

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 278

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Downtown Development Districts

DATE: February 3, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 278 provides statutory authority for the existing ad valorem powers originally granted to a Downtown Development Authority (DDA) by ch. 65-1090, L.O.F. The bill allows the Miami DDA to continue levying ad valorem taxes, up to 0.5 mills, in addition to the municipality's regular ad valorem taxes and special assessments, not to exceed the 10 mills allowed under the Florida Constitution.

II. Present Situation:

DDAs are special districts¹ whose function is "planning, coordinating, and assisting in the implementation, revitalization, and redevelopment of a specific downtown area of a city."² Fourteen DDAs are currently active in Florida, most of which were created by special act.³

Authorization of DDAs

The Florida Legislature first authorized DDAs in 1965 to "remedy existing conditions amounting to blighted business areas, halt further deterioration, and revitalize the central business districts of the larger cities where those conditions exist."⁴ Chapter 65-1090, L.O.F. granted power to municipalities "having a population in excess of two hundred fifty thousand (250,000)" to "create and establish a downtown development authority" with certain enumerated powers.⁵ The law provided that DDAs be governed by a five member board appointed by the governing body

¹ Chapter 189, F.S.

² Section 380.031(5), F.S.

³ The Special District Information Program within the Department of Economic Opportunity serves as the clearinghouse for special district information, and maintains a list of special districts categorized by function. Dep't of Economic Opportunity, Special District Accountability Program, *Official List of Special Districts Online*, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Jan. 30, 2015).

⁴ Ch. 65-1090, at 692, Laws of Fla.

⁵ *Id.*

of the municipality and chaired by the mayor of the municipality. The law authorized the governing body of the DDA to levy an “ad valorem tax on all real and personal property in the downtown district not exceeding one-half mill on the dollar.”⁶

In 1967, using the authority in ch. 65-1090, L.O.F., the City of Miami created its DDA, and authorized it to levy an ad valorem tax.⁷ When the Florida Constitution of 1968 granted cities and counties broad home rule authority, it made general laws of local application, like ch. 65-1090, L.O.F., obsolete. In 1971, the Legislature removed obsolete general laws of local application from state law by repealing all such laws passed from 1921 through 1970.⁸ The Legislature declared those repealed laws that affected municipalities “shall become an ordinance of that municipality... subject to modification or repeal as are other ordinances.”⁹ The legality of such a transfer of the local laws previously passed by the state to the municipalities has been questioned, particularly as it applies to the ad valorem taxing power of the Miami DDA absent subsequent enactment by the legislature.¹⁰

The authority to create a DDA pursuant to ch. 65-1090, L.O.F., had been used only once prior to repeal. Between 1965 and the repeal of 1971, four other DDAs were created, but by special act of the Legislature.¹¹ The DDAs initially created by special act during this timeframe are the DDAs in Delray Beach,¹² Fort Lauderdale,¹³ Ocala,¹⁴ and West Palm Beach.¹⁵ The only DDA created pursuant to ch. 65-1090, L.O.F., is the Downtown Development Authority City of Miami.

In 1999, the Legislature enacted s. 166.0497, F.S.,¹⁶ establishing procedures by which the Miami DDA could alter, amend or expand its boundaries.¹⁷ The Code of the City of Miami (Code) establishes specific powers, composition of the board, and procedures for the Miami DDA.¹⁸ Section 14-59 of the Code requires the preparation of the DDA’s annual budget. The City Commission enacts a municipal ordinance each fiscal year to levy a millage for an ad valorem tax, which relies upon the Code’s authorization to do so:¹⁹

The city commission is authorized to levy an additional ad valorem tax on all real and personal property in the downtown district as described in this article, not exceeding one-half mill on the dollar valuation of such property, for the purpose of financing the operation of the downtown development

⁶ Ch. 65-1090, at 699, Laws of Fla.

⁷ Chapter 14, City of Miami, Florida, Code of Ordinances (1965).

⁸ Chapter 71-29, Laws of Fla.

⁹ Chapter 71-29, at 116, Laws of Fla.

¹⁰ *Milan Investment Group, Inc., v. City of Miami, et al.*, No. 3D09-2955 (Fla. 3d DCA 2010).

¹¹ Dep’t of Economic Opportunity, Special District Accountability Program, *Official List of Special Districts Online*, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Jan. 30, 2015).

¹² Chapter 71-604, Laws of Fla.

¹³ Chapter 65-1541, Laws of Fla.

¹⁴ Chapter 67-1782, Laws of Fla.

¹⁵ Chapter 67-2170, Laws of Fla.

¹⁶ Chapter 99-208, s.36, Laws of Fla.

¹⁷ Chapter 99-208, Laws of Fla.

¹⁸ Sections 14-51 through 14-62, City of Miami, Florida, Code of Ordinances (2014).

¹⁹ Section 14-60, City of Miami, Florida, Code of Ordinances (2014).

authority. This levy of one-half mill per dollar ad valorem tax shall be in addition to the regular ad valorem taxes and special assessments for improvements imposed by the city commission.

Municipal Millage Rates

Municipal millages are composed of four categories of millage rates:²⁰

- The general municipal millage is the nonvoted millage rate set by the governing body of the municipality.
- Municipal debt service millage is the millage rate necessary to raise taxes for debt service as authorized by vote of the electors, pursuant to s. 12, Art. VII of the State Constitution.
- Municipal voted millage is the millage rate set by the governing body of the municipality as authorized by a vote of the electors pursuant to s. 9(b), Art. VII of the State Constitution.
- Municipal dependent special district millage is the millage rate set by the governing body of the municipality, as to the taxing authority to which the district is dependent.²¹

For the purpose of fixing millage, the Florida Statutes exclude the Miami DDA from the definition of an independent special district,²² and from related requirements.²³ The City Commission set the millage rate levied by the Miami DDA for the fiscal year beginning October 1, 2014, and ending September 30, 2015, at 0.4780 mills.²⁴ All properties in Miami are subject to a 7.6465 city millage rate, and a 0.7385 mill for debt service.²⁵

III. Effect of Proposed Changes:

Section 1 amends s. 166.0497, F.S., to authorize the governing body of a municipality that created a DDA pursuant to ch. 65-1090, L.O.F., to levy an ad valorem tax on all real and personal property in the district for financing the operation of the DDA. The only DDA created pursuant to ch. 65-1090, L.O.F., is the Downtown Development District Authority City of Miami.²⁶

The bill provides that the ad valorem tax that can be levied is limited to 0.5 mills.

Section 2 provides an effective date of July 1, 2015.

²⁰ Section 200.001(2), F.S.

²¹ Section 200.001(5), F.S.

²² Section 200.001(7)(e), F.S.

²³ Section 200.065(5), F.S.

²⁴ Office of the Miami Dade Property Appraiser, 2014 Adopted Millage Rates, *available at* http://www.miamidade.gov/pa/millage_tables.asp (last visited Jan. 29, 2015).

²⁵ *Id.* Additionally, school millage, regional millage, county wide millage, and the Children's Trust mill make up the total millage rate that a property within the Downtown Development Authority City of Miami will be assessed, but these have separate caps.

²⁶ Between 1965 and the repeal of ch. 65-1090, Laws of Fla., in 1971, four other DDAs were created by special act of the Legislature, not by ch. 65-1090, Laws of Fla.

Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article 3, section 10 of the Florida Constitution provides:

No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

The Florida Constitution defines a special law as a special or local law.²⁷ As explained by case law:

a special law is one relating to, or designed to operate upon, particular persons or things, or one that purports to operate upon classified persons or things when classification is not permissible or the classification adopted is illegal; a local law is one relating to, or designed to operate only in, a specifically indicated part of the State, or one that purports to operate within classified territory when classification is not permissible or the classification is illegal.²⁸

Although the Supreme Court of Florida has recognized that the Legislature has wide discretion in establishing statutory classification schemes,²⁹ “[a] statute is invalid if ‘the descriptive technique is employed merely for identification rather than classification.’ ”³⁰ In determining whether the class of persons regulated by a statute is open so as to make the statute a general law as opposed to a special law that requires enactment in accordance with State constitutional provisions, the

²⁷ Fla. Const. art X, s. 12(g).

²⁸ *Lawnwood Medical Center Inc. v. Seeger, M.D.*, 959 So. 2d 1222 (Fla. 1st DCA 2007) *affirmed by* 990 So.2d 503 (Fla. 2008).

²⁹ *Dep’t of Business Regulation v. Classic Mile, Inc.*, 541 So.2d 1155 (Fla. 1989); *Shelton v. Reeder*, 121 So2d 145 (Fla. 1960).

³⁰ *City of Miami v. McGrath*, 824 So. 2d 143, 150 (Fla. 2002) (citing *West Flagler Kennel Club, Inc. v. Florida State Racing Commission*, 153 So.2d 5 (Fla.1963)).

question “is not whether it is imaginable or theoretically possible that the law might be applied to others, but whether it is reasonable to expect that it will.”³¹

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill authorizes the City of Miami to levy up to 0.5 mills on all real and personal property in the district for financing the operation of the Miami DDA.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends section 166.0497 of the Florida Statutes.

VIII. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

³¹ *State, Dep’t of Bus. & Prof’l Regulation, Div. of Pari-Mutuel Wagering v. Gulfstream Park Racing Ass’n, Inc.*, 912 So. 2d 616 (Fla. Dist. Ct. App. 2005) aff’d sub nom. *Florida Dep’t of Bus. & Prof’l Regulation v. Gulfstream Park Racing Ass’n, Inc.*, 967 So. 2d 802 (Fla. 2007).