

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 Rules

BILL: CS/SB 496

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Low-voltage Alarm System Projects

DATE: February 13, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3.	<u>Kraemer</u>	<u>Twogood</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 496 revises s. 553.793, F.S., concerning streamlined low-voltage alarm system installation permitting. The bill provides that a nonelectric fence or wall must completely enclose the outside perimeter of a low-voltage electric fence. Current law provides that a nonelectric fence or wall must completely enclose a low-voltage electric fence, but it is unclear whether the enclosing nonelectric fence or wall must be located on each side of the low-voltage electric fence, or solely on the outside perimeter.

The bill specifies that an area that is within more than one zoning category is not considered to be zoned exclusively for single-family or multifamily residential use. Under the bill, low-voltage electric fences will be allowed in areas within multiple zoning categories. Current law prohibits installation of a low-voltage electric fence in an area zoned exclusively for single-family or multifamily use.

The bill clarifies that additional requirements for the installation or maintenance of low-voltage alarm system projects, beyond those set out in s. 553.793, F.S., may not be adopted or maintained by local governments. Under current law, local governments are prohibited from adopting or maintaining low-voltage alarm system project ordinances or rules that are inconsistent with s. 553.793, F.S.

The bill takes effect July 1, 2024.

II. Present Situation:

Under current law, when a low-voltage electric fence meets the specified requirements for a low-voltage alarm system project,¹ no further permit may be required for the project.²

A low-voltage electric fence is composed of an alarm system, as defined in s. 489.505, F.S.,³ that operates in conjunction with a fence structure and an energizer powered by a commercial storage battery not exceeding 12 volts which produces an electric charge upon contact with the fence structure.⁴

Section 553.793(3), F.S., specifies that a low-voltage electric fence meeting all of the following requirements must be permitted as a low-voltage alarm system project, and no further permit may be required. A low-voltage electric fence:

- Must produce an electric charge upon contact that may not exceed certain energizer characteristics that are set forth in International Electrotechnical Commission Standard No. 60335-2-76;⁵
- Must be completely enclosed by a nonelectric fence or wall;
- May be up to two feet higher than the perimeter nonelectric fence or wall;
- Must be identified with attached warning signs at intervals that may not exceed 60 feet;
- May not be installed in areas zoned exclusively for single-family or multifamily residential use; and
- May not enclose portions of a property which are used for residential purposes.

Section 553.793(10), F.S., prohibits a municipality, county, district, or other entity of local government from adopting or maintaining in effect any ordinance or rule regarding a low-voltage alarm system project which is inconsistent with s. 553.793, F.S. The interpretation of whether an ordinance or rule relating to a low-voltage alarm system project is inconsistent with Florida law as set forth in s. 553.793, F.S., was addressed in two Florida trial courts, with differing results.

¹ Section 553.793(1)(b), F.S., defines a “low-voltage alarm system project” as “a project related to the installation, maintenance, inspection, replacement, or service of a new or existing alarm system, as defined in s. 489.505, [F.S.,] including video cameras and closed-circuit television systems used to signal or detect a burglary, fire, robbery, or medical emergency, that is hardwired and operating at low voltage, as defined in the National Electrical Code Standard 70, Current Edition, or a new or existing low-voltage electric fence. The term also includes ancillary components or equipment attached to a low-voltage alarm system or low-voltage electric fence, including, but not limited to, home-automation equipment, thermostats, closed-circuit television systems, access controls, battery recharging devices, and video cameras.

² See s. 553.793(3), F.S.

³ Section 489.505, F.S., defines an alarm system as “any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.”

⁴ See s. 553.793(1)(c), F.S.

⁵ The limits on energizer characteristics are those set forth in paragraph 22.108 and depicted in Figure 102 of International Electrotechnical Commission (IEC) Standard No. 60335-2-76, Current Edition (the Energizer Standard); however, the Energizer Standard does not appear to be incorporated as a reference in the Florida Administrative Code, and use of the Energizer Standard document is subject to copyright protection. See https://webstore.iec.ch/preview/info_iec60335-2-76%7Bed2.0%7Den.pdf (last visited Jan. 4, 2024). The Energizer Standard is not published on the Internet and must be purchased from the IEC.

In a case filed in Hillsborough County,⁶ the trial court found in favor of the plaintiff fence company because the court held that the county “is attempting to prohibit Plaintiff’s low-voltage electric fence that complies with s. 553.793, [F.S.] and is located in an area not zoned exclusively for single- or multiple-family residential use,” as the fence at issue is located in a planned development zoning district which is a mixed use district. (Footnote omitted.)

The court held that s. 553.793, F.S., preempted the local ordinance “to the extent that this ordinance prohibits or imposes additional requirements for low-voltage electric fences.”⁷

In a case addressing a requirement in the City of Orlando’s zoning code which prohibited the installation of electric fences in a certain heritage zoning district,⁸ the trial court determined that the case before it was unlike the Hillsborough County case where there had been a finding that additional requirements had been imposed on electric fences. The court held that the standard is not whether the city’s code imposes additional requirements, but whether:

- Those requirements conflict with [s. 553.793, F.S.]; and
- The code and the statute cannot coexist, or if the Plaintiff must violate one to comply with the other.⁹

As to the prohibition that a municipality, county, district, or other entity of local government may not adopt or maintain in effect any ordinance or rule regarding a low-voltage alarm system project which is inconsistent with the requirements in s. 553.793, F.S., the court held that “as long as the ordinance is not inconsistent with [that section], a municipality is not prevented from enacting regulations regarding electric fences.”¹⁰

The court also found that the city’s ordinance was not preempted by s. 553.793, F.S., as the ordinance at issue:

Does not require an additional permit for an electric fence--it only regulates where the electric fences can be installed. It is within Orlando’s police powers to maintain its communities, and the city has a legitimate interest in maintaining the appearance of the [heritage zoning] district with importance to the community.¹¹

Accordingly, the City of Orlando’s regulation prohibiting low-voltage electric fences in certain locations did not constitute an additional requirement for installing such fences, and the court found in favor of the City of Orlando and against the fence company.

III. Effect of Proposed Changes:

Section 1 revises s. 553.793, F.S., concerning streamlined low-voltage alarm system installation permitting. The bill provides that a nonelectric fence or wall must completely enclose the outside

⁶ See *Electric Guard Dog, LLC v. Hillsborough Co., Fla.*, (Case No. 17-CA-010362, Fla.13th Jud. Cir. 2019), at pp. 1-2 (on file with the Senate Regulated Industries Committee).

⁷ *Id.* at p. 1.

⁸ See *Amarok Security, LLC v. City of Orlando, Fla.*, (Case No. 2022-CA-011454-0, Div. 35, Fla. 9th Jud. Cir. 2023), (on file with the Senate Regulated Industries Committee).

⁹ *Id.* at p. 8.

¹⁰ *Id.* at p. 9.

¹¹ *Id.*

perimeter of a low-voltage electric fence and must be 2 feet higher than the perimeter non-electric fence or wall. Current law provides that a nonelectric fence or wall must completely enclose a low-voltage electric fence, but it is unclear whether the enclosing nonelectric fence or wall must be located on each side of the low-voltage electric fence, or solely on the outside perimeter.

The bill specifies that an area that is within more than one zoning category is not considered to be zoned exclusively for single-family or multifamily residential use. Under the bill, low-voltage electric fences will be allowed in areas that are within multiple zoning categories. Current law prohibits installation of a low-voltage electric fence in an area zoned exclusively for single-family or multifamily use.

The bill clarifies that additional requirements for the installation or maintenance of low-voltage alarm system projects, beyond those set out in s. 553.793, F.S., relating to streamlined permitting of such projects, may not be adopted or maintained by a municipality, county, district, or other entity of local government (local governments). Under current law, local governments may adopt or maintain low-voltage alarm system project ordinances or rules that are consistent with s. 553.793, F.S. Under the bill, the adoption or maintenance of supplemental requirements, other than those set forth in s. 553.793, F.S., is prohibited. The bill appears to seek a resolution of court decisions addressing this issue with differing results, by revising current law to provide that requirements not set out in s. 553.793, F.S., may not be adopted or maintained by a municipality, county, district, or other entity of local government.

Section 2 provides that the bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 553.793 of the Florida Statutes.

IX. Additional Information:A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Community Affairs on February 6, 2024:**

The committee substitute requires the low-voltage electric fence to be 2 feet higher than the perimeter non-electric fence or wall. Current law allows the low-voltage electric fence to be up to 2 feet higher than the perimeter fence or wall.

B. Amendments:

None.