegations.⁵²

Wastewater Treatment Facilities

The proper treatment and disposal or reuse of domestic wastewater is an important part of protecting Florida's water resources. The majority of Florida's domestic wastewater is controlled and treated by centralized treatment facilities regulated by DEP. Florida has approximately 2,000 permitted domestic wastewater treatment facilities.⁵³

Chapter 403, F.S., requires that any facility or activity which discharges waste into waters of the state or which will reasonably be expected to be a source of water pollution must obtain a permit from DEP.⁵⁴ Generally, persons who intend to collect, transmit, treat, dispose, or reuse wastewater are required to obtain a wastewater permit. A wastewater permit issued by DEP is required for both operation and certain construction activities associated with domestic or industrial wastewater facilities or activities. A DEP permit must also be obtained prior to construction of a domestic wastewater collection and transmission system.⁵⁵

Under section 402 of the federal Clean Water Act, any discharge of a pollutant from a point source to surface waters (i.e., the navigable waters of the United States or beyond) must obtain a National Pollution Discharge Elimination System (NPDES) permit.⁵⁶ NPDES permit

⁴⁶ Section 381.00655, F.S.

⁴⁷ *Id.*

⁴⁸ DEP, *Program Transfer*, <https://floridadep.gov/water/onsite-sewage/content/program-transfer> (last visited Feb. 10, 2023).

⁴⁹ DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida's Clean Waterways Act for Transfer of the Onsite Sewage Program*, 5 (June 30, 2021), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/documents/interagency-agreement-between-fdoh-fdep-onsite-signed-06302021.pdf> (last visited Feb. 10, 2023).

⁵⁰ *Id.* at 14.

⁵¹ *Id.* at 11; and DEP, *Onsite Sewage Program*, <https://floridadep.gov/water/onsite-sewage> (last visited Feb. 10, 2023).

⁵² DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida's Clean Waterways Act for Transfer of the Onsite Sewage Program* at 11.

⁵³ DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Feb. 10, 2023).

⁵⁴ Section 403.087, F.S.

⁵⁵ DEP, *Wastewater Permitting*, <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Feb. 10, 2023).

⁵⁶ 33 U.S.C. s. 1342.

requirements for most wastewater facilities or activities (domestic or industrial) that discharge to surface waters are incorporated into a state-issued permit, thus giving the permittee one set of permitting requirements rather than one state and one federal permit.⁵⁷ DEP issues operation permits for a period of five years for facilities regulated under the NPDES program and up to 10 years for other domestic wastewater treatment facilities meeting certain statutory requirements.⁵⁸

Cybersecurity

Cyber-attacks on water and wastewater systems are increasingly common.⁵⁹ Attacks that target water or wastewater utility business processes or process control systems can result in:

- Malfunctioning treatment and conveyance processes;
- Compromise of a utility's website or email system;
- Stolen personal data or credit card information from a utility's billing system; and
- Installation of malicious programs like ransomware, which can disable operations.⁶⁰

Sanitary Sewer Overflows, Leakages, and Inflow and Infiltration

Although domestic wastewater treatment facilities are permitted and designed to safely and properly collect and manage a specified wastewater capacity, obstructions or extreme conditions can cause an SSO. Any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a sanitary sewer system is an SSO.⁶¹ An SSO may subject the owner or operator of a facility to civil penalties of not more than \$10,000 for each offense, a criminal conviction or fines, and additional administrative penalties.⁶² Each day during the period in which a violation occurs constitutes a separate offense.⁶³ However, administrative penalties are capped at \$10,000.⁶⁴

A key concern with SSOs entering rivers, lakes, or streams is their negative effect on water quality. In addition, because SSOs contain partially treated or potentially untreated domestic wastewater, ingestion or similar contact may cause illness. People can be exposed through direct contact in areas of high public access, food that has been contaminated, inhalation, and skin absorption. DOH issues health advisories when bacteria levels present a risk to human health and may post warning signs when bacteria affect public beaches or other areas where there is a risk of human exposure.⁶⁵

Reduction of SSOs can be achieved through:

- Cleaning and maintaining the sewer system;
- Reducing I&I through rehabilitation and repairing broken or leaking lines;

⁵⁷ Sections 403.061 and 403.087, F.S.

⁵⁸ Section 403.087(3), F.S.

⁵⁹ EPA, *Water Sector Cybersecurity Brief for States*, 1 (2018) available at https://www.epa.gov/sites/default/files/2018-06/documents/cybersecurity_guide_for_states_final_0.pdf (last visited Feb. 13, 2023).

⁶⁰ *Id.*

⁶¹ DEP, *Sanitary Sewer Overflows (SSOs)*, available at <https://floridadep.gov/sites/default/files/Sanitary%20Sewer%20Overflows.pdf> (last visited Feb. 10, 2023).

⁶² Sections 403.121 and 403.141, F.S.

⁶³ *Id.*

⁶⁴ Section 403.121(2)(b),(8), and (9), F.S.

⁶⁵ DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/Sanitary%20Sewer%20Overflows.pdf>.

- Enlarging or upgrading sewer, pump station, or sewage treatment plant capacity and/or reliability; and
- Constructing wet weather storage and treatment facilities to treat excess flows.⁶⁶

I&I occurs when groundwater and/or rainwater enters the sanitary sewer system and ends up at the wastewater treatment facility, necessitating its treatment as if it were wastewater.⁶⁷ I&I can be caused by groundwater infiltrating the sewer system through faulty pipes or infrastructure, or any inflows of rainwater or non-wastewater into the sewer system.

I&I is a major cause of SSOs in Florida.⁶⁸ When domestic wastewater facilities are evaluated for permit renewal, collection systems are not evaluated for issues such as excessive inflow or infiltration unless problems result at the treatment plant.⁶⁹ Another major cause of SSOs is the loss of electricity to the infrastructure for the collection and transmission of wastewater, such as pump stations, especially during storms.⁷⁰ Pump stations receiving flow from another station through a force main, or those discharging through pipes 12 inches or larger, must have emergency generators.⁷¹ All other pump stations must have emergency pumping capability through one of three specified arrangements.⁷² These requirements for emergency pumping capacity only apply to domestic wastewater collection/transmission facilities existing after November 6, 2003, unless facilities existing prior to that date are modified.⁷³

In 2020, the Clean Waterways Act required DEP to adopt rules to reasonably limit, reduce, and eliminate leaks, seepages, or inputs into the underground pipes of wastewater collection systems.⁷⁴ The Act required facilities for sanitary sewage disposal to have a power outage contingency plan to mitigate the impacts of power outages on the utility's collection system and pump stations. It also required facilities to use I&I studies and leakage surveys to develop pipe assessment, repair, and replacement action plans with at least a five-year planning horizon.⁷⁵

⁶⁶ *Id.*

⁶⁷ City of St. Augustine, *Inflow & Infiltration Elimination Program*, <https://www.citystaug.com/549/Inflow-Infiltration-Elimination-Program> (last visited Jan. 10, 2023).

⁶⁸ See generally RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), available at https://floridadep.gov/sites/default/files/Final%20Report%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf (last visited Feb. 10, 2023).

⁶⁹ Fla. Admin. Code R. 62-600.735; see Fla. Admin. Code R. 62-600.200. "Collection/transmission systems" are defined as "sewers, pipelines, conduits, pumping stations, force mains, and all other facilities used for collection and transmission of wastewater from individual service connections to facilities intended for the purpose of providing treatment prior to release to the environment."

⁷⁰ See generally RS&H, Inc., *Evaluation of Sanitary Sewer Overflows and Unpermitted Discharges Associated with Hurricanes Hermine and Matthew* (Jan. 2017), available at https://floridadep.gov/sites/default/files/Final%20Report%20Evaluation%20of%20SSO%20and%20Unpermitted%20Discharges%2001_06_17.pdf (last visited Feb. 10, 2023).

⁷¹ Fla. Admin. Code R. 62-604.400.

⁷² *Id.*

⁷³ Fla. Admin. Code R. 62-604.100.

⁷⁴ Chapter 2020-150, Laws of Fla.

⁷⁵ *Id.*

III. Effect of Proposed Changes:

The bill ratifies Florida Administrative Code Rule 62-6.001, titled “General,” which is amended to incorporate more stringent permitting requirements for onsite sewage treatment and disposal systems (OSTDSs) in areas where the Department of Environmental Protection (DEP) has adopted an OSTDS remediation plan as part of a basin management action plan. The permitting requirements are projected to assure DEP that the installed system will not cause or contribute to the exceedance of a nutrient total maximum daily load established as of the date of the permit application.

The bill ratifies Florida Administrative Code Rules 62-600.405, 62-600.705, and 62-600.720, titled “Domestic Wastewater Facilities: Planning for Wastewater Facilities Expansion,” “Domestic Wastewater Facilities: Collection/Transmission Systems,” and “Domestic Wastewater Facilities: Operation and Maintenance Manual,” respectively. These rules are amended to:

- Require a pipe assessment, repair, and replacement plan and an annual report on the plan;
- Specify the scope and content of the plan and the content of the annual report;
- Include statutory requirements for a power outage contingency plan;
- Include statutory requirements for an annual report on utilities’ expenditures on pollution mitigation efforts;
- Require certain domestic wastewater facilities to address cybersecurity in their emergency response plan.

The bill:

- Serves no other purpose and may not be codified in the Florida Statutes;
- Directs that its enactment and effective dates must be noted in the Florida Administrative Code, the Florida Administrative Register, or both;
- Does not alter rulemaking authority delegated by prior law, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under ch. 120, F.S.; and
- Does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

The bill will take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18(a) of the Florida Constitution may not apply to this bill. The Florida Constitution limits the ability of the State to impose unfunded mandates on local governments. However, Art. VII, s. 18(d) of the Florida Constitution provides that laws reauthorizing but not expanding existing statutory authority are exempt from the unfunded mandates provision. This bill likely falls under this exemption and will therefore not be subject to the unfunded mandates prohibition.

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:

Rule 62-6.001, F.A.C., will increase regulatory costs for onsite sewage treatment and disposal system (OSTDS) upgrades for properties in certain areas. The Department of Environmental Protection (DEP) estimates that in one year residential property owners will pay a one-time amount of approximately \$9,386,600 and a recurring amount of approximately \$250,250. After five years, the total cost to upgrade 8,940 residential properties to nutrient-reducing OSTDSs is approximately \$50,686,750.⁷⁶

Rules 62-600.405, 62-600.705, and 62-600.720, F.A.C., will increase costs for small businesses like mobile home parks and RV parks that have their own wastewater treatment facility.⁷⁷ DEP estimates that the cost for these small facilities will be approximately \$4,000 for the preparation of the plan and \$1,600 for preparation of the annual report. The few larger facilities that are privately owned will likely see costs similar to small municipality or small county facilities.⁷⁸

C. Government Sector Impact:

Rule 62-6.001, F.A.C., will increase costs for DEP and the Department of Health (DOH) due to increased staffing. In one year, DEP will pay a one-time amount of approximately \$4,474 and a recurring amount of approximately \$132,684. In one year, DOH will pay a one-time amount of approximately \$22,370 and a recurring amount of approximately \$349,758. After five years, DEP will have paid approximately \$667,894 and DOH will

⁷⁶ DEP, *SERC, Rule 62-6.001, F.A.C.*, 5 (on file with the Senate Committee on Environment and Natural Resources).

⁷⁷ DEP, *SERC, Chapter 62-600, F.A.C.*, 7 (on file with the Senate Committee on Environment and Natural Resources).

⁷⁸ *Id.*

have paid approximately \$2,805,774. The cost to state and local government over five years adds up to approximately \$3,473,668.⁷⁹

Rules 62-600.405, 62-600.705, and 62-600.720, F.A.C., will increase regulatory costs for local government entities that own and operate large domestic wastewater treatment facilities. DEP estimates that these local government entities will be required to pay approximately \$120 million for one-time capital costs and recurring costs.⁸⁰ A small county or city that owns a small wastewater treatment facility may pay \$50,000-\$100,000 to prepare an initial collection system action plan, \$10,000-\$20,000 to implement the plan, and \$5,000-\$20,000 to prepare the annual report.⁸¹ DEP notes that these estimates may vary widely by facility, especially for extremely large facilities.⁸²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Community Affairs on March 15, 2023:

The CS corrects a drafting inconsistency.

B. Amendments:

None

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

⁷⁹ DEP, *SERC, Rule 62-6.001, F.A.C.* at 5.

⁸⁰ DEP, *SERC, Chapter 62-600, F.A.C.*, 4, 6-7 (on file with the Senate Committee on Environment and Natural Resources).

⁸¹ *Id.* at 8.

⁸² *Id.* at 6.



177856

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2023	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 19
and insert:
effectiveness imposed under section 120.541(3), Florida
Statutes:

By the Committee on Environment and Natural Resources

592-02145-23

20237002__

A bill to be entitled
An act relating to ratification of rules of the
Department of Environmental Protection; ratifying
specified rules relating to standards for onsite
sewage treatment and disposal systems and for domestic
wastewater facility planning for facilities expansion,
collection/transmission systems, and an operation and
maintenance manual for the sole and exclusive purpose
of satisfying any condition on effectiveness pursuant
to s. 120.541(3), F.S., which requires ratification of
any rule exceeding the specified thresholds for likely
adverse impact or increase in regulatory costs;
providing construction; providing an effective date.

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

Section 1. (1) The following rules are ratified for the
sole and exclusive purpose of satisfying any condition on the
effectiveness imposed under s. 120.541(3), Florida Statutes:

(a) Rule 62-6.001, Florida Administrative Code, titled
"General," as filed for adoption with the Department of State
pursuant to the certification package dated May 10, 2022.

(b) Rules 62-600.405, 62-600.705, and 62-600.720, Florida
Administrative Code, titled "Domestic Wastewater Facilities:
Planning for Wastewater Facilities Expansion," "Domestic
Wastewater Facilities: Collection/Transmission Systems," and
"Domestic Wastewater Facilities: Operation and Maintenance
Manual," respectively, as filed for adoption with the Department
of State pursuant to the certification package dated November

592-02145-23

20237002__

30 16, 2021.

31 (2) This act serves no other purpose and may not be
32 codified in the Florida Statutes. After this act becomes a law,
33 its enactment and effective dates must be noted in the Florida
34 Administrative Code, the Florida Administrative Register, or
35 both, as appropriate. This act does not alter rulemaking
36 authority delegated by prior law, does not constitute
37 legislative preemption of or exception to any provision of law
38 governing adoption or enforcement of the rule cited, and is
39 intended to preserve the status of any cited rule as a rule
40 under chapter 120, Florida Statutes. This act does not cure any
41 rulemaking defect or preempt any challenge based on a lack of
42 authority or a violation of the legal requirements governing the
43 adoption of any rule cited.

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/15/23

Meeting Date

Community Affairs

Committee

7002

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jess Kramer

Phone _____

Address 3900 Commonwealth Blvd

Street

Email _____

Tallahassee

City

FL

State

Zip

Speaking: ☐ For ☐ Against ☒ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/15/23
Meeting Date

Community Affairs
Committee

7002
Bill Number or Topic

Amendment Barcode (if applicable)

Name Alex Kernan

Phone _____

Address 3900 Commonwealth Blvd
Street

Email _____

Tallahassee
City

FL
State

32399
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

FL Dept. of Environmental
Protection

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a 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. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1: [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 401
Caption: Senate Committee on Community Affairs

Case No.:

Type:
Judge:

Started: 3/15/2023 1:01:34 PM

Ends: 3/15/2023 2:42:55 PM

Length: 01:41:22

1:01:37 PM	Chair Calatayud calls meeting to order
1:01:41 PM	Roll call by CAA
1:01:57 PM	Quorum present
1:02:01 PM	Chair Calatayud makes opening remarks
1:02:28 PM	Tab 1 SB 184 by Senator Polsky
1:02:36 PM	Senator Polsky explains SB 184
1:03:48 PM	No questions
1:03:58 PM	No appearance forms
1:04:02 PM	No debate
1:04:04 PM	Senator Polsky waives close
1:04:09 PM	Roll call on SB 184
1:04:31 PM	SB 184 reported favorably
1:04:47 PM	Tab 2 SB 248 by Senator Martin
1:04:58 PM	Senator Martin explains the bill
1:05:45 PM	No questions
1:05:52 PM	No appearance forms
1:05:59 PM	No debate
1:06:07 PM	Senator Martin waives close
1:06:09 PM	Roll call on SB 248
1:06:15 PM	SB 248 reported favorably
1:06:33 PM	Tab 3 SB 250 by Senator Martin
1:06:42 PM	Senator Martin explains bill
1:10:01 PM	Take up amendment 333250 by Senator Martin
1:10:14 PM	Senator Martin explains amendment
1:10:42 PM	Questions on amendment:
1:10:46 PM	Senator Pizzo
1:11:04 PM	Senator Martin
1:12:06 PM	Senator Pizzo
1:12:23 PM	Senator Martin
1:12:30 PM	Amendment to the amendment 725358 by Senator Gruters
1:12:52 PM	Senator Gruters explains amendment to the amendment
1:13:16 PM	No questions
1:13:21 PM	No appearance forms
1:13:26 PM	Debate on amendment:
1:13:33 PM	Senator Martin
1:13:37 PM	Senator Gruters closes on amendment
1:13:48 PM	Amendment adopted
1:13:53 PM	Back on amendment as amended
1:14:03 PM	Appearance forms:
1:14:07 PM	Richard Collins waives in support
1:14:14 PM	Bob McKee waives in support
1:14:21 PM	Kari Hebrank, FL Home Builders Assoc. waives in support
1:14:34 PM	No debate on amendment
1:14:42 PM	Amendment adopted
1:14:47 PM	Back on bill as amended
1:14:52 PM	No questions
1:14:56 PM	No appearance forms
1:15:00 PM	No debate
1:15:01 PM	Senator Martin closes on bill as amended
1:15:32 PM	Roll call on CS/SB 250
1:15:55 PM	CS/SB 250 reported favorably
1:16:06 PM	Tab 5 SB 380 by Senator Garcia presented by Vice Chair Osgood

1:16:23 PM Vice Chair Osgood explains the bill
1:17:41 PM No questions on bill
1:17:47 PM Appearance forms:
1:19:55 PM Janice Adams, Florida Nurses Association speaking for bill
1:20:56 PM Meagan Maroney, FL Nurses Association speaks for bill
1:22:26 PM Sandra Falk, FL Nurses Association speaking for bill
1:25:47 PM Connie Valarinos, FL Nurses Association speaks for bill
1:29:22 PM Vicky Tyde, FL Nurses Association speaking for bill
1:31:44 PM Jack Cory, FL Nursing Association waives in support
1:31:55 PM Ron LaFace, FL Association of Nurse Anesthetists waives in support
1:32:07 PM No debate
1:32:14 PM Vice Chair Osgood closes on bill
1:33:09 PM Roll call on SB 380
1:33:36 PM SB 380 reported favorably
1:33:43 PM Tab 8 SB 762 by Senator Wright
1:33:56 PM Senator Wright explains the bill
1:34:37 PM Questions:
1:34:40 PM Senator Baxley
1:34:59 PM Senator Wright
1:35:47 PM Appearance forms:
1:35:52 PM Bob Asztalos, FDVA waives in support
1:36:02 PM John Booker, Volusia County waives in support
1:36:12 PM No debate
1:36:19 PM Senator Wright waives close
1:36:24 PM Roll call on SB 762
1:36:46 PM SB 762 reported favorably
1:37:00 PM Tab 9 SB 1018 by Senator Trumbull
1:37:06 PM Senator Trumbull explains bill
1:37:34 PM No questions
1:37:37 PM Appearance forms:
1:37:42 PM Kate Wesner waiving in support
1:37:55 PM Debate:
1:38:03 PM Chair Calatayud
1:38:06 PM Senator Trumbull waives close
1:38:10 PM Roll call on SB 1018
1:38:18 PM SB 1018 reported favorably
1:38:30 PM Tab 6 SB 672 by Senator Avila presented by Senator Brodeur
1:38:48 PM Senator Brodeur presents bill
1:39:16 PM No questions
1:39:20 PM Appearance forms:
1:39:25 PM Bob Asztalos, FDVA waives in support
1:39:36 PM No debate
1:39:41 PM Senator Brodeur waives close
1:39:46 PM Roll call on SB 672
1:39:57 PM SB 672 reported favorably
1:40:13 PM Tab 10 SB 7002 by Environment and Natural Resources presented by Senator Brodeur
1:40:29 PM Senator Brodeur presents bill
1:41:22 PM Questions:
1:41:24 PM Senator Pizzo
1:41:40 PM Senator Brodeur
1:41:49 PM Senator Pizzo
1:42:20 PM Senator Brodeur
1:42:41 PM Jess Kramer, Department of Environmental Protection answers question
1:43:05 PM Senator Pizzo with follow up
1:43:29 PM Ms. Kramer answers
1:43:46 PM Amendment 177856 by Senator Brodeur
1:44:02 PM No objection to take up late filed amendment
1:44:10 PM Senator Brodeur explains amendment
1:44:23 PM Senator Brodeur waives close on amendment
1:44:31 PM Amendment adopted
1:44:36 PM No questions on bill as amended
1:44:41 PM Appearance Forms:

1:44:46 PM Alex Kernan, FL Dept. of Environmental Protection waives in support
 1:44:55 PM No debate
 1:44:58 PM Senator Brodeur waives close
 1:45:04 PM Roll call on CS/SB 7002
 1:45:20 PM CS/SB 7002 reported favorably
 1:45:30 PM Tab 4 SB 346 by Senator DiCeglie
 1:45:44 PM Senator DiCeglie explains bill
 1:46:17 PM No questions
 1:46:22 PM Amendment 524380 by Senator DiCeglie
 1:46:32 PM Senator DiCeglie explains the amendment
 1:47:22 PM Questions on amendment:
 1:47:26 PM Senator Pizzo
 1:47:40 PM Senator DiCeglie
 1:49:12 PM Senator Pizzo
 1:49:41 PM Senator DiCeglie
 1:50:38 PM Senator Pizzo
 1:51:42 PM Senator DiCeglie
 1:52:12 PM Senator Pizzo
 1:52:27 PM No appearance forms
 1:52:31 PM No debate on amendment
 1:52:37 PM Senator DiCeglie waives close on amendment
 1:52:41 PM Amendment adopted
 1:52:45 PM Questions on bill as amended:
 1:52:52 PM Senator Berman
 1:53:14 PM Senator DiCeglie
 1:53:19 PM Senator Berman
 1:53:31 PM Senator DiCeglie
 1:54:15 PM Back and forth in questions
 1:55:21 PM Vice Chair Osgood
 1:55:42 PM Senator DiCeglie
 1:55:48 PM Vice Chair Osgood
 1:56:03 PM Senator DiCeglie
 1:56:48 PM Vice Chair Osgood
 1:56:55 PM Senator DiCeglie
 1:57:13 PM Appearance forms:
 1:57:18 PM Carol Bowen, Associated Builders and Contractors of FL speaks for bill and amendment
 2:00:28 PM Dorthy Brown Alfaro speaking against bill
 2:11:59 PM Senator Pizzo with question
 2:12:16 PM Dorthy Brown Alfaro answers
 2:12:47 PM Senator Pizzo with follow up
 2:13:30 PM Ms. Brown Alfaro answers
 2:14:09 PM Lisa Birchfield speaking against bill
 2:17:23 PM Senator Pizzo with question
 2:17:33 PM Ms. Birchfield answers
 2:18:35 PM Jeff Scala, FL Association of Counties speaking against bill
 2:22:00 PM Mayor Daniella Levine Cava, Miami-Dade County speaking in opposition of bill
 2:25:51 PM Kari Hebrank, National Utility Contractors Association of FL speaking for bill
 2:29:10 PM Daniela Guzman speaking in opposition of bill
 2:30:54 PM Devon West, Broward County waives against
 2:31:01 PM Matt Criswell, FL Roofing and Sheet Metal Contractors Association waiving in support
 2:31:11 PM Amanda Prater, Opportunity Solutions Projects waiving in support
 2:31:18 PM Carolyn Johnson, FL Chamber of Commerce waiving in support
 2:31:27 PM Debate on bill as amended:
 2:31:33 PM Senator Pizzo
 2:35:09 PM Vice Chair Osgood
 2:37:22 PM Senator Brodeur
 2:38:44 PM Senator Berman
 2:39:42 PM Chair Calatayud
 2:40:24 PM Senator DiCeglie closes on bill as amended
 2:41:29 PM Roll call on CS/SB 346
 2:41:56 PM CS/SB 346 reported favorably
 2:42:16 PM Vote after by Senator Martin on SB 380, 672, 762, 1018, 7002 all yea

2:42:41 PM Vice Chair Osgood moves to adjourn
2:42:47 PM Meeting adjourned