

Tab 6	SB 278 by Steube ; (Identical to H 00139) Local Tax Referenda						
670918	A	S	RCS	EE, Steube	Delete L.457 - 460:	03/23 09:27 AM	

Tab 7	SB 422 by Lee (CO-INTRODUCERS) Rader, Clemens ; (Similar to H 00719) Municipal Conversion of Independent Special Districts						
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Tab 8	SB 862 by Lee ; (Similar to H 00445) Public Records/Voters and Voter Registration						
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ETHICS AND ELECTIONS
Senator Passidomo, Chair
Senator Grimsley, Vice Chair

MEETING DATE: Wednesday, March 22, 2017
TIME: 4:00—6:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Passidomo, Chair; Senator Grimsley, Vice Chair; Senators Bean, Braynon, Lee, Rodriguez, and Torres

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
Board of Clinical Laboratory Personnel			
1	McCarter, Yvette S. (Jacksonville)	10/31/2018	Recommend Confirm Yeas 7 Nays 0
Florida Communities Trust			
2	Bell, Lynda (Homestead)	01/31/2019	Recommend Confirm Yeas 7 Nays 0
Construction Industry Licensing Board			
3	Cathey, William Brian (Port St. Joe)	10/31/2018	Recommend Confirm Yeas 7 Nays 0
Board of Optometry			
4	Kaplan, Stuart I. (Ft. Myers)	10/31/2020	Recommend Confirm Yeas 7 Nays 0
Florida Real Estate Appraisal Board			
5	Conolly, Cristy (Palm Harbor)	10/31/2019	Recommend Confirm Yeas 7 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 278 Steube (Identical H 139, Compare H 7063)	Local Tax Referenda; Requiring local government discretionary sales surtax referenda to be held on the date of a general election, etc. EE 03/22/2017 Fav/CS CA AP	Fav/CS Yeas 7 Nays 0
7	SB 422 Lee (Similar H 719)	Municipal Conversion of Independent Special Districts; Adding a minimum population standard for qualified electors of an independent special district to commence a certain municipal conversion proceeding, etc. CA 03/06/2017 Favorable EE 03/22/2017 Favorable RC	Favorable Yeas 7 Nays 0

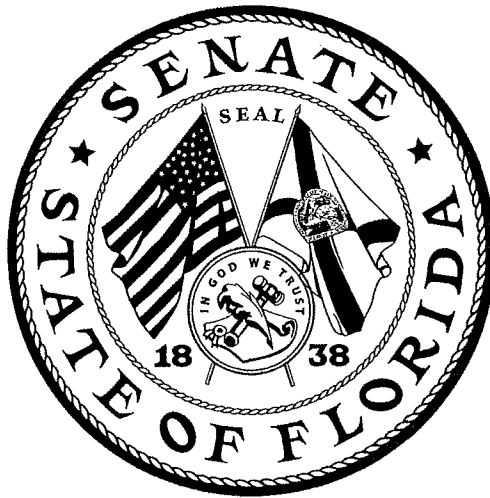
COMMITTEE MEETING EXPANDED AGENDA

Ethics and Elections

Wednesday, March 22, 2017, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 862 Lee (Similar H 445)	Public Records/Voters and Voter Registration; Providing an exemption from public records requirements for information concerning preregistered voter registration applicants who are minors; providing for future legislative review and repeal; providing a statement of public necessity, etc. EE 03/22/2017 Favorable GO RC	Favorable Yeas 7 Nays 0

Other Related Meeting Documents



Committee:
ETHICS AND ELECTIONS

Senator Passidomo, Chair
Senator Grimsley, Vice Chair

Meeting Packet
Wednesday, March 22, 2017
4:00—6:00 p.m.
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COMMITTEE MEETING EXPANDED AGENDA

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Other Related Meeting Documents

The Florida Senate
COMMITTEE MEETING PACKET TAB

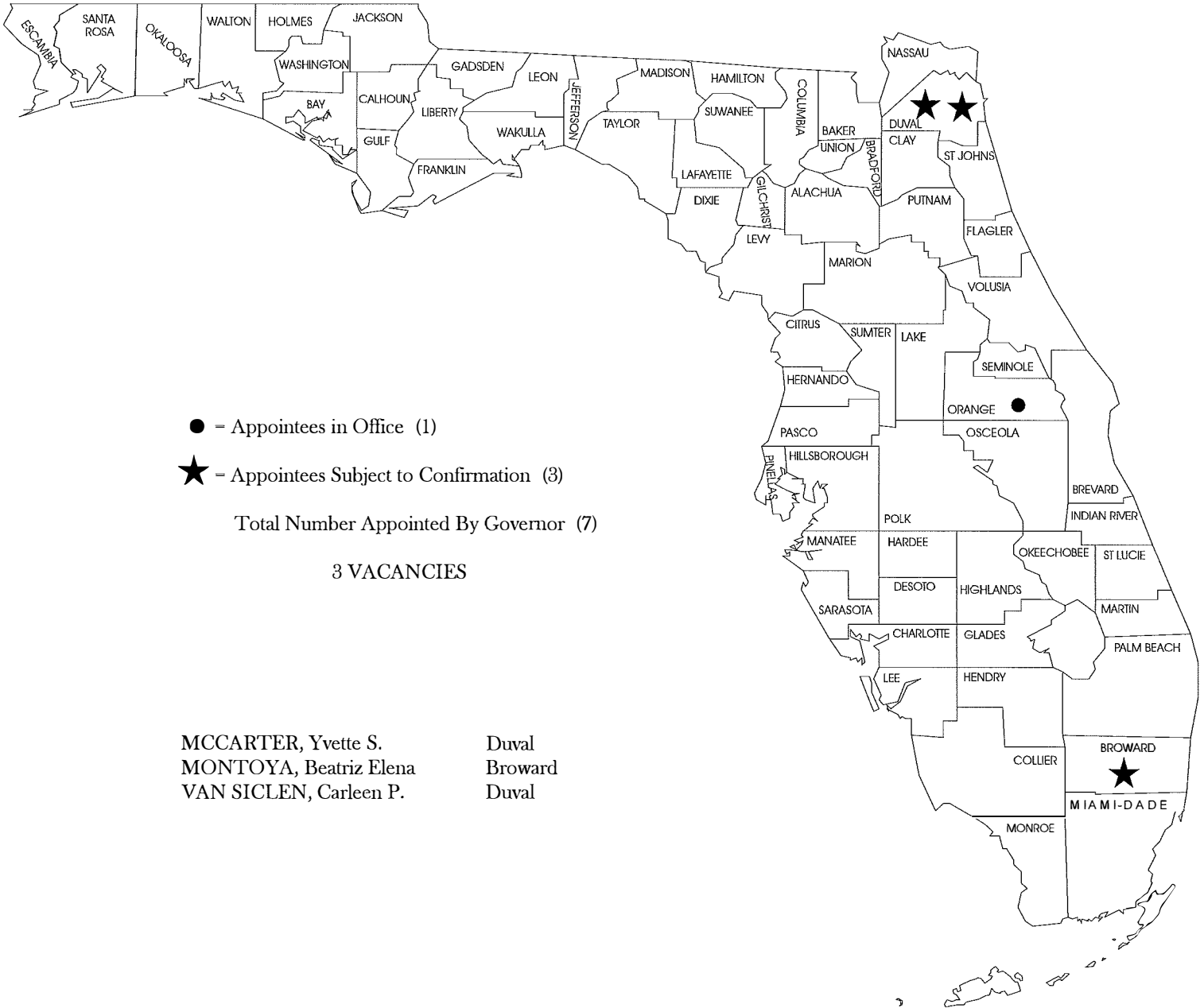
Ethics and Elections

MEETING DATE: Wednesday, March 22, 2017

TIME: 4:00—6:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

Board of Clinical Laboratory Personnel



- - Appointees in Office (1)
- ★ - Appointees Subject to Confirmation (3)

Total Number Appointed By Governor (7)

3 VACANCIES

MCCARTER, Yvette S.
 MONTOYA, Beatriz Elena
 VAN SICLEN, Carleen P.

Duval
 Broward
 Duval

Recommendation for Senate Confirmation of Executive Appointment

Appointee: McCarter, Yvette S.

Appointed: 03/17/2016

Term: 03/16/2016 – 10/31/2018

Prior Term:

City/County: Jacksonville/Duval

Office: Board of Clinical Laboratory Personnel, Member

Authority: 483.805, F.S. and 20.43(3)(g)22, F.S.

Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)			Not Applicable
7. Financial Disclosure Filed	X		Form 1 filed as of 4/25/16
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 1/11/17
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)		X	
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)		X	
19. Present or Past Government Employee		X	
20. Currently a Registered Lobbyist		X	

Occupation: Professor/Director of Clinical Microbiology at University of Florida

Compensation: Fifty dollars per day while attending to the business of the board; reimbursed for expenses pursuant to s. 112.061, F.S.

Requirements: The seven-member board consists of:

- Five members who are licensed clinical laboratory personnel including:

- One practicing clinical laboratory director,
 - Two practicing laboratory supervisors, and
 - Two practicing laboratory personnel; and

- Two members who are citizens of the state, who have never been licensed as health care practitioners, who are not and have never been licensed as clinical laboratory personnel, and who are in no way connected with the practice of such profession.

Additional Requirements: Terms are for four years. Terms expire on October 31. No member shall serve more than the remaining portion of a previous member's unexpired term, plus two consecutive 4-year terms. Required to file Form 1 with the Commission on Ethics.

Notes: Number 8 - Practicing Clinical Laboratory Director

COMMITTEE MEETING PACKET TAB

Ethics and Elections

2

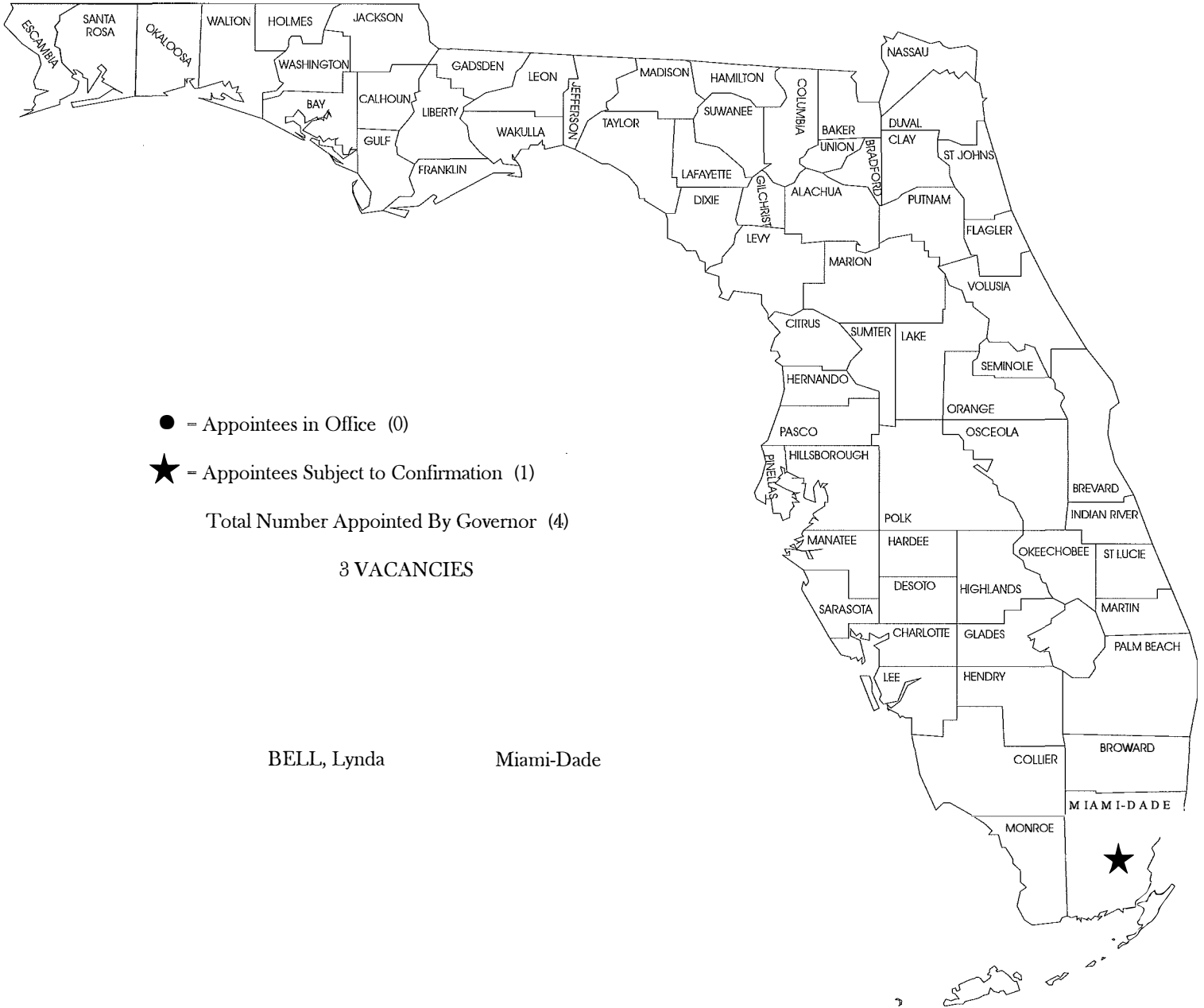
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MEETING DATE: Wednesday, March 22, 2017

TIME: 4:00—6:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

Florida Communities Trust



Recommendation for Senate Confirmation of Executive Appointment

Appointee: Bell, Lynda

Appointed: 11/10/2016

Term: 11/10/2016 – 01/31/2019

Prior Term:

City/County: Homestead/Miami-Dade

Office: Florida Communities Trust, Member

Authority: 380.504, F.S.

Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)			Not Applicable
7. Financial Disclosure Filed	X		Form 1 filed as of 9/6/16
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 2/24/17
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended			Not Applicable
15. Contracts with State/Local Governments (sworn statement)		X	
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)	X		See Below
19. Present or Past Government Employee		X	
20. Currently a Registered Lobbyist		X	

Occupation:

Compensation: Necessary expenses, including per diem and travel expenses, incurred in the discharge of their duties as provided by law.

Requirements: The governing body of the trust shall consist of:

- The Secretary of Community Affairs;
- The Secretary of Environmental Protection; and
- Four public members appointed by the Governor, subject to Senate confirmation, as follows:

A former elected official of a county government;
A former elected official of a metropolitan municipal government;
A representative of the development industry; and
A representative of a specified non-profit organization.
The Secretary of Community Affairs shall be the Chairman.

Additional Requirements: Terms are for four years. Required to file Form 1 with the Commission on Ethics.

Notes: Number 8 - Former Elected Official of a County Government
Number 18 - Mrs. Bell served as Councilwoman/Vice Mayor for the City of Miami, 2003-2007. Mrs. Bell served as Mayor for the City of Miami, 2007-2009. Mrs. Bell served as a County Commissioner for Miami-Dade County, 2010-2014.

The Florida Senate
COMMITTEE MEETING PACKET TAB

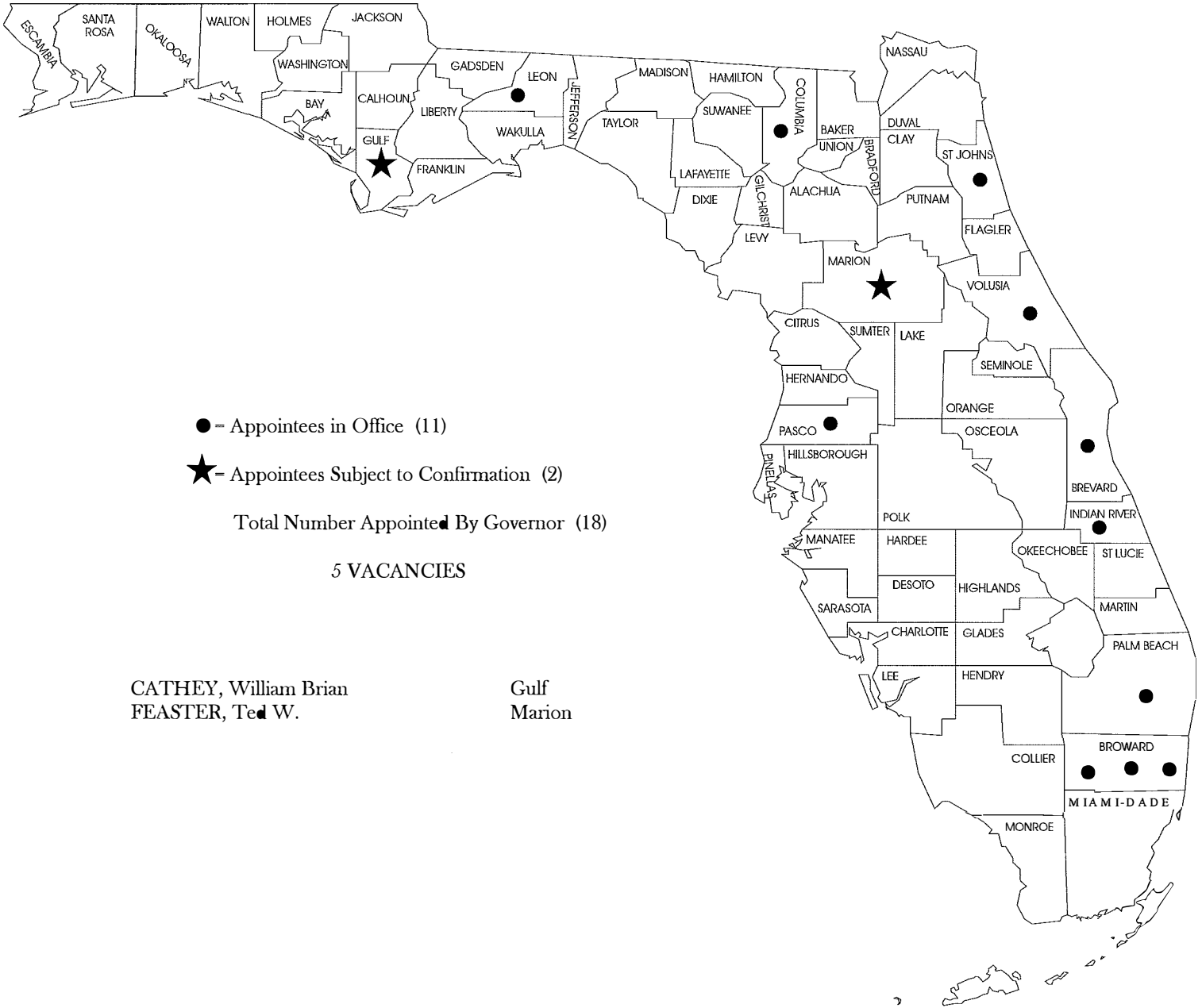
Ethics and Elections

MEETING DATE: Wednesday, March 22, 2017

TIME: 4:00—6:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

Construction Industry Licensing Board



- - Appointees in Office (11)
- ★ - Appointees Subject to Confirmation (2)

Total Number Appointed By Governor (18)

5 VACANCIES

CATHEY, William Brian
FEASTER, Ted W.

Gulf
Marion

Requirements: The board consists of eighteen members who are citizens and residents of the state as follows:

- Four members who are primarily general contractors;
- Three members who are primarily building contractors or residential contractors; however, there shall be at least one building contractor and one residential contractor;
- One member who is primarily a roofing contractor;
- One member who is primarily a sheet metal contractor;
- One member who is primarily an air conditioning contractor;
- One member who is primarily a mechanical contractor;
- One member who is primarily a pool contractor;
- One member who is primarily a plumbing contractor;
- One member who is primarily an underground utility and excavation contractor;
- Two members who are consumer members who are not, and who have never been, members or practitioners of a profession regulated by the board and have not been members of any closely related profession; and
- Two members who are building officials of a county or municipality.

Each of the contractor members must be certified by the board in the category to which they have been appointed, must be actively engaged in their respective trade, and have been so engaged for at least five consecutive years preceding the appointment.

Additional Requirements: Terms are for four years. Terms expire on October 31. No member shall serve more than the remaining portion of a previous member's unexpired term, plus two consecutive 4-year terms. Required to file Form 1 with the Commission on Ethics.

Notes: Number 8 - General Contractor
Number 15 - Mr. Cathey is President of Cathey Construction & Development, a commercial construction contracting firm, that performs projects for government agencies. These include the Department of Health, the Department of Corrections, and the Florida Department of Military Affairs. In addition, projects with the following counties: Gulf, Washington, Calhoun, Liberty, Jackson, and Bay; and the following cities: Panama City, Chattahoochee, Callaway, Marianna, Bonifay and Port St. Joe.
Number 19 - Mr. Cathey is a Volunteer Fireman for the Gulf County Beaches Fire Department, 2007-Present. In addition, Mr. Cathey is a Volunteer Fireman for the Gulf County Overstreet Fire Department, 2005-Present. He is a Volunteer Fireman for the City of Mexico Beach, 1995-1998 and 2014-Present.

The Florida Senate
COMMITTEE MEETING PACKET TAB

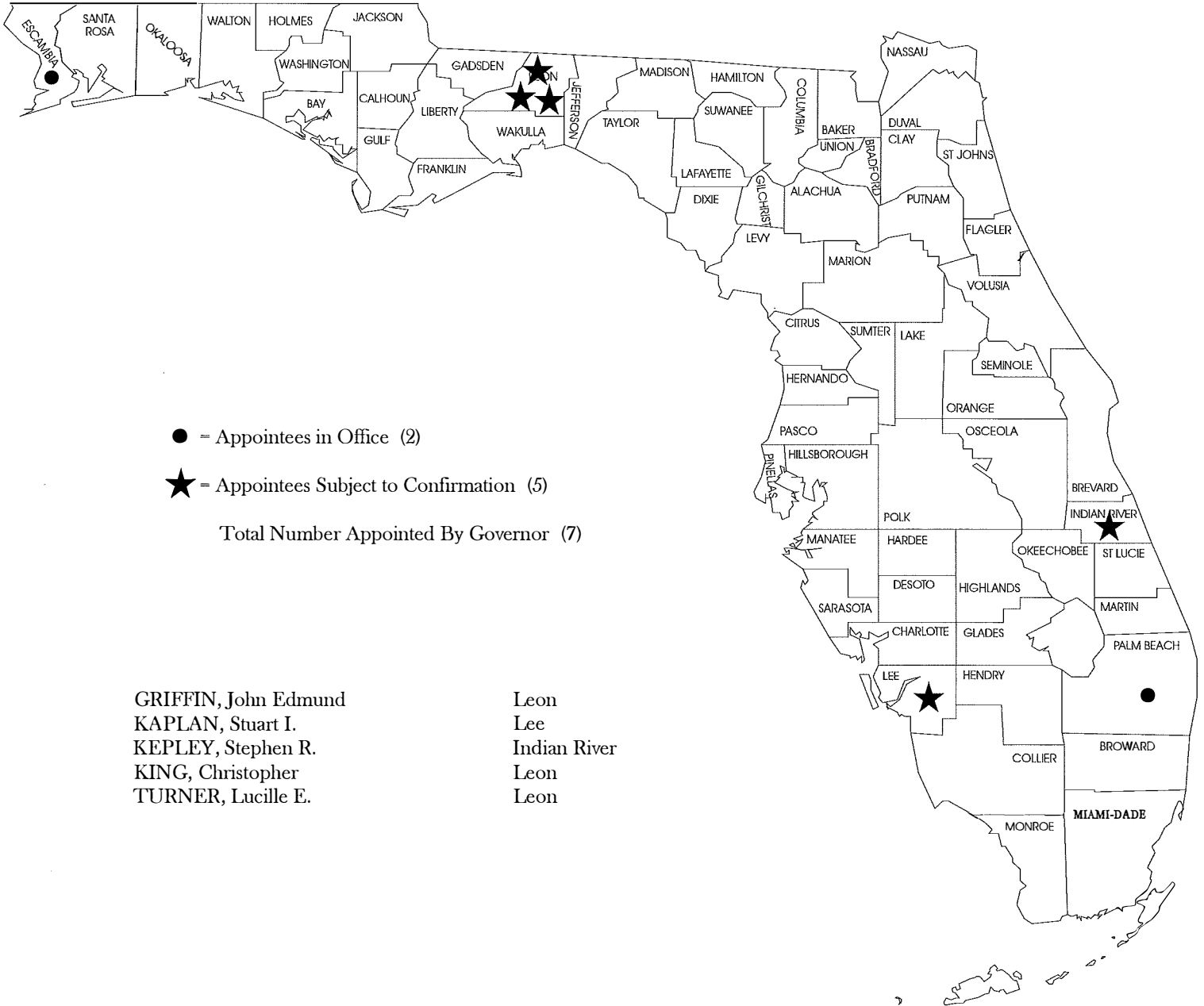
Ethics and Elections

MEETING DATE: Wednesday, March 22, 2017

TIME: 4:00—6:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

Board of Optometry



GRIFFIN, John Edmund
 KAPLAN, Stuart I.
 KEPLEY, Stephen R.
 KING, Christopher
 TURNER, Lucille E.

Leon
 Lee
 Indian River
 Leon
 Leon

Recommendation for Senate Confirmation of Executive Appointment

Appointee: Kaplan, Stuart I. Appointed: 12/21/2016
 Term: 12/19/2016 – 10/31/2020 Prior Term: 01/03/2013 - 10/31/2016
 City/County: Ft. Myers/Lee
 Office: Board of Optometry, Member
 Authority: 463.003(1), F.S. & 20.43(3)(g)7, F.S.
 Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)	X		See Below
7. Financial Disclosure Filed	X		Form 1 filed as of 6/30/16
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			No Report
11. Adverse Ethics Commission Action		X	As of 2/13/17
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)		X	
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)		X	
19. Present or Past Government Employee		X	
20. Currently a Registered Lobbyist		X	

Occupation: Optometrist, Tyson Eye

Attendance: Attended 14 of 14 meetings (100%) from January 3, 2013 through February 8, 2017.

Compensation: Fifty dollars per day while attending to the business of the board; reimbursed for expenses pursuant to s. 112.061, F.S.

- Requirements:** The seven-member board consists of:
- Five members who are licensed practitioners actively practicing in this state;
 - Two citizens of the state who are not, and who have never been, licensed practitioners and who are in no way connected with the practice of optometry or with any vision-oriented profession or business;
 - At least one member who is sixty years of age or older.

Additional Terms are for four years.

Requirements: Terms expire on October 31.

No member shall serve more than the remaining portion of a previous member's unexpired term, plus two consecutive 4-year terms.

Required to file Form 1 with the Commission on Ethics.

Notes: Number 6 - Dr. Kaplan served in the U.S. Army and U.S. Army Florida National Guard from 1989 to 1996.

Number 8 - Optometrist

The Florida Senate
COMMITTEE MEETING PACKET TAB

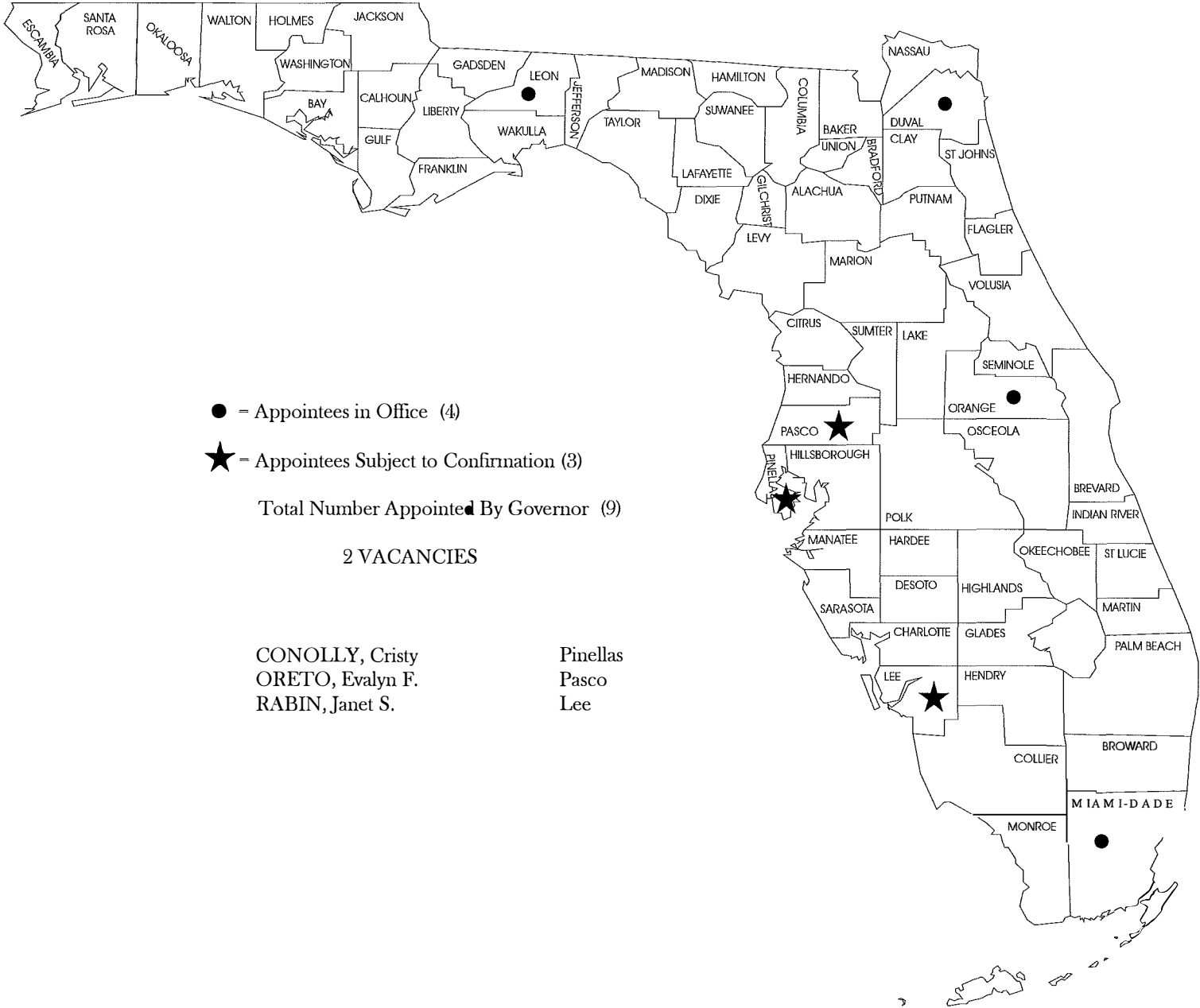
Ethics and Elections

MEETING DATE: Wednesday, March 22, 2017

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PLACE: Pat Thomas Committee Room, 412 Knott Building

Florida Real Estate Appraisal Board



- = Appointees in Office (4)
- ★ = Appointees Subject to Confirmation (3)

Total Number Appointed By Governor (9)

2 VACANCIES

CONOLLY, Cristy
 ORETO, Evalyn F.
 RABIN, Janet S.

Pinellas
 Pasco
 Lee

Recommendation for Senate Confirmation of Executive Appointment

Appointee: Conolly, Cristy
 Term: 12/16/2016 – 10/31/2019
 City/County: Palm Harbor/Pinellas
 Office: Florida Real Estate Appraisal Board, Member
 Authority: 475.613, F.S. & 20.165(4)(b)1, F.S.
 Reference(s): Committee on Ethics and Elections

Appointed: 12/20/2016
 Prior Term:

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)			Not Applicable
7. Financial Disclosure Filed	X		Form 1 filed as of 2/28/17
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 2/13/17
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)		X	
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)		X	
19. Present or Past Government Employee		X	
20. Currently a Registered Lobbyist		X	

Occupation: Real Estate Appraiser/S.V.P. of QC & Compliance, Nationwide Appraisal Network

Compensation: Fifty dollars per day while attending to the business of the board; reimbursed for expenses pursuant to s. 112.061, F.S.

- Requirements:** The nine-member board consists of:
- Four members of the board must be real estate appraisers who have been engaged in the general practice of appraising real property in this state for at least five years immediately preceding appointment. Two of the members must be licensed or certified residential real estate appraisers and two of the members must be certified general real estate appraisers at the time of the appointment;
 - Two members of the board must represent the appraisal management industry;
 - One member who represents organizations that use appraisals for the purpose of eminent domain proceedings, financial transactions, or mortgage insurance; and
 - Two members who are representatives of the general public and shall not be connected in any way with the practice of real estate appraisal.

In appointing the real estate appraisers, while not excluding other appraisers, the Governor shall give preference to real estate appraisers who are not primarily engaged in real estate brokerage or mortgage lending activities. The appraiser members shall be as representative of the entire industry as possible, and membership in a nationally recognized or state-recognized appraisal organization shall not be a prerequisite to membership on the board. To the extent possible, no more than two members of the board shall be primarily affiliated with any one particular national or state appraisal association.

Additional Requirements: Terms are for four years.

Terms expire on October 31.

No member shall serve more than the remaining portion of a previous member's unexpired term, plus two consecutive 4-year terms.

Required to file Form 1 with the Commission on Ethics.

Notes: Number 8 - Certified Residential Appraiser

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 Ethics and Elections

BILL: CS/SB 278

INTRODUCER: Ethics and Elections Committee and Senator Steube

SUBJECT: Local Tax Referenda

DATE: March 22, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Ulrich	EE	Fav/CS
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 278 requires local governments to hold a referendum during a general election or primary election to adopt or amend local option discretionary sales surtaxes under s. 212.055, F.S. If the referendum is held in the primary election, the referendum must receive an affirmative vote from 60% of those voting on the referendum for passage. If the referendum is held in the general election, the referendum must receive an affirmative vote from 50% of those voting on the referendum for passage.

CS/SB 278 takes effect July 1, 2019.

II. Present Situation:

Discretionary Sales Surtax

The Florida Constitution preempts all forms of taxation to the state, except for ad valorem taxes on real estate and tangible personal property, unless otherwise provided by general law.¹ Counties have limited authority to levy discretionary sales surtaxes on transactions subject to state sales tax.^{2,3} The Legislature has prescribed authorized uses for the local option discretionary sales surtax revenues, which include:

¹ Art. VII, s. 1(a), Fla. Const.

² Section 212.054, F.S.; s. 212.055, F.S.

³ Surtaxes only apply to the first \$5,000 of a taxable transaction pursuant to s. 212.054(2)(b)1, F.S.

- Operating a transportation system in a charter county;⁴
- Financing local government infrastructure projects;⁵
- Providing additional revenue for counties having less than 50,000 residents as of April 1, 1992;⁶
- Providing medical care for indigent persons;⁷
- Funding trauma centers;⁸
- Operating, maintaining, and administering a county public general hospital;⁹
- Constructing and renovating schools;¹⁰
- Providing emergency fire rescue services and facilities; and¹¹
- Funding pension liability shortfalls.¹²

The surtax is collected by the Department of Revenue (DOR) using the same procedures utilized for the administration, collection, and enforcement of the general state sales tax.¹³ DOR places these funds into the Discretionary Sales Surtax Clearing Trust Fund. A separate account is established for each county imposing a discretionary surtax. The proceeds of the surtax are distributed to the county on a monthly basis, minus an administrative fee of the lesser of three percent or administrative costs solely and directly attributable to the surtax. Each county is liable for administrative costs equal to its prorated share of discretionary sales surtax revenue to the amount collected statewide.¹⁴

New surtaxes and rate changes to existing surtaxes take effect on January 1, while the repeal of an existing surtax takes effect on December 31.¹⁵ The governing body of the county or the school district must notify DOR of the imposition, termination, or rate change of a discretionary sales surtax within 10 days of final adoption by ordinance or referendum, but no later than November 16. The notification must include the duration of the surtax, the surtax rate, a copy of the ordinance, and any additional information DOR requires by rule.¹⁶ If the county or school district fails to provide timely notice, the effective date of the change is delayed by one year.¹⁷ Counties and school districts are also required to notify DOR if a referendum or consideration of an ordinance to impose, terminate, or change the rate of a surtax is to occur after October 1.¹⁸

⁴ Section 212.055(1), F.S.

⁵ Section 212.055(2), F.S.

⁶ Section 212.055(3), F.S.

⁷ Section 212.055(4)(a), F.S. (for counties with more than 800,000 residents); s. 212.055(7), F.S. (for counties with less than 800,000 residents)

⁸ Section 212.055(4)(b), F.S.

⁹ Section 212.055(5), F.S.

¹⁰ Section 212.055(6), F.S.

¹¹ Section 212.055(8), F.S.

¹² Section 212.055(9), F.S.

¹³ Section 212.054(4)(a), F.S.

¹⁴ Section 212.054(4)(b), F.S.

¹⁵ Section 212.054(5), F.S.

¹⁶ Section 212.054(7)(a), F.S.

¹⁷ *Id.*

¹⁸ Section 212.054(7)(b), F.S. The deadline for this notification is October 1.

The forty-nine counties and fifteen school districts levying one or more discretionary sales surtaxes are projected to realize \$2.2 billion in revenue in fiscal year 2016-17.¹⁹ If all counties and school districts levied discretionary sales surtaxes at the maximum possible rate, they would be projected to raise \$11.68 billion in revenue in fiscal year 2016-17.²⁰

Most local discretionary sales surtaxes may only be approved by referendum, while some may be approved by an extraordinary vote of the county commission.²¹ For those requiring voter approval, the referendum must be approved by a majority of electors voting.²² Except for the emergency fire rescue services and facilities surtax, the date of the referendum is at the discretion of the county commission.²³

Referendum Process

The Florida Election Code states the general requirements for a referendum.²⁴ The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.²⁵ The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.²⁶ The ballot summary and title must be included in the resolution or ordinance calling for the referendum.²⁷ For some discretionary sales surtaxes, the form of the ballot question is specified by statute.²⁸

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.²⁹ A “general election” is held on the first Tuesday after the first Monday in November in even-numbered years to fill national, state, county, and district offices, and for voting on constitutional amendments.³⁰ A “primary election” is an election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county, or district office.³¹

¹⁹ *2016 Florida Tax Handbook*, Office of Economic and Demographic Research, p. 216.

²⁰ *2016 Local Government Financial Information Handbook*, Office of Economic and Demographic Research, p. 150.

²¹ See generally s. 212.055, F.S., but see s. 212.055(3), F.S. (small county surtax may be approved by extraordinary vote of the county commission, as long as surtax revenues are not used for servicing bond indebtedness), s. 212.055(4), F.S. (indigent care and trauma center surtax may be approved by extraordinary vote of the county commission), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission).

²² Section 212.055, F.S.

²³ E.g. s. 212.055(1)(c), F.S. (referendum for charter county and regional transportation system to be held at a time “set at the discretion of the governing body”); but see s. 212.055(8)(b), F.S. (referendum for emergency fire rescue services and facilities surtax must be placed on the ballot of a “regularly scheduled election”).

²⁴ Section 101.161, F.S.

²⁵ Section 101.161(1), F.S.

²⁶ *Id.*

²⁷ *Id.*

²⁸ See s. 212.055(4)(b)1., F.S. (ballot question for discretionary sales surtax for trauma centers).

²⁹ Section 97.021(11), F.S.

³⁰ Art. VI, s. 5(a), Fla. Const. (also codified as s. 97.021(15), F.S.).

³¹ Section 97.021(29), F.S.

III. Effect of Proposed Changes:

CS/SB 278 requires local governments to hold a referendum during a primary election or a general election to adopt or amend local option discretionary sales surtaxes under s. 212.055, F.S. For purposes of this committee substitute, the definitions recited in the present situation section of this analysis for the terms “primary election” and “general election” apply. If the referendum is held in the primary election, the referendum must receive an affirmative vote from 60% of those voting on the referendum for passage. If the referendum is held in the general election, the referendum must receive an affirmative vote from 50% of those voting on the referendum for passage.

The Constitution Revision Commission will likely be placing constitutional amendments on the 2018 general election ballot. The last Constitution Revision Commission placed 13 items on the ballot at the ensuing general election. In order to prevent an unusually large general election ballot in 2018 ballot, the effective date will occur after the 2018 general election. The committee substitute is effective July 1, 2019.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

By requiring any discretionary sales surtax referendum to be placed on the primary or general election ballot, the committee substitute may reduce costs to local governments by not requiring them to expend funds if they were required to call a special election for approval of a discretionary sales surtax.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

IX. Additional Information:

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

CS by Ethics and Elections on March 22, 2017:

The Committee Substitute differs from the original in that it:

- Allows a local option discretionary sales surtaxes referendum to be conducted at either a primary or general election;
- Specifies that, if put on the ballot at the primary election, the vote required to pass a local option discretionary sales surtaxes conducted at a primary election is 60% of the voters who are voting on the referendum; and
- Changes the effective date to July 1, 2019, so that local option discretionary sales surtaxes are not added to the 2018 general election ballot with the Constitution Revision Commission proposals.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2017	.	
	.	
	.	
	.	

The Committee on Ethics and Elections (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete lines 457 - 460

and insert:

shall be held only:

(a) At a primary election, as defined in s. 97.021, and requires approval of 60 percent of the voters voting on the ballot question for passage; or

(b) At a general election, as defined in s. 97.021, and requires the approval of a majority of the voters voting on the



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11 ballot question for passage.

12 Section 2. This act shall take effect July 1, 2019.

13

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

15 And the title is amended as follows:

16 Delete line 5

17 and insert:

18 date of a primary election or on the date of a general

19 election and specifying the required approval of

20 voters for passage; providing an effective

By Senator Steube

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1 A bill to be entitled
2 An act relating to local tax referenda; amending s.
3 212.055, F.S.; requiring local government
4 discretionary sales surtax referenda to be held on the
5 date of a general election; providing an effective
6 date.

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

10 Section 1. Paragraphs (a) and (c) of subsection (1),
11 paragraph (a) of subsection (2), paragraph (a) of subsection
12 (3), subsections (4) and (5), paragraph (a) of subsection (6),
13 paragraph (a) of subsection (7), paragraph (b) of subsection
14 (8), and paragraph (a) of subsection (9) of section 212.055,
15 Florida Statutes, are amended, and subsection (10) is added to
16 that section, to read:

17 212.055 Discretionary sales surtaxes; legislative intent;
18 authorization and use of proceeds.—It is the legislative intent
19 that any authorization for imposition of a discretionary sales
20 surtax shall be published in the Florida Statutes as a
21 subsection of this section, irrespective of the duration of the
22 levy. Each enactment shall specify the types of counties
23 authorized to levy; the rate or rates which may be imposed; the
24 maximum length of time the surtax may be imposed, if any; the
25 procedure which must be followed to secure voter approval, if
26 required; the purpose for which the proceeds may be expended;
27 and such other requirements as the Legislature may provide.
28 Taxable transactions and administrative procedures shall be as
29 provided in s. 212.054.

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

32 (a) Each charter county that has adopted a charter, each

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33 county the government of which is consolidated with that of one
34 or more municipalities, and each county that is within or under
35 an interlocal agreement with a regional transportation or
36 transit authority created under chapter 343 or chapter 349 may
37 levy a discretionary sales surtax, ~~subject to approval by a~~
38 ~~majority vote of the electorate of the county or by a charter~~
39 ~~amendment approved by a majority vote of the electorate of the~~
40 ~~county.~~

41 (c) The proposal to adopt a discretionary sales surtax as
42 provided in this subsection and to create a trust fund within
43 the county accounts shall be placed on the ballot in accordance
44 with law and must be approved in a referendum as set forth in
45 subsection (10) at a time to be set at the discretion of the
46 governing body.

47 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

48 (a)1. The governing authority in each county may levy a
49 discretionary sales surtax of 0.5 percent or 1 percent. The levy
50 of the surtax shall be pursuant to ordinance enacted by a
51 majority of the members of the county governing authority and
52 approved by ~~a majority of the electors of the county, as set~~
53 forth in subsection (10), voting in a referendum on the surtax.
54 If the governing bodies of the municipalities representing a
55 majority of the county's population adopt uniform resolutions
56 establishing the rate of the surtax and calling for a referendum
57 on the surtax, the levy of the surtax shall be placed on the
58 ballot and shall take effect if approved by ~~a majority of the~~
59 electors of the county, as set forth in subsection (10), voting
60 in the referendum on the surtax.

61 2. If the surtax was levied pursuant to a referendum held

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62 before July 1, 1993, the surtax may not be levied beyond the
 63 time established in the ordinance, or, if the ordinance did not
 64 limit the period of the levy, the surtax may not be levied for
 65 more than 15 years. The levy of such surtax may be extended only
 66 by approval of ~~a majority of~~ the electors of the county, as set
 67 forth in subsection (10), voting in a referendum on the surtax.

68 (3) SMALL COUNTY SURTAX.-

69 (a) The governing authority in each county that has a
 70 population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a
 71 discretionary sales surtax of 0.5 percent or 1 percent. The levy
 72 of the surtax shall be pursuant to ordinance enacted by an
 73 extraordinary vote of the members of the county governing
 74 authority if the surtax revenues are expended for operating
 75 purposes. If the surtax revenues are expended for the purpose of
 76 servicing bond indebtedness, the surtax shall be approved by a
 77 ~~majority of~~ the electors of the county, as set forth in
 78 subsection (10), voting in a referendum on the surtax.

79 (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.-

80 (a)1. The governing body in each county the government of
 81 which is not consolidated with that of one or more
 82 municipalities, which has a population of at least 800,000
 83 residents and is not authorized to levy a surtax under
 84 subsection (5), may levy, pursuant to an ordinance either
 85 approved by an extraordinary vote of the governing body or
 86 conditioned to take effect only upon approval by ~~a majority vote~~
 87 ~~of~~ the electors of the county, as set forth in subsection (10),
 88 voting in a referendum, a discretionary sales surtax at a rate
 89 that may not exceed 0.5 percent.

90 2. If the ordinance is conditioned on a referendum, a

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91 statement that includes a brief and general description of the
 92 purposes to be funded by the surtax and that conforms to the
 93 requirements of s. 101.161 shall be placed on the ballot by the
 94 governing body of the county. The following questions shall be
 95 placed on the ballot:

96
 97 FOR THE. . .CENTS TAX
 98 AGAINST THE. . .CENTS TAX
 99

100 3. The ordinance adopted by the governing body providing
 101 for the imposition of the surtax shall set forth a plan for
 102 providing health care services to qualified residents, as
 103 defined in subparagraph 4. Such plan and subsequent amendments
 104 to it shall fund a broad range of health care services for both
 105 indigent persons and the medically poor, including, but not
 106 limited to, primary care and preventive care as well as hospital
 107 care. The plan must also address the services to be provided by
 108 the Level I trauma center. It shall emphasize a continuity of
 109 care in the most cost-effective setting, taking into
 110 consideration both a high quality of care and geographic access.
 111 Where consistent with these objectives, it shall include,
 112 without limitation, services rendered by physicians, clinics,
 113 community hospitals, mental health centers, and alternative
 114 delivery sites, as well as at least one regional referral
 115 hospital where appropriate. It shall provide that agreements
 116 negotiated between the county and providers, including hospitals
 117 with a Level I trauma center, will include reimbursement
 118 methodologies that take into account the cost of services
 119 rendered to eligible patients, recognize hospitals that render a

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120 disproportionate share of indigent care, provide other
 121 incentives to promote the delivery of charity care, promote the
 122 advancement of technology in medical services, recognize the
 123 level of responsiveness to medical needs in trauma cases, and
 124 require cost containment including, but not limited to, case
 125 management. It must also provide that any hospitals that are
 126 owned and operated by government entities on May 21, 1991, must,
 127 as a condition of receiving funds under this subsection, afford
 128 public access equal to that provided under s. 286.011 as to
 129 meetings of the governing board, the subject of which is
 130 budgeting resources for the rendition of charity care as that
 131 term is defined in the Florida Hospital Uniform Reporting System
 132 (FHURS) manual referenced in s. 408.07. The plan shall also
 133 include innovative health care programs that provide cost-
 134 effective alternatives to traditional methods of service
 135 delivery and funding.

136 4. For the purpose of this paragraph, the term "qualified
 137 resident" means residents of the authorizing county who are:

138 a. Qualified as indigent persons as certified by the
 139 authorizing county;

140 b. Certified by the authorizing county as meeting the
 141 definition of the medically poor, defined as persons having
 142 insufficient income, resources, and assets to provide the needed
 143 medical care without using resources required to meet basic
 144 needs for shelter, food, clothing, and personal expenses; or not
 145 being eligible for any other state or federal program, or having
 146 medical needs that are not covered by any such program; or
 147 having insufficient third-party insurance coverage. In all
 148 cases, the authorizing county is intended to serve as the payor

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149 of last resort; or

150 c. Participating in innovative, cost-effective programs
 151 approved by the authorizing county.

152 5. Moneys collected pursuant to this paragraph remain the
 153 property of the state and shall be distributed by the Department
 154 of Revenue on a regular and periodic basis to the clerk of the
 155 circuit court as ex officio custodian of the funds of the
 156 authorizing county. The clerk of the circuit court shall:

157 a. Maintain the moneys in an indigent health care trust
 158 fund;

159 b. Invest any funds held on deposit in the trust fund
 160 pursuant to general law;

161 c. Disburse the funds, including any interest earned, to
 162 any provider of health care services, as provided in
 163 subparagraphs 3. and 4., upon directive from the authorizing
 164 county. However, if a county has a population of at least
 165 800,000 residents and has levied the surtax authorized in this
 166 paragraph, notwithstanding any directive from the authorizing
 167 county, on October 1 of each calendar year, the clerk of the
 168 court shall issue a check in the amount of \$6.5 million to a
 169 hospital in its jurisdiction that has a Level I trauma center or
 170 shall issue a check in the amount of \$3.5 million to a hospital
 171 in its jurisdiction that has a Level I trauma center if that
 172 county enacts and implements a hospital lien law in accordance
 173 with chapter 98-499, Laws of Florida. The issuance of the checks
 174 on October 1 of each year is provided in recognition of the
 175 Level I trauma center status and shall be in addition to the
 176 base contract amount received during fiscal year 1999-2000 and
 177 any additional amount negotiated to the base contract. If the

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178 hospital receiving funds for its Level I trauma center status
 179 requests such funds to be used to generate federal matching
 180 funds under Medicaid, the clerk of the court shall instead issue
 181 a check to the Agency for Health Care Administration to
 182 accomplish that purpose to the extent that it is allowed through
 183 the General Appropriations Act; and

184 d. Prepare on a biennial basis an audit of the trust fund
 185 specified in sub-subparagraph a. Commencing February 1, 2004,
 186 such audit shall be delivered to the governing body and to the
 187 chair of the legislative delegation of each authorizing county.

188 6. Notwithstanding any other provision of this section, a
 189 county shall not levy local option sales surtaxes authorized in
 190 this paragraph and subsections (2) and (3) in excess of a
 191 combined rate of 1 percent.

192 (b) Notwithstanding any other provision of this section,
 193 the governing body in each county the government of which is not
 194 consolidated with that of one or more municipalities and which
 195 has a population of fewer ~~less~~ than 800,000 residents, may levy,
 196 by ordinance subject to approval by ~~a majority of~~ the electors
 197 of the county, as set forth in subsection (10), voting in a
 198 referendum, a discretionary sales surtax at a rate that may not
 199 exceed 0.25 percent for the sole purpose of funding trauma
 200 services provided by a trauma center licensed pursuant to
 201 chapter 395.

202 1. A statement that includes a brief and general
 203 description of the purposes to be funded by the surtax and that
 204 conforms to the requirements of s. 101.161 shall be placed on
 205 the ballot by the governing body of the county. The following
 206 shall be placed on the ballot:

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207
 208 FOR THE. . .CENTS TAX
 209 AGAINST THE. . .CENTS TAX
 210

211 2. The ordinance adopted by the governing body of the
 212 county providing for the imposition of the surtax shall set
 213 forth a plan for providing trauma services to trauma victims
 214 presenting in the trauma service area in which such county is
 215 located.

216 3. Moneys collected pursuant to this paragraph remain the
 217 property of the state and shall be distributed by the Department
 218 of Revenue on a regular and periodic basis to the clerk of the
 219 circuit court as ex officio custodian of the funds of the
 220 authorizing county. The clerk of the circuit court shall:

221 a. Maintain the moneys in a trauma services trust fund.

222 b. Invest any funds held on deposit in the trust fund
 223 pursuant to general law.

224 c. Disburse the funds, including any interest earned on
 225 such funds, to the trauma center in its trauma service area, as
 226 provided in the plan set forth pursuant to subparagraph 2., upon
 227 directive from the authorizing county. If the trauma center
 228 receiving funds requests such funds be used to generate federal
 229 matching funds under Medicaid, the custodian of the funds shall
 230 instead issue a check to the Agency for Health Care
 231 Administration to accomplish that purpose to the extent that the
 232 agency is allowed through the General Appropriations Act.

233 d. Prepare on a biennial basis an audit of the trauma
 234 services trust fund specified in sub-subparagraph a., to be
 235 delivered to the authorizing county.

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236 4. A discretionary sales surtax imposed pursuant to this
 237 paragraph shall expire 4 years after the effective date of the
 238 surtax, unless reenacted by ordinance subject to approval by a
 239 ~~majority of~~ the electors of the county, as set forth in
 240 subsection (10), voting in a subsequent referendum.

241 5. Notwithstanding any other provision of this section, a
 242 county shall not levy local option sales surtaxes authorized in
 243 this paragraph and subsections (2) and (3) in excess of a
 244 combined rate of 1 percent.

245 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
 246 s. 125.011(1) may levy the surtax authorized in this subsection
 247 pursuant to an ordinance either approved by extraordinary vote
 248 of the county commission or conditioned to take effect only upon
 249 approval by a ~~majority vote of~~ the electors of the county, as
 250 set forth in subsection (10), voting in a referendum. In a
 251 county as defined in s. 125.011(1), for the purposes of this
 252 subsection, "county public general hospital" means a general
 253 hospital as defined in s. 395.002 which is owned, operated,
 254 maintained, or governed by the county or its agency, authority,
 255 or public health trust.

256 (a) The rate shall be 0.5 percent.

257 (b) If the ordinance is conditioned on a referendum, the
 258 proposal to adopt the county public hospital surtax shall be
 259 placed on the ballot in accordance with subsection (10) ~~law at a~~
 260 ~~time to be set at the discretion of the governing body~~. The
 261 referendum question on the ballot shall include a brief general
 262 description of the health care services to be funded by the
 263 surtax.

264 (c) Proceeds from the surtax shall be:

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265 1. Deposited by the county in a special fund, set aside
 266 from other county funds, to be used only for the operation,
 267 maintenance, and administration of the county public general
 268 hospital; and

269 2. Remitted promptly by the county to the agency,
 270 authority, or public health trust created by law which
 271 administers or operates the county public general hospital.

272 (d) Except as provided in subparagraphs 1. and 2., the
 273 county must continue to contribute each year an amount equal to
 274 at least 80 percent of that percentage of the total county
 275 budget appropriated for the operation, administration, and
 276 maintenance of the county public general hospital from the
 277 county's general revenues in the fiscal year of the county
 278 ending September 30, 1991:

279 1. Twenty-five percent of such amount must be remitted to a
 280 governing board, agency, or authority that is wholly independent
 281 from the public health trust, agency, or authority responsible
 282 for the county public general hospital, to be used solely for
 283 the purpose of funding the plan for indigent health care
 284 services provided for in paragraph (e);

285 2. However, in the first year of the plan, a total of \$10
 286 million shall be remitted to such governing board, agency, or
 287 authority, to be used solely for the purpose of funding the plan
 288 for indigent health care services provided for in paragraph (e),
 289 and in the second year of the plan, a total of \$15 million shall
 290 be so remitted and used.

291 (e) A governing board, agency, or authority shall be
 292 chartered by the county commission upon this act becoming law.
 293 The governing board, agency, or authority shall adopt and

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294 implement a health care plan for indigent health care services.
 295 The governing board, agency, or authority shall consist of no
 296 more than seven and no fewer than five members appointed by the
 297 county commission. The members of the governing board, agency,
 298 or authority shall be at least 18 years of age and residents of
 299 the county. No member may be employed by or affiliated with a
 300 health care provider or the public health trust, agency, or
 301 authority responsible for the county public general hospital.
 302 The following community organizations shall each appoint a
 303 representative to a nominating committee: the South Florida
 304 Hospital and Healthcare Association, the Miami-Dade County
 305 Public Health Trust, the Dade County Medical Association, the
 306 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 307 County. This committee shall nominate between 10 and 14 county
 308 citizens for the governing board, agency, or authority. The
 309 slate shall be presented to the county commission and the county
 310 commission shall confirm the top five to seven nominees,
 311 depending on the size of the governing board. Until such time as
 312 the governing board, agency, or authority is created, the funds
 313 provided for in subparagraph (d)2. shall be placed in a
 314 restricted account set aside from other county funds and not
 315 disbursed by the county for any other purpose.

316 1. The plan shall divide the county into a minimum of four
 317 and maximum of six service areas, with no more than one
 318 participant hospital per service area. The county public general
 319 hospital shall be designated as the provider for one of the
 320 service areas. Services shall be provided through participants'
 321 primary acute care facilities.

322 2. The plan and subsequent amendments to it shall fund a

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323 defined range of health care services for both indigent persons
 324 and the medically poor, including primary care, preventive care,
 325 hospital emergency room care, and hospital care necessary to
 326 stabilize the patient. For the purposes of this section,
 327 "stabilization" means stabilization as defined in s.
 328 397.311(44). Where consistent with these objectives, the plan
 329 may include services rendered by physicians, clinics, community
 330 hospitals, and alternative delivery sites, as well as at least
 331 one regional referral hospital per service area. The plan shall
 332 provide that agreements negotiated between the governing board,
 333 agency, or authority and providers shall recognize hospitals
 334 that render a disproportionate share of indigent care, provide
 335 other incentives to promote the delivery of charity care to draw
 336 down federal funds where appropriate, and require cost
 337 containment, including, but not limited to, case management.
 338 From the funds specified in subparagraphs (d)1. and 2. for
 339 indigent health care services, service providers shall receive
 340 reimbursement at a Medicaid rate to be determined by the
 341 governing board, agency, or authority created pursuant to this
 342 paragraph for the initial emergency room visit, and a per-member
 343 per-month fee or capitation for those members enrolled in their
 344 service area, as compensation for the services rendered
 345 following the initial emergency visit. Except for provisions of
 346 emergency services, upon determination of eligibility,
 347 enrollment shall be deemed to have occurred at the time services
 348 were rendered. The provisions for specific reimbursement of
 349 emergency services shall be repealed on July 1, 2001, unless
 350 otherwise reenacted by the Legislature. The capitation amount or
 351 rate shall be determined before program implementation by an

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352 independent actuarial consultant. In no event shall such
 353 reimbursement rates exceed the Medicaid rate. The plan must also
 354 provide that any hospitals owned and operated by government
 355 entities on or after the effective date of this act must, as a
 356 condition of receiving funds under this subsection, afford
 357 public access equal to that provided under s. 286.011 as to any
 358 meeting of the governing board, agency, or authority the subject
 359 of which is budgeting resources for the retention of charity
 360 care, as that term is defined in the rules of the Agency for
 361 Health Care Administration. The plan shall also include
 362 innovative health care programs that provide cost-effective
 363 alternatives to traditional methods of service and delivery
 364 funding.

365 3. The plan's benefits shall be made available to all
 366 county residents currently eligible to receive health care
 367 services as indigents or medically poor as defined in paragraph
 368 (4) (d).

369 4. Eligible residents who participate in the health care
 370 plan shall receive coverage for a period of 12 months or the
 371 period extending from the time of enrollment to the end of the
 372 current fiscal year, per enrollment period, whichever is less.

373 5. At the end of each fiscal year, the governing board,
 374 agency, or authority shall prepare an audit that reviews the
 375 budget of the plan, delivery of services, and quality of
 376 services, and makes recommendations to increase the plan's
 377 efficiency. The audit shall take into account participant
 378 hospital satisfaction with the plan and assess the amount of
 379 poststabilization patient transfers requested, and accepted or
 380 denied, by the county public general hospital.

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381 (f) Notwithstanding any other provision of this section, a
 382 county may not levy local option sales surtaxes authorized in
 383 this subsection and subsections (2) and (3) in excess of a
 384 combined rate of 1 percent.

385 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

386 (a) The school board in each county may levy, pursuant to
 387 resolution conditioned to take effect only upon approval by a
 388 ~~majority vote of~~ the electors of the county, as set forth in
 389 subsection (10), voting in a referendum, a discretionary sales
 390 surtax at a rate that may not exceed 0.5 percent.

391 (7) VOTER-APPROVED INDIGENT CARE SURTAX.—

392 (a)1. The governing body in each county that has a
 393 population of fewer than 800,000 residents may levy an indigent
 394 care surtax pursuant to an ordinance conditioned to take effect
 395 only upon approval by a ~~majority vote of~~ the electors of the
 396 county, as set forth in subsection (10), voting in a referendum.
 397 The surtax may be levied at a rate not to exceed 0.5 percent,
 398 except that if a publicly supported medical school is located in
 399 the county, the rate shall not exceed 1 percent.

400 2. Notwithstanding subparagraph 1., the governing body of
 401 any county that has a population of fewer than 50,000 residents
 402 may levy an indigent care surtax pursuant to an ordinance
 403 conditioned to take effect only upon approval by a ~~majority vote~~
 404 ~~of~~ the electors of the county, as set forth in subsection (10),
 405 voting in a referendum. The surtax may be levied at a rate not
 406 to exceed 1 percent.

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

408 (b) Upon the adoption of the ordinance, the levy of the
 409 surtax must be placed on the ballot by the governing authority

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410 of the county enacting the ordinance. The ordinance will take
 411 effect if approved by a ~~majority of~~ the electors of the county,
 412 as set forth in subsection (10), voting in a referendum held for
 413 such purpose. The referendum shall be placed on the ballot of a
 414 regularly scheduled election. The ballot for the referendum must
 415 conform to the requirements of s. 101.161.

416 (9) PENSION LIABILITY SURTAX.—

417 (a) The governing body of a county may levy a pension
 418 liability surtax to fund an underfunded defined benefit
 419 retirement plan or system, pursuant to an ordinance conditioned
 420 to take effect upon approval by a ~~majority vote of~~ the electors
 421 of the county, as set forth in subsection (10), voting in a
 422 referendum, at a rate that may not exceed 0.5 percent. The
 423 county may not impose a pension liability surtax unless the
 424 underfunded defined benefit retirement plan or system is below
 425 80 percent of actuarial funding at the time the ordinance or
 426 referendum is passed. The most recent actuarial report submitted
 427 to the Department of Management Services pursuant to s. 112.63
 428 must be used to establish the level of actuarial funding for
 429 purposes of determining eligibility to impose the surtax. The
 430 governing body of a county may only impose the surtax if:

431 1. An employee, including a police officer or firefighter,
 432 who enters employment on or after the date when the local
 433 government certifies that the defined benefit retirement plan or
 434 system formerly available to such an employee has been closed
 435 may not enroll in a defined benefit retirement plan or system
 436 that will receive surtax proceeds.

437 2. The local government and the collective bargaining
 438 representative for the members of the underfunded defined

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439 benefit retirement plan or system or, if there is no
 440 representative, a majority of the members of the plan or system,
 441 mutually consent to requiring each member to make an employee
 442 retirement contribution of at least 10 percent of each member's
 443 salary for each pay period beginning with the first pay period
 444 after the plan or system is closed.

445 3. The pension board of trustees for the underfunded
 446 defined benefit retirement plan or system, if such board exists,
 447 is prohibited from participating in the collective bargaining
 448 process and engaging in the determination of pension benefits.

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

452 5. The pension liability surtax does not take effect until
 453 the local government infrastructure surtax described in
 454 subparagraph 4. is terminated.

455 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a
 456 local government discretionary sales surtax under this section
 457 shall be held only at a general election, as defined in s.
 458 97.021, and requires the approval of a majority of the voters
 459 voting on the ballot question for passage.

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

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG STEUBE

23rd District

February 17, 2017

The Honorable Kathleen Passidomo
Florida Senate
318 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Passidomo,

I am writing this letter because my bill, SB 278 Local Tax Referenda, has been referred to the Senate Ethics and Elections Committee. I am respectfully requesting that you place the bill on your committee's calendar for the next committee week.

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

Very respectfully yours,

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

W. Gregory Steube, District 23

REPLY TO:

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

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore



APPEARANCE RECORD

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

3-22-17

Meeting Date

278

Bill Number (if applicable)

670918

Amendment Barcode (if applicable)

Topic Local Tax Referenda

Name Amber Hughes

Job Title Senior Legislative Advocate

Address PO Box 17570

Street

Phone 850-701-3621

Tallahassee

FL

32302

City

State

Zip

Email ahughes@flcities.com

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

APPEARANCE RECORD

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

3-22-17

Meeting Date

278

Bill Number (if applicable)

670918

Amendment Barcode (if applicable)

Topic LOCAL TAX REFERENDA

Name LAURA YOUMANS

Job Title ASSOCIATE DIRECTOR OF PUBLIC POLICY

Address 100 N. MONROE ST

Phone 294-1838

Street

TAL

City

FL

State

32301

Zip

Email LYOUNANSE@FL-COUNTIES.COM

Speaking: [] For [] Against [] Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

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

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

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

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

APPEARANCE RECORD



3-22-17
Meeting Date

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

278
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Andrew Hosek

Job Title Policy Analyst

Address 200 W College Ave

Phone _____

Street

Tallahassee FL

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Ethics and Elections

BILL: SB 422

INTRODUCER: Senator Lee and others

SUBJECT: Municipal Conversion of Independent Special Districts

DATE: March 15, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Carlton</u>	<u>Ulrich</u>	<u>EE</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 422 adds a minimum population standard for qualified electors of an independent special district to commence a certain municipal conversion proceeding. Specifically, it requires an independent special district wishing to convert to a municipality to have a minimum population of 1,500 people if the population of the county is less than 75,000 people or, if the county has more than 75,000 people, then the independent special district wishing to convert to a municipality must have a population of at least 5,000.

The bill is effective upon becoming law.

II. Present Situation:

Establishment of Municipalities

The Florida Constitution provides that “municipalities may be established or abolished and their charters amended pursuant to general or special law.”¹ Chapter 165 of the Florida Statutes lays out the local government formation process and provides standards, direction, and procedures for the formation of municipalities in the state.² The provisions of this act are the exclusive procedure for forming or dissolving municipalities in Florida, except in those counties operating under a home rule charter which provides for an exclusive method as authorized by Article VIII, section 6(e) of the Florida Constitution.³ A charter for incorporation of a municipality shall be adopted only by a special act of the Legislature upon determination that the standards provided in ch. 165, F.S., are met.⁴ To inform the Legislature on the feasibility of a proposed incorporation

¹ FLA. CONST. art. VIII, s. 2.

² Section 165.021, F.S.

³ Section 165.022, F.S.

⁴ Section 165.041(1)(a), F.S. The procedure for a municipal incorporation by merger is also included in this section.

of a municipality, a feasibility study shall be completed and submitted to the Legislature.⁵ The study shall contain the following:

- The location of territory subject to boundary change and a map of the area which identifies the proposed change.
- The major reasons for proposing the boundary change.
- The following characteristics of the area:
 - A list of the current land use designations applied to the subject area in the county comprehensive plan.
 - A list of the current county zoning designations applied to the subject area.
 - A general statement of present land use characteristics of the area.
 - A description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
- A list of all public agencies, such as local governments, school districts, and special districts, whose current boundary falls within the boundary of the territory proposed for the change or reorganization.
- A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each current service.
- A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such proposed services.
- The names and addresses of three officers or persons submitting the proposal.
- Evidence of fiscal capacity and an organizational plan as it relates to the area seeking incorporation that, at a minimum, includes:
 - Existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate.
 - A 5-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance, and budgets.
 - Data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations, and an explanation concerning methodologies used for such analysis.
 - Evaluation of the alternatives available to the area to address its policy concerns.
 - Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S.⁶

Section 165.061, F.S., provides standards that must be met for incorporation of a new municipality. The conditions are as follows:

- It must be compact and contiguous and amenable to separate municipal government.
- It must have a total population, as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 persons in counties with a population of more than 75,000.

⁵ Section 165.041(1)(b), F.S. The study must be submitted no later than the first Monday after September 1 of the year before the regular session of the Legislature during which the municipal charter would be enacted.

⁶ *Id.*

- It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
- It must have a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least 2 miles or have an extraordinary natural boundary which requires separate municipal government.
- It must have a proposed municipal charter which:
 - Prescribes the form of government and clearly defines the responsibility for legislative and executive functions.
 - Does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law.

In accordance with Article I, section 10 of the Florida Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation. However, the plan for incorporation may provide for existing contracts for solid-waste-collection services to be honored only for 5 years or the remainder of the contract term, whichever is less, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, excluding any automatic renewals or evergreen provisions, be provided to the municipality within a reasonable time after a written request to do so.

Special Districts

The “Uniform Special District Accountability Act of 1989,” ch. 189 F.S., defines the term “special district” to mean:

a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17,⁷ a municipal service taxing or benefit unit as specified in s. 125.01,⁸ or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

A “dependent special district” means a special district that meets at least one of the following criteria:

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

⁷ This section creates special improvement districts within the reservations set aside for the Seminole and Miccosukee Tribes.

⁸ Section 125.01(q), F.S., provides that the governing body of a county has the authority to establish, and subsequently merge or abolish, municipal service taxing or benefit units for any part or all of the unincorporated area of the county, within which may be provided fire protection; law enforcement...and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only.

- During their unexpired terms, members of the special district’s governing body are subject to removal at will by the governing body of a single county or a single municipality.
- The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.⁹

An “independent special district” means a special district that is not a dependent special district as defined, above. A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.¹⁰

As of March 2017, there are 1,036 active independent special districts and 632 active dependent special districts in this state.¹¹

Municipal Conversion of Independent Special Districts

Section 165.0615, F.S., provides the process for converting an independent special district into a municipality. The qualified electors of an independent special district may commence a municipal conversion proceeding by filing a petition with the governing body of the independent special district proposed to be converted.¹² The independent special district must meet the following criteria to be proposed for conversion:

- It was created by special act of the Legislature.
- It is designated as an improvement district and created pursuant to ch. 298, F.S., or is designated as a stewardship district and created pursuant to s. 189.031, F.S.
- Its governing board is elected.
- Its governing board agrees to the conversion.
- It provides at least four of the following municipal services: water, sewer, solid waste, drainage, roads, transportation, public works, fire and rescue, street lighting, parks and recreation, or library or cultural facilities.
- No portion of the district is located within the jurisdictional limits of a municipality.¹³

Unlike the standards for incorporation of a new municipality, there is not currently a population requirement for the conversion of an independent special district.¹⁴ The petition for conversion must include signatures of at least 40 percent of the qualified electors of the independent special district and must be submitted to the supervisor of elections of the county in which the district lands are located.^{15,16} It also must be filed with the governing body of the independent special

⁹ Section 189.012(2), F.S.

¹⁰ Section 189.012(3), F.S.

¹¹ Division of Community Development, Florida Department of Economic Opportunity, *Special District Accountability Program*, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/criteria.cfm> (last visited March 2, 2017).

¹² Section 165.0615(1), F.S.

¹³ *Id.*

¹⁴ Following the framework of s. 165.0615, F.S., the Seminole Improvement District successfully converted into the City of Westlake with five registered voters in the district. Palm Beach County Supervisor of Elections, *Letter of Certification of Number of Registered Voters*, April 7, 2016 (on file with the Community Affairs Committee).

¹⁵ Section 165.0615(2)(a), F.S. It must be filed no later than 1 year after the start of the qualified elector-initiated municipal conversion proceeding.

¹⁶ Section 165.0615(3), F.S. Within 30 days of receiving the petition, the supervisor of elections shall certify to the governing body the number of signatures of qualified electors contained on the petition.

district.¹⁷ The petition must be in a specific form as provided by statute,¹⁸ and must be validated by a notary, a witness who is a duly qualified elector of the independent special district, or another person authorized to take acknowledgements.¹⁹ Depending on who signs the statement, specific forms must be used as provided by statute.²⁰ Once the supervisor of elections has verified that 40 percent of the qualified electors have petitioned for conversion, and that all petitions have been executed within 1 year after the date of the initiation of the conversion process, the governing body of the independent special district shall meet within 30 business days to prepare and approve by resolution a proposed elector-initiated combined conversion and incorporation plan.²¹ The proposed plan must include:

- The name of the independent special district to be converted to a municipality.
- The name of the municipality to be created.
- The conversion schedule.
- Notwithstanding s. 165.061(1)(d), F.S., certification by a licensed surveyor that the boundaries of the proposed municipality do not overlap with any other municipal boundary and are contained within a single county.
- The rights, duties, and obligations of the municipality, and a feasibility study that contains the requirements under s. 165.041(1)(b), F.S., except that the provisions of s. 165.061(1)(b)-(d), F.S., do not apply if the buildout of the land use allowed under the current county-approved comprehensive plan and zoning designations will meet the population and density requirements of s. 165.061(1)(b) and (c), F.S.
- The territorial boundaries of the proposed municipality.
- The governmental organization of the proposed municipality and independent special district as the organization concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials.
- An accounting of the independent special district's assets, including, but not limited to, real and personal property, and the current value of the property.
- An accounting of the independent special district's liabilities and indebtedness, bonded and otherwise, and the current value of the liabilities and indebtedness.
- Terms for addressing the ownership and obligations related to existing assets, liabilities, and indebtedness of the independent special district, jointly, separately, or in defined proportions.
- Terms for the common administration and uniform enforcement of existing laws within the proposed municipality.
- An estimated date for final payment of any bonded indebtedness of the independent special district, and if maintained by the district after incorporation, the estimated date of automatic dissolution of the independent special district.
- The time and place for a public hearing on the proposed incorporation.
- The effective date of the proposed incorporation.²²

The resolution endorsing the plan must be approved by a majority vote of the governing body of the independent special district and must be adopted at least 60 business days before any general

¹⁷ *Id.*

¹⁸ Section 165.0615(2)(b), F.S.

¹⁹ Section 165.0615(2)(c), F.S.

²⁰ Sections 165.0615(2)(d-e), F.S.

²¹ Section 165.0615(4), F.S.

²² *Id.*

or special election on the proposed plan.²³ Within 5 business days after the independent special district approves the proposed plan, the governing body must have the plan available for the public.²⁴ This includes keeping copies displayed and accessible in at least three public places (or all public places if there are less than three in a district).²⁵ The plan must be available on a website maintained by the district.²⁶ A descriptive summary of the plan also must be published in a newspaper of general circulation within the district at least once a week for 4 successive weeks, and must indicate the public places where a copy of the plan may be examined.²⁷

The governing body of the district shall set a time and place for one or more public hearings on the proposed plan, allowing for interested persons residing in the district to be heard on any aspect of the proposed merger.²⁸ Notice of the final hearing must be published pursuant to notice requirements in s. 189.015, F.S., and must provide a summary of the plan and where it can be examined.²⁹ After the final public hearing, the governing body may amend the proposed plan if the amended version complies with notice and public hearing requirements provided in the statute.³⁰ A final version of the plan shall be approved within 60 business days of the final hearing.³¹ The governing body must then notify the supervisor of elections of the adoption of the resolution by the governing body, and the supervisor shall schedule a date for the referendum.³² Notice of the referendum must be provided pursuant to the notice requirements in s. 100.342, F.S., and must include:

- A brief summary of the resolution and elector-initiated municipal incorporation plan;
- A statement as to where a copy of the resolution and petition for municipal incorporation may be examined;
- The name of the independent special district to be converted to a municipality and a description of the territory included in the plan;
- The time and place at which the referendum will be held; and
- Such other matters as may be necessary to call, provide for, and give notice of the referendum and to provide for the conduct of the referendum and the canvass of the returns.³³

The referendum must be held in accordance with the Florida Election Code, with the costs borne by the independent special district.³⁴ The ballot for the referendum must appear in the form as provided by s. 165.0615(13), F.S. The ballots must be counted, returns made and canvassed, and results certified in the same manner as other elections or referenda for the independent special district.³⁵ The plan will not take effect unless a majority of the votes cast in the district are in

²³ Section 165.0615(5), F.S.

²⁴ Section 165.0615(6), F.S.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Section 165.0615(7), F.S. The hearings shall be held on a weekday at least 7 business days after the first advertisement is published.

²⁹ Section 165.0615(8), F.S.

³⁰ Section 165.0615(9), F.S.

³¹ *Id.*

³² Section 165.0615(10), F.S.

³³ Section 165.0615(11), F.S.

³⁴ Section 165.0615(12), F.S.

³⁵ Section 165.0615(14), F.S.

favor of the plan;³⁶ and if the plan is approved by a majority of the votes cast the district shall notify the Special District Accountability Program³⁷ and the local general-purpose governments in which any part of the independent special district is situated.³⁸ If the referendum fails, the conversion process may not be initiated for the same purpose within 2 years after the date of the referendum.³⁹ An independent special district proposed for conversion under an elector-initiated municipal incorporation plan must continue to be governed as before the approved referendum until the effective date specified in the plan.⁴⁰ Finally, the effective date of the incorporation shall be as provided in the plan, and is not contingent upon a future act of the Legislature.⁴¹

III. Effect of Proposed Changes:

The bill adds a minimum population standard to the existing criteria for converting an independent special district into a municipality. In order to qualify to commence a municipal conversion proceeding, the district must have a total population in the area proposed of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 persons in counties with a population of more than 75,000.

The bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³⁶ Section 165.0615(15), F.S.

³⁷ The Special District Accountability Program is a centralized source of information about the special districts in the state, and is a function of the Florida Department of Economic Opportunity. Special District Accountability Program, Florida Department of Economic Opportunity, <http://floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program> (last visited February 28, 2017).

³⁸ Section 165.0615(16), F.S.

³⁹ Section 165.0615(17), F.S.

⁴⁰ Section 165.0615(18), F.S.

⁴¹ Section 165.0615(19), F.S.

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 165.0615 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 Lee

20-00544-17

2017422__

1 A bill to be entitled
 2 An act relating to municipal conversion of independent
 3 special districts; amending s. 165.0615, F.S.; adding
 4 a minimum population standard for qualified electors
 5 of an independent special district to commence a
 6 certain municipal conversion proceeding; providing an
 7 effective date.

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

10
 11 Section 1. Subsection (1) of section 165.0615, Florida
 12 Statutes, is amended to read:

13 165.0615 Municipal conversion of independent special
 14 districts upon elector-initiated and approved referendum.—

15 (1) The qualified electors of an independent special
 16 district may commence a municipal conversion proceeding by
 17 filing a petition with the governing body of the independent
 18 special district proposed to be converted if the district meets
 19 all of the following criteria:

20 (a) It was created by special act of the Legislature.

21 (b) It is designated as an improvement district and created
 22 pursuant to chapter 298 or is designated as a stewardship
 23 district and created pursuant to s. 189.031.

24 (c) Its governing board is elected.

25 (d) Its governing board agrees to the conversion.

26 (e) It provides at least four of the following municipal
 27 services: water, sewer, solid waste, drainage, roads,
 28 transportation, public works, fire and rescue, street lighting,
 29 parks and recreation, or library or cultural facilities.

30 (f) No portion of the district is located within the
 31 jurisdictional limits of a municipality.

32 (g) It meets minimum population standards as provided in s.

Page 1 of 2

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20-00544-17

2017422__

33 165.061(1)(b).

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Passidomo, Chair
Committee on Ethics and Elections

Subject: Committee Agenda Request

Date: March 6th, 2017

I respectfully request that **Senate Bill #422**, relating to Municipal Conversion of Independent Special Districts, be placed on the:

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

A handwritten signature in cursive script that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20

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 Ethics and Elections

BILL: SB 862

INTRODUCER: Senator Lee

SUBJECT: Public Records/Voters and Voter Registration

DATE: March 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Ulrich	EE	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 862 makes confidential and exempt from public inspection and copying requirements all information concerning 16 and 17-year-olds who preregister to vote while they are minors; once they reach the age of 18, their information will become available like any other voter registrant or voter.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

This bill will take effect July 1, 2017, but applies retroactively to all currently pre-registered 16 and 17-year-olds.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that it is the policy of this state 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

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also, see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” as “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 connection with the transaction of official business by any agency.” 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.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁷ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.¹⁸

Public Record Exemption for Voter Registration Information

Current law provides a public record exemption for certain information held by an agency¹⁹ for purposes of voter registration.²⁰ Specifically, the following information is confidential and exempt from public record requirements:

- All declinations to register to vote made pursuant to ss. 97.057 and 97.058, F.S.
- Information relating to the place where a person registered to vote or where a person updated a voter registration.
- The social security number, driver’s license number, and Florida identification number of a voter registration applicant or voter.

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ FLA. CONST., art. I, s. 24(c).

¹⁸ Section 119.15(7), F.S.

¹⁹ Section 119.011(2), F.S., defines “agency” to mean “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.”

²⁰ Section 97.0585, F.S.

In addition, the signature of a voter registration applicant or a voter is exempt from copying requirements.²¹

Voter Pre-Registration for Minors

An individual may register to vote in accordance with Florida law if he or she is at least 18 years old, a United States citizen, a legal resident of Florida, and a legal resident of the county in which he or she seeks to register.²² However, individuals who are otherwise qualified to register to vote but are not yet 18 may pre-register to vote on or after the individual's 16th birthday.²³

Publication of Voter Information

Since 1998 when the State first began compiling all 67 counties' "official" voter registration lists into a unified statewide voter registration database,²⁴ anyone has been able to request an electronic copy of every Florida voters' non-exempt information.²⁵ The rise of the Internet has enabled publication of this information for literally the entire world to see at little to no cost, thereby giving rise to serious personal privacy issues.

At least one web site²⁶ that contains commercial or sponsored links, provides extensive details about every registered and pre-registered voter in the State — including the voter's name, date of birth, residence address, mailing address, voter ID number, when the person registered to vote, what political party the person is affiliated with, the voter's telephone number, e-mail address, race, precinct number, as well as other information about district races in which the person is eligible to vote. This information can be accessed by voter's name, birth date, or address.

III. Effect of Proposed Changes:

SB 862 makes confidential and exempt from public inspection and copying requirements all information concerning 16 and 17-year-olds who preregister to vote while they are minors; once they become adults, their non-exempt information will become available to the same degree as any other adult voter registrant or voter.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

²¹ Section 97.0585(2), F.S.

²² Section 97.041(a)(a), F.S.

²³ Section 97.041(1)(b), F.S.

²⁴ Ch. 97-13, ss. 39, 56, LAWS OF FLA. (effective January 1, 1998).

²⁵ In 2001, the Legislature sought to adopt a much more restrictive public records scheme similar to the one proposed in the original bill, in connection with a then-newly-authorized statewide voter registration database. Ch. 2001-40, s. 70-72, LAWS OF FLA. (codified at s. 98.0979, F.S. (2002)). Three years later, a Leon County circuit court judge struck the statute down void ab initio on procedural grounds, finding that it was adopted in a general elections bill without the requisite statement of public necessity in violation of Art. I, s. 24 of the Florida Constitution — the effect being that the statute never existed or was never on the books. See *Cable News Network, et al. v. Florida Dep't of State*, Case No. 2004 CA 001259 (2nd Jud. Cir., July 1, 2004) (Final Declaratory Summary Judgment). The Legislature repealed the statute the following year. See, Ch. 2005-278, s. 55, LAWS OF FLA.; Ch. 2005-277, s. 77, LAWS OF FLA.

²⁶ See <http://flvoters.com/> (last visited on March 6, 2017).

This bill will take effect July 1, 2017, but applies retroactively to all currently pre-registered 16 and 17-year-olds.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Section 24(c) of Article I of the Florida Constitution requires a two-thirds vote of the members present and voting for passage of a newly created or expanded public-records or public-meetings exemption. Therefore, this bill requires a two-thirds vote for passage.

Public Necessity Statement

Section 24(c) of Article I of the Florida Constitution requires a public necessity statement for a newly created or expanded public records or public meetings exemption. The Florida Constitution provides that an exemption must state with specificity the public necessity of the exemption.

This public necessity statement provides that disclosure of information concerning preregistered voter registration applicants who are 16 or 17 years of age which is held by an agency could be misused to solicit, harass, stalk, or intimidate such individuals, and without such protection, a minor may be less likely to take advantage of preregistering to vote.

Breadth of Exemption

Section 24(c) of Article I of the Florida Constitution requires a public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law.

SB 862 expands the public record exemption to include all information concerning preregistered voter registration applicants who are 16 or 17 years of age which is held by an agency.

Generally, the exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill may adversely impact commercial web sites and businesses that profit from sharing Florida voter registration data. However, since the bill only protects the information of minors before they become age-eligible to vote, the fiscal impact, if any, is unclear.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 97.0585 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 Lee

20-00676-17

2017862__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 97.0585, F.S., and reenacting subsection (3), relating
 4 to a public records exemption for information
 5 regarding voters and voter registration; providing an
 6 exemption from public records requirements for
 7 information concerning preregistered voter
 8 registration applicants who are minors; providing for
 9 future legislative review and repeal; providing for
 10 retroactive application; providing a statement of
 11 public necessity; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsection (1) of section 97.0585, Florida
 16 Statutes, is amended, and subsection (3) of that section is
 17 reenacted, to read:

18 97.0585 Public records exemption; information regarding
 19 voters and voter registration; confidentiality.—

20 (1) The following information held by an agency, as defined
 21 in s. 119.011, and obtained for the purpose of voter
 22 registration is confidential and exempt from s. 119.07(1) and s.
 23 24(a), Art. I of the State Constitution and may be used only for
 24 purposes of voter registration:

25 (a) All declinations to register to vote made pursuant to
 26 ss. 97.057 and 97.058.

27 (b) Information relating to the place where a person
 28 registered to vote or where a person updated a voter
 29 registration.

30 (c) The social security number, driver license number, and
 31 Florida identification number of a voter registration applicant
 32 or voter.

Page 1 of 2

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

20-00676-17

2017862__

33 (d) All information concerning preregistered voter
 34 registration applicants who are 16 or 17 years of age. This
 35 paragraph is subject to the Open Government Sunset Review Act in
 36 accordance with s. 119.15 and shall stand repealed on October 2,
 37 2022, unless reviewed and saved from repeal through reenactment
 38 by the Legislature.

39 (3) This section applies to information held by an agency
 40 before, on, or after the effective date of this exemption.

41 Section 2. The Legislature finds that it is a public
 42 necessity that all information concerning preregistered voter
 43 registration applicants who are 16 or 17 years of age which is
 44 held by an agency, and obtained for the purpose of voter
 45 registration, be confidential and exempt from public records
 46 requirements and be used only for purposes of voter
 47 registration. Information concerning preregistered 16-year-old
 48 and 17-year-old voter registration applicants could be misused
 49 if released. Minors are more vulnerable members of society, and
 50 the widespread release of information acquired through
 51 preregistration activities may be used to solicit, harass,
 52 stalk, or intimidate such individuals. Without such protection,
 53 a minor may be less likely to take advantage of preregistering
 54 to vote, thus hindering the effective and efficient
 55 administration of a program that otherwise encourages greater
 56 participation in the democratic process.

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

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Senate Committee on Ethics and Elections

Subject: Committee Agenda Request

Date: February 28th, 2017

I respectfully request that **Senate Bill #862**, relating to **Public Records/Voters and Voter Registration**, be placed on the:

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

A handwritten signature in cursive script that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

862
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Ben Wilcox

Job Title _____

Address 1719 Old Fort rd
Street

Phone 850-544-4448

Tallahassee FL 32304
City State Zip

Email _____

Speaking: For Against Information

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

Representing Common Cause FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/22/17
Meeting Date

SB 862
Bill Number (if applicable)

Topic VOTER REGISTRATION

Amendment Barcode (if applicable)

Name ROW LABASKY

Job Title _____

Address 225 S. ADAMS ST.
Street

Phone 850-222-7718

FALL FL 32302
City State Zip

Email _____

Speaking: For Against Information

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

Representing FLA. STATE ASSOC. OF SUPERVISORS OF ELECTIONS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/22/2017

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

SB862

Meeting Date

Bill Number (if applicable)

Topic Public Records/Voters + Voter Registration

Amendment Barcode (if applicable)

Name MARILYNN WILLS

Job Title

Address 2326 KILKENNY DRIVE WEST

Phone 850 893-4104

Street

TALLAHASSEE

FL

32309

Email marilyn.wills@msn.com

City

State

Zip

Speaking: For Against Information

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

Representing League of Women Voters of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

CourtSmart Tag Report

Room: KN 412 **Case No.:**
Caption: Senate Committee on Ethics and Elections

Type:
Judge:

Started: 3/22/2017 4:04:36 PM
Ends: 3/22/2017 4:14:28 PM **Length:** 00:09:53

4:04:35 PM Meeting Called to order
4:04:44 PM Roll Call
4:04:47 PM Quorum present
4:05:09 PM Chair Passidomo
4:05:16 PM Tab 6 SB 278 by Sen. Steube
4:05:47 PM Sen Steube presents bill and AM 670918
4:06:10 PM Amber Hughes, Florida League of Cities, waives in support
4:06:29 PM Laura Youmans, Florida Assoc. of Counties, waive in support
4:06:39 PM Andrew Housak, Policy Analyst, waives in support
4:06:54 PM Sen Steube waives close on bill as amended
4:07:00 PM Roll Call on SB 278 as amended
4:07:17 PM CS/SB 278 reported favorably
4:07:35 PM Tab 7 SB 422 by Sen Lee
4:07:56 PM Sen Lee explains the bill
4:09:59 PM Chair calls for questions and debate
4:10:17 PM Sen Lee waives to close
4:10:27 PM Roll Call
4:10:38 PM SB 422 reported favorably
4:10:53 PM Sen Braynon moves to Recommend Confirm Exec. Appts. Tabs 1-5
4:11:08 PM Chair takes Motion to Recommend Confirm on Appointees
4:11:23 PM Roll Call on Exec. Appts., Tabs 1-5
4:11:46 PM Recommend Confirm, Exec. Appts., Tabs 1-5
4:11:47 PM Tab 8 SB 862 by Sen. Lee
4:11:53 PM Sen Lee explains the bill
4:11:59 PM Chair calls for questions
4:12:59 PM Ben Wilcox, Common Cause Florida, waives in support
4:13:09 PM Ron Labasky, FI State Assoc. of Supervisors of Elections, waives in support
4:13:14 PM Marilynn Wills, League of Women Voters of Florida, waives in support
4:13:24 PM Sen Lee closes
4:13:32 PM SB 862 Roll Call
4:13:47 PM SB 862 reported favorably
4:14:13 PM Meeting adjourned