

**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.)

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

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BILL: SB 574

INTRODUCER: Senator Steube

SUBJECT: Tree and Timber Trimming, Removal, and Harvesting

DATE: February 5, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	<b>Pre-meeting</b>
2.			EP	
3.			RC	

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**I. Summary:**

SB 574 preempts to the state the regulation of trimming, removal, or harvesting of trees and timber on private property. The bill prohibits municipalities, counties and other political subdivisions of the state from prohibiting or restricting a landowner from trimming, removing or harvesting trees located on the landowner’s property, requiring mitigation for the removal of trees, or prohibiting the burial of trees and vegetative debris on properties larger than 2.5 acres.

**II. Present Situation:**

Currently, in Florida there are 67 counties and 413 municipalities.<sup>1</sup> Local governments often have tree ordinances that specify the species that must be used in a given area depending on the land use. Some local governments require a permit prior to trimming certain trees. Local governments may also afford certain trees protection because they are considered an important community resource. The terms used to describe such trees may include heritage, historic, landmark, legacy, special interest, significant, or specimen trees.

For example, in Broward County the removal of any historical tree<sup>2</sup> without first obtaining approval from the Board of County Commissioners is prohibited, as is the removal of any tree without first obtaining a tree removal license from the Environmental Protection and Growth Management Department.<sup>3</sup> Furthermore, municipalities within Broward County are authorized to

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<sup>1</sup> See ch. 7, F.S.; *The Local Government Formation Manual 2017-2018*, Appx. B, at <http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2911&Session=2018&DocumentType=General Publications&FileName=2017-2018 Local Government Formation Manual Final Pub.pdf> (last accessed 1/24/2018).

<sup>2</sup> Broward County Code of Ordinances, Ch. 27, Art. XIV, s. 404 defines a “historical tree” as a particular tree or group of trees which has historical value because of its unique relationship to the history of the region, state, nation or world as designated by the Board of County Commissioners.

<sup>3</sup> *Id.* at s. 405

adopt and enforce their own tree preservation regulations in addition to Broward County's regulation of trees.<sup>4</sup>

### **Home Rule**

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.<sup>5</sup> Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.<sup>6</sup> Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.<sup>7</sup>

The Florida Statutes enumerate the powers and duties of all county governments, unless preempted on a particular subject by general or special law.<sup>8</sup> Those powers include the provision of fire protection, ambulance services, parks and recreation, libraries, museums and other cultural facilities, waste and sewage collection and disposal, and water and alternative water supplies.<sup>9</sup> Article VIII, Section 2 of the State Constitution and s. 166.021, F.S., grant municipalities broad home rule powers.

### **Mangrove Trimming**

In 1996, the Florida Legislature enacted the 1996 Mangrove Trimming and Preservation Act (MTPA).<sup>10</sup> This law regulates the trimming and alteration of mangroves statewide, with the exception of the Delegated Local Governments of Broward, Hillsborough, Miami-Dade, and Pinellas Counties, the City of Sanibel, and the Town of Jupiter Island.<sup>11</sup>

The heights to which a mangrove tree may be trimmed will depend upon the provisions of the MTPA as well as the species and condition of the tree. Projects that involve alterations, and trimming projects that exceed the allowances of the exemptions and general permits, may be authorized through individual permits in s. 403.9328, F.S. Trimming may be authorized in an Environmental Resource Permit (ERP) along with other ERP activities for the same property. Mangrove impacts associated with and located within the footprint of an ERP authorized activity do not require a separate authorization under the MTPA.<sup>12</sup>

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<sup>4</sup> *Id.* at s. 407

<sup>5</sup> FLA. CONST. art VIII, s. 1(f).

<sup>6</sup> FLA. CONST. art VIII, s. 1(g).

<sup>7</sup> FLA. CONST. art VIII, s. 2(b). See also s. 166.021(1), F.S.

<sup>8</sup> Section 125.01, F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Sections 403.9321-403.9333, F.S.

<sup>11</sup> Florida Department of Environmental Protection, *Mangrove Trimming Guidelines for Homeowners*, available at [https://floridadep.gov/sites/default/files/Mangrove-Homeowner-Guide-sm\\_0.pdf](https://floridadep.gov/sites/default/files/Mangrove-Homeowner-Guide-sm_0.pdf) (last visited Feb. 2, 2018).

<sup>12</sup> *Id.*

**III. Effect of Proposed Changes:**

The bill creates s. 589.37, F.S., to preempt to the state the regulation of trimming, removal, or harvesting of trees and timber on private property. The bill also prohibits municipalities, counties, and other political subdivisions of the state from:

- Prohibiting or restricting a private landowner from trimming, removing, or harvesting trees or timber located on the landowner's property.
- Requiring mitigation for the removal or harvesting of trees or timber from private property.
- Prohibiting the burial of trees or other vegetative debris on properties larger than 2.5 acres.

The bill provides an effective date of July 1, 2018.

**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:**

Property owners would save costs associated with permit fees to trim or cut down trees, and with costs associated with burial of vegetative debris.

**C. Government Sector Impact:**

Local governments may see a decline in money collected in connection to fines or fees associated with the various tree ordinances in effect.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

It is unclear whether the preemption of regulation of trimming, removal, or harvesting of trees and timber on private property would supersede or have effect on the MPTA and its procedures.

**VIII. Statutes Affected:**

This bill creates section 589.37 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.

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

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