

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMUNITY AFFAIRS**  
**Senator Simpson, Chair**  
**Senator Thompson, Vice Chair**

**MEETING DATE:** Tuesday, March 11, 2014  
**TIME:** 4:00 —6:00 p.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Simpson, Chair; Senator Thompson, Vice Chair; Senators Bradley, Hukill, Latvala, Smith, Soto, Stargel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 374</b> Detert (Similar H 189)	Growth Management; Revising restrictions on an initiative or referendum process with regard to local comprehensive plan amendments and map amendments, etc.  CA 03/11/2014 Favorable CM RC	Favorable Yeas 8 Nays 0
2	<b>SB 718</b> Legg (Identical H 985)	Public Meetings; Requiring that the notice of a public meeting include a description of each matter to be considered at such meeting; prohibiting the board or commission of an agency or authority of the state, a county, a municipality, or a political subdivision from acting upon a matter at a public meeting which was not included in the notice of such meeting; providing an exception for certain emergency matters upon the approval of a super majority of the members of the board or commission, etc.  CA 03/11/2014 Favorable GO RC	Favorable Yeas 7 Nays 1
3	<b>SM 576</b> Abruzzo (Identical HM 925)	Supportive Housing for the Elderly Program; Urging Congress to restore funding for the Supportive Housing for the Elderly Program, etc.  CF 02/18/2014 Favorable CA 03/11/2014 Favorable	Favorable Yeas 8 Nays 0
4	<b>SB 410</b> Braynon (Identical H 453)	Fair Housing Act; Providing that a person aggrieved by a discriminatory housing practice may file a civil action to enforce the rights granted and protected by the Fair Housing Act without filing a complaint with the Florida Commission on Human Relations or without regard to the status of a complaint filed with the commission, etc.  CA 03/11/2014 Temporarily Postponed JU RC	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, March 11, 2014, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 1194</b> Governmental Oversight and Accountability (Identical H 1153)	Citizen Support and Direct-support Organizations; Providing for future review and repeal of provisions authorizing governmental entities to establish and operate direct-support organizations; requiring citizen support and direct-support organizations to annually submit certain information to the appropriate agency; requiring each agency receiving such information to post submissions on the agency's website; requiring that each citizen support organization or direct- support organization created or authorized by law be subject to legislative review and repeal, etc.  CA 03/11/2014 Favorable AP	Favorable Yeas 8 Nays 0
6	<b>SB 338</b> Bullard (Similar H 1429)	Community Redevelopment; Renaming the Community Redevelopment Act of 1969; redefining the term "blighted area," as applicable to the Community Redevelopment Act of 1969, to include land previously used as a military facility and adjacent to a county-owned zoological park, etc.  CA 03/11/2014 Favorable MS CM AP	Favorable Yeas 7 Nays 1
7	<b>SB 534</b> Latvala (Similar H 257)	Tax Exemptions; Exempting medical products and special diet food items used to treat animals from the state tax on sales, use, and other transactions, etc.  AG 01/13/2014 Favorable CA 03/11/2014 Fav/CS AFT AP	Fav/CS Yeas 8 Nays 0
8	<b>SB 1070</b> Simpson (Identical H 947)	Fuel Terminals; Declaring certain fuel terminals a permitted and allowable use under any local government comprehensive plan, land use map, zoning district, or land development regulation; authorizing limited local government regulation of expanded fuel terminals; prohibiting a local government from amending its local comprehensive plan, land use map, zoning districts, or land development regulations to make such fuel terminals a nonconforming use under the provisions thereof, etc.  CA 03/11/2014 Fav/CS TR	Fav/CS Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, March 11, 2014, 4:00 —6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	<b>SB 624</b> Simpson (Similar H 1259)	Fair Associations; Prohibiting a county from levying a tax, special assessment, or fee for the planning, construction, operation, use, or maintenance of stormwater facilities against land owned by a fair association; prohibiting a county, municipality, or special district from imposing an impact or mobility fee on a fair association; providing for retroactive application; exempting fair associations from the assessment or imposition of a fee by local or regional governmental entities for the planning, construction, operation, use, or maintenance of stormwater management systems, etc.  AG 02/17/2014 Favorable CA 03/11/2014 Fav/CS AFT AP	Fav/CS Yeas 7 Nays 1

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Other Related Meeting Documents

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**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 374

INTRODUCER: Senator Detert

SUBJECT: Growth Management

DATE: March 3, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	<b>Favorable</b>
2.			CM	
3.			RC	

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**I. Summary:**

SB 374 removes the prohibition against some local initiative and referendum processes related to comprehensive plan amendments and map amendments. Current law allows local initiatives and referendums if they:

- were in effect on June 1, 2011;
- affect more than five parcels of land; and
- were expressly authorized for comprehensive plan or map amendments in a local government charter.

The bill removes the requirement that the initiative or referendum affect more than five parcels of land.

**II. Present Situation:**

**Growth Management**

The Local Government Comprehensive Planning and Land Development Regulation Act (the Act),<sup>1</sup> also known as Florida's Growth Management Act, was adopted in 1985. The Act requires all counties and municipalities to adopt local government comprehensive plans that guide future growth and development.<sup>2</sup> Comprehensive plans contain chapters or "elements" that address topics including future land use, housing, transportation, conservation, and capital improvements, among others.<sup>3</sup> The state land planning agency that administers these provisions is the Department of Economic Opportunity.<sup>4</sup>

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<sup>1</sup> See ch. 163, part II, F.S.

<sup>2</sup> Section 163.3167, F.S.

<sup>3</sup> Section 163.3177, F.S.

<sup>4</sup> Section 163.3221, F.S.

## Local Initiatives and Referenda on Land Use Changes

In 2006, voters in St. Pete Beach amended the city's charter to require voter referenda on all future changes to comprehensive plans, redevelopment plans, and building height regulations.<sup>5</sup> This process, often called "Hometown Democracy," caused delay in the local development process.<sup>6</sup> In November 2010, Florida voters decided against implementing Hometown Democracy statewide with a 67.1 percent 'no' vote on Amendment 4.<sup>7</sup> Shortly thereafter, in March 2011, voters in St. Pete Beach repealed the town's Hometown Democracy provisions by 54.07 percent.<sup>8</sup>

The 2011 Legislature passed HB 7207, known as the "Community Planning Act." Section 7, amending s. 163.3167, F.S., prohibited local governments from adopting initiative or referendum processes for any development orders, comprehensive plan amendments, or map amendments, irrespective of the number of parcels affected.<sup>9</sup>

At the time, very few local governments had a land use referendum or initiative process in place.<sup>10</sup> One of these affected governments, The Town of Yankeetown (Yankeetown), had a charter provision which specifically authorized a referendum vote on comprehensive plan amendments affecting more than five parcels of land.<sup>11</sup> Following the enactment of HB 7207 (2011), Yankeetown filed a complaint seeking to maintain its ability to hold referenda on growth management issues. The suit led to an agreement with the Department of Community Affairs (now the Department of Economic Opportunity) that called for the two parties to jointly seek passage of a proposed amendment to the Community Planning Act.<sup>12</sup>

The resulting bill, CH/HB 7081 (2012), was designed to allow charter provisions like that of Yankeetown to remain valid. The bill was intended to have a limited impact, protecting only those local government charter provisions that: 1) were in effect as of June 1, 2011, and 2) authorized an initiative or referendum process for development orders, comprehensive plan amendments, or map amendments.<sup>13</sup> The Legislature passed the bill on March 7, 2012, and the Governor signed CS/HB 7081 (2012) into law on April 6, 2012.

In October 2012, a Palm Beach County Circuit Court interpreted CS/HB 7081 as extending the "grandfather" exception to include all local government charter provisions related to *general*

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<sup>5</sup> "Is St. Pete Beach a Valid Case Study for Amendment 4?" *St. Petersburg Times*, March 19, 2010. Retrieved from: <http://www.politifact.com/florida/statements/2010/mar/19/citizens-lower-taxes-and-stronger-economy/st-pete-beach-amendment-4-hometown-democracy/> (last visited Jan. 16, 2014).

<sup>6</sup> *Id.*

<sup>7</sup> *See*, November 2, 2010 General Election Official Results provided by the Florida Department of State. Retrieved from: <https://doe.dos.state.fl.us/elections/resultsarchive/Index.asp?ElectionDate=11/2/2010&DATAMODE=> (last visited Jan. 16, 2014).

<sup>8</sup> *See*, 2011 Municipal Election Results provided by the Pinellas County Supervisor of Elections. Retrieved from: <http://www.votepinellas.com/index.php?id=1789> (last visited Jan. 16, 2014).

<sup>9</sup> *See*, "The Community Planning Act," s.7, ch. 2011-139, L.O.F., 2011 CS/HB 7207.

<sup>10</sup> Longboat Key, Key West, Miami Beach, and the Town of Yankeetown.

<sup>11</sup> *See, Town of Yankeetown, FL v. Dep't of Econ. Opportunity, et. al.*, No. 37 2011-CA-002036 (Fla. 2d Cir. Ct. 2011), Town of Yankeetown's Amended Complaint for Declaratory Judgment, p. 3 (Aug. 9, 2011).

<sup>12</sup> Settlement Letter between the Department of Community Affairs and St. Pete Beach and Yankeetown, Re: Case No. 37 2011 CA 002036 (9/28/2011).

<sup>13</sup> Section 1, ch. 2012-99, L.O.F.

referendum or initiative processes in effect as of June 1, 2011.<sup>14</sup> As a result, the Legislature revisited the issue again last year. The 2013 bill, CS/CS/HB 537 was intended to clarify that the grandfathering provision only applied to local government charter provisions enabling initiatives or referenda that were specifically related to comprehensive plan or map amendments. The Legislature passed the bill on May 2, 2013, and the Governor signed CS/CS/HB 537 (2013) into law on June 5, 2013.

### **The Town of Longboat Key**

In 1984, the Town of Longboat Key adopted an amendment to its charter to create provisions controlling the creation and alteration of the town's comprehensive plan. The amendment, which added Art. II, s. 22 to the charter, required any increase to the town's then-existing density limitations to garner referendum approval from the town's electors, including requests to increase the allowable density on single parcels. However, CS/CS/HB 537, enacted in 2013 by the Legislature, only grandfathered in local government charter provisions that affected five or more parcels. As such, there is some question regarding whether the passage of CS/CS/HB 537 has entirely or partially invalidated Longboat Key's charter provision. Because of the retroactive nature of the statute, there is also some question as to its effects on developments that had obtained permission to increase density through referendum approval after June 1, 2011, but before CS/CS/HB 537 took effect on July 1, 2013.

### **III. Effect of Proposed Changes:**

**Section 1** of the bill amends s. 163.3167(8), F.S., to remove the requirement that the local initiative or referendum be related to a comprehensive plan or map amendment affecting more than five parcels of land. The bill also makes technical changes to subsection (c).

**Section 2** provides that the bill shall take effect upon becoming law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>14</sup> *City of Boca Raton v. Kennedy, et. al.*, No. 2012-CA-009962-MB (Fla. 15th Cir. Ct. 2012), Order denying plaintiff, City of Boca Raton's and Intervener/Co-Plaintiff, Archstone Palmetto Park, LLC's Motions for Summary Judgment and Granting Defendants' Motion for Summary Judgment. J. Chernow Brown, Oct. 16, 2012.

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

None.

**B. Private Sector Impact:**

The bill increases the number of development projects in Longboat Key potentially subject to the initiative or referendum process prior to final approval. This may delay projects and thereby increase costs for implementation.

**C. Government Sector Impact:**

The bill restores Longboat Key's established procedure for managing density increases to the town comprehensive plan. The management of initiatives and referenda on growth management issues will require more costs to local government than the prohibition of such processes. However, these costs may be offset by a reduction in legal fees associated with litigating whether the town's law was only partially or wholly invalidated by CS/CS/HB 537 and the effects of the statute's retroactive nature on developments that had obtained permission to increase density prior to its passage.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 163.3167 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.



493760

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2014	.	
	.	
	.	
	.	

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

**Senate Amendment (with directory and title amendments)**

Between lines 37 and 38  
insert:

(11) (a) It is the intent of the Legislature to encourage the concentration of development in those counties that have established urban communities in order to preserve the unspoiled nature of the state's most rural areas. However, the Legislature resolves to apply such principle only to those noncharter counties specified in paragraph (b), in recognition of the





493760

11 traditionally broad home rule power exercised by charter  
12 counties.

13 (b) A noncharter county with a population of more than  
14 450,000, as determined by the Office of Economic and Demographic  
15 Research, may not adopt a comprehensive plan amendment to create  
16 a rural protection overlay district unless approved by a  
17 unanimous vote of the county commission.

18  
19 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

20 And the directory clause is amended as follows:

21 Delete line 11

22 and insert:

23 section 163.3167, Florida Statutes, are amended, and subsection  
24 (11) is added to that section, to read:

25  
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete line 6

29 and insert:

30 providing legislative intent; prohibiting certain  
31 noncharter counties from adopting a comprehensive plan  
32 amendment to create a rural protection overlay  
33 district unless approved by the unanimous vote of the  
34 county commission; providing an effective date.

By Senator Detert

28-00548-14

2014374\_\_

1 A bill to be entitled  
2 An act relating to growth management; amending s.  
3 163.3167, F.S.; revising restrictions on an initiative  
4 or referendum process with regard to local  
5 comprehensive plan amendments and map amendments;  
6 providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
10 Section 1. Paragraphs (b) and (c) of subsection (8) of  
11 section 163.3167, Florida Statutes, are amended to read:

12 163.3167 Scope of act.—

13 (8)

14 (b) An initiative or referendum process in regard to any  
15 local comprehensive plan amendment or map amendment is  
16 prohibited unless. ~~However, an initiative or referendum process~~  
17 ~~in regard to any local comprehensive plan amendment or map~~  
18 ~~amendment that affects more than five parcels of land is allowed~~  
19 ~~if~~ it is expressly authorized by specific language in a local  
20 government charter that was lawful and in effect on June 1,  
21 2011. A general local government charter provision for an  
22 initiative or referendum process is not sufficient.

23 (c) It is the intent of the Legislature that initiative and  
24 referendum be prohibited in regard to any development order. It  
25 is the intent of the Legislature that initiative and referendum  
26 be prohibited in regard to any local comprehensive plan  
27 amendment or map amendment, except as specifically and narrowly  
28 allowed by ~~permitted in~~ paragraph (b) ~~with regard to local~~  
29 ~~comprehensive plan amendments that affect more than five parcels~~

28-00548-14

2014374\_\_

30 ~~of land or map amendments that affect more than five parcels of~~  
31 ~~land.~~ Therefore, the prohibition on initiative and referendum  
32 stated in paragraphs (a) and (b) is remedial in nature and  
33 applies retroactively to any initiative or referendum process  
34 commenced after June 1, 2011, and any such initiative or  
35 referendum process ~~that has been~~ commenced or completed  
36 thereafter is ~~hereby~~ deemed null and void and of no legal force  
37 and effect.

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/11/14

*Meeting Date*

Topic Growth Management Bill Number 374  
*(if applicable)*

Name Leticia M Adams Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Senior Policy Director

Address 136 South Bronough Street Phone 850-521-1279

*Street*

Tallahassee Fl 32301

*City*

*State*

*Zip*

E-mail ladams@flchamber.com

Speaking:  For  Against  Information

Representing Florida Chamber of Commerce

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.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/2014

Meeting Date

Topic GROWTH MANAGEMENT

Bill Number SB 374  
*(if applicable)*

Name DAVID RAMBA

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 120 S. MONROE ST.

Phone 727-7087  
850. ~~872-7087~~

Street

TALLAHASSEE

FL

32301

City

State

Zip

E-mail david@rambalaw.com

Speaking:  For  Against  Information

Representing TOWN OF LONGBOAT KEY

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.**

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/14  
Meeting Date

Topic GROWTH MANAGEMENT

Bill Number 374  
(if applicable)

Name DAVID COLLEN

Amendment Barcode 493760  
(if applicable)

Job Title \_\_\_\_\_

Address 1674 UNIVERSITY PKWY #206  
Street  
SARASOTA FL 34243  
City State Zip

Phone PH. 323-2404

E-mail collen@scor.com

Speaking:  For  Against  Information  
AMENDMENT

(NEUTRAL ON BILL)  
SERRA LUR FU

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.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic GROWTH MANAGEMENT

Bill Number 374  
(if applicable)

Name CHARLES PATTISON

Amendment Barcode 493760  
(if applicable)

Job Title PRESIDENT

Address 308 N. MONROE

Phone (850) 322-3144

Street  
TALLAHASSEE  
City 32301  
State FL Zip

E-mail cpattison@1000fof.org

Speaking:  For  Against  Information

Representing 1000 FRIENDS 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.**

S-001 (10/20/11)



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** January 14, 2014

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I respectfully request that **Senate Bill #374**, relating to Growth Management, be placed on the:

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

A handwritten signature in cursive script, reading "Nancy C. Detert".

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Senator Nancy C. Detert  
Florida Senate, District 28



**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 718

INTRODUCER: Senator Legg

SUBJECT: Public Meetings

DATE: March 3, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	<b>Favorable</b>
2.			GO	
3.			RC	

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**I. Summary:**

SB 718 requires that notice of a public meeting include a description of each matter to be considered at the meeting. The bill prohibits board or commission members from taking action on any matter that is not described on the notice. An exception is provided for emergency situations requiring immediate action so long as consideration of the matter is approved by a super majority of the board or commission.

**II. Present Situation:**

**Florida Constitution: Public Meetings**

The Florida Constitution requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, to be open and noticed to the public.<sup>1</sup>

**Government in the Sunshine Law**

Access to government meetings is also governed by s. 286.011, F.S., also known as the "Government in the Sunshine Law" or "Sunshine Law." Section 286.011, F.S., requires all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken to be open to the public at all times. The board or commission must provide reasonable notice of the time and place of all public meetings. However, there is no requirement in the Florida Statutes or Constitution that the notice describe specific matters to be addressed by

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<sup>1</sup> Article I, s. 24(b) of the Florida Constitution.

the public body in advance of the meeting.<sup>2</sup> There simply must be reasonable notice of when and where the meeting will be held and the meeting must be conducted openly.<sup>3</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 286.011, F.S., to require that the notice of a public meeting include a description of each matter to be considered at the meeting. The bill prohibits a public body from acting on any matter that was not included in the meeting notice unless the matter concerns an emergency that requires immediate action and the consideration of the matter is approved by a super majority of the members of the board or commission.

The bill also makes technical changes to the existing statute.

**Section 2** provides an effective date of July 1, 2014.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

While this bill relates to public meetings, it does not create a new exemption from the constitutional requirements for open meetings. Therefore, a two-thirds vote of the legislature is not required for passage.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

None.

#### C. Government Sector Impact:

To the extent that the bill will require public entities to issue more detailed notices of public meetings, such entities might incur additional costs.

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<sup>2</sup> *Law and Info. Servs., Inc. v. City of Riviera Beach*, 670 So.2d 114, 1015 (Fla. 4th DCA 1996).

<sup>3</sup> *Id.* at 1016.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 286.011 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 Legg

17-00702A-14

2014718\_\_

1                   A bill to be entitled  
 2           An act relating to public meetings; amending s.  
 3           286.011, F.S.; requiring that the notice of a public  
 4           meeting include a description of each matter to be  
 5           considered at such meeting; prohibiting the board or  
 6           commission of an agency or authority of the state, a  
 7           county, a municipality, or a political subdivision  
 8           from acting upon a matter at a public meeting which  
 9           was not included in the notice of such meeting;  
 10          providing an exception for certain emergency matters  
 11          upon the approval of a super majority of the members  
 12          of the board or commission; providing applicability;  
 13          providing an effective date.

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1. Subsection (1) of section 286.011, Florida  
 18           Statutes, is amended to read:

19           286.011 Public meetings and records; public inspection;  
 20           criminal and civil penalties.—

21           (1) All meetings of a ~~any~~ board or commission of a ~~any~~  
 22           state agency or authority or of an ~~any~~ agency or authority of a  
 23           ~~any~~ county, municipal corporation, or political subdivision,  
 24           except as otherwise provided in the Constitution, including  
 25           meetings with or attended by a ~~any~~ person elected to such board  
 26           or commission, but who has not yet taken office, at which  
 27           official acts are to be taken are declared to be public meetings  
 28           open to the public at all times, and no resolution, rule, or  
 29           formal action shall be considered binding except as taken or

17-00702A-14

2014718\_\_

30 made at such meeting. The board or commission must provide  
31 reasonable notice of all such meetings which shall include a  
32 specific description of each matter to be considered by the  
33 board or commission at such meeting. A board or commission may  
34 not act upon any matter at a public meeting which was not  
35 included in the notice of such meeting unless the matter  
36 concerns an impending public health, safety, welfare, or other  
37 emergency that requires immediate action, and the consideration  
38 of the matter is approved by a super majority of the members of  
39 the board or commission. This subsection does not limit the  
40 application of any other provision of law, a charter, an  
41 ordinance, or a rule that imposes additional or more restrictive  
42 notice requirements on a board or commission.

43 Section 2. This act shall take effect July 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14  
Meeting Date

Topic \_\_\_\_\_

Bill Number 718  
*(if applicable)*

Name JESS MCCARTY

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title ASS'T COUNTY ATT'Y

Address 111 NW 1<sup>ST</sup> ST 2810  
*Street* MIAMI FL 33128  
*City State Zip*

Phone 305-979-7110

E-mail JMM2@MIAMIDADE.GOV

Speaking:  For  Against  Information

Representing MIAMI-DADE COUNTY

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)

3/11/2014

*Meeting Date*

Topic Public Meetings

Bill Number SB 718

*(if applicable)*

Name Ryan Padgett

Amendment Barcode \_\_\_\_\_

*(if applicable)*

Job Title Asst. General Counsel

Address PO Box 1757

Phone 850-701-3616

*Street*

Tallahassee

FL

32302

*City*

*State*

*Zip*

E-mail rpadgett@flcities.com

Speaking:  For  Against  Information

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.***

S-001 (10/20/11)



The Florida Senate

## Committee Agenda Request

**To:** Honorable Senator Wilton Simpson, Chair  
Community Affairs

CC: Tom Yeatman, Staff Director

**Subject:** Committee Agenda Request

**Date:** February 5<sup>th</sup>, 2014

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I respectfully request that **Senate Bill #718**, relating to **Public Meetings**, be placed on the:

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

A handwritten signature in blue ink, appearing to read "John Legg", written over a horizontal line.

---

Senator John Legg  
Florida Senate, District 17  
316 Senate Office Building  
(850) 487-5017



**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: SM 576

INTRODUCER: Senator Abruzzo

SUBJECT: Supportive Housing for the Elderly Program

DATE: March 12, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Crosier</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>

---

**I. Summary:**

SM 576 finds that the elderly population in Florida are in need of affordable housing. The memorial urges the United States Congress to provide adequate funding for the Supportive Housing for the Elderly Program.

**II. Present Situation:**

The Supportive Housing for the Elderly Program is a federal program that provides assistance to expand the supply of housing with supportive services for the elderly.<sup>1</sup> Through the program, the U.S. Department of Housing and Urban Development (HUD) provides capital advances to eligible private, and nonprofit sponsors.<sup>2</sup> The advance is interest free and does not have to be repaid so long as the housing remains available for very low-income elderly persons for at least 40 years. Project rental assistance covers the difference between the HUD-approved operating cost of the project and the tenants' contributions toward rent. Occupancy is open to very low-income households which include at least one person 62 years of age or older.<sup>3</sup>

The legal authority for the program is contained in section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 210 of the Housing and Community Development Act of 1974 (Public Law 86-372); section 801 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625); the Housing and Community Development Act of 1992 (Public Law 102-550); the Rescissions Act (Public Law 104-19); the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569); the Housing and Economic

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<sup>1</sup> U.S. Department of Housing and Urban Development website, *available at* [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/progdesc/eld202](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/progdesc/eld202) (last visited Mar. 5, 2014).

<sup>2</sup> Mixed-finance organizations are also eligible. For-profit limited partnerships are eligible if the sole general partner is either a nonprofit organization, or a for-profit corporation wholly owned and controlled by one or more nonprofit organizations, or a limited liability company wholly owned and controlled by one or more nonprofit organizations to finance the development of rental housing with supportive services for the elderly. *Id.*

<sup>3</sup> For the most recent income limits and their calculation methodology, see HUD, *Income Limits*, <http://www.huduser.org/portal/datasets/il.html> (last visited Mar. 5, 2014).

Recovery Act of 2008 (Public Law 110-289); and section 202 Supportive Housing for the Elderly Act of 2010 (Public Law 111-372). Regulations may be found at 24 CFR part 891.<sup>4</sup>

### **III. Effect of Proposed Changes:**

The memorial urges the United States Congress to provide adequate funding of the Supportive Housing for the Elderly Program, based on the Legislature's finding that the elderly population in Florida needs low-cost housing. Copies of the memorial are to be distributed to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

### **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:**

None.

### **VI. Technical Deficiencies:**

None.

### **VII. Related Issues:**

None.

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<sup>4</sup> *Id.*

**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.

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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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By Senator Abruzzo

25-00836-14

2014576\_\_

Senate Memorial

A memorial to the Congress of the United States,  
urging Congress to restore funding for the Supportive  
Housing for the Elderly Program.

WHEREAS, the senior population nationwide increased from  
3.1 million to 33.2 million during the 20th century and, by  
2030, the number of seniors is projected to increase to 80  
million, and

WHEREAS, half of people age 65 or older reside in nine  
states, led by Florida, California, and New York, and

WHEREAS, interest rates for personal savings accounts have  
dropped to less than one-half of 1 percent, pension and health  
care payments for retirees are decreasing, and the value of  
investments in 401(k) retirement savings accounts and stocks  
have dramatically decreased, and

WHEREAS, federal funding for low-cost housing was  
eliminated in 2012 after being cut dramatically from \$650  
million in 2005 to \$78 million in 2011, and

WHEREAS, with thousands of low-income seniors on waiting  
lists, some for as many as 3 years, there is a desperate need  
for low-cost housing for seniors, NOW, THEREFORE,

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

That the Congress of the United States is urged to assist  
our nation's low-income seniors by restoring and adequately  
funding the Supportive Housing for the Elderly Program.

BE IT FURTHER RESOLVED that copies of this memorial be

25-00836-14

2014576\_\_

30 dispatched to the President of the United States, to the  
31 President of the United States Senate, to the Speaker of the  
32 United States House of Representatives, and to each member of  
33 the Florida delegation to the United States Congress.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

Topic Supportive Housing for Elderly

Bill Number SM 576  
(if applicable)

Name Tom Randle

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Vice President Govt Affairs

Address 1812 Riggins

Phone 850 671-3700

Street  
Tallahassee FL 32308  
City State Zip

E-mail TRandle@LeadingAge  
Florida.org

Speaking:  For  Against  Information

Representing Leading Age 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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14

Meeting Date

Topic Supportive Housing for Elderly

Bill Number 576

(if applicable)

Name Laura Cantwell

Amendment Barcode

(if applicable)

Job Title Associate State Director

Address 400 Corillon Pkwy, Suite 100

Phone 850-570-2110

Street

St. Pete

FL

33714

City

State

Zip

E-mail lcantwell@aarps.org

Speaking:  For  Against  Information

Representing AARP

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.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14  
Meeting Date

Topic Low Cost Housing for Low Income Senior Bill Number SM 576  
(if applicable)

Name Barbara DeVane Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 625 E. Brevard St  
Tallahassee FL 32308  
Street City State Zip

Phone 850-222-3969

E-mail barbaradevane1@  
yahoo.com

Speaking:  For  Against  Information

Representing FL NOW and FL Alliance for Retired Americans

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 Community Affairs

---

BILL: SB 410

INTRODUCER: Senator Braynon

SUBJECT: Fair Housing Act

DATE: March 12, 2014

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

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

---

**I. Summary:**

SB 410 allows a person who alleges housing discrimination to file a civil action in a Florida court of law whether or not a complaint has been filed with the Florida Commission on Human Relations or a local housing discrimination agency, unless a conciliation agreement has been obtained.

**II. Present Situation:**

**Florida Commission on Human Relations**

Chapter 760, F.S., ensures that all individuals in Florida are protected against discrimination in areas of employment, housing and other opportunities based on race, color, religion, sex, national origin, age, handicap, or marital or familial status. Section 760.03, F.S., creates the Florida Commission on Human Relations (Commission) and authorizes the Commission to carry out the purposes of ch. 760, F.S. Section 760.04, F.S., assigns the Commission to the Department of Management Services; however, the Commission is not subject to any control, or supervision by, or direction from the Department.

The Commission is comprised of 12 individuals who are appointed by the Governor and confirmed by the Senate.<sup>1</sup> The membership of the Commission is broadly representative of various racial, religious, ethnic, social, economic, political, and professional groups in Florida.<sup>2</sup> At least one member of the Commission, as required by law, must be 60 years of age or older.<sup>3</sup> The Commission is empowered, pursuant to s. 760.06(5), F.S., to receive, initiate, investigate, conciliate and hold hearings on and act upon complaints alleging any discriminatory practice.

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<sup>1</sup> Section 760.03(1), F.S.

<sup>2</sup> Section 760.03(2), F.S.

<sup>3</sup> *Id.*

## Florida Fair Housing Act

Part II of Chapter 760, F.S., constitutes the Florida Fair Housing Act. It is the state's policy, as provided in s. 760.21, F.S., to provide for fair housing throughout the state. Part II defines what constitutes unlawful housing discrimination. For example, it is unlawful to refuse to sell or rent, or otherwise make unavailable, or deny, a dwelling to any person because of race, color, national origin, sex, handicap, familial status, or religion.<sup>4</sup> In addition, protection is afforded an individual who is pregnant or in the process of securing legal custody of a child 18 years of age or younger, or an individual who is handicapped or is associated with a handicapped person.<sup>5</sup>

### Enforcement of the Florida Fair Housing Act

Section 760.34(1), F.S., provides that any person who claims to have been injured by a discriminatory housing practice, or who believes that he or she will be injured by a discriminatory housing practice that is about to occur, may file a complaint with the Commission. The complainant must file the complaint within one year after the alleged discriminatory practice has occurred.<sup>6</sup> The Commission has 100 days after receiving the complaint to complete its investigation and issue a determination.<sup>7</sup> The Commission can also decide to resolve the complaint and eliminate or correct the alleged discriminatory housing practice through conciliation.<sup>8</sup> If, within 180 days after a complaint is filed, the Commission has been unable to obtain voluntary compliance, the complainant may commence a civil action or petition for an administrative determination.<sup>9</sup>

Section 760.34(8), F.S., provides that any local agency certified as substantially equivalent<sup>10</sup> may institute a civil action in any appropriate court if it is unable to obtain voluntary compliance with the local fair housing law. The local agency need not petition for an administrative hearing or exhaust its administrative remedies prior to bringing a civil action.<sup>11</sup>

### Civil Actions and Relief

Section 760.35, F.S., provides for civil actions and administrative relief. A civil action must be commenced no later than two years after the alleged discriminatory act occurred.<sup>12</sup> The court can continue a civil case if conciliation efforts by the Commission or by the local housing agency are likely to result in a satisfactory settlement.<sup>13</sup> If the court finds that a discriminatory housing practice has occurred, it is to issue an order prohibiting the practice and providing affirmative

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<sup>4</sup> Section 760.23(1), F.S.

<sup>5</sup> Sections 760.23(6)-(9), F.S.

<sup>6</sup> Section 760.34(2), F.S.

<sup>7</sup> Section 760.34(1), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 760.34(4), F.S.

<sup>10</sup> *See* Section 760.22(9), F.S. (For substantial equivalence certification, a state or local agency applies for certification and the U.S. Dep't of Housing and Urban Development determines if the agency enforces a law that provides substantive rights, procedures, remedies and judicial review provisions substantially equivalent to the federal Fair Housing Act).

<sup>11</sup> Section 760.34(8), F.S.

<sup>12</sup> Section 760.35(1), F.S.

<sup>13</sup> *Id.*

relief.<sup>14</sup> If the Commission is unable to obtain voluntary compliance or has reasonable cause to believe that a discriminatory act has occurred, the Commission may institute an administrative proceeding or the aggrieved person may request administrative relief within 30 days after receiving notice that the Commission has concluded its investigation.<sup>15</sup>

### **Federal Discrimination Housing Law**

In addition to adhering to the state discrimination laws, the Commission abides by federal discrimination laws. Through annual work-share agreements with the U.S. Department of Housing and Urban Development (HUD), the Commission, certified as a substantially equivalent agency,<sup>16</sup> accepts and investigates housing discrimination cases from HUD. Federal housing discrimination laws are contained in Title VIII (Fair Housing Act) of the federal Civil Rights Act of 1968.<sup>17</sup> The Commission is reimbursed by HUD for closing housing cases; such funds are deposited into the Commission's trust fund. Trust fund monies received from HUD in FY 2012-13 totaled \$937,848, which is down from the FY 2011-12 total of \$1,757,319.<sup>18</sup>

### **2010-2011 Housing Related Complaints**

According to the Commission's 2010-2011 Annual Report, housing complaints represented 22 percent of all complaints received by the Commission in 2011.<sup>19</sup> The 269 housing cases closed in FY 2010-11 were distributed as follows:

No Cause	171 (64%)
Administrative Closure	46 (17%)
Cause	20 (7%)
Settlement	16 (6%)
Withdrawal with Benefits	16 (6%)

### **State Law Regarding Avenues of Relief for Complaints Under the Florida Fair Housing Act**

Florida's 4th District Court of Appeal held in the 2004 case, *Belletete v. Halford*, that individuals claiming discrimination under the Florida Fair Housing Act must exhaust administrative remedies before bringing a judicial claim, citing the doctrine of exhaustion of administrative

<sup>14</sup> Section 760.35(2), F.S.

<sup>15</sup> Section 760.35(3), F.S.

<sup>16</sup> See U.S. Department of Housing and Urban Development, *Fair Housing Assistance Program (FHAP) Agencies*, [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/partners/FHAP/agencies](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/partners/FHAP/agencies) (last visited Mar. 3, 2014). Providing a list of agencies certified as a "fair housing assistance program" with HUD.

<sup>17</sup> 42 U.S.C. ch. 45.

<sup>18</sup> E-mail from Hunter Barnett, Policy Analyst, Florida Commission on Human Relations (Mar. 4, 2014). The Commission's trust fund dollars cited here are composed of federal fund receipts from HUD and Equal Employment Opportunity Commission for closed cases, but do not include payment received for public records copy requests and 55+ housing registrations and renewals.

<sup>19</sup> Florida Commission on Human Relations, *Annual Report 2010-2011*, 5 (2011) (the remaining breakdown as follows: employment complaints, 73 percent; whistle blower complaints, 3 percent; and public accommodations, 2 percent).

remedies.<sup>20</sup> In 2012, the 4<sup>th</sup> DCA reiterated that the Florida Fair Housing Act, as interpreted by that court, requires exhaustion of administrative remedies as a condition precedent to a civil suit. The court did not rule on that particular issue because it was moot.<sup>21</sup> The Florida Supreme Court has not addressed this issue yet, leaving the 4<sup>th</sup> DCA decision the only one on point in the state court system.

However, in a case brought before the U.S. District Court for the Southern District of Florida and decided in 2010, the Florida Attorney General, in a motion to intervene, stated that “as co-enforcer with the Florida Commission on Human Relations of the FFHA (Florida Fair Housing Act), it has always interpreted the right of the private individual to file a judicial action under the FFHA without first pursuing an administrative remedy.”<sup>22</sup> The court agreed that the 4<sup>th</sup> DCA decided *Belletete* incorrectly and that aggrieved parties did not have to exhaust administrative remedies before petitioning the courts for relief in a cause of action grounded in the Florida Fair Housing Act.<sup>23</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 760.34, F.S., to list and clarify the actions that may be taken to enforce the rights granted or protected by the Florida Fair Housing Act. Either the Commission, or an aggrieved person, may initiate proceedings for administrative relief under chapter 120.

A “cause” determination by the Commission would be a prerequisite before a complainant is allowed to have legal representation from the Attorney General.

The bill amends subsection (7) of s. 760.34, F.S., to clarify what is actually required to file a housing discrimination case in civil court. An aggrieved person would not be required to file a complaint with the Commission prior to commencing civil action.

**Section 2** amends s. 760.35, F.S., to prevent commencement of a civil action in a Florida court of law, if a conciliation agreement consented to by the aggrieved person has already been obtained for the same discriminatory housing practice that forms the basis of the complaint.

**Section 3** provides an effective date of July 1, 2014.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>20</sup> *Belletete v. Halford*, 886 So. 2d 308, 310 (Fla. 4th DCA 2004); *See also Fla. Welding & Erection Serv., Inc. v. Am. Mut. Ins. Co. of Boston*, 285 So. 2d 386, 389-90 (Fla. 1973) (the Doctrine of Exhaustion of Administrative Remedies stands generally for the proposition that judicial intervention in executive branch decision making is precluded where administrative procedures can afford the relief a litigant seeks).

<sup>21</sup> *Sun Harbor Homeowners' Ass'n, Inc. v. Bonura*, 95 So. 3d 262 (Fla. 4<sup>th</sup> DCA 2012).

<sup>22</sup> *Milsap v. Cornerstone Residential Mgmt., Inc.*, 2010 WL 427436, at 1 (S.D. Fla. 2010).

<sup>23</sup> *Id.* at 2 (holding that the Florida Fair Housing Act should be interpreted similarly to the Federal Fair Housing Act, which has been interpreted by federal courts as allowing for actions in court whether or not all administrative remedies have been exhausted).

**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:**

Entities engaged in the housing industry may experience indeterminate effects as a result of the bill.

**C. Government Sector Impact:**

According to the Commission, they would incur no fiscal or workload impact related to the bill.<sup>24</sup> While the Commission maintains that a Floridian aggrieved by a discriminatory housing practice already may commence a civil action without first filing a complaint for an administrative remedy, this bill confirms for individuals in the 4<sup>th</sup> DCA that they can bypass the investigation and conciliation process in order to better access Florida's court system.

**VI. Technical Deficiencies:**

Commission staff note that lines 77-86, which contain a reference to a 180 day waiting period, should instead reflect that a complainant may go to court any time during the course of the investigation. The "reference to having to wait 180 days before commencing a civil action is not necessary."<sup>25</sup>

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends Sections 760.34, and 760.35 of the Florida Statutes.

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<sup>24</sup> Florida Commission on Human Relations, *SB 410 Analysis* (Jan. 3, 2014).

<sup>25</sup> *Id.*, at 4.

**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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By Senator Braynon

36-00119-14

2014410\_\_

1                                   A bill to be entitled  
2       An act relating to the Fair Housing Act; amending ss.  
3       760.34 and 760.35, F.S.; providing that a person  
4       aggrieved by a discriminatory housing practice may  
5       file a civil action to enforce the rights granted and  
6       protected by the Fair Housing Act without filing a  
7       complaint with the Florida Commission on Human  
8       Relations or without regard to the status of a  
9       complaint filed with the commission; providing that if  
10      the commission or local agency has obtained a  
11      conciliation agreement with the consent of a person  
12      aggrieved by a discriminatory housing practice in  
13      response to a complaint filed with the commission, the  
14      filing of a civil action to enforce rights granted and  
15      protected by the act is prohibited except to enforce  
16      the terms of such conciliation agreement; reorganizing  
17      provisions of the act for clarity; providing an  
18      effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22       Section 1. Section 760.34, Florida Statutes, is amended to  
23       read:

24       760.34 Enforcement; administrative procedures.—

25       (1) A ~~Any~~ person who claims to have been injured by a  
26       discriminatory housing practice or who believes that he or she  
27       will be injured by a discriminatory housing practice that is  
28       about to occur may file a complaint with the commission.  
29       Complaints must ~~shall~~ be in writing and must ~~shall~~ contain such

36-00119-14

2014410\_\_

30 information and be in such form as the commission requires. Upon  
31 receipt of such a complaint, the commission shall furnish a copy  
32 to the person or persons who allegedly committed the  
33 discriminatory housing practice or are about to commit the  
34 alleged discriminatory housing practice. Within 100 days after  
35 receiving a complaint, or within 100 days after the expiration  
36 of any period of reference under subsection (3), the commission  
37 shall investigate the complaint and give notice in writing to  
38 the person aggrieved whether it intends to resolve it. If the  
39 commission decides to resolve the complaint, it shall proceed to  
40 try to eliminate or correct the alleged discriminatory housing  
41 practice by informal methods of conference, conciliation, and  
42 persuasion. Insofar as possible, conciliation meetings must  
43 ~~shall~~ be held in the municipality ~~cities~~ or other locality  
44 ~~localities~~ where the discriminatory housing practices allegedly  
45 occurred. Nothing said or done in the course of such informal  
46 endeavors may be made public or used as evidence in a subsequent  
47 proceeding under ss. 760.20-760.37 without the written consent  
48 of the persons concerned. An ~~Any~~ employee of the commission who  
49 makes public any information in violation of this provision is  
50 guilty of a misdemeanor of the first degree, punishable as  
51 provided in s. 775.082 or s. 775.083.

52 (2) A complaint under subsection (1) must be filed within 1  
53 year after the alleged discriminatory housing practice occurred.  
54 The complaint must be in writing and must ~~shall~~ state the facts  
55 upon which the allegations of a discriminatory housing practice  
56 are based. A complaint may be reasonably and fairly amended at  
57 any time. A respondent may file an answer to the complaint  
58 against him or her and, with the leave of the commission, which



36-00119-14

2014410\_\_

59 shall be granted whenever it would be reasonable and fair to do  
60 so, may amend his or her answer at any time. Both complaint and  
61 answer shall be verified.

62 (3) Wherever a local fair housing law provides rights and  
63 remedies for alleged discriminatory housing practices which are  
64 substantially equivalent to the rights and remedies provided in  
65 ss. 760.20-760.37, the commission shall notify the appropriate  
66 local agency of any complaint filed under ss. 760.20-760.37  
67 which appears to constitute a violation of the local fair  
68 housing law, and the commission shall take no further action  
69 with respect to such complaint if the local law enforcement  
70 official has, within 30 days after ~~from the date~~ the alleged  
71 offense was brought to his or her attention, commenced  
72 proceedings in the matter. In no event shall the commission take  
73 further action unless it certifies that in its judgment, under  
74 the circumstances of the particular case, the protection of the  
75 rights of the parties or the interests of justice require such  
76 action.

77 (4) If, within 180 days after a complaint is filed with the  
78 commission or within 180 days after expiration of any period of  
79 reference under subsection (3), the commission has been unable  
80 to obtain voluntary compliance with ss. 760.20-760.37 or, ~~the~~  
81 ~~person aggrieved may commence a civil action in any appropriate~~  
82 ~~court against the respondent named in the complaint or petition~~  
83 ~~for an administrative determination pursuant to s. 760.35 to~~  
84 ~~enforce the rights granted or protected by ss. 760.20-760.37.~~  
85 ~~If, as a result of its investigation under subsection (1), the~~  
86 ~~commission~~ finds there is reasonable cause to believe that a  
87 discriminatory housing practice has occurred, the following

36-00119-14

2014410\_\_

88 actions may be taken to enforce the rights granted or protected  
89 by ss. 760.20-760.37:

90 (a) At the request of the person aggrieved, the Attorney  
91 General may bring an action in the name of the state on behalf  
92 of the aggrieved person aggrieved if the commission finds there  
93 is reasonable cause to believe that a discriminatory housing  
94 practice has occurred to enforce the provisions of ss. 760.20-  
95 760.37.

96 (b) The person aggrieved may request administrative relief  
97 under chapter 120 within 30 days after receiving notice that the  
98 commission has concluded its investigation.

99 (c) The commission may institute an administrative  
100 proceeding under chapter 120.

101 ~~(5) In any proceeding brought pursuant to this section or~~  
102 ~~s. 760.35, the burden of proof is on the complainant.~~

103 ~~(6) Whenever an action filed in court pursuant to this~~  
104 ~~section or s. 760.35 comes to trial, the commission shall~~  
105 ~~immediately terminate all efforts to obtain voluntary~~  
106 ~~compliance.~~

107 ~~(d)-(7)-(a)~~ (d) The commission may institute a civil action in  
108 any appropriate court ~~if it is unable to obtain voluntary~~  
109 ~~compliance with ss. 760.20-760.37.~~ The commission need not have  
110 petitioned for an administrative hearing or exhausted its  
111 administrative remedies prior to bringing a civil action.

112 ~~1.(b)~~ 1. The court may impose the following fines for each  
113 violation of ss. 760.20-760.37:

114 ~~a.1-~~ a.1- Up to \$10,000, if the respondent has not previously  
115 been found guilty of a violation of ss. 760.20-760.37.

116 ~~b.2-~~ b.2- Up to \$25,000, if the respondent has been found guilty

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117 of one prior violation of ss. 760.20-760.37 within the preceding  
118 5 years.

119 ~~c.3.~~ Up to \$50,000, if the respondent has been found guilty  
120 of two or more violations of ss. 760.20-760.37 within the  
121 preceding 7 years.

122 2. In imposing a fine under this paragraph, the court shall  
123 consider the nature and circumstances of the violation, the  
124 degree of culpability, the history of prior violations of ss.  
125 760.20-760.37, the financial circumstances of the respondent,  
126 and the goal of deterring future violations of ss. 760.20-  
127 760.37.

128 3.~~(e)~~ The court shall award reasonable attorney ~~attorney's~~  
129 fees and costs to the commission in any action in which the  
130 commission prevails.

131 (5)~~(8)~~ Any local agency certified as substantially  
132 equivalent may institute a civil action in any appropriate  
133 court, including circuit court, if it is unable to obtain  
134 voluntary compliance with the local fair housing law. The agency  
135 need not have petitioned for an administrative hearing or  
136 exhausted its administrative remedies prior to bringing a civil  
137 action. The court may impose fines as provided in the local fair  
138 housing law.

139 (6) Administrative hearings under subsection (4) shall be  
140 conducted pursuant to ss. 120.569 and 120.57(1).

141 (a) The respondent must be served written notice by  
142 certified mail.

143 (b) If the administrative law judge finds that a  
144 discriminatory housing practice has occurred or is about to  
145 occur, he or she shall issue a recommended order to the

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146 commission prohibiting the practice and recommending affirmative  
147 relief from the effects of the practice, including quantifiable  
148 damages and reasonable attorney fees and costs. The commission  
149 may adopt, reject, or modify a recommended order only as  
150 provided under s. 120.57(1). Judgment for the amount of damages  
151 and costs assessed pursuant to a final order by the commission  
152 may be entered in any court having jurisdiction and may be  
153 enforced as any other judgment.

154 (c) The district courts of appeal may, upon the filing of  
155 appropriate notices of appeal, review final orders of the  
156 commission pursuant to s. 120.68. Costs or fees may not be  
157 assessed against the commission in any appeal from a final order  
158 issued by the commission under this subsection. Unless  
159 specifically ordered by the court, the commencement of an appeal  
160 does not suspend or stay an order of the commission.

161 (7) This section does not require a person aggrieved by a  
162 discriminatory housing practice to file a complaint with the  
163 commission to enforce the rights granted and protected by ss.  
164 760.20-760.37. A person aggrieved by a discriminatory housing  
165 practice may commence a civil action pursuant to s. 760.35 to  
166 enforce the rights granted or protected by ss. 760.20-760.37  
167 without filing a complaint under this section and without regard  
168 to the status of a complaint filed under this section except as  
169 provided in s. 760.35.

170 (8) Whenever an action filed in court pursuant to this  
171 section or s. 760.35 comes to trial, the commission shall  
172 immediately terminate all efforts to obtain voluntary compliance  
173 with ss. 760.20-760.37.

174 (9) In any proceeding brought pursuant to this section or

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175 s. 760.35, the burden of proof is on the complainant.

176 Section 2. Section 760.35, Florida Statutes, is amended to  
177 read:

178 760.35 Civil actions and relief; ~~administrative~~  
179 ~~procedures.~~—

180 (1) A civil action may ~~shall~~ be commenced no later than 2  
181 years after an alleged discriminatory housing practice has  
182 occurred. However, a civil action may not be commenced under  
183 this section if the commission or local agency, in response to a  
184 complaint filed under s. 760.34, has obtained a conciliation  
185 agreement with the consent of the person aggrieved by a  
186 discriminatory housing practice and the alleged discriminatory  
187 housing practice that formed the basis of the complaint also  
188 forms the basis of the civil action except for the purpose of  
189 enforcing the terms of such conciliation agreement. The court  
190 shall continue a civil action ~~case~~ brought pursuant to this  
191 section or s. 760.34 from time to time before bringing it to  
192 trial if the court believes that ~~the~~ conciliation efforts of the  
193 commission or local agency are likely to result in satisfactory  
194 settlement of a the discriminatory housing practice complained  
195 of in the complaint made to the commission or to the local  
196 agency and the alleged discriminatory housing which practice  
197 that formed the basis of the complaint also forms the basis for  
198 the civil action in court. Any sale, encumbrance, or rental  
199 consummated before ~~prior to~~ the issuance of any court order  
200 issued under the authority of ss. 760.20-760.37 and involving a  
201 bona fide purchaser, encumbrancer, or tenant without actual  
202 notice of the existence of the filing of a complaint or civil  
203 action under the provisions of ss. 760.20-760.37 may ~~shall~~ not

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204 be affected.

205 (2) If the court finds that a discriminatory housing  
206 practice has occurred, it shall issue an order prohibiting the  
207 practice and providing affirmative relief from the effects of  
208 the practice, including injunctive and other equitable relief,  
209 actual and punitive damages, and reasonable attorney ~~attorney's~~  
210 fees and costs.

211 ~~(3)(a) If the commission is unable to obtain voluntary~~  
212 ~~compliance with ss. 760.20-760.37 or has reasonable cause to~~  
213 ~~believe that a discriminatory practice has occurred:~~

214 ~~1. The commission may institute an administrative~~  
215 ~~proceeding under chapter 120; or~~

216 ~~2. The person aggrieved may request administrative relief~~  
217 ~~under chapter 120 within 30 days after receiving notice that the~~  
218 ~~commission has concluded its investigation under s. 760.34.~~

219 ~~(b) Administrative hearings shall be conducted pursuant to~~  
220 ~~ss. 120.569 and 120.57(1). The respondent must be served written~~  
221 ~~notice by certified mail. If the administrative law judge finds~~  
222 ~~that a discriminatory housing practice has occurred or is about~~  
223 ~~to occur, he or she shall issue a recommended order to the~~  
224 ~~commission prohibiting the practice and recommending affirmative~~  
225 ~~relief from the effects of the practice, including quantifiable~~  
226 ~~damages and reasonable attorney's fees and costs. The commission~~  
227 ~~may adopt, reject, or modify a recommended order only as~~  
228 ~~provided under s. 120.57(1). Judgment for the amount of damages~~  
229 ~~and costs assessed pursuant to a final order by the commission~~  
230 ~~may be entered in any court having jurisdiction thereof and may~~  
231 ~~be enforced as any other judgment.~~

232 ~~(c) The district courts of appeal may, upon the filing of~~

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233 ~~appropriate notices of appeal, review final orders of the~~  
234 ~~commission pursuant to s. 120.68. Costs or fees may not be~~  
235 ~~assessed against the commission in any appeal from a final order~~  
236 ~~issued by the commission under this subsection. Unless~~  
237 ~~specifically ordered by the court, the commencement of an appeal~~  
238 ~~does not suspend or stay an order of the commission.~~

239 ~~(d) This subsection does not prevent any other legal or~~  
240 ~~administrative action provided by law.~~

241 Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-2014

Meeting Date

Topic Fair Housing Act

Bill Number SB 410  
(if applicable)

Name Eddy Labrador

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Director of Intergov't'l. Affairs

Address 115 S. Andrews Avenue

Phone 954-357-7575

Street

Fort Lauderdale

FL

33301

City

State

Zip

E-mail elabrador@broward.org

Speaking:  For  Against  Information

Representing Broward County

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

Tallahassee, Florida 32399-1100

COMMITTEES:  
Regulated Industries, *Vice Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on General  
Government  
Children, Families, and Elder Affairs  
Ethics and Elections  
Gaming  
Health Policy

## SENATOR OSCAR BRAYNON II

*Democratic Whip*  
36th District

January 14, 2014

Senator Wilton Simpson, Chair  
Community Affairs  
322 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Simpson:

This letter is to request that **Senate Bill # 410**, relating to *Fair Housing Act* be placed on the agenda of the next scheduled meeting of the committee.

*SB 410 Providing that a person aggrieved by a discriminatory housing practice may file a civil action to enforce the rights granted and protected by the Fair Housing Act without filing a complaint with the Florida Commission on Human Relations or without regard to the status of a complaint filed with the commission, etc.*

Thank you for consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Oscar Braynon II".

Senator Braynon  
District 36

cc. *Tom Yeatman, Staff Director,*  
*Ann Whittaker, Committee Administrative Assistant, Room 315K*

REPLY TO:

- 606 NW 183rd Street, Miami Gardens, Florida 33169 (305) 654-7150 FAX: (305) 654-7152
- 213 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

DON GAETZ  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

**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 1194

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Citizen Support and Direct-support Organizations

DATE: March 12, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McVaney</u>	<u>GO</u>	<b>GO SPB 7034 as introduced</b>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1194 creates new reporting and transparency requirements for each citizen support organization (CSO) and direct support organization (DSO) that is adjunct to an executive agency. The bill requires CSOs and DSOs to make annual reports to their related agencies on the topics of organization, mission, and finances. The agencies are required to make the reported information available on agency websites, make annual recommendations to the Legislature and Governor, and terminate the contracts of organizations not in compliance with the reporting requirements.

The bill also requires that laws creating CSOs or DSOs provide a repeal date five years after creation, unless the organization is reviewed and reenacted by the Legislature. The bill also provides repeal dates for existing CSOs and DSOs.

**II. Present Situation:**

**Citizen Support Organizations and Direct Support Organizations**

Citizen support organizations and direct support organizations are private entities created to assist or support governmental entities in carrying out their duties. While no single standard is set by general law, CSOs and DSOs are often created with similar organizational and reporting requirements, particularly as Florida not for profit corporations that may require approval by the Department of State.<sup>1</sup> The Legislature has created or authorized numerous DSOs and CSOs in law. Some of the CSOs and DSOs associated with the executive branch are identified below.

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<sup>1</sup> See Section 258.015(1), F.S.; Section 257.43(1), F.S. Specific CSOs and DSOs are granted the authority to operate and conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer funds and property; and make expenditures.

The Florida Commission on Community Service is assigned to the Executive Office of the Governor to serve as an advisory board on matters relating to volunteerism and community service. Pursuant to s. 14.29(9), F.S., the commission may establish a DSO.

The Council on the Social Status of Black Men and Boys is established within the Department of Legal Affairs (DLA) to make a systematic study of the conditions affecting black men and boys. Pursuant to s. 16.616, F.S., DLA is required to create a DSO that supports the council and develops funding initiatives.

Section 20.2551, F.S., permits the Department of Environmental Protection or units of the department to contract with CSOs.

The Office of Adoption and Child Protection in the Executive Office of the Governor may establish a DSO pursuant to s. 39.0011, F.S., to assist the state in carrying out its purposes and responsibilities regarding the promotion of adoption, support of adoptive families, and prevention of child abuse.

Within the Justice Administrative Commission, the Statewide Guardian Ad Litem Office, which has oversight responsibilities for and provides technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits, is authorized to create a DSO pursuant to s. 39.8298, F.S.

Section 250.115, F.S., provides for the creation of a DSO for the Department of Military Affairs; s. 250.116, F.S., specifies that the DSO is to provide assistance in the operation of the Soldiers and Airmen Assistance Program, which provides financial assistance and services to eligible servicemembers of the Florida National Guard and eligible members of their families.

Section 257.43, F.S., allows the Division of Library and Information Services of the Department of State to support the establishment of a CSO to provide assistance, funding, and promotional support for the library, archives, and records management programs of the division.

Section 258.015, F.S., allows the Division of Recreation and Parks of the Department of Environmental Protection (DEP) to permit CSOs to operate for the direct or indirect benefit of the state park system or individual units of the state park system. The DEP issues a handbook for benefit of the 111 CSOs, also referred to as "Friends Groups," that are listed online.<sup>2</sup>

Section 259.10521, F.S., permits the creation of a CSO for the benefit of the Babcock Ranch preserve, to assist the Fish and Wildlife Conservation Commission and the Florida Forest Service within the Department of Agriculture and Consumer Services. This CSO appears to be inactive.

Section 265.703, F.S., permits the Division of Cultural Affairs of the Department of State to support the establishment of CSOs to provide assistance, funding, and promotional support for the cultural, arts, historical, and museum programs of the division.

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<sup>2</sup> Florida Park Service, Friends Groups, <http://www.floridastateparks.org/getinvolved/friendsgroups.cfm> (last visited Mar. 4, 2014); *See* Florida DEP, Florida State Parks Citizen Support Organization Handbook, 1<sup>st</sup> Edition (2009), available at <http://www.floridastateparks.org/getinvolved/doc/2009CSOHandbook.pdf> (last visited Mar. 4, 2014).

Section 267.17, F.S., allows the Division of Historical Resources of the Department of State to support the establishment of CSOs to provide assistance, funding, and promotional support for the archaeology, museum, folklife, and historic preservation programs of the division.

The Florida Tourism Industry Marketing Corporation is a direct-support organization of Enterprise Florida, Inc., intended to perform duties necessary to carry out the 4-year marketing plan of Enterprise Florida, pursuant to s. 288.1226, F.S.

The Florida Intergovernmental Relations Foundation is a DSO authorized in s. 288.809, F.S., related to the duties of the state protocol officer. The specific statutory duties of the DSO are not clearly ascertainable.

Section 292.055, F.S., permits the Department of Veterans' Affairs to establish a DSO to provide assistance, funding, and support for the department in carrying out its mission.

Section 379.223, F.S., permits the Fish and Wildlife Conservation Commission to authorize the establishment of CSOs to provide assistance, funding, and promotional support for the programs of the commission.

Section 413.0111, F.S., authorizes the Division of Blind Services to incorporate a DSO to conduct programs and activities, initiate developmental projects, raise funds, and make expenditures for the direct or indirect benefit of the state and for blind persons in Florida.

Section 413.615, F.S., creates the Florida Endowment Foundation for Vocational Rehabilitation as a DSO of the Division of Vocational Rehabilitation within the Department of Education, to encourage public and private support to enhance vocational rehabilitation and employment of citizens who are disabled.

Section 430.82, F.S., permits the Department of Elderly Affairs to establish a DSO to provide assistance, funding, and support for the department in carrying out its mission.

Section 570.903, F.S., permits the Department of Agriculture and Consumer Services to authorize the establishment of DSOs to provide assistance, funding, and promotional support for the museums and other programs of the department.

Section 570.9135, F.S., creates the Florida Beef Council, Inc., as a DSO of the Department of Agriculture and Consumer Services to conduct programs of promotion, research, and consumer information designed to strengthen their industry's market position. The DSO may impose an assessment of up to \$1 on each head of cattle sold in the state in order to fund its activities.

Section 626.9895, F.S., permits the Division of Insurance Fraud of the Department of Financial Services to establish a DSO, to be known as the Automobile Insurance Fraud Strike Force, whose purpose is to support the prosecution, investigation, and prevention of motor vehicle insurance fraud.

Section 683.231, F.S., allows the Department of Law Enforcement to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing

Children's Day, designated each year in remembrance of Florida's past and present missing children and in recognition of continued efforts to protect the safety of children through prevention, education, and community involvement.

Section 744.7082, F.S., specifies the organizational requirements for a DSO to support the Statewide Public Guardianship Office within the Department of Elderly Affairs.

Section 893.055, F.S., permits the Department of Health to establish a DSO to provide assistance, funding, and promotional support for the activities of the prescription drug monitoring program.

Section 944.802, F.S., specifies the organizational requirements and duties for a DSO to support the Department of Corrections.

Section 960.002, F.S., permits the Governor to authorize a DSO to assist in addressing the needs of victims of adult and juvenile crime. The DSO must be authorized to operate under a contract with the Executive Office of the Governor. This DSO does not appear to be active.

Section 985.672, F.S., specifies the organizational requirements and duties for a DSO to support the Department of Juvenile Justice.

Section 1009.983, F.S., allows the Florida Prepaid College Board, which administers the Florida College Savings Program, to establish a DSO to administer the Florida Prepaid Tuition Scholarship Program, which provides economically disadvantaged youth with prepaid postsecondary tuition scholarships.

### **Audits of state agency DSOs and CSOs**

Section 215.981, F.S., provides that each DSO and CSO with annual expenditures in excess of \$100,000, created or authorized pursuant to law, and created, approved, or administered by a state agency, other than universities, community colleges, or district school boards, must provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General. The audit report must be submitted within 9 months after the end of the fiscal year to the Auditor General and to the state agency responsible for creation, administration, or approval of the direct-support organization or citizen support organization.

Notwithstanding the above, DSOs and CSOs for the Department of Environmental Protection or the Department of Agriculture and Consumer Services that are not for profit and that have annual expenditures of less than \$300,000 are not required to have an independent audit. Those departments establish accounting and financial management guidelines for those organizations under its jurisdiction, and conduct operational and financial reviews of a selected number of DSOs and CSOs that fall below the \$300,000 threshold.

### III. Effect of Proposed Changes:

The bill creates s. 20.058, F.S., to specify operational requirements for citizen support organizations and direct support organizations.

By August 1 of each year, a CSO or DSO created or authorized pursuant to law or executive order and created, approved, or administered by an agency, must submit the following to the appropriate agency:

- The name, mailing address, telephone number, and website address of the organization.
- The statutory authority or executive order pursuant to which the organization was created.
- A brief description of the mission and results obtained by the organization.
- A brief description of the plans of the organization for the next 3 fiscal years.
- A copy of the organization's code of ethics.
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).
- For the prior, current, and the next fiscal year:
  - The amount and source of revenue generated or projected to be generated;
  - The amounts and purposes of expenditures or projected expenditures, including specific amounts, if any, spent or projected to be incurred to lobby the executive or legislative branch of state government and specific amounts, if any, spent or projected to be incurred for travel or entertainment expenses for state or local public officers and employees;
  - The value of capital improvements made, if any, to state property which has been funded or projected to be funded by the organization;
  - The amount, if any, of any state or federal funds provided to the organization; and
  - The names and compensation of any officers, directors, employees, or contractors.

Each agency receiving the above information from a CSO or DSO must make the information available to the public through the agency's website. If the organization maintains a website, the agency's website must provide a link to the organization's website. Each agency must report the above required information to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability, on an annual basis. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization. Any contract between an agency and a CSO or DSO must be contingent upon the organization's submitting and posting the required information. If an organization fails to submit the required information for 2 consecutive years, the agency head must terminate any contract between the agency and the organization.

A law creating or authorizing the creation of a CSO or DSO must be repealed on October 1 of the 5th year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. A law creating or authorizing the creation of a CSO or DSO that is in existence on July 1, 2014, must be repealed on October 1, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill requires that existing statutory CSOs and DSOs be reviewed and saved from repeal by the Legislature by certain dates. If the Legislature does not act to review and save existing CSOs and DSOs from repeal, the organizations would be repealed as follows:

<b>Bill Section</b>	<b>Statutory Cite</b>	<b>Organization</b>	<b>Repealed October 1 of:</b>
5	39.0011	Office of Adoption and Child Protection DSO (Executive Office of Governor)	2017
7	250.115	Department of Military Affairs DSO	2017
16	292.055	Department of Veterans' Affairs DSO	2017
18	413.0111	Blind Services DSO	2017
19	413.615	Florida Endowment for Vocational Rehabilitation (DSO of Department of Education)	2017
20	430.82	Department of Elderly Affairs DSO	2017
26	893.055	Prescription drug monitoring program DSO	2017
30	1009.983	Florida Prepaid College Board DSO	2017
1	14.29	Florida Commission on Community Service DSO	2018
2	16.616	Council on Social Status of Black Men and Boys DSO	2018
6	39.8298	Guardian Ad Litem DSO	2018
24	683.231	Florida Missing Children's Day CSO	2018
25	744.7082	Statewide Public Guardianship Office DSO	2018
27	944.802	Department of Corrections DSO	2018
28	960.002	DSO to assist victims of crime	2018
29	985.672	Department of Juvenile Justice DSO	2018
4	20.2551	Department of Environmental Protection DSO	2019
8	257.43	Division of Library and Information Services of the Department of State CSO	2019
9	258.015	Division of Recreation and Parks of the Department of Environmental Protection CSOs	2019
10	259.10521	Babcock Ranch CSO	2019
11	265.703	Department of State CSO	2019
12	267.17	Division of Historical Resources of the Department of State CSOs	2019
13	288.1226	Florida Tourism Industry Marketing Corporation (DSO of Enterprise Florida, Inc.)	2019
14	288.809	Florida Intergovernmental Relations Foundation (DSO of the Executive Office of the Governor)	2019
15	288.923	Duties of the Division of Tourism Marketing	2019
17	379.223	Fish and Wildlife Conservation Commission CSOs	2019
21	570.903	Department of Agriculture and Consumer Services DSO	2019
22	570.9135	Florida Beef Council (DSO of the Department of Agriculture and Consumer Services)	2019
23	626.9895	Motor vehicle insurance fraud DSO	2019

The bill takes effect 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.

## B. Private Sector Impact:

The impact on the private sector is indeterminate. Staff time might be required in order to comply with the new reporting requirements for DSOs and CSOs.

## C. Government Sector Impact:

The bill does not directly repeal any DSOs or CSOs, but if the statutory authority for any such organizations is repealed by future action of the Legislature, the agency program supported by the organization could be affected financially.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section 15 of the bill specifies a repeal date for s. 288.923, F.S., which creates a Division of Tourism Marketing within Enterprise Florida, Inc., and provides duties for the division and duties related to the DSO established in s. 288.1226, F.S., the Florida Tourism Industry Marketing Corporation. Section 13 of this bill provides a repeal date for s. 288.1226, F.S. The repeal date in section 15 of the bill would also repeal substantive provisions unrelated to the DSO, which may not be the intent of the Legislature.

The bill does not address how funds or property would be distributed upon the repeal of the statutory authority creating a DSO or CSO.



The bill does not specify how the Legislature will conduct its review and reenactment of CSOs and DSOs; the Senate President and Speaker of the House will determine that process for their respective chambers.

CS/SB 846 (2014) requires CSOs and DSOs to adopt a code of ethics and specifies that the code of ethics adopted must contain the standards of conduct in s. 112.313, F.S.<sup>3</sup> Those organizations are authorized to adopt additional or more stringent standards of conduct and disclosure requirements than are contained in the state's Code of Ethics for Public Officers and Employees.

#### **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 14.29, 16.616, 20.2551, 39.0011, 39.8298, 250.115, 257.43, 258.015, 259.10521, 265.703, 267.17, 288.1226, 288.809, 288.923, 292.055, 379.223, 413.0111, 413.615, 430.82, 570.903, 570.9135, 626.9895, 683.231, 744.7082, 893.055, 944.802, 960.002, 985.672, and 1009.983.

This bill creates section 20.058 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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<sup>3</sup> Section 112.313, F.S., contains the major standards of conduct including, but not limited to: Solicitation and acceptance of anything of value under certain circumstances; doing business with one's own agency; misuse of public position, certain employment or contractual relationships; disclosure of certain information learned by virtue of one's public position in order to benefit oneself or others; and several other provisions.

By the Committee on Governmental Oversight and Accountability

585-01903A-14

20141194\_\_

1                                   A bill to be entitled  
2           An act relating to citizen support and direct-support  
3           organizations; amending s. 14.29, F.S.; providing for  
4           future review and repeal of provisions authorizing the  
5           Florida Commission on Community Service to establish  
6           and operate a direct-support organization; amending s.  
7           16.616, F.S.; providing for future review and repeal  
8           of the direct-support organization established within  
9           the Department of Legal Affairs; creating s. 20.058,  
10          F.S.; requiring citizen support and direct-support  
11          organizations to annually submit certain information  
12          to the appropriate agency; requiring each agency  
13          receiving such information to post submissions on the  
14          agency's website; requiring each agency receiving such  
15          information to annually submit a report to the  
16          Governor, the Legislature, and the Office of Program  
17          Policy Analysis and Government Accountability;  
18          providing report requirements; requiring that a  
19          contract between an agency and a citizen support  
20          organization or direct-support organization be  
21          contingent on disclosure requirements; requiring an  
22          agency head to terminate a contract if an organization  
23          fails to meet disclosure requirements; requiring that  
24          each citizen support organization or direct-support  
25          organization created or authorized by law be subject  
26          to legislative review and repeal; requiring that  
27          citizen support organizations or direct-support  
28          organizations in existence as of a certain date be  
29          subject to future legislative review; amending s.

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30 20.2551, F.S.; providing for future review and repeal  
31 of the citizen support organization established within  
32 the Department of Environmental Protection; amending  
33 s. 39.0011, F.S.; providing for future review and  
34 repeal of the direct-support organization of the  
35 Office of Adoption and Child Protection; amending s.  
36 39.8298, F.S.; providing for future review and repeal  
37 of the Statewide Guardian Ad Litem Office's  
38 authorization to create a direct-support organization;  
39 amending s. 250.115, F.S.; providing for future review  
40 and repeal of the direct-support organization of the  
41 Department of Military Affairs; amending s. 257.43,  
42 F.S.; providing for future review and repeal of the  
43 citizen support organization of the Division of  
44 Library and Information Services of the Department of  
45 State; amending s. 258.015, F.S.; providing for future  
46 review and repeal of provisions relating to citizen  
47 support organizations under the Division of Recreation  
48 and Parks of the Department of Environmental  
49 Protection; amending s. 259.10521, F.S.; providing for  
50 future review and repeal of the citizen support  
51 organization benefitting the Babcock Ranch Preserve;  
52 amending s. 265.703, F.S.; providing for future review  
53 and repeal of the citizen support organization of the  
54 Division of Cultural Affairs of the Department of  
55 State; amending s. 267.17, F.S.; providing for future  
56 review and repeal of the citizen support organization  
57 of the Division of Historical Resources of the  
58 Department of State; amending s. 288.1226, F.S.;

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59 providing for future review and repeal of the Florida  
60 Tourism Industry Marketing Corporation; amending s.  
61 288.809, F.S.; providing for future review and repeal  
62 of the Florida Intergovernmental Relations Foundation;  
63 amending s. 288.923, F.S.; providing for future review  
64 and repeal of the Division of Tourism Marketing of  
65 Enterprise Florida, Inc.; amending s. 292.055, F.S.;  
66 providing for future review and repeal of the direct-  
67 support organization of the Department of Veterans'  
68 Affairs; amending s. 379.223, F.S.; providing for  
69 future review and repeal of the Fish and Wildlife  
70 Conservation Commission's authorization to establish  
71 citizen support organizations; amending s. 413.0111,  
72 F.S.; providing for future review and repeal of the  
73 direct-support organization of the Division of Blind  
74 Services of the Department of Education; amending s.  
75 413.615, F.S.; providing for future review and repeal  
76 of the Florida Endowment Foundation for Vocational  
77 Rehabilitation; amending s. 430.82, F.S.; providing  
78 for future review and repeal of the Department of  
79 Elderly Affairs' authority to establish a direct-  
80 support organization; amending s. 570.903, F.S.;  
81 providing for future review and repeal of the  
82 Department of Agriculture and Consumer Services'  
83 authority to establish a direct-support organization;  
84 amending s. 570.9135, F.S.; providing for future  
85 review and repeal of Florida Beef Council, Inc.;  
86 amending s. 626.9895, F.S.; providing for future  
87 review and repeal of the Division of Insurance Fraud

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88 of the Department of Financial Services' authority to  
89 establish a direct-support organization; amending s.  
90 683.231, F.S.; providing for future review and repeal  
91 of the Department of Law Enforcement's authority to  
92 establish a citizen support organization for Florida  
93 Missing Children's Day; amending s. 744.7082, F.S.;  
94 providing for future review and repeal of the direct-  
95 support organization supporting the Statewide Public  
96 Guardianship Office; amending s. 893.055, F.S.;  
97 providing for future review and repeal of the  
98 Department of Health's authority to establish a  
99 direct-support organization supporting the  
100 prescription drug monitoring program; amending s.  
101 944.802, F.S.; providing for future review and repeal  
102 of the Department of Corrections' authority to  
103 establish a direct-support organization; amending s.  
104 960.002, F.S.; providing for future review and repeal  
105 of the Governor's authority to authorize a direct-  
106 support organization to assist victims of adult and  
107 juvenile crime; amending s. 985.672, F.S.; providing  
108 for future review and repeal of the Department of  
109 Juvenile Justice's direct-support organization;  
110 amending s. 1009.983, F.S.; providing for future  
111 review and repeal of the Florida Prepaid College  
112 Board's authority to establish a direct-support  
113 organization; providing an effective date.

114  
115 Be It Enacted by the Legislature of the State of Florida:  
116

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117 Section 1. Subsections (9), (10), (11), (12), (13), (14),  
118 and (15) of section 14.29, Florida Statutes, are amended to  
119 read:

120 14.29 Florida Commission on Community Service.—

121 (9) (a) The commission may establish a direct-support  
122 organization which is:

123 1.(a) A Florida corporation, not for profit, incorporated  
124 under the provisions of chapter 617 and approved by the  
125 Secretary of State.

126 2.(b) Organized and operated exclusively to receive, hold,  
127 invest, and administer property and funds and to make  
128 expenditures to or for the benefit of the program.

129 3.(e) An organization which the commission, after review,  
130 has certified to be operating in a manner consistent with the  
131 goals of the program and in the best interests of the state.

132 (b) ~~(10)~~ The direct-support organization shall operate under  
133 written contract with the commission. The contract must provide  
134 for:

135 1.(a) Approval of the articles of incorporation and bylaws  
136 of the direct-support organization by the commission.

137 2.(b) Submission of an annual budget for the approval of  
138 the commission. The budget must comply with rules adopted by the  
139 commission.

140 3.(e) Certification by the commission that the direct-  
141 support organization is complying with the terms of the contract  
142 and in a manner consistent with the goals and purposes of the  
143 commission and in the best interest of the state. Such  
144 certification must be made annually and reported in the official  
145 minutes of a meeting of the commission.

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146       ~~4.(d)~~ The reversion to the commission, or the state if the  
147 commission ceases to exist, of moneys and property held in trust  
148 by the direct-support organization if the direct-support  
149 organization is no longer approved to operate for the commission  
150 or the commission ceases to exist.

151       ~~5.(e)~~ The fiscal year of the direct-support organization,  
152 to begin July 1 of each year and end June 30 of the following  
153 year.

154       ~~6.(f)~~ The disclosure of material provisions of the contract  
155 and the distinction between the board of directors and the  
156 direct-support organization to donors of gifts, contributions,  
157 or bequests, as well as on all promotional and fundraising  
158 publications.

159       ~~(c)(11)~~ The members of the direct-support organization's  
160 board of directors must include members of the commission.

161       ~~(d)(12)~~ The commission may authorize a direct-support  
162 organization to use its personal services, facilities, and  
163 property, ~~(except money), facilities, and personal services,~~  
164 subject to the provisions of this section. A direct-support  
165 organization that does not provide equal employment  
166 opportunities to all persons regardless of race, color,  
167 religion, sex, age, or national origin may not use the property,  
168 facilities, or personal services of the commission. For the  
169 purposes of this subsection, the term "personal services"  
170 includes full-time personnel and part-time personnel as well as  
171 payroll processing.

172       ~~(e)(13)~~ The commission shall adopt rules prescribing the  
173 procedures by which the direct-support organization is governed  
174 and any conditions with which the direct-support organization

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175 must comply to use property, facilities, or personal services of  
176 the commission.

177 (f) (14) Moneys of the direct-support organization may be  
178 held in a separate depository account in the name of the direct-  
179 support organization and subject to the provisions of the  
180 contract with the commission. Such moneys may include membership  
181 fees, private donations, income derived from fundraising  
182 activities, and grants applied for and received by the direct-  
183 support organization.

184 (g) (15) The direct-support organization shall provide for  
185 an annual financial audit in accordance with s. 215.981.

186 (h) This subsection is repealed effective October 1, 2018,  
187 unless reviewed and saved from repeal by the Legislature.

188 Section 2. Subsection (7) is added to section 16.616,  
189 Florida Statutes, to read:

190 16.616 Direct-support organization.—

191 (7) This section is repealed October 1, 2018, unless  
192 reviewed and saved from repeal by the Legislature.

193 Section 3. Section 20.058, Florida Statutes, is created to  
194 read:

195 20.058 Citizen support and direct-support organizations.—

196 (1) By August 1 of each year, a citizen support  
197 organization or direct-support organization created or  
198 authorized pursuant to law or executive order and created,  
199 approved, or administered by an agency, shall submit the  
200 following information to the appropriate agency:

201 (a) The name, mailing address, telephone number, and  
202 website address of the organization.

203 (b) The statutory authority or executive order pursuant to



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204 which the organization was created.

205 (c) A brief description of the mission of, and results  
206 obtained by, the organization.

207 (d) A brief description of the plans of the organization  
208 for the next 3 fiscal years.

209 (e) A copy of the organization's code of ethics.

210 (f) A copy of the organization's most recent federal  
211 Internal Revenue Service Return of Organization Exempt from  
212 Income Tax form (Form 990).

213 (g) For the prior fiscal year, the current fiscal year, and  
214 the next fiscal year:

215 1. The amount and source of revenue generated or projected  
216 to be generated by the organization;

217 2. The amounts and purposes of expenditures or projected  
218 expenditures by the organization, including specific amounts, if  
219 any, spent or projected to be incurred to lobby the executive or  
220 legislative branch of state government and specific amounts, if  
221 any, spent or projected to be incurred for travel or  
222 entertainment expenses for state or local public officers and  
223 employees;

224 3. The value of capital improvements made, if any, to state  
225 property which has been funded or projected to be funded by the  
226 organization;

227 4. The amount, if any, of any state or federal funds  
228 provided to the organization; and

229 5. The names of, and compensation for, the organization's  
230 officers, directors, employees, and independent contractors.

231 (2) Each agency receiving information from a citizen  
232 support organization or direct-support organization pursuant to

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233 subsection (1) shall make such information available to the  
234 public through the agency's website. If the organization  
235 maintains a website, the agency's website must provide a link to  
236 the organization's website.

237 (3) By August 15 of each year, each agency shall report to  
238 the Governor, the President of the Senate, the Speaker of the  
239 House of Representatives, and the Office of Program Policy  
240 Analysis and Government Accountability the information provided  
241 by each citizen-support organization and direct support  
242 organization. The report must also include a recommendation by  
243 the agency, with supporting rationale, to continue, terminate,  
244 or modify the agency's association with each organization.

245 (4) Any contract between an agency and a citizen support  
246 organization or direct-support organization must be contingent  
247 upon the organization's submission and posting of information  
248 pursuant to subsections (1) and (2). If an organization fails to  
249 submit the required information for 2 consecutive years, the  
250 agency head shall terminate any contract between the agency and  
251 the organization.

252 (5) A law creating, or authorizing the creation of, a  
253 citizen support organization or a direct-support organization  
254 must state that the creation of or authorization for the  
255 organization is repealed on October 1 of the 5th year after  
256 reenactment, unless reviewed and saved from repeal through  
257 reenactment by the Legislature. Citizen support organizations  
258 and direct-support organizations in existence on July 1, 2014,  
259 must be reviewed by the Legislature by July 1, 2019.

260 Section 4. Subsection (6) is added to section 20.2551,  
261 Florida Statutes, to read:

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262 20.2551 Citizen support organizations; use of property;  
 263 audit; public records; partnerships.-

264 (6) REPEAL.-This section is repealed October 1, 2019,  
 265 unless reviewed and saved from repeal by the Legislature.

266 Section 5. Subsection (5) is added to section 39.0011,  
 267 Florida Statutes, to read:

268 39.0011 Direct-support organization.-

269 (5) This section is repealed October 1, 2017, unless  
 270 reviewed and saved from repeal by the Legislature.

271 Section 6. Subsection (8) is added to section 39.8298,  
 272 Florida Statutes, to read:

273 39.8298 Guardian Ad Litem direct-support organization.-

274 (8) REPEAL.-This section is repealed October 1, 2018,  
 275 unless reviewed and saved from repeal by the Legislature.

276 Section 7. Subsection (8) is added to section 250.115,  
 277 Florida Statutes, to read:

278 250.115 Department of Military Affairs direct-support  
 279 organization.-

280 (8) REPEAL.-This section is repealed October 1, 2017,  
 281 unless reviewed and saved from repeal by the Legislature.

282 Section 8. Subsection (4) is added to section 257.43,  
 283 Florida Statutes, to read:

284 257.43 Citizen support organization; use of state  
 285 administrative services and property; audit.-

286 (4) REPEAL.-This section is repealed October 1, 2019,  
 287 unless reviewed and saved from repeal by the Legislature.

288 Section 9. Subsection (4) is added to section 258.015,  
 289 Florida Statutes, to read:

290 258.015 Citizen support organizations; use of property;

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audit.—

(4) REPEAL.—This section is repealed October 1, 2019, unless reviewed and saved from repeal by the Legislature.

Section 10. Subsection (4) is added to section 259.10521, Florida Statutes, to read:

259.10521 Citizen support organization; use of property.—

(4) REPEAL.—This section is repealed October 1, 2019, unless reviewed and saved from repeal by the Legislature.

Section 11. Subsection (4) is added to section 265.703, Florida Statutes, to read:

265.703 Citizen support organizations; use of state administrative services and property; audit.—

(4) REPEAL.—This section is repealed October 1, 2019, unless reviewed and saved from repeal by the Legislature.

Section 12. Subsection (4) is added to section 267.17, Florida Statutes, to read:

267.17 Citizen support organizations; use of state administrative services and property; audit.—

(4) REPEAL.—This section is repealed October 1, 2019, unless reviewed and saved from repeal by the Legislature.

Section 13. Subsections (7) and (8) of section 288.1226, Florida Statutes, are amended, and a new subsection (9) is added to that section, to read:

288.1226 Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit.—

(7) REPORT.—The corporation shall provide a quarterly report to Enterprise Florida, Inc., which shall:

(a) Measure the current vitality of the visitor industry of this state as compared to the vitality of such industry for the

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320 year to date and for comparable quarters of past years.  
321 Indicators of vitality shall be determined by Enterprise  
322 Florida, Inc., and shall include, but not be limited to,  
323 estimated visitor count and party size, length of stay, average  
324 expenditure per party, and visitor origin and destination.

325 (b) Provide detailed, unaudited financial statements of  
326 sources and uses of public and private funds.

327 (c) Measure progress towards annual goals and objectives  
328 set forth in the 4-year marketing plan.

329 (d) Review all pertinent research findings.

330 (e) Provide other measures of accountability as requested  
331 by Enterprise Florida, Inc.

332 (8) PUBLIC RECORDS EXEMPTION.—The identity of any person  
333 who responds to a marketing project or advertising research  
334 project conducted by the corporation in the performance of its  
335 duties on behalf of Enterprise Florida, Inc., or trade secrets  
336 as defined by s. 812.081 obtained pursuant to such activities,  
337 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
338 Constitution.

339 (9) REPEAL.—This section is repealed October 1, 2019,  
340 unless reviewed and saved from repeal by the Legislature.

341 Section 14. Subsection (5) is added to section 288.809,  
342 Florida Statutes, to read:

343 288.809 Florida Intergovernmental Relations Foundation; use  
344 of property; board of directors; audit.—

345 (5) REPEAL.—This section is repealed October 1, 2019,  
346 unless reviewed and saved from repeal by the Legislature.

347 Section 15. Subsection (6) is added to section 288.923,  
348 Florida Statutes, to read:

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349 288.923 Division of Tourism Marketing; definitions;  
350 responsibilities.-

351 (6) This section is repealed October 1, 2019, unless  
352 reviewed and saved from repeal by the Legislature.

353 Section 16. Subsection (10) is added to section 292.055,  
354 Florida Statutes, to read:

355 292.055 Direct-support organization.-

356 (10) REPEAL.-This section is repealed October 1, 2017,  
357 unless reviewed and saved from repeal by the Legislature.

358 Section 17. Subsection (4) is added to section 379.223,  
359 Florida Statutes, to read:

360 379.223 Citizen support organizations; use of state  
361 property; audit.-

362 (4) This section is repealed October 1, 2019, unless  
363 reviewed and saved from repeal by the Legislature.

364 Section 18. Subsection (7) is added to section 413.0111,  
365 Florida Statutes, to read:

366 413.0111 Blind services direct-support organization.-

367 (7) This section is repealed October 1, 2017, unless  
368 reviewed and saved from repeal by the Legislature.

369 Section 19. Subsection (14) is added to section 413.615,  
370 Florida Statutes, to read:

371 413.615 Florida Endowment for Vocational Rehabilitation.-

372 (14) REPEAL.-This section is repealed October 1, 2017,  
373 unless reviewed and saved from repeal by the Legislature.

374 Section 20. Subsection (9) is added to section 430.82,  
375 Florida Statutes, to read:

376 430.82 Direct-support organization.-

377 (9) This section is repealed October 1, 2017, unless

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378 reviewed and saved from repeal by the Legislature.

379 Section 21. Subsection (10) is added to section 570.903,  
380 Florida Statutes, to read:

381 570.903 Direct-support organization.—

382 (10) This section is repealed October 1, 2019, unless  
383 reviewed and saved from repeal by the Legislature.

384 Section 22. Subsection (14) is added to section 570.9135,  
385 Florida Statutes, to read:

386 570.9135 Beef Market Development Act; definitions; Florida  
387 Beef Council, Inc., creation, purposes, governing board, powers,  
388 and duties; referendum on assessments imposed on gross receipts  
389 from cattle sales; payments to organizations for services;  
390 collecting and refunding assessments; vote on continuing the  
391 act; council bylaws.—

392 (14) REPEAL.—This section is repealed October 1, 2019,  
393 unless reviewed and saved from repeal by the Legislature.

394 Section 23. Subsection (9) is added to section 626.9895,  
395 Florida Statutes, to read:

396 626.9895 Motor vehicle insurance fraud direct-support  
397 organization.—

398 (9) REPEAL.—This section is repealed October 1, 2019,  
399 unless reviewed and saved from repeal by the Legislature.

400 Section 24. Subsection (8) is added to section 683.231,  
401 Florida Statutes, to read:

402 683.231 Citizen support organization for Florida Missing  
403 Children's Day.—

404 (8) This section is repealed October 1, 2018, unless  
405 reviewed and saved from repeal by the Legislature.

406 Section 25. Subsection (9) is added to section 744.7082,

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407 Florida Statutes, to read:

408 744.7082 Direct-support organization; definition; use of  
409 property; board of directors; audit; dissolution.—

410 (9) REPEAL.—This section is repealed October 1, 2018,  
411 unless reviewed and saved from repeal by the Legislature.

412 Section 26. Paragraph (k) is added to subsection (11) of  
413 section 893.055, Florida Statutes, to read:

414 893.055 Prescription drug monitoring program.—

415 (11) The department may establish a direct-support  
416 organization that has a board consisting of at least five  
417 members to provide assistance, funding, and promotional support  
418 for the activities authorized for the prescription drug  
419 monitoring program.

420 (k) This subsection is repealed October 1, 2017, unless  
421 reviewed and saved from repeal by the Legislature.

422 Section 27. Subsection (4) is added to section 944.802,  
423 Florida Statutes, to read:

424 944.802 Direct-support organization; definition; use of  
425 property; board of directors; audit.—

426 (4) REPEAL.—This section is repealed October 1, 2018,  
427 unless reviewed and saved from repeal by the Legislature.

428 Section 28. Subsection (6) is added to section 960.002,  
429 Florida Statutes, to read:

430 960.002 Direct-support organization to assist victims of  
431 adult and juvenile crime.—

432 (6) This section is repealed October 1, 2018, unless  
433 reviewed and saved from repeal by the Legislature.

434 Section 29. Subsections (5) and (6) of section 985.672,  
435 Florida Statutes, are amended, and a new subsection (7) is added



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436 to that section, to read:

437 985.672 Direct-support organization; definition; use of  
438 property; board of directors; audit.-

439 (5) DEPOSIT OF FUNDS.-Any moneys may be held in a separate  
440 depository account in the name of the direct-support  
441 organization and subject to the provisions of the contract with  
442 the department.

443 (6) AUDIT.-The direct-support organization shall provide  
444 for an annual financial audit in accordance with s. 215.981.

445 (7) REPEAL.-This section is repealed October 1, 2018,  
446 unless reviewed and saved from repeal by the Legislature.

447 Section 30. Subsection (9) is added to section 1009.983,  
448 Florida Statutes, to read:

449 1009.983 Direct-support organization; authority.-

450 (9) This section is repealed October 1, 2017, unless  
451 reviewed and saved from repeal by the Legislature.

452 Section 31. This act shall take effect upon becoming a law.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 338

INTRODUCER: Senator Bullard

SUBJECT: Community Redevelopment

DATE: March 3, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	<b>Favorable</b>
2.			MS	
3.			CM	
4.			AP	

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**I. Summary:**

SB 338 expands the definition of “blighted area” for purposes of the Community Redevelopment Act to include land that was previously used as a military facility and is located adjacent to a county-owned zoological park.

**II. Present Situation:**

**Community Redevelopment Act**

The Community Redevelopment Act of 1969,<sup>1</sup> authorizes a county or municipality to create community redevelopment areas (CRAs) as a means of redeveloping slums and blighted areas. Community Redevelopment Areas are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).<sup>2</sup> Taxing authorities must annually appropriate an amount representing the calculated increment revenue to the redevelopment trust fund. This revenue is used to back bonds issued to finance redevelopment projects. School district revenues are not subject to the tax increment mechanism.

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.<sup>3</sup>

Section 163.340(8), F.S., defines “blighted area” as follows:

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<sup>1</sup> Chapter 163, F.S., part III.

<sup>2</sup> Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the trust fund.

<sup>3</sup> Sections 163.355(1) and 163.360(1), F.S.

An area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

- (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Inadequate and outdated building density patterns;
- (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- (h) Tax or special assessment delinquency exceeding the fair value of the land;
- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

However, the term “blighted area” also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a) agree, either by inter-local agreement or agreements with the agency or by resolution, that the area is blighted.

### **Disposal of Military Real Property**

The U.S. Department of Defense (DOD) provides for the disposal of real property “for which there is no foreseeable military requirement, either in peacetime or for mobilization.”<sup>4</sup> Disposal of such property is subject to a number of statutory and department regulations which consider factors such as the:

- Presence of any hazardous material contamination;
- Valuation of property assets;

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<sup>4</sup> Department of Defense, *Real Property Disposal*, Instruction 4165.72.

- McKinney-Vento Homeless Assistance Act;
- National Historic Preservation Act;
- Real property mineral rights; and
- Presence of floodplains and wetlands.<sup>5</sup>

Once the DOD has classified land as excess to their needs, the land is transferred to the Office of Real Property Disposal within the federal General Services Administration (GSA). With general federal surplus lands, GSA has a clear process wherein they first offer the land to other federal agencies. If no other federal agency identifies a need, the land is then labeled “surplus” (rather than “excess”) and available for transfer to state and local governments and certain nonprofit agencies. Uses that benefit the homeless must be given priority, and then the land may be transferred at a discount of up to 100 percent if it is used for other specific types of public uses, which include education, corrections, emergency management, airports, self-help housing, parks and recreation, law enforcement, wildlife conservation, public health, historic monuments, port facilities, and highways. If the public use is not among those public benefits, the GSA may negotiate a sale at appraised fair market value to a state or local government for another public purpose.<sup>6</sup>

The Base Realignment and Closure Act of 1990 (BRAC) provides for an exception to the normal process by which the DOD disposes of military real property.

The BRAC process makes recommendations for realigning and closing military facilities. The BRAC process was undertaken in 1988, 1991, 1993, 1995, and 2005. Surplus disposal authority is delegated to the DOD when BRAC properties are involved. The Secretary of Defense is authorized to work with Local Redevelopment Authorities (LRAs) in determining what to do with surplus BRAC properties, including the possibility of transferring BRAC property to an LRA at reduced or no cost for the purpose of economic development. The Secretary of Defense is responsible for determining what constitutes an LRA<sup>7</sup> and what cost, if any, will be associated with the transfer.<sup>8</sup> LRAs are responsible for designing a comprehensive plan for reuse of BRAC property, culminating in a redevelopment plan, which is submitted to DOD and included as part of the proposed federal action.

There are four Florida cities that have been affected by BRAC closures, all resulting from the 1993 BRAC process. Homestead Air Force Base was realigned in 1992; Pensacola’s Naval Aviation Depot and Fleet and Industrial Supply Center were closed in 1996; Jacksonville’s Cecil

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<sup>5</sup> *Id.*

<sup>6</sup> General Services Administration Public Buildings Service, *Acquiring Federal Real Estate for Public Uses* (Sep. 2007), available at <https://extportal.pbs.gsa.gov/RedinetDocs/cm/rcdocs/Acquiring%20Federal%20Real%20Estate%20for%20Public%20Uses1222988606483.pdf> (last visited Feb. 20, 2014).

<sup>7</sup> Pursuant to the BRAC, an LRA is “any entity (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan.” Base Closure Act, Section 2910(9).

<sup>8</sup> Congressional Research Service, *Base Realignment and Closure (BRAC): Transfer and Disposal of Military Property* (Feb. 28, 2013), <http://www.fas.org/sgp/crs/natsec/R40476.pdf> (last visited Feb. 20, 2014).

Field was closed in 1999; and Orlando's Naval Training Center and Naval Hospital were closed in 1999.<sup>9</sup>

### **Zoo Miami Entertainment Area**

Since 1997, Miami-Dade County has expressed interest in developing the area around Metrozoo as a recreation destination.<sup>10</sup> In 2006, the Board of County Commissioners acquired a 39-acre portion of the U.S. Coast Guard (USCG) property adjacent to current Metrozoo property for the purpose of developing a family entertainment center near the zoo.<sup>11</sup> In 2009, the USCG formally issued the criteria for completely replacing the base, under which the five active Coast Guard missions comprising the Base must be located elsewhere, and the land considered for discount conveyance to the county. The county has since been in negotiations with federal authorities to acquire additional portions of the base.<sup>12</sup>

In December of 2012, the Miami-Dade County Department of Parks, Recreation and Open Spaces put out an invitation to negotiate to attract potential developers. The Zoo Miami Entertainment Area would include a Resort Hotel, Conference Center, a Theme Park, and a Water Park.

The Theme Park at the Zoo Miami Entertainment Area, as considered in 2009, was projected to necessitate 6,097 construction jobs, bring 2,071 permanent jobs to the area, and have a total local tax impact of \$6.16 million, annually. The resort hotel and conference center was projected to require 2,410 construction jobs, create 1,261 permanent jobs, and have a total local tax impact of \$4.75 million, annually.<sup>13</sup>

### **III. Effect of Proposed Changes:**

**Section 1** renames the title as the "Senator Larcenia Bullard Community Redevelopment Act."

**Section 2** expands the current definition of the term "blighted area" provided for in s. 163.340(8), F.S., to include land that was previously used as a military facility and is located adjacent to a county-owned zoological park.

**Section 3** provides an effective date of July 1, 2014.

---

<sup>9</sup> United States Department of Defense, *Major Base Closure Summary*, <http://www.defense.gov/faq/pis/17.html> (last visited Feb. 20, 2014).

<sup>10</sup> Miami-Dade County Park and Recreation Dep't, *Economic Impact Study: Miami-Metrozoo Entertainment Area Sub Area II* (Oct. 2009).

<sup>11</sup> *Id.*

<sup>12</sup> The County seeks an additional 279 acres from the base. Hortense Leon, *Miami-Dade County Aims to Redevelop 400 Acres Near Zoo Miami* (Jan. 8, 2013), <http://www.worldpropertychannel.com/north-america-commercial-news/miami-dade-county-aims-to-redevelop-400-acres-near-zoo-miami-6424.php> (last visited Feb. 20, 2014); Deserae del Campo, *County Must Get Federal Ok To Develop Around Metrozoo*, Miami Today News, (Jan. 19, 2006), available at <http://www.miamitodaynews.com/news/060119/story4.shtml> (last visited Feb. 20, 2014); Oscar Pedro Musibay, *Plans for Entertainment District Near Miami Metrozoo Progress*, South Florida Business Journal, (Sep. 21, 2009), available at <http://www.bizjournals.com/southflorida/stories/2009/09/21/story6.html> (last visited Feb. 20, 2014).

<sup>13</sup> Miami-Dade County Park and Recreation Dep't, *Economic Impact Study: Miami-Metrozoo Entertainment Area Sub Area II* (Oct. 2009), at 12-16, available at <http://www.miamidade.gov/planning/library/reports/2009-10-cdmp-economic-application-4.pdf> (last visited Feb. 20, 2014).

**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:

Community redevelopment agencies will be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that was previously used as a military facility and is located adjacent to a county-owned zoological park. As a result, these areas may receive TIF revenues under the Community Redevelopment Act, and property values in the area may increase as a result of any improvements using TIF. Redevelopment of these areas can contribute to increased economic interest in a region and an overall improved economic condition.

Counties and municipalities are required by s. 163.345, F.S., to prioritize private enterprise in the rehabilitation and redevelopment of blighted areas. The increase in ad valorem taxation could be used to finance private development projects within this new category of “blighted area.” Overall property values in the surrounding area may also increase as a result, affecting current homeowners’ resale values and ad valorem taxation.

## C. Government Sector Impact:

A municipality or county would be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that was previously used as a military facility and is located adjacent to a county-owned zoological park. This could result in a portion of the ad valorem taxes from those lands being used for TIF. County and municipal governments would then receive the benefit of the ad valorem tax revenue on the increase in property value within the CRA, but could see an increase in other aspects of the local economy.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 163.330, and 163.340 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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By Senator Bullard

39-00180A-14

2014338\_\_

1 A bill to be entitled

2 An act relating to community redevelopment; amending  
3 s. 163.330, F.S.; renaming the Community Redevelopment  
4 Act of 1969; amending s. 163.340, F.S.; redefining the  
5 term "blighted area," as applicable to the Community  
6 Redevelopment Act of 1969, to include land previously  
7 used as a military facility and adjacent to a county-  
8 owned zoological park; providing an effective date.

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

11  
12 Section 1. Section 163.330, Florida Statutes, is amended to  
13 read:

14 163.330 Short title.—This part ~~shall be known~~ and may be  
15 cited as the "Senator Larcenia Bullard Community Redevelopment  
16 Act of 1969."

17 Section 2. Subsection (8) of section 163.340, Florida  
18 Statutes, is amended to read:

19 163.340 Definitions.—The following terms, wherever used or  
20 referred to in this part, have the following meanings:

21 (8) "Blighted area" means an area in which there are a  
22 substantial number of deteriorated, or deteriorating structures,  
23 in which conditions, as indicated by government-maintained  
24 statistics or other studies, are leading to economic distress or  
25 endanger life or property, and in which two or more of the  
26 following factors are present:

27 (a) Predominance of defective or inadequate street layout,  
28 parking facilities, roadways, bridges, or public transportation  
29 facilities;



39-00180A-14

2014338\_\_

30 (b) Aggregate assessed values of real property in the area  
31 for ad valorem tax purposes have failed to show any appreciable  
32 increase over the 5 years prior to the finding of such  
33 conditions;

34 (c) Faulty lot layout in relation to size, adequacy,  
35 accessibility, or usefulness;

36 (d) Unsanitary or unsafe conditions;

37 (e) Deterioration of site or other improvements;

38 (f) Inadequate and outdated building density patterns;

39 (g) Falling lease rates per square foot of office,  
40 commercial, or industrial space compared to the remainder of the  
41 county or municipality;

42 (h) Tax or special assessment delinquency exceeding the  
43 fair value of the land;

44 (i) Residential and commercial vacancy rates higher in the  
45 area than in the remainder of the county or municipality;

46 (j) Incidence of crime in the area higher than in the  
47 remainder of the county or municipality;

48 (k) Fire and emergency medical service calls to the area  
49 proportionately higher than in the remainder of the county or  
50 municipality;

51 (l) A greater number of violations of the Florida Building  
52 Code in the area than the number of violations recorded in the  
53 remainder of the county or municipality;

54 (m) Diversity of ownership or defective or unusual  
55 conditions of title which prevent the free alienability of land  
56 within the deteriorated or hazardous area; or

57 (n) Governmentally owned property with adverse  
58 environmental conditions caused by a public or private entity.

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2014338\_\_

59

60 However, the term "blighted area" also means an ~~any~~ area in  
61 which at least one of the factors identified in paragraphs (a)  
62 through (n) is ~~are~~ present and all taxing authorities subject to  
63 s. 163.387(2) (a) agree, ~~either~~ by interlocal agreement, by ~~or~~  
64 agreements with the agency, or by resolution, that the area is  
65 blighted, or an area that was previously used as a military  
66 facility and is adjacent to a county-owned zoological park. Such  
67 agreement or resolution shall ~~only~~ determine only that the area  
68 is blighted. For purposes of qualifying for the tax credits  
69 authorized in chapter 220, "blighted area" means an area as  
70 defined in this subsection.

71

Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14

Meeting Date

Topic \_\_\_\_\_

Bill Number 338  
*(if applicable)*

Name JESS MCCARTY

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title ASS'T COUNTY ATT

Address 111 NW 1<sup>ST</sup> ST 2810

Phone 305-979-7110

MIAMI FL 33128  
City State Zip

E-mail JMM2@MIAMI-DOE.GOV

Speaking:  For  Against  Information

Representing MIAMI-DOE COUNTY

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)

3/11/14

Meeting Date

Topic Community Redevelopment

Bill Number SB 338  
*(if applicable)*

Name David Cruz

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Assistant General Counsel

Address P.O. Box 1757

Phone 701-3476

Street

Tallahassee

FL

32302

E-mail DCRUZ@FLcities.com

City

State

Zip

Speaking:  For  Against  Information

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*

S-001 (10/20/11)

**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

---

BILL: CS/SB 534

INTRODUCER: Community Affairs Committee; Senator Latvala and Senator Diaz de la Portilla

SUBJECT: Tax Exemptions

DATE: March 11, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Halley</u>	<u>AG</u>	<b>Favorable</b>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
3.	_____	_____	<u>AFT</u>	_____
4.	_____	_____	<u>AP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 534 creates exemptions from sales tax for common remedies and supplies used in the treatment of animals and non-prescription, special diet food items intended for treatment of a health disorder, as diagnosed by a licensed veterinarian.

**II. Present Situation:**

**Sales Tax Exemptions for Veterinarians**

In 1998, the Legislature created a sales tax exemption for veterinarians' purchases of commonly recognized substances possessing curative or remedial properties that are ordered and dispensed as treatment for a diagnosed health disorder according to a prescription.<sup>1</sup> In addition to being exempt from paying sales tax on prescribed substances, veterinarians do not pay sales tax when they purchase antiseptics, absorbent cotton, gauze for bandages, lotions, vitamins, and worm remedies.<sup>2</sup>

---

<sup>1</sup> Chapter 98-143, s. 1, Laws of Fla. (creating s. 212.08(2)(h), F.S., effective July 1, 1998).

<sup>2</sup> Section 212.08(2)(h), F.S.

## Therapeutic Diet Food for Animals

Therapeutic diet food is specially formulated for use in the treatment of animals with specific diagnosed illnesses. These foods are sometimes colloquially referred to as “prescription diets,” although a prescription is not required for purchase. The Revenue Estimating Conference believes that such “prescription” pet food may account for around 8.2% of all pet food sales.<sup>3</sup> The sale of special diet food items for animals is currently subject to sales tax, regardless of naming or labeling.

## Sales Tax Exemption on Common Household Remedies

A variety of medical items are exempt from sales tax if for human beings, but not exempt if for animals.<sup>4</sup> A list of nontaxable medical items for humans is incorporated into the Department of Revenue’s (DOR) Rules, and includes test kits, prosthetics, and household remedies.<sup>5</sup> Section 212.08(2)(a), F.S., explains that common household remedies are “recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings.” A common household remedy is exempt, if dispensed according to a prescription written by a licensed practitioner authorized by Florida law to prescribe medicinal drugs.<sup>6</sup> Additionally, DOR specifically lists 78 common household remedies that are exempt even without a prescription, including such things as:<sup>7</sup>

- Allergy relief products,
- Burn ointments,
- Cod liver oil,
- Disinfectants,
- Eye patches,
- Gauze,
- Hydrogen peroxide,
- Insulin,
- Lice treatments,
- Motion sickness remedies, and
- Worming treatments.

### III. Effect of Proposed Changes:

**Section 1** amends s. 212.08(2), F.S., to create a sales tax exemption for sales of therapeutic veterinary diets that are intended as treatment of a diagnosed health disorder, and that are only available from a licensed veterinarian.

**Section 2** provides that the bill takes effect July 1, 2014.

---

<sup>3</sup> Revenue Estimating Conference, *Therapeutic Pet Foods Analysis* (Jan. 17, 2014).

<sup>4</sup> See Section 212.08(2)(a), F.S.

<sup>5</sup> Rule 12A-1. F.A.C.

<sup>6</sup> Department of Revenue, *Nontaxable Medical Items and General Grocery List*, available at <http://dor.myflorida.com/dor/forms/current/dr46nt.pdf> (last visited Feb. 3, 2014).

<sup>7</sup>*Id.*

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

Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature.<sup>8</sup> However, such a bill may be exempt under art. VII, s. 18(d) of the Florida Constitution if it has an insignificant fiscal impact.<sup>9</sup> The portions of this bill relating to special diet food for animals may reduce local sales taxes. It cannot presently be ascertained whether this bill would be exempt from the two-thirds vote requirement, under art. VII, s. 18(d) of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

New provisions of the bill have not been reviewed by the Revenue Estimating Conference, but it appears that by exempting therapeutic diets from sales taxes would reduce the amount of sales tax going to the General Revenue fund, as well as reduce the amount of local sales taxes.<sup>10</sup>

**B. Private Sector Impact:**

Animal owners will be relieved of sales taxes on therapeutic veterinary diets for animals.

**C. Government Sector Impact:**

The Department of Revenue estimates that implementation of this bill will result in an insignificant impact to its operations.<sup>11</sup>

**VI. Technical Deficiencies:**

None.

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<sup>8</sup> FLA. CONST. art. VII, s. 18(b).

<sup>9</sup> An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year. FLA. CONST. art. VII, s. 18(d).

<sup>10</sup> Revenue Estimating Conference, *Therapeutic Pet Foods Analysis* (Jan. 17, 2014).

<sup>11</sup> Department of Revenue, *Senate Bill 534 Analysis* (Jan. 2, 2014).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 212.08 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 March 11, 2014:**

Removes the provision that would have extended sales tax exemptions on common household remedies to animals; and clarifies that the proposed sales tax exemption on diet foods for animals applies to therapeutic diets that are only available from a licensed veterinarian.

- B. **Amendments:**

None.





605388

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraphs (i), (j), and (k) of subsection (2)  
of section 212.08, Florida Statutes, are redesignated as  
paragraphs (j), (k), and (l), respectively, and a new paragraph  
(i) is added to that subsection, to read:

212.08 Sales, rental, use, consumption, distribution, and  
storage tax; specified exemptions.—The sale at retail, the



605388

11 rental, the use, the consumption, the distribution, and the  
12 storage to be used or consumed in this state of the following  
13 are hereby specifically exempt from the tax imposed by this  
14 chapter.

15 (2) EXEMPTIONS; MEDICAL.—

16 (i) Sales of therapeutic veterinary diets specifically  
17 formulated to aid in the management of illness and disease of a  
18 diagnosed health disorder in an animal and which are only  
19 available from a licensed veterinarian are exempt from the tax  
20 imposed under this chapter.

21 Section 2. This act shall take effect July 1, 2014.

22

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

24 And the title is amended as follows:

25 Delete everything before the enacting clause  
26 and insert:

27 A bill to be entitled  
28 An act relating to tax exemptions; amending s. 212.08,  
29 F.S.; exempting therapeutic veterinary diets  
30 obtainable only from a licensed veterinarian from the  
31 state tax on sales, use, and other transactions;  
32 providing an effective date.

By Senator Latvala

20-00567A-14

2014534\_\_

1                           A bill to be entitled  
2       An act relating to tax exemptions; amending s. 212.08,  
3       F.S.; exempting medical products and special diet food  
4       items used to treat animals from the state tax on  
5       sales, use, and other transactions; providing an  
6       effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

9  
10       Section 1. Paragraph (a) of subsection (2) of section  
11       212.08, Florida Statutes, is amended, present paragraphs (i)  
12       through (k) of that subsection are redesignated as paragraphs  
13       (j) through (l), respectively, and a new paragraph (i) is added  
14       to that subsection, to read:

15       212.08 Sales, rental, use, consumption, distribution, and  
16       storage tax; specified exemptions.—The sale at retail, the  
17       rental, the use, the consumption, the distribution, and the  
18       storage to be used or consumed in this state of the following  
19       are hereby specifically exempt from the tax imposed by this  
20       chapter.

21       (2) EXEMPTIONS; MEDICAL.—

22       (a) There shall be exempt from the tax imposed by this  
23       chapter any medical products and supplies or medicine dispensed  
24       according to an individual prescription ~~or prescriptions~~ written  
25       by a prescriber authorized by law to prescribe medicinal drugs;  
26       hypodermic needles; hypodermic syringes; chemical compounds and  
27       test kits used for the diagnosis or treatment of human disease,  
28       illness, or injury; and common household remedies recommended  
29       and generally sold for internal or external use in the cure,

20-00567A-14

2014534\_\_

30 mitigation, treatment, or prevention of illness or disease in  
31 human beings or animals, ~~excluding but not including~~ cosmetics  
32 or toilet articles regardless of whether they contain,  
33 ~~notwithstanding the presence of~~ medicinal ingredients therein,  
34 according to a list prescribed and approved by the Department of  
35 Business and Professional Regulation. Such, ~~which~~ list shall be  
36 certified to the Department of Revenue from time to time and  
37 included in the rules adopted ~~promulgated~~ by the Department of  
38 Revenue. There shall also be exempt from the tax imposed by this  
39 chapter artificial eyes and limbs; orthopedic shoes;  
40 prescription eyeglasses and items incidental thereto or which  
41 become a part thereof; dentures; hearing aids; crutches;  
42 prosthetic and orthopedic appliances; and funerals. In addition,  
43 any items intended for one-time use which transfer essential  
44 optical characteristics to contact lenses are ~~shall be~~ exempt  
45 from the tax imposed by this chapter; however, this exemption  
46 applies ~~shall apply~~ only after \$100,000 of the tax imposed by  
47 this chapter on such items has been paid in any calendar year by  
48 a taxpayer who claims the exemption in such year. Funeral  
49 directors shall pay tax on all tangible personal property used  
50 by them in the conduct of their business.

51 (i) Sales of special diet food items intended as treatment  
52 of a diagnosed health disorder by a licensed veterinarian are  
53 exempt from the tax imposed under this chapter.

54 Section 2. This act shall take effect July 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

Topic MEDICAL EXEMPTIONS

Bill Number SB 534

Name Philip Hinkle

Amendment Barcode 605388  
(if applicable)

Job Title EXECUTIVE DIRECTOR

~~Amendment Barcode~~           
(if applicable)

Address 7207 MONETARY DR.

Phone 407 851 3862

Street  
ORLANDO, FL 32809  
City State Zip

E-mail PHINKLE@FVMA.OEG

Speaking:  For  Against  Information

Representing FLORIDA VETERINARY MEDICAL ASSOCIATION

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

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Ethics and Elections, *Chair*  
Appropriations  
Appropriations Subcommittee on General  
Government  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Community Affairs  
Environmental Preservation and Conservation  
Gaming  
Judiciary  
Rules

**SENATOR JACK LATVALA**  
20th District

January 15, 2014

The Honorable Wilton Simpson, Chair  
Senate Community Affairs Committee  
404 S. Monroe St., 315 Knott Building  
Tallahassee, FL 32399-1100

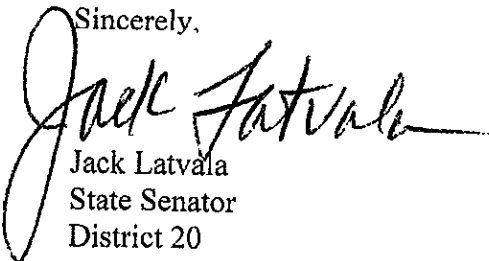
Dear Chairman Wilton:

I respectfully request that my bill, SB 534, Tax Exemptions for Medical Products, be placed on the agenda of the Senate Community Affairs Committee at the earliest possible time. The bill was referred favorably from the Senate Agriculture Committee on January 13, 2014.

This bill will benefit those who seek medical treatment for animals that have been diagnosed with certain illnesses by providing a sales tax exemption for the prescription diets that are designed to treat those illnesses.

Please contact me if you have any questions regarding this request. I appreciate your consideration.

Sincerely,

  
Jack Latvala  
State Senator  
District 20

JL:bj

CC: Tom Yeatman, Staff Director

**REPLY TO:**

- 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**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

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BILL: CS/SB 1070

INTRODUCER: Community Affairs Committee and Senator Simpson

SUBJECT: Fuel Terminals

DATE: March 12, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	<b>Fav/CS</b>
2.			TR	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1070 declares existing fuel terminals are a permitted use under all local government comprehensive plans and land use regulations. The bill provides definitions of “fuel,” “fuel terminal,” and “primary use.” The bill declares that existing fuel terminals may be expanded within the physical boundary of the parcel upon which the fuel terminal is located regardless of the current land use designation of the parcel.

The bill authorizes local governments to adopt land development regulations that enforce aesthetic compatibility-based standards with regard to the expanded portions of a fuel terminal. Local governments are prohibited from changing their comprehensive plans so that a fuel terminal is no longer a permitted use.

The authority of local governments to enforce state and federal requirements for fuel terminals is not limited by the bill.

**II. Present Situation:**

**Growth Management**

The Local Government Comprehensive Planning and Land Development Regulation Act (the Act),<sup>1</sup> also known as Florida’s Growth Management Act, was adopted in 1985. The Act requires all counties and municipalities to adopt local comprehensive plans that guide future growth and

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<sup>1</sup> See ch. 163, part II, F.S.

development.<sup>2</sup> Comprehensive plans contain chapters or “elements” that address topics including future land use, housing, transportation, conservation, and capital improvements.<sup>3</sup> The state land planning agency that administers these provisions is the Department of Economic Opportunity.<sup>4</sup>

### Land Development Regulation

Within one year of the adoption of a local comprehensive plan, a county or municipality must promulgate land development regulations that implement the comprehensive plan.<sup>5</sup> Land is divided into districts and certain uses and developments are assigned to those distinct districts through the process of “zoning.”<sup>6</sup> Typical zoning classifications include “residential,” “commercial,” and “industrial.” These classifications can include finer distinctions within them. For example, a district designated for residential use may be restricted to apartment buildings while another may only permit single family housing.

A “permitted use” within a particular zoning district is a use that a landowner may put his land to as of right.<sup>7</sup> A “conditional use” may only be utilized secondarily to a permitted use and a local government has some discretion as to its approval.<sup>8</sup> A “special exception” is a departure from the general provisions of a zoning ordinance granted through the exercise of the local government’s legislative authority.<sup>9</sup> A “nonconforming use” is an existing use that would not be permitted by a newly enacted zoning ordinance but is nevertheless allowed to continue to avoid injustice or undue hardship that would result if immediate suppression of the use was required.

### Fuel Terminals

The Internal Revenue Service (IRS) defines a “terminal” used for fuel as “a storage and distribution facility supplied by pipeline or vessel, and from which taxable fuel may be removed at a rack. . . .”<sup>10</sup> According to the IRS, there are currently 42 active fuel terminals in Florida.<sup>11</sup> Tampa is home to 11 fuel terminals<sup>12</sup> and the Port of Tampa receives approximately 500 petroleum ships and unloads 2.4 billion gallons a year.<sup>13</sup>

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<sup>2</sup> Section 163.3167, F.S.

<sup>3</sup> Section 163.3177, F.S.

<sup>4</sup> Section 163.3221, F.S.

<sup>5</sup> Section 163.3202(1), F.S.

<sup>6</sup> 7 Fla. Jur 2d Building, Zoning, and Land Controls s. 111 *Generally; “Zoning” and “Planning” Defined and Distinguished* (2014).

<sup>7</sup> *BMS Enters. LLC v. City of Fort Lauderdale*, 929 So.2d 9, 10 (Fla. 4th DCA 2006).

<sup>8</sup> *Id.*

<sup>9</sup> 7 Fla. Jur 2d Building, Zoning, and Land Controls s. 242 *Special Exception or Permit Distinguished from Variance* (2014).

<sup>10</sup> Internal Revenue Service, *Publication 510, Excise Taxes: Part One – Fuel Taxes and Fuel Tax Credits and Refunds*, available at <http://www.irs.gov/publications/p510/ch01.html> (last visited March 4, 2014).

<sup>11</sup> Internal Revenue Service, *Approved Terminals 2-28-14*, available at [http://www.irs.gov/pub/irs-utl/tcn\\_db.pdf](http://www.irs.gov/pub/irs-utl/tcn_db.pdf) (last visited March 4, 2014).

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

<sup>13</sup> Jamal Thalji, *Port of Tampa will fuel region with new \$56 million petroleum terminal*, Tampa Bay Times, Oct. 30, 2013, available at <http://marketplace.tampabay.com/news/business/energy/port-of-tampa-unveils-new-55-million-petroleum-terminal/2149912> (last visited March 4, 2014).



### III. Effect of Proposed Changes:

**Section 1** creates s. 163.3206, F.S., to declare certain fuel terminals are a permitted and allowable use under all local government comprehensive plans and land use regulations. The bill states that it is the intent of the Legislature to maintain, encourage, and ensure adequate and reliable fuel terminal infrastructure in Florida because fuel terminals are essential to the vitality of the state's economy and the health, safety, welfare, and quality of life of the state's residents and visitors.

The bill defines "fuel" to include any of the following:

- "Alternative fuel" is defined in s. 525.01, F.S., as:
  - Methanol, denatured ethanol, or other alcohols;
  - Mixtures of gasoline or other fuels with methanol, denatured ethanol, or other alcohols;
  - Hydrogen;
  - Coal-derived liquid fuels; and
  - Fuels, other than alcohol, derived from biological materials.
- "Aviation fuel" is defined in s. 206.9815, F.S., as fuel for use in aircraft, and includes aviation gasoline and aviation turbine fuels and kerosene, as determined by the American Society for Testing Materials specifications D-910 or D-1655 or current specifications.
- "Diesel fuel" is defined in s. 206.86, F.S., as all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle.
- "Gas" is defined in s. 206.9925, F.S., as all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (2).
- "Oil" is defined in s. 206.9925, F.S., as crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the reservoir.
- "Motor fuel" is defined in s. 206.01, F.S., as all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle.
- "Natural gas fuel" is defined in s. 206.9951, F.S., as any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23), F.S. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. This term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.
- "Petroleum fuel" is defined in s. 525.01, F.S., as all gasoline, kerosene (except when used as aviation turbine fuel), diesel fuel, benzene, other like products of petroleum under whatever name designated, or an alternative fuel used for illuminating, heating, cooking, or power purposes, sold, offered, or exposed for sale in this state.
- "Petroleum product" is defined in s. 206.9925, F.S., as any refined liquid commodity made wholly or partially from oil or gas, or blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, or blends or mixtures of two or more liquid products or byproducts derived from oil or gas, and includes, but is not limited to, motor gasoline, gasohol, aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel, kerosene,

distillate fuel oil, residual fuel oil, motor oil and other lubricants, naphtha of less than 400°F for petroleum feed, special naphthas, road oil, still gas, unfinished oils, motor gas blending components, including petroleum-derived ethanol when used for such purpose, and aviation gas blending components.

The bill defines “fuel terminal” as “a storage and distribution facility for fuel, supplied by pipeline or marine vessel, which has the capacity to receive and store a bulk transfer of fuel, is equipped with a loading rack through which fuel is physically transferred into tanker trucks or rail cars, and which is registered with the Internal Revenue Service as a terminal.”

The bill defines “primary use” as a “use that is allowed as of right and that does not require a special exception, a special use permit, or a conditional use or other similar approval.”

The bill provides that fuel terminals in existence on July 1, 2014, are a permitted and allowable use under any local comprehensive plan or land use regulation, regardless of local regulations to the contrary. Furthermore, such fuel terminals may be expanded within the physical boundary of the parcel upon which the fuel terminal is located regardless of the current land use designation of the parcel.

The bill authorizes local governments to adopt and enforce reasonable land development regulations that address aesthetic compatibility-based standards. However, such regulations may only apply to the expanded portion of the fuel terminals.

The bill prohibits a local government from amending its comprehensive plan or land use regulations so that an existing fuel terminal’s classification would not be a permitted or allowable use, including amendments that would make a terminal a nonconforming use.

The bill does not limit the authority of a local government to enforce federal and state requirements for fuel terminals.

**Section 2** provides an effective date of July 1, 2014.

#### **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:**

Existing fuel terminals will be a permitted and allowable land use under any comprehensive plan, land use map, zoning district or land development regulation.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 163.3206 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 March 11, 2014:**

Removes the declaration that an existing fuel terminal may expand beyond its current bounds and be a permitted and allowable use in certain land use categories. Authorizes existing fuel terminals to expand *within* the physical boundaries of the parcel that the fuel terminal is currently located on, regardless of its current land use designation.

Removes the declaration that fuel terminals proposed after July 1, 2014, are a permitted and allowable use in all industrial or similar land use categories and zoning districts.

**B. Amendments:**

None.



654904

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 64 - 99  
and insert:

(a) Such fuel terminals may be expanded within the physical boundary of the parcel upon which the fuel terminal is located regardless of the current land use designation of the parcel.

1. Local governments may adopt and enforce reasonable land development regulations for the expanded portion of the fuel terminal only. Such regulations may address only setback,



654904

11 landscaping, buffering, screening, lighting, or other aesthetic  
12 compatibility-based standards. Vegetated buffers or screening  
13 may not be required to have a mature height in excess of 14  
14 feet.

15 2. This paragraph does not limit a local government's  
16 authority to grant a variance from setback, landscaping,  
17 buffering, screening, lighting, or other aesthetic  
18 compatibility-based standards to a fuel terminal owner upon the  
19 owner's request.

20 (b) A local government may not amend its comprehensive  
21 plan, land use map, zoning districts, or land development  
22 regulations in a manner that would conflict with a fuel  
23 terminal's classification as a permitted and allowable use under  
24 this section, including, but not limited to, an amendment that  
25 causes a fuel terminal to be a nonconforming use, structure, or  
26 development.

27 (4) This section does not limit the authority of a local  
28

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

30 And the title is amended as follows:

31 Delete lines 8 - 19

32 and insert:

33 of such fuel terminals; authorizing limited local  
34 government regulation of expanded fuel terminals;  
35 prohibiting a local government from amending its local  
36 comprehensive plan, land use map, zoning districts, or  
37 land development regulations to make such fuel  
38 terminals a nonconforming use under the provisions  
39 thereof;

By Senator Simpson

18-00600A-14

20141070\_\_

1                   A bill to be entitled  
2       An act relating to fuel terminals; creating s.  
3       163.3206, F.S.; providing legislative intent; defining  
4       terms; declaring certain fuel terminals a permitted  
5       and allowable use under any local government  
6       comprehensive plan, land use map, zoning district, or  
7       land development regulation; authorizing the expansion  
8       of such fuel terminals; providing an exception to the  
9       expansion of such fuel terminals; authorizing limited  
10      local government regulation of expanded fuel  
11      terminals; prohibiting a local government from  
12      amending its local comprehensive plan, land use map,  
13      zoning districts, or land development regulations to  
14      make such fuel terminals a nonconforming use under the  
15      provisions thereof; providing that future fuel  
16      terminals are a permitted and allowable use in certain  
17      land use categories and zoning districts; authorizing  
18      a local government to prohibit future fuel terminals  
19      in certain land use categories and zoning districts;  
20      providing applicability; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24       Section 1. Section 163.3206, Florida Statutes, is created  
25 to read:

26       163.3206 Fuel terminals.-

27       (1) It is the intent of the Legislature to maintain,  
28 encourage, and ensure adequate and reliable fuel terminal  
29 infrastructure in this state. Fuel terminals are a critical

18-00600A-14

20141070\_\_

30 component of fuel storage and distribution. The ability to  
31 receive, store, and distribute fuel is essential to the state's  
32 economy and to the health, safety, welfare, and quality of life  
33 of residents and visitors. It is essential that fuel terminal  
34 infrastructure be constructed and maintained in various  
35 locations in order to ensure the efficient and reliable  
36 transportation and delivery of an adequate quantity of fuel  
37 throughout the state.

38 (2) As used in this section, the term:

39 (a) "Fuel" means any of the following:

40 1. Alternative fuel as defined in s. 525.01.

41 2. Aviation fuel as defined in s. 206.9815.

42 3. Diesel fuel as defined in s. 206.86.

43 4. Gas as defined in s. 206.9925.

44 5. Motor fuel as defined in s. 206.01.

45 6. Natural gas fuel as defined in s. 206.9951.

46 7. Oil as defined in s. 206.9925.

47 8. Petroleum fuel as defined in s. 525.01.

48 9. Petroleum product as defined in s. 206.9925.

49 (b) "Fuel terminal" means a storage and distribution  
50 facility for fuel, supplied by pipeline or marine vessel, which  
51 has the capacity to receive and store a bulk transfer of fuel,  
52 is equipped with a loading rack through which fuel is physically  
53 transferred into tanker trucks or rail cars, and which is  
54 registered with the Internal Revenue Service as a terminal.

55 (c) "Primary use" means a use that is allowed as of right  
56 and that does not require a special exception, a special use  
57 permit, or a conditional use or other similar approval.

58 (3) Notwithstanding any local government comprehensive

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20141070\_\_

59 plan, land use map, zoning district, or land development  
60 regulation to the contrary, fuel terminals in existence on July  
61 1, 2014, are a permitted and allowable use under any local  
62 government comprehensive plan, land use map, zoning district, or  
63 land development regulation.

64 (a) Such fuel terminals, including the real property and  
65 any facility thereon, may be expanded and the expanded fuel  
66 terminal is a permitted and allowable use in all land use  
67 categories in the applicable local government comprehensive plan  
68 and zoning district unless such expansion consists of adding  
69 real property that on July 1, 2014, was designated as  
70 preservation, conservation, or historic preservation property on  
71 the future land use map.

72 1. Local governments may adopt and enforce reasonable land  
73 development regulations for the expanded portion of the fuel  
74 terminal only. Such regulations may address only setback,  
75 landscaping, buffering, screening, lighting, or other aesthetic  
76 compatibility-based standards. Vegetated buffers or screening  
77 may not be required to have a mature height in excess of 14  
78 feet.

79 2. This paragraph does not limit a local government's  
80 authority to grant a variance from setback, landscaping,  
81 buffering, screening, lighting, or other aesthetic  
82 compatibility-based standards to a fuel terminal owner upon the  
83 owner's request.

84 (b) A local government may not amend its comprehensive  
85 plan, land use map, zoning districts, or land development  
86 regulations in a manner that would conflict with a fuel  
87 terminal's classification as a permitted and allowable use under



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20141070\_\_

88 this section, including, but not limited to, an amendment that  
89 causes a fuel terminal to be a nonconforming use, structure, or  
90 development.

91 (4) Fuel terminals proposed after July 1, 2014, are a  
92 permitted and allowable use in all industrial or similar land  
93 use categories and in zoning districts that, as a primary use,  
94 permit heavy industrial use, light industrial use,  
95 manufacturing, assembly, processing, warehouses, wholesale, or  
96 similar use. However, a local government may prohibit such fuel  
97 terminals in land use categories and in zoning districts that  
98 permit a residential or commercial use as a primary use.

99 (5) This section does not limit the authority of a local  
100 government to implement and enforce applicable federal and state  
101 requirements for fuel terminals, including safety and building  
102 standards. However, the exercise of such authority may not  
103 conflict with federal or state safety and security requirements  
104 for fuel terminals.

105 Section 2. This act shall take effect July 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic FUEL TERMINALS

Bill Number SB 1070  
*(if applicable)*

Name KEYNA CORY

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title LOBBYIST

Address 110 E. COLLEGE AVE  
Street

Phone 850 681-1065

TALLAHASSEE FL FL  
City State Zip

E-mail KeynaCory@pacconsultants.com

Speaking:  For  Against  Information

Representing NATIONAL WASTE + RECYCLING ASSN.

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)

3/11/14  
Meeting Date

Topic \_\_\_\_\_

Bill Number SB 1070  
*(if applicable)*

Name Gary Hunter

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Counsel

Address 119 S. Monroe St., Suite 300  
*Street*  
Tallahassee FL 32301  
*City State Zip*

Phone 850-222-7500

E-mail garyh@hgslaw.com

Speaking:  For  Against  Information

Representing Exxon-Mobil

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.*

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/11/14

*Meeting Date*

Topic Fuel Terminals Bill Number 1070  
*(if applicable)*

Name Leticia M Adams Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Senior Policy Director

Address 136 South Bronough Street Phone 850-521-1279  
*Street*

Tallahassee Fl 32301  
*City State Zip*

E-mail ladams@flchamber.com

Speaking:  For  Against  Information

Representing Florida Chamber of Commerce

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.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14

Meeting Date

Topic Fuel Terminals

Bill Number SB 1070

(if applicable)

Name David Cruz

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title  Assistant General Counsel

Address P.O. Box 1757

Phone 701-3676

Street

Tallahassee

FL

32302

City

State

Zip

E-mail DCRUZ@FLcities.com

Speaking:  For  Against  Information

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.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/2014  
Meeting Date

Topic Petroleum Terminal Facilities

Bill Number 1070  
(if applicable)

Name Eric Hamilton

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Associate Director

Address 215 S. Monroe Street Suite 800  
Street  
Tallahassee FL 32301  
City State Zip

Phone (850) 561-6300

E-mail hamilton@api.org

Speaking:  For  Against  Information

Representing Florida Petroleum Council

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)

3/11/14

Meeting Date

Topic Fuel Terminals

Bill Number SB 1070 (if applicable)

Name Jim RATHBUN

Amendment Barcode (if applicable)

Job Title Lobbyist

Address 601 21st St.

Phone 772-453-2775

Street Vero Beach FL 32960 City State Zip

E-mail jim@jathun.com

Speaking: [X] For [ ] Against [ ] Information

Representing Associated Industries of Florida

Appearing at request of Chair: [ ] Yes [X] 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.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic Fuel Terminals

Bill Number 1070  
*(if applicable)*

Name ERIC POOLE

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Asst. Leg. Director

Address 100 Memphis  
Street

Phone 922 4300

T-11 FL 32811  
City State Zip

E-mail epoole@flcourts.com

Speaking:  For  Against  Information

Representing Florida Association Counties

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)

3/11/14  
Meeting Date

Topic FUEL TERMINALS

Bill Number 1070  
*(if applicable)*

Name DAVID COLLEN

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 1674 UNIVERSITY AVE  
*Street*  
SARASOTA FL 34243  
*City State Zip*

Phone 941-323-2404

E-mail COLLEN@SEASO.COM

Speaking:  For  Against  Information

Representing SIERRA CLUB 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.**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3.11.14

*Meeting Date*

Topic Fuel Terminals Bill Number SB 1070  
*(if applicable)*

Name Reggie L. Bouthillier, Jr. Amendment Barcode 654904  
*(if applicable)*

Job Title Shareholder, Greenberg Traurig, P.A.

Address 101 E. College Ave. Phone (850) 222-6891

*Street*

Tallahassee FL 32301  
*City State Zip*

E-mail bouthillierr@gtlaw.com

Speaking:  For  Against  Information

Representing TransMontaigne

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.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14

Meeting/Date

Topic FUEL TERMINALS

Bill Number 1070

Name STEPHEN JAMES

Amendment Barcode 654904  
*(if applicable)*

Job Title \_\_\_\_\_

Address 100 S. MONROE

Phone 922-4300

Street  
TALLAHASSEE, FL 32301  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FLA. ASSOC. OF COUNTIES

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.)

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

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BILL: CS/SB 624

INTRODUCER: Community Affairs Committee and Senator Simpson

SUBJECT: Fair Associations

DATE: March 11, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbrenner</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
3.	_____	_____	<u>AFT</u>	_____
4.	_____	_____	<u>AP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 624 provides an exemption from or prohibits the assessment of fees and taxes for fair associations, as defined in s. 616.001, F.S., as follows:

- A tax, special assessment, or fee by a county related to stormwater management facilities;
- An impact or mobility fee by a county, municipality, or special district;
- A special assessment by a municipality related to stormwater facilities even if the fair's property is benefitted;
- An ad valorem tax on personal or real property used predominately for fair purposes;
- A special assessment by a water control district of a maintenance tax related to stormwater facilities even if the fair's property is benefitted; and
- Any fee or assessment by a local government to maintain a stormwater management facility.

Additionally, the bill makes legislative findings and declares that this bill fulfills an important state interest.

## II. Present Situation:

### Fair Associations

A “fair association” is defined as a not for profit association incorporated under ch. 616, F.S., for the purpose of conducting and operating public fairs or expositions.<sup>1</sup> Public fairs and expositions are further defined as projects, activities, events, or programs, which benefit and develop the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and other resources of Florida.<sup>2</sup> The powers of a fair association may be found in s. 616.08, F.S.

Besides the state fair in Tampa, there are approximately 50 other district, regional or county fair associations that stage annual fairs as well as public fairs and expositions. Part I of ch. 616, F.S., sets forth procedures for a fair association to obtain a permit from the Department of Agriculture and Consumer Services (DACS) and provides guidelines for staging these events.<sup>3</sup> There are approximately 50 fair and livestock shows with scheduled events between October 2013 and April 2014.<sup>4</sup> Forty-nine of the fair associations are members of the Florida Federation of Fairs and Livestock Shows (Federation), which is a Florida nonprofit corporation whose mission is to increase the overall quality of agricultural fairs, provide members support and guidance, and educate youth and fairgoers on agriculture, trade, entertainment, and heritage of Florida.

### Legislative History regarding Fair Associations

The Legislature first passed laws for the purpose of regulating state fair associations and operations in 1917.<sup>5</sup> In 1974, the Legislature created the Florida State Fair Authority to deal exclusively with the staging of the annual state fair in Tampa, Florida.<sup>6</sup> The statute was reviewed in 1993 under provisions of the Regulatory Sunset Act, at which time it was revised and reenacted.<sup>7</sup> In 2012, legislation was enacted that:<sup>8</sup>

- revised the formation, charter amendments, and dissolution of fair associations;
- acknowledged that the objective of a fair association, in addition to public service, is holding, conducting and promoting public fairs and expositions;
- declared that a fair association is serving an essential government purpose if it is pursuing its legitimate purposes and that it is a noncommercial activity provider;
- expanded a fair association’s exemption from taxation on its “money and property” to also include projects, activities, events, programs and uses authorized by its governing statutes, but specifically clarifying that this does not provide an exemption from any tax imposed under ch. 212, F.S.;
- expanded the activities for which fair facilities may be used to conform to actual practices;
- prohibited a fair association from conducting more than one annual public fair; and

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<sup>1</sup> Section 616.001(11), F.S.

<sup>2</sup> Section 616.001(12), F.S.

<sup>3</sup> Sections 616.15 and 616.165, F.S.

<sup>4</sup> DACS, *Fairs and Livestock Shows in Florida*, <http://www.freshfromflorida.com/Divisions-Offices/Marketing-and-Development/Consumer-Services/Recreation/Fairs-and-Livestock-Shows-in-Florida>. (Site last visited Mar. 7, 2014).

<sup>5</sup> Chapter 7388, Laws of Fla. (1917).

<sup>6</sup> Chapter 74-322, Laws of Fla.

<sup>7</sup> Chapter 93-168, Laws of Fla.

<sup>8</sup> Chapter 2012-204, Laws of Fla.

- required that a fair permit be issued within 10 days of the permit requirements being fulfilled.

### **Taxation of Fair Associations**

Section 4, Article VII of the Florida Constitution requires that all property be assessed at just value for ad valorem purposes. Sections 3, 4, and 6, Article VII of the Florida Constitution provide for specified assessment limitations, property classifications, and exemptions. “Just value” means fair market value; therefore, for ad valorem purposes the value of the property must be established at market value unless the Constitution has authorized, and the Legislature has implemented, an exception to the requirements. Several sections of Florida Statutes govern taxation of fairs and fair activities conducted by third parties.

Section 212.031(6), F.S., provides that leases and rentals of land, a hall, or other facilities by a fair association to a show promoter or prime operator of a carnival or midway attraction are exempt from the tax on rental or license fee for use of real property; however, the sublease of land or a hall or other facilities by the show promoter or prime operator is not exempt from the provisions of this section.

Section 212.08(7)(gg), F.S., exempts from sales and use tax the sale, use, lease, or grant of a license to use, made directly to or by a fair association, of real or tangible personal property. Any charge made by a fair association, or its agents, for parking, admissions, or for temporary parking of vehicles used for sleeping quarters; rentals, subleases, and sublicenses of real or tangible personal property between the owner of the central amusement attraction and any owner of an amusement ride is also exempt. This exemption does not apply to the sale of tangible personal property made by a fair association through an agent or independent contractor; sales of admissions and tangible personal property by a concessionaire, vendor, exhibitor, or licensee; or rentals and subleases of tangible personal property or real property between the owner of the central amusement attraction and a concessionaire, vendor, exhibitor, or licensee, except for the furnishing of amusement rides, which transactions are exempt.

Section 212.13(6), F.S., requires a fair association to distribute and collect forms from any concessionaire, vendor, exhibitor, or licensee. These forms must request, at a minimum, the name, business address, and telephone number of the concessionaire, vendor, exhibitor, or licensee, its sales tax registration number, and the amount of daily revenue that it receives as a result of activities and sales on the fairgrounds as a result of the use of assets or other property of the fair association.

### **Stormwater Utilities**

Florida cities and counties have inherent home rule authority<sup>9</sup> and specific statutory authority<sup>10</sup> to adopt stormwater regulations and to create stormwater utility systems. The Florida Stormwater Association (FSA) reported that in 2011, approximately 154 local governments in Florida had established stormwater utilities pursuant to ch. 403, F.S., or their home rule powers.<sup>11</sup> Day-to-

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<sup>9</sup> Section 166.021, F.S.; *City of Miami Beach v. Forte Towers*, 305 So. 2d 764 (Fla. 1974).

<sup>10</sup> Chapter 403, F.S.

<sup>11</sup> FSA, *Survey of Stormwater Utilities*, <http://www.florida-stormwater.org/survey-of-stormwater-utilities> (last visited Mar. 7, 2014).

day maintenance of urban stormwater management systems has been found to significantly reduce the pollutant loads that contribute to impairment of the receiving waters in the state.<sup>12</sup>

Construction and operation of stormwater utilities may be funded through general taxation, or through imposition of user fees and special assessments.<sup>13</sup> A user fee is lawful if imposed in proportion to the capital and operational costs attributable to the customer's impact on the entire stormwater utility, either based on the quantity of stormwater treated, or the contribution to total pollutant loading of the utility. A special assessment is lawful if it is imposed in proportion to the special benefit or value conferred on real property by the availability of the utility.

Exemptions from assessments are provided for certain users, and in addition may be granted for other users so long as the remaining users pay no more than their proportional shares. To maintain the legal integrity of a stormwater utility, the cost of any such exemption or subsidy must be funded by a source other than user fees or special assessments, such as general taxation. Fees may be collected through a periodic billing system, and liens may be imposed for unpaid bills. Assessments may be imposed for benefits received, and may be collected annually in conjunction with ad valorem tax billings.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 157.37, F.S., to prohibit a county from levying a tax, special assessment, or fee related to stormwater management facilities against land owned by a fair association as defined in s. 616.001, F.S.

**Sections 2** amends s. 163.31801, F.S., to prohibit a county, municipality, or special district from imposing an impact or mobility fee on a fair association as defined in s. 616.001, F.S.

**Section 3** amends s. 170.01, F.S., to prohibit municipalities from levying a special assessment related to stormwater facilities against real property owned by a fair association as defined in s. 616.001, F.S., even if such real property is benefitted or increases in value due to the stormwater facilities.

**Section 4** creates s. 196.1988, F.S., to exempt personal or real property owned by a fair association from ad valorem taxation, by defining it as property within the purview of art. VII, s. 3(a) of the State Constitution<sup>15</sup> if such property is used predominately for fair purposes as described in the definition of "Public fair or exposition."<sup>16</sup> Any portion of such property used for nonexempt purposes may be valued and placed on the tax rolls.

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<sup>12</sup>Berretta, Raje, and Sansalone, *Quantifying Nutrient Loads Associated with Urban Particulate Matter, and Biogenic/Litter Recovery through Current MS4 Source Control and Maintenance Practices*, University of Florida, Engineering School of Sustainable Infrastructure and Environment (May 31, 2011).

<sup>13</sup> Section 403.0893, F.S.

<sup>14</sup> *Id.*

<sup>15</sup> FLA. CONST art. VII, s. 3(a) exempts municipal property used for municipal or public purposes from ad valorem taxation.

<sup>16</sup> Section 616.001(12), F.S.

**Section 5** amends s. 298.305, F.S., to prohibit the board of supervisors of a water control district from levying a special assessment of a maintenance tax authorized by s. 298.54, F.S.,<sup>17</sup> related to stormwater facilities against real property owned by a fair association as defined in s. 616.001, F.S., even if such real property is benefitted or increases in value due to the proposed work or improvement.

**Section 6** amends s. 298.54, F.S., to state that real property owned by a fair association is exempt from a maintenance tax that the board of supervisors of a water control district is authorized to levy under this section.

**Section 7** amends s. 403.0893, F.S., to exempt a fair association from any fee or assessment by a county or municipality to plan, construct, operate, use, or maintain a stormwater management system.

**Section 8** sets forth legislative findings in support of the Legislature's determination and declaration that this bill fulfills an important state interest.

**Section 9** provides that the bill takes effect July 1, 2014.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article VII, section 18(b) of the Florida Constitution limits the Legislature when attempting to pass any general law that reduces the authority of municipalities or counties from raising revenues.<sup>18</sup> The bill reduces the authority of cities and counties to raise revenue by creating an exemption from ad valorem taxes, impact or mobility fees, and stormwater related assessments and fees on property owned by fair associations. Accordingly, the bill may require a two-thirds vote of the membership of each house.

However, art. VII, s. 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact.<sup>19</sup> An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year.<sup>20</sup> The fiscal impact of the bill on local governments has not been estimated.

##### **B. Public Records/Open Meetings Issues:**

None.

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<sup>17</sup> Section 298.54, F.S., authorizes an annual levy on each parcel within the district to maintain and preserve ditches, drains, or other improvements apportioned upon the basis of the net assessments of benefits.

<sup>18</sup> FLA. CONST. art. VII, s. 18(b).

<sup>19</sup> FLA. CONST. art. VII, s. 18(d).

<sup>20</sup> As of April 1, 2013, the total state population is estimated to be 19,259,543. University of Florida, Bureau of Economic and Business Research, *Florida Estimates of Population 2013* (Apr. 1, 2013), at 21.



C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill creates an exemption from stormwater management fees and special assessments, impact or mobility fees, and ad valorem taxes that would otherwise be due from fair associations. An estimate of the extent of revenue reduction incurred by local governments will not be available until the Revenue Estimating Conference (REC) has analyzed the bill. At the time this analysis was published, REC had not yet considered this bill.

B. Private Sector Impact:

Fair associations would benefit by being exempt from ad valorem taxes, impact or mobility fees, and stormwater related fees on property owned by the fair association.

C. Government Sector Impact:

The bill creates an exemption from stormwater management fees and special assessments, impact or mobility fees, and ad valorem taxes that would otherwise be due from fair associations. An estimate of the extent of revenue reduction incurred by local governments will not be available until the REC has analyzed the bill. At the time this analysis was published, REC had not yet considered this bill.

The Department of Revenue and Department of Agriculture and Consumer Services report that they expect the bill to have no impact on their operations.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 163.31801, 170.01, 298.305, 298.54, and 403.0893.

This bill creates Sections 157.37 and 196.1988 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 March 11, 2014:**

Removes the provision that would retroactively apply the exemption towards impact and mobility fees.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
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	.	

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

**Senate Amendment (with title amendment)**

Delete lines 53 - 59.

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

And the title is amended as follows:

Delete lines 10 - 13

and insert:

association; amending s. 170.01,

By Senator Simpson

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1                   A bill to be entitled  
2           An act relating to fair associations; creating s.  
3           157.37, F.S.; prohibiting a county from levying a tax,  
4           special assessment, or fee for the planning,  
5           construction, operation, use, or maintenance of  
6           stormwater facilities against land owned by a fair  
7           association; amending s. 163.31801, F.S.; prohibiting  
8           a county, municipality, or special district from  
9           imposing an impact or mobility fee on a fair  
10          association; providing for retroactive application;  
11          requiring a county, municipality, or special district  
12          to refund certain impact and mobility fees to a fair  
13          association by a certain date; amending s. 170.01,  
14          F.S.; prohibiting a municipality from levying a  
15          special assessment for the planning, construction,  
16          operation, use, or maintenance of stormwater  
17          facilities against real property owned by a fair  
18          association; creating s. 196.1988, F.S.; exempting  
19          personal and real property of a fair association used  
20          predominantly for certain purposes from the imposition  
21          of ad valorem taxes; amending s. 298.305, F.S.;  
22          prohibiting a water control district from levying  
23          special assessments for proposed works and  
24          improvements against real property owned by a fair  
25          association; amending s. 298.54, F.S.; exempting real  
26          property owned by a fair association from the  
27          imposition of a maintenance tax by a water control  
28          district; amending s. 403.0893, F.S.; exempting fair  
29          associations from the assessment or imposition of a

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30 fee by local or regional governmental entities for the  
31 planning, construction, operation, use, or maintenance  
32 of stormwater management systems; declaring an  
33 important state interest; providing an effective date.  
34

35 Be It Enacted by the Legislature of the State of Florida:  
36

37 Section 1. Section 157.37, Florida Statutes, is created to  
38 read:

39 157.37 Prohibited tax, special assessment, or fee against a  
40 fair association for stormwater management facilities.—A county  
41 may not levy a tax, special assessment, or fee for the planning,  
42 construction, operation, use, or maintenance of stormwater  
43 management facilities against land owned by a fair association,  
44 as defined in s. 616.001.

45 Section 2. Subsection (6) is added to section 163.31801,  
46 Florida Statutes, to read:

47 163.31801 Impact fees; short title; intent; definitions;  
48 ordinances levying impact fees.—

49 (6) Notwithstanding any law, ordinance, or resolution to  
50 the contrary, a county, municipality, or special district may  
51 not impose an impact fee or a mobility fee on a fair association  
52 as defined in s. 616.001.

53 Section 3. The amendment to s. 163.31801, Florida Statutes,  
54 made by this act applies retroactively to an impact fee or  
55 mobility fee assessed against a fair association between July 1,  
56 2009, and July 1, 2014. All impact fees and mobility fees  
57 collected by a county, municipality, or special district from a  
58 fair association between July 1, 2009, and July 1, 2014, must be

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59 refunded to the fair association by October 1, 2014.

60 Section 4. Subsection (2) of section 170.01, Florida  
61 Statutes, is amended to read:

62 170.01 Authority for providing improvements and levying and  
63 collecting special assessments against property benefited.—

64 (2) (a) Special assessments may be levied only for the  
65 purposes enumerated in this section and ~~shall be~~ levied only on  
66 benefited real property at a rate of assessment based on the  
67 special benefit accruing to such property from such improvements  
68 if when the improvements funded by the special assessment  
69 provide a benefit which is different in type or degree from  
70 benefits provided to the community as a whole.

71 (b) Notwithstanding paragraph (a), a special assessment for  
72 the planning, construction, operation, use, or maintenance of  
73 stormwater facilities may not be levied on real property owned  
74 by a fair association, as defined in s. 616.001, even if such  
75 real property is benefitted or increases in value due to the  
76 stormwater facilities.

77 Section 5. Section 196.1988, Florida Statutes, is created  
78 to read:

79 196.1988 Fair association property exemption.—Personal or  
80 real property owned by a fair association, as defined in s.  
81 616.001, and used predominantly for conducting and operating a  
82 not-for-profit fair or exhibition for the benefit and  
83 development of the educational, agricultural, horticultural,  
84 livestock, charitable, historical, civic, cultural, scientific,  
85 and other resources of the state or a county, a municipality, or  
86 other political subdivision of the state is hereby defined as  
87 property within the purview of s. 3(a), Art. VII of the State

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88 Constitution and is exempt from ad valorem taxation to the  
89 extent of such use pursuant to s. 196.192(2). Any portion of  
90 such property used for nonexempt purposes may be valued and  
91 placed upon the tax rolls separately from any portion entitled  
92 to exemption under this section.

93 Section 6. Subsection (1) of section 298.305, Florida  
94 Statutes, is amended to read:

95 298.305 Assessing land for development; apportionment of  
96 assessment.—

97 (1) After the engineer's report has been approved by the  
98 board of supervisors, the proposed water control plan or plan  
99 amendment has been finally adopted, and the lists of lands with  
100 the assessed benefits have been filed in the office of the  
101 secretary of the district, ~~then~~ the board of supervisors shall  
102 levy a non-ad valorem assessment as approved by the board on all  
103 lands in the district to which benefits have been assessed, to  
104 pay the costs of the completion of the proposed works and  
105 improvements, as shown in the adopted plan or plan amendment and  
106 in carrying out the objectives of the district; and, in addition  
107 thereto, 10 percent of the total amount for contingencies. The  
108 assessment must be apportioned to and levied on each assessable  
109 tract of land in the district.

110 (a) Under s. 298.54, the board of supervisors may also levy  
111 a maintenance assessment on all lands in the district to which  
112 benefits have been assessed as ~~may be~~ necessary to operate and  
113 maintain the district works and activities and to defray the  
114 current expenses of the district. A maintenance assessment  
115 recommendation for the operation and maintenance of the district  
116 works and activities must be included in each engineer's report

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117 considered by the board.

118 (b) A special assessment or the tax authorized under s.  
119 298.54 may not be levied on real property owned by a fair  
120 association, as defined in s. 616.001, for a proposed work or  
121 improvement even if such real property is benefitted or  
122 increases in value due to the proposed work or improvement.

123 Section 7. Section 298.54, Florida Statutes, is amended to  
124 read:

125 298.54 Maintenance tax.—To maintain and preserve the  
126 ditches, drains, or other improvements made pursuant to this  
127 chapter and to repair and restore the same, when needed, and for  
128 the purpose of defraying the current expenses of the district,  
129 including any sum which may be required to pay state and county  
130 taxes on ~~any~~ lands which may have been purchased and which are  
131 held by the district under ~~the provisions of~~ this chapter, the  
132 board of supervisors may, upon the completion of such ~~the said~~  
133 improvements, in whole or in part, as may be certified to the  
134 board by the chief engineer, levy annually a tax upon each tract  
135 or parcel of land within the district, to be known as a  
136 "maintenance tax." The ~~Said maintenance~~ tax shall be apportioned  
137 upon the basis of the net assessments of benefits assessed as  
138 accruing from original construction, shall be evidenced to and  
139 certified by the board of supervisors by ~~not later than~~ June 1  
140 of each year to the property appraisers of counties in which  
141 lands of the district are situated, ~~and~~ shall be extended by the  
142 county property appraisers on the county tax rolls and collected  
143 by the tax collectors in the same manner and time as county  
144 taxes, and the proceeds therefrom shall be paid to the ~~said~~  
145 district. The ~~Said~~ tax shall be a lien until paid on the



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146 property against which assessed and enforceable in like manner  
147 as county taxes. Real property owned by a fair association, as  
148 defined in s. 616.001, is exempt from the maintenance tax  
149 authorized by this section.

150 Section 8. Section 403.0893, Florida Statutes, is amended  
151 to read:

152 403.0893 Stormwater funding; ~~dedicated funds for stormwater~~  
153 ~~management.~~—

154 (1) In addition to any other funding mechanism legally  
155 available to local government to construct, operate, or maintain  
156 stormwater systems, a county or municipality may:

157 (a) ~~(1)~~ Create one or more stormwater utilities and adopt  
158 stormwater utility fees sufficient to plan, construct, operate,  
159 and maintain stormwater management systems set out in the local  
160 program required pursuant to s. 403.0891(3);

161 (b) ~~(2)~~ Establish and set aside, as a continuing source of  
162 revenue, other funds sufficient to plan, construct, operate, and  
163 maintain stormwater management systems set out in the local  
164 program required pursuant to s. 403.0891(3); or

165 (c) ~~(3)~~ Create, alone or in cooperation with counties,  
166 municipalities, and special districts pursuant to the Interlocal  
167 Cooperation Act, s. 163.01, one or more stormwater management  
168 system benefit areas. All property owners within such ~~said~~ area  
169 may be assessed a per acreage fee to fund the planning,  
170 construction, operation, maintenance, and administration of a  
171 public stormwater management system for the benefited area. Any  
172 benefit area containing different land uses which receive  
173 substantially different levels of stormwater benefits shall  
174 include stormwater management system benefit subareas, which

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175 shall be assessed different per acreage fees from subarea to  
176 subarea based upon a reasonable relationship to benefits  
177 received. The fees shall be calculated to generate sufficient  
178 funds to plan, construct, operate, and maintain stormwater  
179 management systems called for in the local program required  
180 pursuant to s. 403.0891(3). For fees assessed pursuant to this  
181 section, counties or municipalities may use the non-ad valorem  
182 levy, collection, and enforcement method as provided ~~for~~ in  
183 chapter 197.

184 (2) A fair association, as defined in s. 616.001, is exempt  
185 from the imposition or assessment of any fee authorized by this  
186 section to plan, construct, operate, use, or maintain a  
187 stormwater management system.

188 Section 9. The Legislature finds that a proper and  
189 legitimate state purpose is served when a not-for-profit  
190 association conducting and operating a not-for-profit fair or  
191 exhibition for the benefit and development of the educational,  
192 agricultural, horticultural, livestock, charitable, historical,  
193 civic, cultural, scientific, and other resources of the state or  
194 a county, a municipality, or any other political subdivision of  
195 the state is exempt from the imposition of taxes and fees that  
196 could render such association unable to provide these important  
197 cultural and economic services to the residents of the many  
198 communities in this state. Therefore, the Legislature hereby  
199 determines and declares that this act fulfills an important  
200 state interest.

201 Section 10. This act shall take effect July 1, 2014.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/14

Meeting Date

Topic FAIR ASSOCIATIONS

Bill Number 624 (if applicable)

Name STEPHEN JAMES

Amendment Barcode (if applicable)

Job Title

Address 100 S. MONROE

Phone 922-4300

TALLAHASSEE FL 32301

E-mail

Speaking: For Against Information

Representing FUA. ASSOC. OF COUNTIES

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)

3/11/14

Meeting Date

Topic FAIR ASSOCIATIONS

Bill Number 6024  
*(if applicable)*

Name Ryan Matthews

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Leg Advocate

Address PO Box 1757

Phone 222 9684

Tallahassee FL 32302  
City State Zip

E-mail rmatthews@flcities.com

Speaking:  For  Against  Information

Representing FL 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.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14

Meeting Date

Topic SW UTILITY FEES

Bill Number 624  
*(if applicable)*

Name KURT SPITZER

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title EXECUTIVE DIRECTOR

Address 719 E PARK  
Street

Phone 2286212

T 32301  
City State Zip

E-mail KURTSPITZER@KSA.NET.FL

Speaking:  For  Against  Information

Representing FLA STORMWATER ASSOCIATION

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.**

S-001 (10/20/11)

# CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Community Affairs Committee Judge:

Started: 3/11/2014 4:02:39 PM

Ends: 3/11/2014 4:41:50 PM

Length: 00:39:12

4:02:45 PM Call to order  
4:03:46 PM Tab 1 SB 374 Senator Detert  
4:05:04 PM Amendment 1 withdrawn  
4:05:42 PM Roll call on SB 374  
4:05:58 PM Bill passes  
4:06:04 PM Tab 2 SB 718 Senator Legg  
4:06:56 PM Speaker Ryan Padgett representing Florida League of Cities  
4:09:35 PM Senator Bradley  
4:11:50 PM Senator Hukill  
4:12:35 PM Speaker Jess McCarty representing Miami-Dade County  
4:14:56 PM Roll call on SB 718  
4:15:18 PM Bill passes  
4:15:34 PM Tab 6 SB 338 Senator Bullard  
4:16:18 PM Roll call on SB 338  
4:16:38 PM Bill passes  
4:17:00 PM Tab 3 SM 576 Senator Abruzzo's legislative aide Shreya Kuntawala  
4:17:56 PM Senator Latvala  
4:20:05 PM Roll call on SM 576  
4:20:22 PM Bill passes  
4:20:33 PM Tab 5 SB 1194 Senator Ring's legislative aide J.J Piskadlo  
4:23:17 PM Roll call on SB 1194  
4:23:32 PM Bill passes  
4:23:41 PM Tab 7 SB 534 Senator Latvala  
4:24:35 PM Amendment 1 barcode 605388  
4:25:35 PM Roll call on SB 534  
4:25:52 PM Bill passes  
4:26:01 PM Tab 8 SB 1070 Senator Simpson  
4:27:18 PM Senator Soto  
4:27:45 PM Amendment 1 barcode 654904  
4:28:34 PM Senator Hukill  
4:29:01 PM Speaker Stephen James representing Florida Association of Counties  
4:29:57 PM Senator Soto  
4:31:20 PM Speaker David Cruz representing Florida League of Cities  
4:32:35 PM Roll call on SB 1070  
4:32:49 PM Bill passes  
4:33:00 PM Tab 9 SB 624 Senator Simpson  
4:33:58 PM Amendment 1 barcode 894734  
4:34:54 PM Speaker Kurt Spitzer representing Florida Stormwater Association  
4:35:59 PM Senator Bradley  
4:36:44 PM Speaker Ryan Matthews representing Florida League of Cities  
4:38:15 PM Speaker Stephen James representing Florida Association of Counties  
4:39:51 PM Senator Hukill  
4:40:29 PM Roll call on SB 624  
4:40:49 PM Bill passes  
4:41:45 PM Adjournment



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Criminal Justice, *Vice Chair*  
Rules, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Health  
and Human Services  
Communications, Energy, and Public Utilities  
Community Affairs  
Governmental Oversight and Accountability

### SELECT COMMITTEE:

Select Committee on Patient Protection  
and Affordable Care Act

### JOINT COMMITTEE:

Joint Legislative Budget Commission

**SENATOR CHRISTOPHER L. SMITH**  
*Democratic Leader*  
31st District

March 10, 2014

The Honorable Wilton Simpson, Chair  
Senate Committee on Community Affairs  
315 Knott  
Tallahassee, Florida 32399-1100

Dear Senator Simpson:

Please excuse Senator Christopher Smith from Committee on Community Affairs that will be held on Tuesday March 11, 2014 from 4:00 PM until 6:00 PM. Senator Smith has a serious family issue that requires his immediate attention and he will be returning to Fort Lauderdale on Monday evening. I do expect Senator Smith to return back to Tallahassee for Committee meetings on Wednesday morning.

Thank you in advance for your consideration

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane Randolph".

Diane Randolph  
Legislative Assistant to  
Senator Chris Smith  
District 31

A handwritten signature in cursive script, appearing to read "Chris Smith".

### REPLY TO:

- 2151 NW 6th Street, Fort Lauderdale, Florida 33311 (954) 321-2705 FAX: (954) 321-2707
- 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore