

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Brandes, Vice Chair

MEETING DATE: Tuesday, December 1, 2015

TIME: 1:00—3:00 p.m.

PLACE: 301 Senate Office Building

MEMBERS: Senator Simpson, Chair; Senator Brandes, Vice Chair; Senators Abruzzo, Bradley, Dean, Diaz de la Portilla, Hutson, and Thompson

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|----------------------------|
| 1 | SB 222 Detert (Identical H 235) | Parking for Disabled Veterans; Requiring the governing body of each publicly owned or publicly operated airport to grant free parking to any vehicle displaying specified license plates for disabled veterans; clarifying that such license plates, rather than "DV" license plates, are exempt from certain parking fees charged by a county, municipality, or an agency thereof, etc. TR 11/04/2015 Favorable CA 12/01/2015 Favorable FP | Favorable Yeas 5 Nays 0 |
| 2 | SB 346 Altman | Local Government Infrastructure Surtax; Authorizing the governing authority of a county to levy a discretionary sales surtax to fund capital restoration of natural water bodies for public use; limiting expenditures of the proceeds and interest from the surtax or specified bonds that pledge the surtax to dredging operations related to ecologically beneficial muck removal, etc. CA 12/01/2015 Favorable FT AP | Favorable Yeas 5 Nays 0 |
| 3 | SB 156 Smith (Identical H 133) | After-school Programs; Deleting a legislative intent provision regarding certain not-for-profit organizations and background screening for such organizations; defining the term "not-for-profit organization"; requiring certain employees of not-for-profit organizations to meet certain background screening requirements; creating a study group, etc. CA 10/06/2015 Temporarily Postponed CA 12/01/2015 Fav/CS CJ AHS RC | Fav/CS Yeas 5 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, December 1, 2015, 1:00—3:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|---|----------------------------|
| 4 | SB 544 Dean (Identical H 841) | Nonresidential Farm Buildings; Exempting nonresidential farm buildings, farm fences, and farm signs that are located on lands used for bona fide agricultural purposes from any county or municipal special assessment, including a dependent special district assessment, etc. CA 12/01/2015 Favorable FT AP | Favorable Yeas 5 Nays 0 |
| 5 | SJR 648 Hutson (Compare CS/HJR 165) | County Officers; Proposing an amendment to the State Constitution to remove authority for certain county officers to be chosen in a manner other than election, for any county office to be abolished, or for certain ex officio duties of the clerk of the circuit court to be transferred to another officer, etc. CA 12/01/2015 Fav/CS EE RC | Fav/CS Yeas 4 Nays 1 |
| 6 | SJR 170 Brandes (Similar HJR 193, Compare H 195, Linked S 172) | Renewable Energy Source Device; Proposing amendments to the State Constitution to require the Legislature, by general law, to exempt the assessed value of a renewable energy source device or a component thereof from the tangible personal property tax, to allow the Legislature, by general law, to prohibit the consideration of the installation of such device or component in determining the assessed value of residential and nonresidential real property for the purpose of ad valorem taxation, and to provide effective and expiration dates, etc. CU 11/03/2015 Favorable CA 12/01/2015 Favorable FT AP | Favorable Yeas 5 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, December 1, 2015, 1:00—3:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|----------------------------|
| 7 | SB 172 Brandes (Similar H 195, Compare HJR 193, Linked SJR 170) | Renewable Energy Source Devices; Revising the term "renewable energy source device" to include certain devices that store or use solar energy, wind energy, or energy from geothermal deposits to generate specified forms of energy; specifying a period during which a property appraiser is prohibited from considering an increase in the just value of real property used for residential purposes which is attributable to the installation of a renewable energy source device; exempting a renewable energy source device, or a component of such device, which is installed upon real property on or after a specified date from the tangible personal property tax, etc. CU 11/03/2015 Favorable CA 12/01/2015 Fav/CS FT AP | Fav/CS Yeas 5 Nays 0 |
| 8 | SB 584 Brandes | Peril of Flood; Authorizing the Division of Emergency Management to administer a matching grant program to provide up to \$50 million in technical and financial assistance to local governments to implement certain flood risk reduction policies and projects; authorizing the Florida Communities Trust to undertake, coordinate, or fund flood mitigation projects and to acquire and dispose of real and personal property or specified interest when necessary or appropriate to reduce flood hazards, etc. CA 12/01/2015 Fav/CS ATD AP | Fav/CS Yeas 5 Nays 0 |
| 9 | SB 770 Simpson (Identical H 447) | Local Government Environmental Financing; Citing this act as the "Florida Keys Stewardship Act"; expanding the use of local government infrastructure surtaxes to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to reduce impacts of new development on hurricane evacuation clearance times; expanding the use of Everglades restoration bonds to include the City of Key West Area of Critical State Concern; requiring the Department of Environmental Protection to annually consider certain recommendations to buy specific lands within and outside an area of critical state concern, etc. CA 12/01/2015 Favorable AGG AP | Favorable Yeas 5 Nays 0 |

Other Related Meeting Documents

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 222

INTRODUCER: Senator Detert

SUBJECT: Parking for Disabled Veterans

DATE: November 30, 2015

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Jones | Eichin | TR | Favorable |
| 2. | Cochran | Yeatman | CA | Favorable |
| 3. | | | FP | |

I. Summary:

SB 222 exempts vehicles displaying a Disabled Veteran license plate issued by this state from parking fees at publicly owned or publicly operated airports.

The bill adds that a vehicle displaying the Disabled Veteran license plate stamped with the international accessibility symbol or the Paralyzed Veterans of America license plate may not be charged for parking by a county, municipality, or any agency thereof, in a facility or lot that provides timed parking spaces.

II. Present Situation:

Section 316.1964, F.S., prohibits a state agency, county, municipality, or any agency thereof from charging a fee for parking on the public streets or highways or in any *metered* parking spaces if the vehicle displays:

- An out of state or out of county disabled license plate or disabled parking permit;¹
- A disabled parking permit;²
- A disabled veteran license plate;³
- A disabled veteran license plate stamped with the international accessibility symbol;⁴
- A license plate stamped with the international accessibility symbol;⁵ or
- A Paralyzed Veterans of America license plate.⁶

¹ Recognized under s. 316.1958, F.S.

² Issued under s. 320.0848, F.S.

³ Issued under s. 320.084, F.S.

⁴ Issued under s. 320.0842, F.S.

⁵ Issued under s. 320.0843, F.S.

⁶ Issued under s. 320.0845, F.S.

Exceptions

A parking facility or lot may charge parking fees to vehicles displaying disabled plates or permits if the facility or lot is being used in connection with an event at a convention center, cruise-port terminal, sports stadium or arena, coliseum, or auditorium.⁷

A parking facility that leases a parking space for a duration that exceeds one week may charge a lessee who is disabled.⁸

An airport that owns, operates, or leases parking facilities may charge for parking vehicles that display disabled parking permits or license plates. However, the governing body of a publicly owned and operated airport may not charge parking fees to any vehicle with specialized equipment, such as ramps, lifts, or foot or hand controls for utilization by a person who has a disability or whose vehicle is displaying the Florida Toll Exemption permit.⁹

Additionally, a local government may charge vehicles displaying disabled plates or permits for parking in a facility or lot that provides *timed* parking spaces, unless the vehicle is equipped with specialized equipment for use by a person who has a disability, is displaying the “DV” license plate issued under s. 320.084, F.S., or is displaying the Florida Toll Exemption permit.¹⁰

Disabled Veteran “DV” License Plate

Section 320.084, F.S., provides that a disabled veteran is eligible for one free “DV” license plate if he or she has been a resident of this state for the preceding five years or has established a domicile in this state, has been honorably discharged from the United States Armed Forces, and provides proof that he or she:

- Has a vehicle initially acquired through financial assistance by the United States Department of Veterans Affairs (VA) or its predecessor specifically for the purchase of an automobile;
- Has been determined by the VA or its predecessor to have a service-related 100 percent disability rating for compensation; or
- Has been determined to have a service connected disability rating of 100 percent and receives disability retirement pay from any branch of the United States Armed Forces.

The Department of Highway Safety and Motor Vehicles provided that as of October 9, 2015, there were 41,435 active Disabled Veteran license plates.

Disabled Veteran License Plate with the International Accessibility Symbol

Section 320.0842, F.S., provides that a disabled veteran is eligible for a free Disabled Veteran license plate stamped with the international symbol of accessibility if he or she is eligible for

⁷ Section 316.1964(3), F.S.

⁸ Section 316.1964(6), F.S.

⁹ Section 316.1964(7), F.S.

¹⁰ Section 316.1964(8), F.S.

both the “DV” license plate¹¹ and proves that due to a service-connected disability he or she permanently uses a wheelchair or otherwise qualifies for a disabled parking permit.¹²

The Department of Highway Safety and Motor Vehicles provided that as of October 9, 2015, there were 11,509 active Disabled Veteran license plates with the International Accessibility symbol.

Paralyzed Veterans of America License Plate

Section 320.0845, F.S., provides that a Florida resident who is a member of the Paralyzed Veterans of America, upon proof of membership, application, and payment of appropriate license taxes and fees, is eligible for a “Paralyzed Vets of America” license plate.

Paralyzed Veterans of America is a national organization that offers membership to veterans with spinal cord injuries or diseases affecting the spinal cord.¹³

The Department of Highway Safety and Motor Vehicles provided that as of October 9, 2015, there were 59 active Paralyzed Veterans of America license plates.

III. Effect of Proposed Changes:

The bill removes provisions allowing an airport that owns, operates, or leases parking facilities, or any other parking facilities that are used for the purposes of air travel from charging vehicles displaying:

- A Disabled Veteran license plate;
- A Disabled Veteran license plate stamped with the International Accessibility symbol; or
- A Paralyzed Veterans of America license plate.

The bill prohibits publicly owned or operated airports from charging parking fees to a vehicle displaying:

- A Disabled Veteran license plate;
- A Disabled Veteran license plate stamped with the International Accessibility symbol; or
- A Paralyzed Veterans of America license plate.

The bill adds, in addition to the Disabled Veteran “DV” plate, vehicles displaying the Disabled Veteran plate stamped with the International Accessibility symbol and the Paralyzed Veterans of America license plates may not be charged by a county, municipality, or any agency thereof for parking in a facility or lot that provides timed parking spaces.

The bill takes effect July 1, 2016.

¹¹ Section 320.084, F.S.

¹² Pursuant to s. 320.0848, F.S., the person must be currently certified as being legally blind or as having certain disabilities that render him or her unable to walk 200 feet without stopping to rest.

¹³ *PVA Membership Information*, Paralyzed Veterans for America, http://www.pva.org/site/c.ajIRK9NJLcJ2E/b.6305539/k.4AC/PVA_Membership_Information_PVA_Applications_Contact.htm (last visited Oct. 26, 2015).

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

The bill may reduce the authority of counties and municipalities to raise revenues because it would eliminate their ability to charge the operator of a vehicle displaying a disabled veteran plate for parking in a facility that provides timed parking spaces, or at a publicly owned or publicly operated airport. Article VII, s. 18(b) of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law that reduces the authority of municipalities and counties to raise revenues in the aggregate. Article VII, s. 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. The fiscal impact of this bill is indeterminate.

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:

Individuals who qualify for the exemption from parking fees may experience a positive fiscal impact.

C. Government Sector Impact:

The bill will have an indeterminate negative fiscal impact on local governments and publicly owned or publicly operated airports prohibited from charging parking fees for individuals displaying a disabled veteran license plate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.1964 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.

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

By Senator Detert

28-00280-16

2016222__

1 A bill to be entitled
2 An act relating to parking for disabled veterans;
3 amending s. 316.1964, F.S.; requiring the governing
4 body of each publicly owned or publicly operated
5 airport to grant free parking to any vehicle
6 displaying specified license plates for disabled
7 veterans; clarifying that such license plates, rather
8 than "DV" license plates, are exempt from certain
9 parking fees charged by a county, municipality, or an
10 agency thereof; making technical changes; providing an
11 effective date.

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

14
15 Section 1. Subsections (1), (7), and (8) of section
16 316.1964, Florida Statutes, are amended to read:

17 316.1964 Exemption of vehicles transporting certain persons
18 who have disabilities from payment of parking fees and
19 penalties.—

20 (1) A state agency, county, municipality, or any agency
21 thereof, may not exact any fee for parking on the public streets
22 or highways or in any metered parking space from the driver of a
23 vehicle that displays:

24 (a) A disabled parking permit or a license plate issued
25 under s. 316.1958 or s. 320.0848; or

26 (b) A license plate issued under s. 320.084, s. 320.0842,
27 s. 320.0843, or s. 320.0845.

28
29 Such exemptions apply only if the vehicle is transporting the

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30 person who has a disability and to whom the disabled parking
31 permit or license plate was issued.

32 (7) An airport that owns, operates, or leases parking
33 facilities, or any other parking facilities that are used for
34 the purpose of air travel, may charge for parking vehicles that
35 display a disabled parking permit or license tag issued under s.
36 316.1958, ~~s. 320.084, s. 320.0842,~~ s. 320.0843, ~~s. 320.0845,~~ or
37 s. 320.0848. However, the governing body of each publicly owned
38 or publicly operated airport must grant free parking to a any
39 vehicle:

40 (a) Displaying a license plate for disabled veterans issued
41 under s. 320.084, s. 320.0842, or s. 320.0845;

42 (b) With specialized equipment, such as ramps, lifts, or
43 foot or hand controls, ~~or for use utilization~~ by a person who
44 has a disability; or

45 (c) ~~whose vehicle is~~ Displaying the Florida Toll Exemption
46 permit.

47 (8) Notwithstanding subsection (1), a county, municipality,
48 or any agency thereof may charge for parking in a facility or
49 lot that provides timed parking spaces any vehicle that displays
50 a disabled parking permit, except for a vehicle: ~~that~~

51 (a) ~~any vehicle~~ With specialized equipment, such as ramps,
52 lifts, or foot or hand controls, for use by a person who has a
53 disability;

54 (b) ~~or any vehicle that is~~ Displaying a the "DV" license
55 plate for disabled veterans issued under s. 320.084, s.
56 320.0842, or s. 320.0845; or

57 (c) Displaying the Florida Toll Exemption permit, ~~is exempt~~
58 from any parking fees.

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59

Section 2. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: November 6, 2015

I respectfully request that **Senate Bill #222**, relating to Parking for Disabled Veterans, be placed on the:

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

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

Senator Nancy C. Detert
Florida Senate, District 28

**The Florida Senate
COMMITTEE VOTE RECORD**

COMMITTEE: Community Affairs
ITEM: SB 222
FINAL ACTION: Favorable
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| FINAL VOTE | | SENATORS | | | | | | |
|------------|------------|---------------------|------------|------------|------------|------------|------------|------------|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| | | Abruzzo | | | | | | |
| X | | Bradley | | | | | | |
| X | | Dean | | | | | | |
| | | Diaz de la Portilla | | | | | | |
| X | | Hutson | | | | | | |
| X | | Thompson | | | | | | |
| | | Brandes, VICE CHAIR | | | | | | |
| X | | Simpson, CHAIR | | | | | | |
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| 5 | 0 | | | | | | | |
| Yea | Nay | TOTALS | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 346

INTRODUCER: Senator Altman

SUBJECT: Local Government Infrastructure Surtax

DATE: November 30, 2015 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Present | Yeatman | CA | Favorable |
| 2. | | | FT | |
| 3. | | | AP | |

I. Summary:

SB 346 provides that a county may levy a discretionary sales surtax of 0.5 percent or 1 percent for the purpose of funding capital restoration of natural water bodies for public use, including tributaries, canals, stormwater conveyance systems, and channels connected to natural water bodies. The proceeds and interest from the surtax, or from the bonds pledging the surtax, may be used only for dredging operations related to ecologically beneficial muck removal. The surtax must be enacted by ordinance and approved by a referendum.

The bill does not increase or decrease government revenue.

II. Present Situation:

Local Discretionary Sales Surtaxes

In addition to the 6 percent state sales tax, the Florida Statutes authorize counties to charge discretionary sales surtaxes,¹ which must be specifically designated by statute.² Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes, including the Local Government Infrastructure Surtax.

A discretionary sales surtax applies to transactions if:³

- The selling dealer delivers taxable goods or taxable service in or into a county with a surtax.
- The event for which an admission is charged is located in a county with a surtax. Tax is due at the rate in the county where the event takes place.

¹ A local discretionary sales surtax may also be known as a local option county sales tax. A surtax is an “additional tax imposed on something being taxed or on the primary tax itself.” BLACK’S LAW DICTIONARY 704 (3rd ed. 2006).

² Sections 212.054 and 212.055, F.S.

³ Florida Department of Revenue, *Florida’s Discretionary Sales Surtax*, 2, http://dor.myflorida.com/Forms_library/current/gt800019.pdf (last visited Oct. 28, 2015).

- The consumer of electric power or energy is located in a county with a surtax.
- The sale of prepaid calling arrangements occurs in a county with a surtax.
- The location or delivery of tangible personal property covered by a service warranty is within a county with a surtax. The person receiving consideration for the issuance of a service warranty from the agreement holder must collect surtax at the rate imposed by that county.
- The commercial real property that is leased or rented, or upon which a license for use is granted, is in a county with a surtax.
- The rental of living or sleeping accommodations (transient rentals) occurs in a county with a surtax.
- A registered dealer owing use tax on purchases or leases is located in a county with a surtax.

Local Government Infrastructure Surtax

The Local Government Infrastructure Surtax is one of the surtaxes authorized by s. 212.055, F.S., which may be levied by the governing authority in each county after a majority vote of the electorate through a local referendum.⁴ The surtax may be levied at 0.5 percent or 1.0 percent.⁵ Proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, or if there is no interlocal agreement, according to the formula in s. 218.62, F.S.⁶

The proceeds of the surtax must be expended only to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.⁷

Counties are also authorized to use surtax proceeds for other purposes under certain circumstances. Proceeds and accrued interest may not be used for the operational expenses of infrastructure.⁸ The Attorney General (AG) has considered whether land improvement or design expenses could properly be purchased with the proceeds of this surtax. The AG determined that such items as fencing, swings, lumber for bleachers and lighting fixtures, and the materials for landscape design and tree and shrubbery planting would not be appropriate expenditures of surtax proceeds because they are more in the nature of day-to-day operational expenses.⁹

⁴ Section 212.055(2)(a)1., F.S.

⁵ However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent. Section 212.055(2)(h), F.S.

⁶ Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.

⁷ Section 212.055(2)(d), F.S.

⁸ Except in certain circumstances involving landfill maintenance associated with closure, or county bond indebtedness.

⁹ Op. Att'y Gen. Fla. 94-79 (1994).

However, land improvement or design expenses that occur in conjunction with a fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction or improvement of public facilities, or an expenditure for such things as materials for landscape design may be purchased with the proceeds of the surtax when a new public facility is being built or an existing public facility is being improved. In 2012, the AG issued an opinion determining that a city would be authorized to use these surtax funds for a beach erosion control project, involving both the construction of fixtures and fixed equipment and also the studies, design, and planning involved in the construction of such capital projects.¹⁰

While all counties are authorized to levy the surtax, only 18 counties currently do so. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of 1 percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla. During the 2015-2016 fiscal year, these counties are expected to receive combined county revenues of \$691,831,985.¹¹ Because the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent, Flagler and Miami-Dade are eligible to levy the surtax in the amount of 0.5 percent. Only an additional 19 counties are eligible to levy the surtax in the amount of 1 percent.

Combined Tax Rate Caps for Discretionary Sales Surtaxes

A county may not levy the Local Government Infrastructure Surtax in s. 212.055(2), F.S., the Small County Surtax in s. 212.055(3), F.S., the Indigent Care and Trauma Center Surtax in s. 212.055(4), F.S., and the County Public Hospital Surtax in s. 212.055(5), F.S., in a manner such that the combined rate of the surtaxes exceeds 1%.¹²

III. Effect of Proposed Changes:

The bill amends s. 212.055, F.S., to provide that the governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent for the purpose of funding capital restoration of natural water bodies for public use. Proceeds and interest from the surtax, or from the bonds pledging the surtax for such use, may be spent only for dredging operations related to ecologically beneficial muck removal. The surtax must be enacted by ordinance and approved by a referendum.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁰ Op. Att’y Gen. Fla. 2012-19 (2012).

¹¹ Dollar amounts are estimates. Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 226 (2015).

¹² Section 212.055(2)(h), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The bill does not directly increase government revenue.

B. Private Sector Impact:

The bill does not directly impact the private sector, but if a county approves the surtax by referendum, it will increase the tax rate on transactions in the county.

C. Government Sector Impact:

The bill does not provide additional taxing authority, but allows counties to use surtax proceeds for an additional purpose.

In their analysis of a similar bill from 2015, SB 198, the Department of Revenue determined there would be no impact on the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

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

By Senator Altman

16-00082-16

2016346__

1 A bill to be entitled
2 An act relating to the local government infrastructure
3 surtax; amending s. 212.055, F.S.; authorizing the
4 governing authority of a county to levy a
5 discretionary sales surtax to fund capital restoration
6 of natural water bodies for public use; limiting
7 expenditures of the proceeds and interest from the
8 surtax or specified bonds that pledge the surtax to
9 dredging operations related to ecologically beneficial
10 muck removal; reenacting s. 202.19(5) and (8), F.S.,
11 relating to the local communications services tax, s.
12 202.20(3), F.S., relating to local communications
13 services tax conversion rates, s. 212.054(1), (2)(a),
14 and (4)(a) and (b), F.S., relating to discretionary
15 sales surtaxes, s. 212.0597, F.S., relating to the
16 maximum tax on fractional aircraft ownership
17 interests, s. 212.20(6)(b), F.S., relating to the
18 proceeds of discretionary sales surtaxes, and s.
19 1013.736(2)(b), F.S., relating to eligibility for the
20 District Effort Recognition Program, to incorporate
21 the amendment made to s. 212.055(2), F.S., in
22 references thereto; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Present paragraph (h) of subsection (2) of
27 section 212.055, Florida Statutes, is redesignated as paragraph
28 (i), and a new paragraph (h) is added to that subsection, to
29 read:

16-00082-16

2016346__

30 212.055 Discretionary sales surtaxes; legislative intent;
31 authorization and use of proceeds.—It is the legislative intent
32 that any authorization for imposition of a discretionary sales
33 surtax shall be published in the Florida Statutes as a
34 subsection of this section, irrespective of the duration of the
35 levy. Each enactment shall specify the types of counties
36 authorized to levy; the rate or rates which may be imposed; the
37 maximum length of time the surtax may be imposed, if any; the
38 procedure which must be followed to secure voter approval, if
39 required; the purpose for which the proceeds may be expended;
40 and such other requirements as the Legislature may provide.
41 Taxable transactions and administrative procedures shall be as
42 provided in s. 212.054.

43 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

44 (h) Notwithstanding paragraphs (c) and (d), the governing
45 authority in each county may levy a discretionary sales surtax
46 of 0.5 percent or 1 percent pursuant to paragraphs (a) and (b)
47 for the purpose of funding capital restoration of natural water
48 bodies for public use, including tributaries, canals, stormwater
49 conveyance systems, and channels connected to such natural water
50 bodies. The proceeds and interest from the surtax, or from the
51 bonds pledging the surtax for such use, may be expended only for
52 dredging operations related to ecologically beneficial muck
53 removal.

54 Section 2. For the purpose of incorporating the amendment
55 made by this act to section 212.055(2), Florida Statutes, in
56 references thereto, subsections (5) and (8) of section 202.19,
57 Florida Statutes, are reenacted to read:

58 202.19 Authorization to impose local communications

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59 services tax.—

60 (5) In addition to the communications services taxes
61 authorized by subsection (1), a discretionary sales surtax that
62 a county or school board has levied under s. 212.055 is imposed
63 as a local communications services tax under this section, and
64 the rate shall be determined in accordance with s. 202.20(3).

65 (a) Except as otherwise provided in this subsection, each
66 such tax rate shall be applied, in addition to the other tax
67 rates applied under this chapter, to communications services
68 subject to tax under s. 202.12 which:

- 69 1. Originate or terminate in this state; and
- 70 2. Are charged to a service address in the county.

71 (b) With respect to private communications services, the
72 tax shall be on the sales price of such services provided within
73 the county, which shall be determined in accordance with the
74 following provisions:

- 75 1. Any charge with respect to a channel termination point
76 located within such county;
- 77 2. Any charge for the use of a channel between two channel
78 termination points located in such county; and
- 79 3. Where channel termination points are located both within
80 and outside of such county:
 - 81 a. If any segment between two such channel termination
82 points is separately billed, 50 percent of such charge; and
 - 83 b. If any segment of the circuit is not separately billed,
84 an amount equal to the total charge for such circuit multiplied
85 by a fraction, the numerator of which is the number of channel
86 termination points within such county and the denominator of
87 which is the total number of channel termination points of the

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88 circuit.

89 (8) The revenues raised by any tax imposed under subsection
 90 (1) or s. 202.20(1), or distributed to a local government
 91 pursuant to s. 202.18, may be used by a municipality or county
 92 for any public purpose, including, but not limited to, pledging
 93 such revenues for the repayment of current or future bonded
 94 indebtedness. Revenues raised by a tax imposed under subsection
 95 (5) shall be used for the same purposes as the underlying
 96 discretionary sales surtax imposed by the county or school board
 97 under s. 212.055.

98 Section 3. For the purpose of incorporating the amendment
 99 made by this act to section 212.055(2), Florida Statutes, in a
 100 reference thereto, subsection (3) of section 202.20, Florida
 101 Statutes, is reenacted to read:

102 202.20 Local communications services tax conversion rates.-

103 (3) For any county or school board that levies a
 104 discretionary surtax under s. 212.055, the rate of such tax on
 105 communications services as authorized by s. 202.19(5) shall be
 106 as follows:

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| | | | |
|--------|---------------|---------------|---------------|
| County | .5% | 1% | 1.5% |
| | Discretionary | Discretionary | Discretionary |
| | surtax | surtax | surtax |
| | conversion | conversion | conversion |
| | rates | rates | rates |

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| | | | |
|---------|------|------|------|
| Alachua | 0.3% | 0.6% | 0.8% |
|---------|------|------|------|

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|-----|-----------|------|------|------|
| 110 | Baker | 0.3% | 0.5% | 0.8% |
| 111 | Bay | 0.3% | 0.5% | 0.8% |
| 112 | Bradford | 0.3% | 0.6% | 0.8% |
| 113 | Brevard | 0.3% | 0.6% | 0.9% |
| 114 | Broward | 0.3% | 0.5% | 0.8% |
| 115 | Calhoun | 0.3% | 0.5% | 0.8% |
| 116 | Charlotte | 0.3% | 0.6% | 0.9% |
| 117 | Citrus | 0.3% | 0.6% | 0.9% |
| 118 | Clay | 0.3% | 0.6% | 0.8% |
| 119 | Collier | 0.4% | 0.7% | 1.0% |
| 120 | Columbia | 0.3% | 0.6% | 0.9% |
| 121 | Desoto | 0.3% | 0.6% | 0.8% |
| 122 | Dixie | 0.3% | 0.5% | 0.8% |
| 123 | Duval | 0.3% | 0.6% | 0.8% |
| 124 | | | | |

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|-----|--------------|------|------|------|
| 125 | Escambia | 0.3% | 0.6% | 0.9% |
| 126 | Flagler | 0.4% | 0.7% | 1.0% |
| 127 | Franklin | 0.3% | 0.6% | 0.9% |
| 128 | Gadsden | 0.3% | 0.5% | 0.8% |
| 129 | Gilchrist | 0.3% | 0.5% | 0.7% |
| 130 | Glades | 0.3% | 0.6% | 0.8% |
| 131 | Gulf | 0.3% | 0.5% | 0.8% |
| 132 | Hamilton | 0.3% | 0.6% | 0.8% |
| 133 | Hardee | 0.3% | 0.5% | 0.8% |
| 134 | Hendry | 0.3% | 0.6% | 0.9% |
| 135 | Hernando | 0.3% | 0.6% | 0.9% |
| 136 | Highlands | 0.3% | 0.6% | 0.9% |
| 137 | Hillsborough | 0.3% | 0.6% | 0.8% |
| 138 | Holmes | 0.3% | 0.6% | 0.8% |
| | Indian River | 0.3% | 0.6% | 0.9% |

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|------------|------|------|------|
| Jackson | 0.3% | 0.5% | 0.7% |
| Jefferson | 0.3% | 0.5% | 0.8% |
| Lafayette | 0.3% | 0.5% | 0.7% |
| Lake | 0.3% | 0.6% | 0.9% |
| Lee | 0.3% | 0.6% | 0.9% |
| Leon | 0.3% | 0.6% | 0.8% |
| Levy | 0.3% | 0.5% | 0.8% |
| Liberty | 0.3% | 0.6% | 0.8% |
| Madison | 0.3% | 0.5% | 0.8% |
| Manatee | 0.3% | 0.6% | 0.8% |
| Marion | 0.3% | 0.5% | 0.8% |
| Martin | 0.3% | 0.6% | 0.8% |
| Miami-Dade | 0.3% | 0.5% | 0.8% |
| Monroe | 0.3% | 0.6% | 0.9% |

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|-----|------------|------|------|------|
| 154 | Nassau | 0.3% | 0.6% | 0.8% |
| 155 | Okaloosa | 0.3% | 0.6% | 0.8% |
| 156 | Okeechobee | 0.3% | 0.6% | 0.9% |
| 157 | Orange | 0.3% | 0.5% | 0.8% |
| 158 | Osceola | 0.3% | 0.5% | 0.8% |
| 159 | Palm Beach | 0.3% | 0.6% | 0.8% |
| 160 | Pasco | 0.3% | 0.6% | 0.9% |
| 161 | Pinellas | 0.3% | 0.6% | 0.9% |
| 162 | Polk | 0.3% | 0.6% | 0.8% |
| 163 | Putnam | 0.3% | 0.6% | 0.8% |
| 164 | St. Johns | 0.3% | 0.6% | 0.8% |
| 165 | St. Lucie | 0.3% | 0.6% | 0.8% |
| 166 | Santa Rosa | 0.3% | 0.6% | 0.9% |
| 167 | Sarasota | 0.3% | 0.6% | 0.9% |
| | Seminole | 0.3% | 0.6% | 0.8% |

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|------------|------|------|------|
| Sumter | 0.3% | 0.5% | 0.8% |
| Suwannee | 0.3% | 0.6% | 0.8% |
| Taylor | 0.3% | 0.6% | 0.9% |
| Union | 0.3% | 0.5% | 0.8% |
| Volusia | 0.3% | 0.6% | 0.8% |
| Wakulla | 0.3% | 0.6% | 0.9% |
| Walton | 0.3% | 0.6% | 0.9% |
| Washington | 0.3% | 0.5% | 0.8% |

The discretionary surtax conversion rate with respect to communications services reflected on bills dated on or after October 1, 2001, shall take effect without any further action by a county or school board that has levied a surtax on or before October 1, 2001. For a county or school board that levies a surtax subsequent to October 1, 2001, the discretionary surtax conversion rate with respect to communications services shall take effect upon the effective date of the surtax as provided in s. 212.054. The discretionary sales surtax rate on communications services for a county or school board levying a combined rate which is not listed in the table provided by this subsection shall be calculated by averaging or adding the

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189 appropriate rates from the table and rounding up to the nearest
190 tenth of a percent.

191 Section 4. For the purpose of incorporating the amendment
192 made by this act to section 212.055(2), Florida Statutes, in
193 references thereto, subsection (1), paragraph (a) of subsection
194 (2), and paragraphs (a) and (b) of subsection (4) of section
195 212.054, Florida Statutes, are reenacted to read:

196 212.054 Discretionary sales surtax; limitations,
197 administration, and collection.—

198 (1) No general excise tax on sales shall be levied by the
199 governing body of any county unless specifically authorized in
200 s. 212.055. Any general excise tax on sales authorized pursuant
201 to said section shall be administered and collected exclusively
202 as provided in this section.

203 (2) (a) The tax imposed by the governing body of any county
204 authorized to so levy pursuant to s. 212.055 shall be a
205 discretionary surtax on all transactions occurring in the county
206 which transactions are subject to the state tax imposed on
207 sales, use, services, rentals, admissions, and other
208 transactions by this chapter and communications services as
209 defined for purposes of chapter 202. The surtax, if levied,
210 shall be computed as the applicable rate or rates authorized
211 pursuant to s. 212.055 times the amount of taxable sales and
212 taxable purchases representing such transactions. If the surtax
213 is levied on the sale of an item of tangible personal property
214 or on the sale of a service, the surtax shall be computed by
215 multiplying the rate imposed by the county within which the sale
216 occurs by the amount of the taxable sale. The sale of an item of
217 tangible personal property or the sale of a service is not

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218 subject to the surtax if the property, the service, or the
219 tangible personal property representing the service is delivered
220 within a county that does not impose a discretionary sales
221 surtax.

222 (4) (a) The department shall administer, collect, and
223 enforce the tax authorized under s. 212.055 pursuant to the same
224 procedures used in the administration, collection, and
225 enforcement of the general state sales tax imposed under the
226 provisions of this chapter, except as provided in this section.
227 The provisions of this chapter regarding interest and penalties
228 on delinquent taxes shall apply to the surtax. Discretionary
229 sales surtaxes shall not be included in the computation of
230 estimated taxes pursuant to s. 212.11. Notwithstanding any other
231 provision of law, a dealer need not separately state the amount
232 of the surtax on the charge ticket, sales slip, invoice, or
233 other tangible evidence of sale. For the purposes of this
234 section and s. 212.055, the "proceeds" of any surtax means all
235 funds collected and received by the department pursuant to a
236 specific authorization and levy under s. 212.055, including any
237 interest and penalties on delinquent surtaxes.

238 (b) The proceeds of a discretionary sales surtax collected
239 by the selling dealer located in a county imposing the surtax
240 shall be returned, less the cost of administration, to the
241 county where the selling dealer is located. The proceeds shall
242 be transferred to the Discretionary Sales Surtax Clearing Trust
243 Fund. A separate account shall be established in the trust fund
244 for each county imposing a discretionary surtax. The amount
245 deducted for the costs of administration may not exceed 3
246 percent of the total revenue generated for all counties levying

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247 a surtax authorized in s. 212.055. The amount deducted for the
248 costs of administration may be used only for costs that are
249 solely and directly attributable to the surtax. The total cost
250 of administration shall be prorated among those counties levying
251 the surtax on the basis of the amount collected for a particular
252 county to the total amount collected for all counties. The
253 department shall distribute the moneys in the trust fund to the
254 appropriate counties each month, unless otherwise provided in s.
255 212.055.

256 Section 5. For the purpose of incorporating the amendment
257 made by this act to section 212.055(2), Florida Statutes, in a
258 reference thereto, section 212.0597, Florida Statutes, is
259 reenacted to read:

260 212.0597 Maximum tax on fractional aircraft ownership
261 interests.—The maximum tax imposed under this chapter, including
262 any discretionary sales surtax under s. 212.055, is limited to
263 \$300 on the sale or use in this state of a fractional ownership
264 interest in aircraft pursuant to a fractional aircraft ownership
265 program. The tax applies to the total consideration paid for the
266 fractional ownership interest, including any amounts paid by the
267 fractional owner as monthly management or maintenance fees. The
268 tax applies only if the fractional ownership interest is sold by
269 or to the program manager of the fractional aircraft ownership
270 program, or if the fractional ownership interest is transferred
271 upon the approval of the program manager of the fractional
272 aircraft ownership program.

273 Section 6. For the purpose of incorporating the amendment
274 made by this act to section 212.055(2), Florida Statutes, in a
275 reference thereto, paragraph (b) of subsection (6) of section

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276 212.20, Florida Statutes, is reenacted to read:

277 212.20 Funds collected, disposition; additional powers of
278 department; operational expense; refund of taxes adjudicated
279 unconstitutionally collected.—

280 (6) Distribution of all proceeds under this chapter and ss.
281 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

282 (b) Proceeds from discretionary sales surtaxes imposed
283 pursuant to ss. 212.054 and 212.055 shall be reallocated to the
284 Discretionary Sales Surtax Clearing Trust Fund.

285 Section 7. For the purpose of incorporating the amendment
286 made by this act to section 212.055(2), Florida Statutes, in a
287 reference thereto, paragraph (b) of subsection (2) of section
288 1013.736, Florida Statutes, is reenacted to read:

289 1013.736 District Effort Recognition Program.—

290 (2) ELIGIBILITY.—Annually, the Department of Education
291 shall determine each district's compliance with the provisions
292 of s. 1003.03 and determine the district's eligibility to
293 receive a district effort recognition grant for local school
294 facilities projects pursuant to this section. Districts shall be
295 eligible for a district effort recognition grant based upon
296 participation in any of the following:

297 (b) The district participates in the levy of the local
298 government infrastructure sales surtax authorized in s.
299 212.055(2).

300 Section 8. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Children, Families, and Elder Affairs, *Vice-Chair*
Appropriations
Appropriations Subcommittee on General Government
Environmental Preservation and Conservation
Finance and Tax

SENATOR THAD ALTMAN

16th District

October 7, 2015

The Honorable Wilton Simpson
Senate Committee on Community Affairs, Chair
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson:

I respectfully request that SB 346, related to *Local Government Infrastructure Surtax*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman

CC: Tom Yeatman, Staff Director, 315 Knott Building
Ann Whittaker, Committee Administrative Assistant

TA/dw

REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Children, Families, and Elder Affairs, *Vice-Chair*
Appropriations
Appropriations Subcommittee on General Government
Environmental Preservation and Conservation
Finance and Tax

SENATOR THAD ALTMAN

16th District

December 1, 2015

The Honorable Wilton Simpson
Senate Committee on Community Affairs, Chair
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson,

Senate Bill 346, related to *Local Government Infrastructure Surtax*, is on the Community Affairs agenda today, December 1, 2015. I will be chairing the Committee on Military and Veterans Affairs, Space & Domestic Defense meeting and am unfortunately unable to attend your committee meeting to present this bill.

Please recognize my Legislative Assistant, Ms. Devon West, to present SB 346 on my behalf. Feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Thad Altman".

Thad Altman

CC: Tom Yeatman, Staff Director, 315 Knott Building
Ann Whittaker, Committee Administrative Assistant

TA/dw

REPLY TO:

- 8710 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 346
FINAL ACTION: Favorable
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| FINAL VOTE | | SENATORS | | | | | | |
|------------|------------|---------------------|------------|------------|------------|------------|------------|------------|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| | | Abruzzo | | | | | | |
| X | | Bradley | | | | | | |
| X | | Dean | | | | | | |
| | | Diaz de la Portilla | | | | | | |
| X | | Hutson | | | | | | |
| X | | Thompson | | | | | | |
| | | Brandes, VICE CHAIR | | | | | | |
| X | | Simpson, CHAIR | | | | | | |
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| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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: CS/SB 156

INTRODUCER: Community Affairs Committee and Senator Smith and others

SUBJECT: After-school Programs

DATE: December 1, 2015 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Cochran | Yeatman | CA | Fav/CS |
| 2. | | | CJ | |
| 3. | | | AHS | |
| 4. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 156 deletes legislative intent language and background screening requirements regarding certain not-for-profit membership associations. The definition of “specified agency” is amended to include any division within the Department of Education which conducts background screenings for after-school programs operated by not-for-profit organizations or municipal governments. The bill defines the term “not-for-profit organization and municipal governments” in relation to after-school programs and exempts such organizations from regulations applied to child care facilities. These organizations providing an after-school program licensed pursuant to s. 402.305, F.S., before the effective date of this act may continue to be licensed by submitting notification to the Department of Children and Families. The bill requires all child care personnel (as defined in s. 402.302, F.S.) of such organizations to meet the background screening requirements of ss. 435.04 and 435.12, F.S. Finally, the bill creates the Not-for-Profit After-School Program Standards Advisory Council and directs the Council to provide the Governor and Legislature with a report by January 1, 2017.

II. Present Situation:

Legislative Intent Related to Child Care and Child Care Facilities

Florida law provides a regulatory framework designed to promote the growth and stability of the child care industry and to facilitate the safe physical, intellectual, motor, and social development of children.¹

The Florida Legislature has stated its intent to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual development and care.² To further that intent, laws were enacted to:

- Establish statewide minimum standards for the care and protection of children in child care facilities, to ensure maintenance of these standards, and to approve county administration and enforcement to regulate conditions in such facilities through a program of licensing;³ and to
- Require that all owners, operators, and child care personnel shall be of good moral character.⁴

Child Care

Child care is defined as the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.⁵

Child care is typically thought of as care and supervision for children under school age. However, the definition of child care does not specify a maximum or minimum age and Florida law and administrative rules related to child care recognize that families may also have a need for care and supervision for children of school age:

- The term “indoor recreational facility” means an indoor commercial facility which is established for the primary purpose of entertaining children in a planned fitness environment through equipment, games, and activities in conjunction with food service and which provides child care for a particular child no more than 4 hours on any one day. An indoor recreational facility must be licensed as a child care facility.⁶
- A “school-age child care program” is defined as any licensed child care facility serving school-aged children⁷ or any before and after school programs that are licensed as a child care facility and serve only school-aged children.⁸
- An after school program serving school-age children is not required to be licensed if the program provides after school care exclusively for children in grades six and above and

¹ Section 402.26, F.S.

² Section 402.301, F.S.

³ Sections 402.301 - 402.319, F.S.

⁴ Section 402.301(2), F.S. Good moral character is based upon screening that shall be conducted as provided in ch. 435, F.S., using the Level 2 standards for screening set forth in that chapter. *See* s. 402.305(2)(a), F.S.

⁵ Section 402.302(1), F.S.

⁶ Section 402.302(10), F.S.

⁷ Chapter 65C-22.008, F.A.C. “School-age child” means a child who is at least 5 years of age by September 1 of the beginning of the school year and who attends kindergarten through grade five.

⁸ *Id.*

complies with the minimum background screening requirements provided in ss. 402.305 and 402.3055, F.S.⁹

Child Care Facilities

The term “child care facility” is defined to include any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and receives a payment, fee, or grant for the children receiving care, wherever the facility is operated and whether or not it is operated for profit.¹⁰ The definition excludes the following:

- Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025, F.S.;
- Summer camps having children in full-time residence;
- Summer day camps;
- Bible schools normally conducted during vacation periods; and
- Operators of transient establishments, as defined in ch. 509, F.S.,¹¹ which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel are screened according to the Level 2 screening requirements of ch. 435, F.S.¹²

Every child care facility in the state is required to have a license that is renewed annually.¹³ The Department of Children and Families (department) or the local licensing agencies¹⁴ approved by the department are responsible for the licensure of such child care facilities.¹⁵

Additional Exemptions

The Legislature has exempted child care facilities which are an integral part of church or parochial schools that meet specified criteria from all child care facility regulations but the background screening requirements. Failure by a facility to comply with such screening requirements shall result in the loss of the facility’s exemption from licensure.¹⁶

The exemption for membership organizations, such as the Boys and Girls Clubs, Big Brothers, Big Sisters, and the Boy Scouts and Girl Scouts, was broader and, until this year, allowed personnel to have contact with children without undergoing background screening.¹⁷ However, SB 7078 (2015) required employees of membership organizations and that work in child care programs to be subject to background screening.

⁹ *Id.*

¹⁰ Section 402.302, F.S.

¹¹ “Transient public lodging establishment” is defined by s. 509.013, (4)(a)1., F.S., as any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

¹² Section 402.302(2), F.S.

¹³ Section 402.308(1), F.S.

¹⁴ Currently, there are five counties that regulate child care programs: Broward, Hillsborough, Palm Beach, Pinellas and Sarasota. Department of Children and Families, *House Bill 11 Analysis* (Dec. 8, 2014).

¹⁵ Section 402.308, F.S.

¹⁶ Section 402.316, F.S.

¹⁷ Chapters 74-113 and 87-238, Laws of Florida.

Background Screening

Currently, Florida has one of the largest vulnerable populations in the country with 21 percent of residents under the age of 17 and 18 percent over the age of 65, as well as children and older adults with disabilities.¹⁸ These vulnerable populations require special care as they are at an increased risk of abuse.

In 1995, the Legislature created standard procedures for the criminal history background screening of prospective employees in order to protect vulnerable persons. Over time, implementation and coordination issues arose as technology changed and agencies were reorganized.

In September 2009, the Fort Lauderdale Sun-Sentinel published a series of articles detailing its 6-month investigation into Florida's background screening system for caregivers of children, the elderly and disabled.¹⁹ To address the issues raised by the series, the Legislature enacted legislation in 2010 that substantially rewrote the requirements and procedures for background screening of persons and businesses that deal primarily with vulnerable populations.²⁰

Major changes to the state's background screening laws included:

- Requiring that no person required to be screened may be employed until the screening has been completed and it is determined that the person is qualified.
- Increasing all Level 1 screening to Level 2 screening.²¹
- Requiring all fingerprint submissions to be done electronically no later than August 1, 2012, or earlier. However, for those applying under the Agency for Health Care Administration, electronic prints were required as of August 1, 2010.
- Requiring certain personnel who dealt substantially with vulnerable persons and who were not presently being screened, including persons who volunteered for more than 10 hours a month, to begin Level 2 screening.
- Adding additional serious crimes to the list of disqualifying offenses for Level 1 and Level 2 screening.
- Authorizing agencies to request the retention of fingerprints by Florida Department of Law Enforcement (FDLE).
- Providing that an exemption for a disqualifying felony may not be granted until after at least 3 years from the completion of all sentencing sanctions for that felony.
- Requiring that all exemptions from disqualification be granted only by the agency head.
- Rewriting all screening provisions for clarity and consistency.

¹⁸ University of Florida. Bureau of Economic and Business Research, College of Liberal Arts and Sciences. *Florida Estimates of Population 2014* (April 1, 2014), available at <http://edr.state.fl.us/Content/population-demographics/data/PopulationEstimates2014.pdf>. (last visited Sept. 22, 2015).

¹⁹ Sun Sentinel. *Criminals and Convicted Felons Working in South Florida Day-care Centers and Nursing Homes*.

²⁰ Chapter 2010-114, Laws of Florida.

²¹ Level 1 screenings are name-based demographic screenings that must include, but are not limited to, employment history checks and statewide criminal correspondence checks through FDLE. Level 1 screenings may also include local criminal records checks through local law enforcement agencies. Anyone undergoing a Level 1 screening must not have been found guilty of any of the specified offenses. Section 435.03, F.S. A Level 2 screening consists of a fingerprint-based search of FDLE and the FBI databases for state and national criminal arrest records. Any person undergoing a Level 2 screening must not have been found guilty of any of the offenses for Level 1 or additional specified offenses. Section 435.04, F.S.

Care Provider Background Screening Clearinghouse

Many different agencies, programs, employers, and professionals serve vulnerable populations in Florida. Personnel working with those entities, including paid employees and volunteers are subject to background screening requirements. However, due to restrictions placed on the sharing of criminal history information, persons who work for more than one agency or employer or change jobs, or wish to volunteer for such an entity, often must undergo a new and duplicative background screening and fingerprinting. This is time consuming for those involved and increases the cost to the employer or employee.

Policies imposed by the Federal Bureau of Investigation (FBI) prevent the sharing of criminal history information except within a given “program.” Since each regulatory area is covered by a different controlling statute and screenings are done for separate purposes, the screenings have been viewed as separate “program” areas and sharing of results has not been allowed. In addition, screenings are only as good as the date they are run. Arrests or convictions occurring after the screening are not known until the person is rescreened or self-reports.

As a result, the legislature created the Care Provider Background Screening Clearinghouse (clearinghouse) in 2012.²² The purpose of the clearinghouse is to create a single “program” to screen individuals who have direct contact with vulnerable persons. The clearinghouse is created within the Agency for Health Care Administration (AHCA) and is to be implemented in consultation with FDLE. The clearinghouse is a secure web-based system and was implemented on September 30, 2013, and allows for the results of criminal history checks of persons acting as covered care providers to be shared among the specified agencies.²³

Fingerprints of individuals having contact with vulnerable persons providers are retained by FDLE, meaning the electronically scanned image of the print is stored digitally. The FDLE searches the retained prints against incoming Florida arrests and is required to report the results to AHCA for inclusion in the clearinghouse, thus avoiding the need for future screens and related fees.²⁴

A digital photograph of the person screened will be taken at the time the fingerprints are taken and retained by FDLE in electronic format, as well. This enables accurate identification of the person when they change jobs or are otherwise presented with a situation requiring screening and enables the new employer to access the clearinghouse to verify that the person has been screened, is in the clearinghouse, and is who they say they are. Once a person’s fingerprints are in the clearinghouse, they will not have to be reprinted in order to send their fingerprints to the FBI which reduces fees.²⁵

²² Section 435.12, F.S.

²³ “Specified agency” means the Department of Health, the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Department of Elderly Affairs, the Department of Juvenile Justice, the Agency for Persons with Disabilities, and local licensing agencies approved pursuant to s.402.307, F.S., when these agencies are conducting state and national criminal history background screening on persons who work with children or persons who are elderly or disabled. Section 435.02(5), F.S.

²⁴ Section 435.12, F.S.

²⁵ *Id.*

Attorney General Advisory Legal Opinion

In 2000, the Florida Office of the Attorney General issued an opinion relating to child care, child care facilities and licensure. At issue was whether or not the child care programs operated by the YMCA or other membership organizations were exempt from licensure by the department as child care facilities. The opinion stated that programs operated by YMCAs and other membership organizations that fall within the definition of a “child care program” are not exempt from licensure by the Department of Children and Families.²⁶

III. Effect of Proposed Changes:

Section 1 deletes language stating the Legislature’s intent regarding certain not-for-profit membership associations. It also deletes the requirement that all personnel as defined in s. 402.302, F.S., of such associations shall meet background screening requirements pursuant to ss. 402.305 and 402.3055, F.S.

Section 2 amends the definition of “specified agency” in s. 435.02, F.S., to include any division within the Department of Education which conducts background screenings for after-school programs operated by not-for-profit organizations or municipal governments.

Section 3 creates s. 1006.05, F.S., related to after-school programs of not-for-profit associations and municipal governments. The bill provides the legislative finding that after-school programs improve learning and the academic success of students that participate in them. As used in this section, the term “not-for-profit organization or municipal government” means an organization that meets all of the following criteria:

- Conducts school-based or facility-based after-school programs only for children and youth ages 6 to 18.
- Provides assistance through such programs with homework, delinquency prevention, life skills, and the development of good character.
- Operates 5 days a week or more during the school year and operates during school holidays and the summer months.
- Charges only a nominal fee or no fee.
- Meets the standards for quality set by the Not-for-Profit After-School Program Standards Advisory Council if such standards are adopted by the Legislature.

The bill states that ss. 402.305 through 402.319, F.S., related to regulation of child care facilities, do not apply to not-for-profit organizations or municipal governments as defined in this section.

These organizations providing an after-school program licensed pursuant to s. 402.305, F.S., before the effective date of this act may continue to be licensed by submitting notification to the Department of Children and Families. The bill requires all child care personnel (as defined in s. 402.302, F.S.) of such organizations to meet the background screening requirements of ss. 435.04 and 435.12, F.S., through the Department of Education.

²⁶ Op. Att’y Gen. Fla. 2000-67 (2000).

Section 4 provides an unnumbered section of law to create the Not-for-Profit After-School Program Standards Advisory Council. The Advisory Council is created within the Department of Education to recommend reasonable and affordable minimum health, sanitation, and safety standards for after-school programs provided by not-for-profit organizations or municipal governments as defined in s. 1006.05, F.S. The Advisory Council must consist of the following:

- A member of the Senate appointed by the President of the Senate.
- A member of the House of Representatives appointed by the Speaker of the House of Representatives.
- The Commissioner of Education or his or her designee.
- Three members appointed by the Governor representing the Florida After-School Network, the Florida Alliance of the Boys and Girls Clubs, and a provider of a not-for-profit after-school program.
- One member appointed by the Governor as a consumer representative whose child is attending or has attended an after-school program provided by a not-for-profit organization.

The Advisory Council shall submit its report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2017.

Section 5 directs the Division of Law Revision and Information to replace the phrase “the effective date of this act” wherever it occurs in this act with such date.

Section 6 provides the act shall take effect upon becoming a 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:

None.

C. Government Sector Impact:

The Agency for Health Care Administration indicates that adding entities in the clearinghouse will have the following effects:

- An estimated \$300,000 will be required for IT system needs.²⁷
- A full time equivalent position will be required for ongoing support of the clearinghouse for additional entities. Current resources are already maximized to support the currently participating agencies. The addition of new groups will require additional ongoing resources to maintain the clearinghouse and assist with updates.²⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

The amendment does not remove the reference to membership organizations in s. 402.302(3), F.S., but it is removed in s. 402.301, F.S. This would likely need to be addressed.

VIII. Statutes Affected:

This bill substantially amends section 402.301 of the Florida Statutes.

This bill creates section 1006.05 of the Florida Statutes and an unnumbered section of law.

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 December 1, 2015:

Expands the definition of “specified agency” under s. 435.02, F.S., to include divisions within the Department of Education that conduct background screenings for after-school programs operated by not-for-profit organizations or municipal governments; expands the reach of the bill to municipal governments in addition to the not-for profit organizations; allows organizations providing an after-school program licensed under s. 402.305, F.S., to continue to be licensed if it provides notification to the Department of Children and Families; requires all child care personnel to meet the background screening requirements of ss. 435.04 and 435.12, F.S., through the Department of Education; and directs the Division of Law Revision and Information to replace the phrase “the effective date of this act” wherever it occurs in this act with such date.

²⁷ E-mail from the Agency for Health Care Administration (Dec. 1, 2015) (on file with the Senate Committee on Community Affairs).

²⁸ *Id.*

B. Amendments:

None.

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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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 12/01/2015 | . | |
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The Committee on Community Affairs (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) of section 402.301, Florida
Statutes, is amended to read:

402.301 Child care facilities; legislative intent and
declaration of purpose and policy.—It is the legislative intent
to protect the health, safety, and well-being of the children of
the state and to promote their emotional and intellectual



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11 development and care. Toward that end:

12 ~~(6) It is further the intent that membership organizations~~
13 ~~affiliated with national organizations which do not provide~~
14 ~~child care, whose primary purpose is providing activities that~~
15 ~~contribute to the development of good character or good~~
16 ~~sportsmanship or to the education or cultural development of~~
17 ~~minors in this state, which charge only a nominal annual~~
18 ~~membership fee, which are not for profit, and which are~~
19 ~~certified by their national associations as being in compliance~~
20 ~~with the association's minimum standards and procedures shall~~
21 ~~not be considered child care facilities. However, all personnel~~
22 ~~as defined in s. 402.302 of such membership organizations shall~~
23 ~~meet background screening requirements through the department~~
24 ~~pursuant to ss. 402.305 and 402.3055.~~

25 Section 2. Subsection (5) of section 435.02, Florida
26 Statutes, is amended to read:

27 435.02 Definitions.—For the purposes of this chapter, the
28 term:

29 (5) "Specified agency" means the Department of Health, the
30 Department of Children and Families, the Division of Vocational
31 Rehabilitation within the Department of Education and any
32 division within the Department of Education which conducts
33 background screenings for after-school programs operated by not-
34 for-profit organizations or municipal governments, the Agency
35 for Health Care Administration, the Department of Elderly
36 Affairs, the Department of Juvenile Justice, the Agency for
37 Persons with Disabilities, and local licensing agencies approved
38 pursuant to s. 402.307, when these agencies are conducting state
39 and national criminal history background screening on persons



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40 who work with children or persons who are elderly or disabled.

41 Section 3. Section 1006.05, Florida Statutes, is created to
42 read:

43 1006.05 After-school programs of not-for-profit
44 organizations and municipal governments.-

45 (1) The Legislature finds that not-for-profit organizations
46 and municipal governments that conduct after-school programs
47 contribute to improved learning and the academic success of the
48 children and youth who attend the organizations' or municipal
49 governments' programs.

50 (2) As used in this section, the term "not-for-profit
51 organization or municipal government" means a not-for-profit
52 organization or municipal government after school program that
53 meets all of the following criteria:

54 (a) Conducts school-based or facility-based after-school
55 programs only for children and youth ages 6 to 18.

56 (b) Provides assistance through such programs with
57 homework, delinquency prevention, life skills, and the
58 development of good character.

59 (c) Operates 5 days a week or more during the school year
60 and operates during school holidays and the summer months.

61 (d) Charges only a nominal fee or no fee.

62 (e) Meets the standards for quality set by the Not-for-
63 Profit After School Program Standards Advisory Council if such
64 standards are adopted by the Legislature.

65 (3) Sections 402.305-402.319 do not apply to not-for-profit
66 organizations or municipal governments as defined in this
67 section.

68 (4) A not-for-profit organization or municipal government



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69 providing an after-school program that is licensed pursuant to
70 s. 402.305 before the effective date of this act may continue to
71 be licensed under s. 402.305 by submitting a notification of its
72 election to the Department of Children and Families.

73 (5) All child care personnel, as defined in s. 402.302, of
74 a not-for-profit organization or municipal government must meet
75 the background screening requirements of ss. 435.04 and 435.12
76 through the Department of Education.

77 Section 4. Not-for-Profit After-School Program Standards
78 Advisory Council.-

79 (1) The Not-for-Profit After-School Program Standards
80 Advisory Council is created within the Department of Education
81 to recommend reasonable and affordable minimum health,
82 sanitation, and safety standards for after-school programs
83 provided by not-for-profit organizations or municipal
84 governments as defined in s. 1006.05, Florida Statutes.

85 (2) The advisory council must consist of the following:

86 (a) A member of the Senate appointed by the President of
87 the Senate.

88 (b) A member of the House of Representatives appointed by
89 the Speaker of the House of Representatives.

90 (c) The Commissioner of Education or his or her designee.

91 (d) Three members appointed by the Governor representing
92 the Florida AfterSchool Network, the Florida Alliance of the
93 Boys and Girls Clubs, and a provider of a not-for-profit after-
94 school program.

95 (e) One member appointed by the Governor as a consumer
96 representative whose child is attending or has attended an
97 after-school program provided by a not-for-profit organization.



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98 (3) The advisory council shall submit a report to the
99 Governor, the President of the Senate, and the Speaker of the
100 House of Representatives by January 1, 2017.

101 Section 5. The Division of Law Revision and Information is
102 directed to replace the phrase "the effective date of this act"
103 wherever it occurs in this act with such date.

104 Section 6. This act shall take effect upon becoming a law.

105
106 ===== T I T L E A M E N D M E N T =====

107 And the title is amended as follows:

108 Delete everything before the enacting clause
109 and insert:

110 A bill to be entitled

111 An act relating to after-school programs; amending s.
112 402.301, F.S.; deleting a legislative intent provision
113 regarding certain not-for-profit organizations and
114 background screening for such organizations; amending
115 s. 435.02, F.S.; revising the term "specified agency"
116 to include certain divisions within the Department of
117 Education; creating s. 1006.05, F.S.; providing
118 legislative findings; defining the term "not-for-
119 profit organization or municipal government";
120 providing applicability; authorizing such not-for-
121 profit organizations or municipal governments to
122 continue certain licensures; requiring child care
123 personnel of the not-for-profit organizations or
124 municipal governments to meet certain background
125 screening requirements; creating an advisory council;
126 providing for membership of the advisory council;



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127 requiring that the advisory council submit a report to
128 the Governor and the Legislature by a specified date;
129 providing a directive to the Division of Law Revision
130 and Information; providing an effective date.



605990

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 12/01/2015 | . | |
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The Committee on Community Affairs (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 62 - 63

and insert:

(4) An employee of a not-for-profit organization or a contractor with direct contact with children and youth participating in an after-

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

And the title is amended as follows:



605990

11 Delete lines 8 - 9
12 and insert:
13 requiring employees of not-for-profit organizations
14 and contractors to meet certain background screening

By Senator Smith

31-00077A-16

2016156__

1 A bill to be entitled
2 An act relating to after-school programs; amending s.
3 402.301, F.S.; deleting a legislative intent provision
4 regarding certain not-for-profit organizations and
5 background screening for such organizations; creating
6 s. 1006.05, F.S.; providing legislative findings;
7 defining the term "not-for-profit organization";
8 requiring certain employees of not-for-profit
9 organizations to meet certain background screening
10 requirements; creating a study group; providing for
11 membership of the study group; requiring that the
12 study group make recommendations and submit a report
13 to the Governor and the Legislature by a specified
14 date; providing an effective date.

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

17
18 Section 1. Subsection (6) of section 402.301, Florida
19 Statutes, is amended to read:

20 402.301 Child care facilities; legislative intent and
21 declaration of purpose and policy.—It is the legislative intent
22 to protect the health, safety, and well-being of the children of
23 the state and to promote their emotional and intellectual
24 development and care. Toward that end:

25 ~~(6) It is further the intent that membership organizations~~
26 ~~affiliated with national organizations which do not provide~~
27 ~~child care, whose primary purpose is providing activities that~~
28 ~~contribute to the development of good character or good~~
29 ~~sportsmanship or to the education or cultural development of~~

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2016156__

~~minors in this state, which charge only a nominal annual membership fee, which are not for profit, and which are certified by their national associations as being in compliance with the association's minimum standards and procedures shall not be considered child care facilities. However, all personnel as defined in s. 402.302 of such membership organizations shall meet background screening requirements through the department pursuant to ss. 402.305 and 402.3055.~~

Section 2. Section 1006.05, Florida Statutes, is created to read:

1006.05 After-school programs of not-for-profit organizations.—

(1) The Legislature finds that not-for-profit organizations that conduct after-school programs contribute to improved learning and the academic success of the children and youth who attend the organization's programs.

(2) As used in this section, the term "not-for-profit organization" means a not-for-profit organization that meets all of the following criteria:

(a) Conducts school-based or facility-based after-school programs only for children and youth ages 6 to 18.

(b) Provides assistance through such programs with homework, delinquency prevention, life skills, and the development of good character.

(c) Operates 5 days a week or more during the school year and operates during school holidays and the summer months.

(d) Charges only a nominal fee or no fee.

(e) Meets the standards for quality set by the Not-for-Profit After School Program Standards Study Group if such

31-00077A-16

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59 standards are adopted by the Legislature.

60 (3) Sections 402.305-402.319 do not apply to not-for-profit
61 organizations as defined in this section.

62 (4) An employee of a not-for-profit organization who works
63 directly with children and youth participating in an after-
64 school program must meet the background screening requirements
65 of ss. 435.04 and 435.12.

66 Section 3. Not-for-Profit After School Program Standards
67 Study Group.—

68 (1) The Not-for-Profit After School Program Standards Study
69 Group is created to recommend reasonable and affordable minimum
70 health, sanitation, and safety standards for after-school
71 programs provided by not-for-profit organizations as defined in
72 s. 1006.05, Florida Statutes.

73 (2) The study group consists of seven members and must
74 include:

75 (a) A member of the Senate appointed by the President of
76 the Senate.

77 (b) A member of the House of Representatives appointed by
78 the Speaker of the House of Representatives.

79 (c) The Commissioner of Education or his or her designee.

80 (d) Three members appointed by the Governor representing
81 the Florida AfterSchool Network, the Florida Alliance of the
82 Boys and Girls Clubs, and a provider of a not-for-profit after-
83 school program, respectively.

84 (e) One member appointed by the Governor as a consumer
85 representative whose child is attending or has attended an
86 after-school program provided by a not-for-profit organization.

87 (3) The study group shall submit a report to the Governor,

31-00077A-16

2016156__

88 the President of the Senate, and the Speaker of the House of
89 Representatives by January 1, 2017.

90 Section 4. This act shall take effect upon becoming a law.



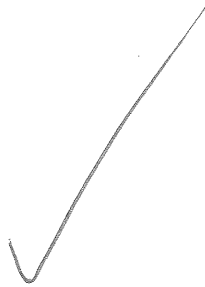
The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: September 14, 2015



I respectfully request that **Senate Bill #156**, relating to After School Programs, be placed on the:

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

A large, stylized handwritten signature in black ink, appearing to read "Chris Smith".

Senator Christopher L. Smith
Florida Senate, District 31

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/1/15
Meeting Date

SB 156
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JEFF KOTTKAMP

Job Title _____

Address _____

Phone _____

Street

Tallahassee

R

32312

City

State

Zip

Email lgjdk1@aol.com

Speaking: For Against Information

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

Representing Florida Alliance of Boys & Girls Clubs

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
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 156
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| FINAL VOTE | | SENATORS | 10/06/2015 ¹ Amendment 605990 | | 10/06/2015 ² Motion to Temporarily Postpone | | 12/01/2015 ³ Amendment 605990 | |
|------------|------------|---------------------|---|------------|---|------------|---|------------|
| | | | Hutson | | Simpson | | Hutson | |
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| | | Abruzzo | | | | | | |
| X | | Bradley | | | | | | |
| X | | Dean | | | | | | |
| | | Diaz de la Portilla | | | | | | |
| X | | Hutson | | | | | | |
| X | | Thompson | | | | | | |
| | | Brandes, VICE CHAIR | | | | | | |
| X | | Simpson, CHAIR | | | | | | |
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| 5 | 0 | | PEND | - | FAV | - | - | WD |
| Yea | Nay | TOTALS | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 156
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| SENATORS | 12/01/2015 ⁴ Amendment 975840 | | | | | | | |
|---------------------|---|-----|-----|-----|-----|-----|-----|-----|
| | Hutson Yea | Nay | Yea | Nay | Yea | Nay | Yea | Nay |
| Abruzzo | | | | | | | | |
| Bradley | | | | | | | | |
| Dean | | | | | | | | |
| Diaz de la Portilla | | | | | | | | |
| Hutson | | | | | | | | |
| Thompson | | | | | | | | |
| Brandes, VICE CHAIR | | | | | | | | |
| Simpson, CHAIR | | | | | | | | |
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| TOTALS | RCS | - | | | | | | |
| | Yea | Nay | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 544

INTRODUCER: Senator Dean

SUBJECT: Nonresidential Farm Buildings

DATE: November 30, 2015 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Cochran | Yeatman | CA | Favorable |
| 2. | | | FT | |
| 3. | | | AP | |

I. Summary:

SB 544 exempts nonresidential farm buildings, farm fences, and farm signs from county or municipal special assessments, including assessments by a dependent special district, except those arising from floodplain management regulations.

II. Present Situation:

Nonresidential Farm Building Exemptions

A nonresidential farm building is a temporary or permanent structure on a farm, or on land used primarily for agricultural purposes, that is not intended to be used as a residential dwelling.¹ Examples include barns, greenhouses, shade houses, farm offices, storage buildings, and poultry houses.²

Section 604.50, F.S., exempts nonresidential farm buildings,³ farm fences, and farm signs from the Florida Building Code,⁴ any county or municipal code, and any county or municipal fee.⁵ Currently, these structures are not exempt from assessments.

Special Districts

Special districts are local units of special purpose government, within limited geographical areas, which are utilized to manage, own, operate, maintain, and finance basic capital infrastructure,

¹ Section 604.50(2)(d), F.S.

² *Id.*

³ To qualify for the exemption, the nonresidential farm buildings must be located on lands used for bona fide agricultural purposes, as defined in s. 193.461(3)(b), F.S.

⁴ *See also* s. 553.73(10)(c), F.S.

⁵ Section 604.50(1), F.S. However, this exemption does not extend to any code provisions implementing floodplain management regulations.

facilities, and services.⁶ Special districts may be created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.⁷ The Uniform Special District Accountability Act of 1989 provides requirements for the creation, operation, and dissolution of most special districts.⁸

Some types of special districts include: community development districts, community redevelopment districts, downtown development districts, drainage and water control districts, economic development districts, fire control and rescue districts, mosquito control districts, and soil and water conservation districts. The Special District Information Program (SDIP) within the Department of Economic Opportunity maintains a list of special districts categorized by function.⁹ There are 1,634 active special districts, including 633 dependent and 1,001 independent special districts.

Dependent Special Districts

A dependent district meets at least one of the following criteria:

- The special district governing body members are the same as the governing body members of the county or city that created the district;
- The special district governing board members are appointed by the governing body of the county or city that created the district;
- During the terms of membership, the governing board members of the special district are subject to removal at will by the governing body of the county or city that created the district;
- The special district budget must be approved by an affirmative vote of the governing body of the county or city that created the district; or
- The special district budget can be vetoed by the governing body of the county or city that created the district.¹⁰

Independent Special Districts

An independent special district does not have any of the characteristics of a dependent district, may encompass more than one county unless the district lies wholly within the boundaries of one city, and generally is created by an act of the Legislature.¹¹

Revenue Sources Based on Home Rule Authority

The Florida Constitution provides local governments with expansive home rule powers. Given these powers, local governments may impose proprietary fees, regulatory fees, and special

⁶ See generally s. 189.012(6), F.S.

⁷ See *Id.*

⁸ Sections 189.01 through 189.082, F.S.

⁹ Information relating to special districts and their functions can be found in the SDIP online publication “Florida Special District Handbook Online” available at <http://www.floridaspecialdistricts.org/handbook/>.

¹⁰ Section 189.012(2), F.S.

¹¹ See generally ss. 189.012(3) and 189.031, F.S.

assessments to pay the cost of providing a facility or service or regulating an activity. The validity of these fees and assessments depends on requirements established in Florida case law.¹²

Special Assessments

Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities. Section 125.01(1)(r), F.S., authorizes the levy of special assessments for county government. Chapter 170, F.S., authorizes the levy of special assessments for municipal governments. Section 125.271, F.S., authorizes the levy of special assessments for county emergency medical services. Special districts derive their authority to levy special assessments through general law or special act creating the district.¹³

As established by case law, two requirements exist for the imposition of a valid special assessment: 1) the property assessed must derive a special benefit from the improvement or service provided; and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.¹⁴

The test to be applied in evaluating whether a special benefit is conferred on property by the provision of a service is whether there is a “logical relationship” between the services provided and the benefit to real property.¹⁵ Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include: garbage disposal,¹⁶ fire protection,¹⁷ fire and rescue services,¹⁸ and stormwater management services.¹⁹

Once an identified service or capital facility satisfies the special benefit test, the assessed amount is required to be fairly apportioned among the benefited property in a manner consistent with the logical relationship embodied in the special benefit requirement.

Special assessments may be collected on an annual ad valorem tax bill. Under such statutory collection procedure, the special assessment is characterized as a “non-ad valorem assessment.”²⁰

Assessments by Independent Fire Control Districts

Chapter 2013-183, Laws of Fla.,²¹ amended s. 191.009, F.S., to authorize independent special fire control districts to levy non-ad valorem assessments for emergency medical and emergency transport services. The provision of such services is recognized, in law, as constituting a benefit

¹² See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at 9-15 (December 2014) available at <http://edr.state.fl.us/Content/local-government/reports/lgfih14.pdf> (last visited: October 27, 2015).

¹³ For example, s. 153.73, F.S., for county water and sewer districts; s. 163.514, F.S., for neighborhood improvement districts; s. 190.021, F.S., for community development districts; and s. 191.009, F.S., for independent special fire control districts.

¹⁴ See *City of Boca Raton v. State*, 595 So.2d 25, 29 (Fla. 1992).

¹⁵ *Whisnant v. Stringfellow*, 50 So.2d 885 (Fla. 1951) (citing *Crowder v. Phillips*, 146 Fla. 428 (Fla. 1941)).

¹⁶ *Harris v. Wilson*, 693 So.2d 945 (Fla 1997).

¹⁷ *South Trail Fire Control Dist., Sarasota County v. State*, 273 So. 2d 380 (Fla. 1973).

¹⁸ *Lake County v. Water Oak Mgmt Corp.*, 695 So.2d 667 (Fla. 1997).

¹⁹ *Sarasota County v. Sarasota Church of Christ*, 667 So.2d 180 (Fla. 1995).

²⁰ See s. 197.3632(1)(d), F.S.

²¹ CS/CS/SB 1410 (2013).

to real property. The legislation also provided that if a district levies a non-ad valorem assessment for either service, then the district must cease charging an ad valorem tax for the service. Additionally, the legislation provided that a district can levy non-ad valorem assessments on lands within the district without demonstrating a special benefit to the real property.

III. Effect of Proposed Changes:

Section 1 amends s. 604.50, F.S., to exempt nonresidential farm buildings, farm fences, and farm signs from county or municipal special assessments, including assessments by dependent special districts. The bill provides this exemption in addition to, and not replacing, the presently existing exemption from county or municipal fees. Fees arising from floodplain management regulations still apply.

Section 2 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill reduces the authority of counties and municipalities to raise revenues because it eliminates their ability to collect assessments on nonresidential agricultural buildings. Article VII, section 18(b) of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law that reduces the authority of municipalities and counties to raise revenues in the aggregate. Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. If it is determined that this bill has more than an insignificant fiscal impact, the bill will require a two-thirds vote of the membership of each house of the Legislature for passage.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

In their analysis of a similar bill in 2015 (SB 142), the Revenue Estimating Conference determined that the bill will reduce local government revenues by at least \$6.6 million annually.

B. Private Sector Impact:

Owners of nonresidential farm buildings will benefit monetarily by being exempt from county and municipal assessments.

C. Government Sector Impact:

The bill will eliminate the ability of counties and municipalities to collect assessments on certain agricultural structures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 604.50 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 Dean

5-00193-16

2016544__

1 A bill to be entitled
2 An act relating to nonresidential farm buildings;
3 amending s. 604.50, F.S.; exempting nonresidential
4 farm buildings, farm fences, and farm signs that are
5 located on lands used for bona fide agricultural
6 purposes from any county or municipal special
7 assessment, including a dependent special district
8 assessment; providing an exception; providing an
9 effective date.

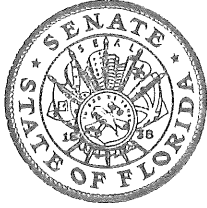
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11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Subsection (1) of section 604.50, Florida
14 Statutes, is amended to read:

15 604.50 Nonresidential farm buildings; farm fences; farm
16 signs.—

17 (1) Notwithstanding any ~~provision~~ of law to the contrary, a
18 ~~any~~ nonresidential farm building, farm fence, or farm sign that
19 is located on lands used for bona fide agricultural purposes is
20 exempt from the Florida Building Code and any county or
21 municipal code, ~~or fee, or special assessment, including a~~
22 dependent special district assessment, except for code
23 provisions that implement ~~implementing~~ local, state, or federal
24 floodplain management regulations. A farm sign located on a
25 public road may not be erected, used, operated, or maintained in
26 a manner that violates any of the standards provided in s.
27 479.11(4), (5)(a), and (6)-(8).

28 Section 2. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and
Conservation, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Community Affairs
Ethics and Elections

SENATOR CHARLES S. DEAN, SR.
5th District

November 16, 2015

The Honorable Wilton Simpson
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simpson,

I respectfully request you place Senate Bill 544, relating to Nonresidential Farm Buildings, on your Community Affairs Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink that reads "Charles S. Dean".

Charles S. Dean
State Senator District 5

cc: Tom Yeatman, Staff Director

REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/1/15

Meeting Date

544

Bill Number (if applicable)

Topic NON-RESIDENTIAL FARM BLDGS

Amendment Barcode (if applicable)

Name STEPHEN JAMES

Job Title

Address 100 S. MONROE ST.

Phone 850-922-4300

Street

TALLAHASSEE FL 32301

City

State

Zip

Email

Speaking: For [] Against [x] Information []

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

Representing FLA. ASSOC. OF COUNTIES

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

Lobbyist registered with Legislature: Yes [x] 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)

12-1-15

Meeting Date

SB 544

Bill Number (if applicable)

Topic Farm Buildings

Amendment Barcode (if applicable)

Name Doug Mann

Job Title —

Address 310 W. College Ave.

Phone 222-7535

Street

Tallahassee

City

FL

State

32301

Zip

Email —

Speaking: For Against Information

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

Representing A.I.F.

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 (10/14/14)

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 544
FINAL ACTION: Favorable
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| FINAL VOTE | | SENATORS | | | | | | |
|------------|------------|---------------------|------------|------------|------------|------------|------------|------------|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| | | Abruzzo | | | | | | |
| X | | Bradley | | | | | | |
| X | | Dean | | | | | | |
| | | Diaz de la Portilla | | | | | | |
| X | | Hutson | | | | | | |
| X | | Thompson | | | | | | |
| | | Brandes, VICE CHAIR | | | | | | |
| X | | Simpson, CHAIR | | | | | | |
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| 5 | 0 | TOTALS | | | | | | |
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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: CS/SJR 648

INTRODUCER: Community Affairs Committee and Senator Hutson

SUBJECT: County Officers

DATE: December 1, 2015

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Present | Yeatman | CA | Fav/CS |
| 2. | | | EE | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 648 proposes to amend the Florida Constitution by limiting the authority to alter the manner of selecting certain county officers or to abolish a county office and transfer all duties prescribed by general law to another office, either by charter counties or by special law approved by the county electors. As a result, the offices of sheriff, property appraiser, supervisor of elections, tax collector, and clerk of the circuit court would be filled only by vote of the county electors and for terms of 4 years. As proposed in the joint resolution, the clerk of the circuit court would be the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds unless otherwise provided by special law approved by the county voters.

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. The joint resolution provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

II. Present Situation:

Article VIII of the Florida Constitution establishes the authority for home rule by counties and municipalities in Florida. The Legislature is required to divide the state into counties¹ and has the authority to choose to create municipalities.²

¹ Art. VIII, s. 1(a), Fla. Const.

² Art. VIII, s. 2(a), Fla. Const.

Pursuant either to general³ or special law, a county government may be adopted by charter approved by the county voters. Any county not having a chartered form of consolidated government may, pursuant to the provisions of ss. 125.60-125.64, F.S., locally initiate and adopt by a majority vote of the qualified electors of the county a county home rule charter.⁴ A special constitutional provision provides unique authorization for the Miami-Dade County home rule charter.⁵ Currently, 20 Florida counties have adopted charters.⁶

Charter Commission

Creation of Charter Commission

After the adoption of a resolution by the board of county commissioners, or upon the submission of a petition to the county commission signed by at least 15 percent of the qualified electors of a county requesting that a charter commission be established, a charter commission shall be appointed within 30 days of the adoption of the resolution or filing of the petition.⁷ The charter commission must be composed of an odd number of not less than 11 nor more than 15 members.⁸ The members of the commission must be appointed by the board of county commissioners of the county or, if so directed in the initiative petition, by the legislative delegation. No member of the Legislature or the board of county commissioners may be a member of the charter commission.⁹

Duties of Charter Commission

The charter commission must meet within 30 days after appointment for organization purposes and must elect a chair and vice chair from its membership.¹⁰ The charter commission must conduct a comprehensive study of county government operations and of the ways in which the county government might be improved or reorganized.¹¹ Within 18 months after its initial meeting, unless such time is extended by resolution of the board of county commissioners, the charter commission must present a proposed charter to the board of county commissioners.¹² The charter commission must conduct 3 public hearings at intervals of not less than 10 nor more than

³ Section 125.60, F.S.

⁴ *Id.*

⁵ In 1956, an amendment to the 1885 Florida Constitution provided Dade County with the authority to adopt, revise, and amend from time to time a home rule charter government for the county. The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status. Article VIII, s. 11(5) of the 1885 State Constitution, now incorporated by reference in art. VIII, s. 6(e), Fla. Const. (1968), further provided the Metropolitan Dade County Home Rule Charter, and any subsequent ordinances enacted pursuant to the charter, may conflict with, modify, or nullify any existing local, special, or general law applicable only to Dade County. Accordingly, Miami-Dade County ordinances enacted pursuant to the Charter may implicitly, as well as expressly, amend or repeal a special act that conflicts with a Miami-Dade County ordinance. Effectively, the Miami-Dade Charter can only be altered through constitutional amendment, general law, or county actions approved by referendum, *Chase v. Cowart*, 102 So. 2d 147, 149-50 (Fla. 1958).

⁶ Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval (consolidated government with the City of Jacksonville, ch. 67-1320, Laws of Fla.), Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia, and Wakulla Counties. The Local Government Formation Manual 2015-2016, Appendix B, at 101-107.

⁷ Section 125.61(1), F.S.

⁸ Section 125.61(2), F.S.

⁹ *Id.*

¹⁰ Section 125.62, F.S.

¹¹ Section 125.63, F.S.

¹² *Id.*

20 days regarding the proposed charter. At the final hearing, the charter commission must incorporate any amendments it deems desirable, vote upon the proposed charter, and forward the charter to the board of county commissioners for the holding of a referendum.¹³

Submission of the Charter to the Voters¹⁴

Upon submission of the charter to the board of county commissioners, the board must call a special election to determine whether the qualified electors approve the proposed charter. The referendum election must be held not more than 90 nor less than 45 days after the receipt of the proposed charter.

If a majority of voters favor the adoption of the proposals in the new charter, the charter becomes effective on January 1 of the next year or at such other time as provided by the charter. Once adopted by the electors, the charter may be amended only by a vote of the county electors. If a majority of voters reject the adoption of the proposals in the new charter, a new referendum may not be held for two years following the date of the referendum.

After the acceptance or rejection of the proposed charter by the qualified electors, the charter commission is dissolved, and all property of the charter commission becomes property of the county.

Differences between Charter Counties and Non-Charter Counties¹⁵

Structure

The structure of the government of a non-charter county is specified in the Florida Constitution and in the Florida Statutes. As a result, non-charter counties may only change the structure of county government through amendments to the Florida Constitution or the Florida Statutes. In contrast, the structure of a charter county is specified in the charter as approved by the county's electorate. This flexibility allows a charter county to alter its structure in order to meet the needs of the county.

Powers of Self-Government

A non-charter county has such powers of self-government as provided by general¹⁶ or special law.¹⁷ Alternatively, a charter county has all powers of self-government *not inconsistent* with general law or special law approved by the county voters.¹⁸ Accordingly, charter counties may take any action as long as it does not conflict with state law, whereas non-charter counties may only do what state law allows them to do.

¹³ *Id.*

¹⁴ Section 125.64, F.S.

¹⁵ The Florida Association of Counties, *Basic Differences between Charter and Non-Charter Counties* (Mar. 2008), available at <http://www.fl-counties.com/docs/legal-documents-links/basic-differences-between-charter-and-non-charter-counties-pdf-.pdf?sfvrsn=0> (last visited Nov. 19, 2015).

¹⁶ Ch. 125, Part I, F.S.

¹⁷ Art. VIII, s. 1(f), Fla. Const.

¹⁸ Art. VIII, s. 1(g), Fla. Const.

Initiative, Referendum, and Recall of County Officers

The Florida Statutes do not provide for initiative¹⁹, referendum²⁰, or recall²¹ of county officers in a non-charter county. As a result, non-charter counties do not have the power to take these actions. On the other hand, a charter county may provide for initiative, referendum, and recall of county officers in its charter.

Administrative Code

The Florida Statutes do not require an administrative code for non-charter counties. As a result, a non-charter county may not require an administrative code. Conversely, charter counties may require an administrative code in its charter which details all regulations, policies, and procedures.

Utility Taxation

A non-charter county may not levy a utility tax in an unincorporated area of the county. However, a charter county may provide for the levying of such a tax in an unincorporated area of the county.

Special Acts

In a non-charter county, the Legislature can adopt a special act, and it is effective without the approval of the electors. However, in a charter county, a special act adopted by the Legislature is not effective unless the special act is also approved by a vote of the local electorate.

Municipal Ordinances

In a non-charter county, if there is a conflict between a municipal ordinance and a county ordinance, the municipal ordinance prevails within that municipality. On the contrary, an ordinance from a charter county will prevail over a conflicting municipal ordinance if such an instance is provided for in the county charter.

County Officers under the Florida Constitution

The Florida Constitution creates five specific county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court (collectively, the five constitutional offices/officers).²² The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds. Each officer is elected separately by the voters of the county for terms of 4 years. These officers have prescribed duties provided for in general law.²³

¹⁹ Initiative is the ability of citizens to petition to call for a referendum to consider charter revisions.

²⁰ Referendum is the ability of citizens to review and make periodic recommendations for revisions to the charter which are consistent with the petition and charter review requirements stipulated by the charter.

²¹ Recall is the ability of citizens to remove a county commissioner from office for those reasons consistent with the Florida Statutes and the petition requirements stipulated in the charter.

²² Art. VIII, s. 1(d), Fla. Const. In a separate subsection, the constitution provides for counties to be governed by a board of county commissioners unless otherwise provided in their respective charters, if any. Art. VIII, s. 1(e), Fla. Const., which is not affected by the joint resolution.

²³ See ch. 30, F.S. (setting forth certain duties of the sheriff as a constitutional officer); ch. 197, F.S. (setting forth certain duties of the tax collector as a constitutional officer); ch. 193, Part I, F.S. (setting forth certain duties of the property appraiser

The five constitutional offices can only be altered through charter provision or by special act approved by the voters of the county.²⁴ All non-charter counties have the five constitutional officers with statutorily prescribed duties. Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred the powers to another county office.²⁵

Brevard County

Brevard “expressly preserved” the offices of the sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court as departments of county government, rather than constitutional offices.²⁶ The county reiterated the ability to transfer or add to the powers of each of the county officers.²⁷ The county has transferred the powers of the clerk of circuit court as auditor, and custodian of county funds to the county manager.²⁸ Each of the officers remains elected for 4 year terms.²⁹

Broward County

Broward County has not altered the constitutionally elected offices and duties of the sheriff, property appraiser, and supervisor of elections.³⁰ However, the office of the tax collector was abolished and the duties were transferred to the department of finance and administrative services, headed by the finance and administrative services director appointed by the county administrator.³¹ Though the clerk of the circuit court also retains the status of constitutional officer, the clerk’s constitutional duties as clerk of the county commission were transferred to the county administrator.³²

Clay County

Clay County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser, and supervisor of elections.³³ Although the clerk of the circuit court also retains the status of constitutional officer, the clerk’s constitutional duties as clerk of the

as a constitutional officer); ch. 102, F.S. (setting forth certain duties of the supervisor of elections as a constitutional officer); ch. 28, F.S. (setting forth certain duties of the clerk of the circuit court as a constitutional officer).

²⁴ Art. VIII, s. 1(d), Fla. Const.

²⁵ Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia Counties.

²⁶ BREVARD COUNTY FLORIDA, Code of Ordinances, Part I s. 4.1, *available at* https://www.municode.com/library/fl/osceola_county/codes/code_of_ordinances?nodeId=11534.

²⁷ BREVARD COUNTY FLORIDA, Charter, Part I ss. 4.2.1, 4.2.2, 4.2.3, 4.2.4 & 4.2.5, *available at* https://www.municode.com/library/fl/osceola_county/codes/code_of_ordinances?nodeId=11534.

²⁸ BREVARD COUNTY FLORIDA, Code of Ordinances, s. 2-73, *available at* https://www.municode.com/library/fl/osceola_county/codes/code_of_ordinances?nodeId=11534.

²⁹ BREVARD COUNTY FLORIDA, Code of Ordinances, Part I s. 4.1.1, *available at* https://www.municode.com/library/fl/osceola_county/codes/code_of_ordinances?nodeId=11534.

³⁰ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I Charter, “Definitions”, *available at* https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances.

³¹ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I Charter ss. 2.12 & 3.06, *available at*, https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances.

³² BROWARD COUNTY FLORIDA, Code of Ordinances, Part I Charter, “Definitions” & s. 3.03G., *available at* https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances.

³³ CLAY COUNTY FLORIDA, Home Rule Charter, Article III, s. 3.1, 2014 Edition, *available at*, <http://www.claycountygov.com/about-us>.

county commission, auditor, and custodian of county funds were transferred to the county administrator.³⁴

Duval County

Duval County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser, and supervisor of elections.³⁵ The clerk of the circuit court retains the status of constitutional officer but the clerk's duties as clerk of the county commission were transferred to the council secretary and the constitutional duties as auditor were transferred to the council auditor.³⁶

Miami-Dade County

Miami-Dade County abolished the constitutional offices of the sheriff, tax collector, supervisor of elections,³⁷ and property appraiser,³⁸ transferred these powers to the mayor, and granted the mayor the discretion to sub-delegate the powers.³⁹ The duties of the sheriff were transferred to the police department, the director of which is appointed by the mayor.⁴⁰ The duties of the tax collector were transferred to the department of finance,⁴¹ the director of which is jointly appointed by the mayor and the clerk of court.⁴² The county property appraiser, although not retained as a constitutional office, remains an elected position.⁴³ The duties of the supervisor of elections were transferred to the elections department, the director of which is appointed by the

³⁴ CLAY COUNTY FLORIDA, Home Rule Charter, Article III, ss. 3.1 & 2.3, 2014 Edition, *available at* <http://www.claycountygov.com/about-us>.

³⁵ JACKSONVILLE COUNTY FLORIDA, Charter and Related Laws, Part A. ss. 8.01, 9.01, 10.01 & 11.01, *available at* https://www.municode.com/library/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA. Duval County currently does not have the authority to abolish the office of the sheriff or the clerk of court. Art. VIII, s. 6(e), Fla. Const., (1968), incorporating by reference Art. VIII, s. 9, Fla. Const. (1885, as amended in 1934). The consolidated government of the City of Jacksonville was created by ch. 67-1320, Laws of Florida, adopted pursuant to Art. VIII, s. 9, Fla. Const. (1885).

³⁶ JACKSONVILLE COUNTY FLORIDA, Charter and Related Laws, Part A. s. 12.06, *available at*, https://www.municode.com/library/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA; JACKSONVILLE COUNTY FLORIDA, Code of Ordinances, Title II ss. 11.103 & 13.103, *available at*, https://www.municode.com/library/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA.

³⁷ Referred to in the Miami-Dade Charter as the "supervisor of registration." See MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.01, *available at* https://www.municode.com/library/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

³⁸ Referred to in the Miami-Dade Charter as the "county surveyor." See MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.01, *available at* https://www.municode.com/library/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

³⁹ MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.01, *available at* https://www.municode.com/library/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

⁴⁰ Historically, the Miami-Dade Police Director was appointed by the county manager. This appointment power was subsequently reallocated to the mayor when the office of county manager was abolished. See Miami-Dade County Florida, Code of Ordinances, ss. 2-91, 2-92 & 1-4.4 *available at* https://www.municode.com/library/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTXIIMIDEPODE.

⁴¹ MIAMI-DADE COUNTY FLORIDA, Constitutional Amendment and Charter, Part I s. 5.03, Nov. 4, 2014, *available at* https://www.municode.com/library/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH. See also MIAMIDADE.GOV, Miami-Dade County Finance Department, <http://www.miamidade.gov/finance/>.

⁴² MIAMI-DADE COUNTY FLORIDA, Constitutional Amendment and Charter, Part I s. 5.03, *available at* https://www.municode.com/library/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

⁴³ MIAMIDADE.GOV, County Departments, <http://miamidade.gov/wps/portal/Main/departments>.

mayor.⁴⁴ The clerk of the circuit court remains a constitutional, elected officer with some changes in duties.⁴⁵ Although the clerk is still the clerk of the county commission, the clerk's financial recorder and custodian duties were transferred to the department of financial services, and the clerk's auditing duties were transferred to the commission auditor.⁴⁶

Orange County

Orange County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser,⁴⁷ and supervisor of elections.⁴⁸ Although the clerk of the circuit court also retains the status of constitutional officer,⁴⁹ the clerk's constitutional duties as clerk of the county commission, auditor, and custodian of county funds were transferred to the county comptroller.⁵⁰

Osceola County

Osceola County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser, and supervisor of elections.⁵¹ The clerk of the circuit court retains the status of constitutional officer, but the clerk's duties as clerk of the county commission, auditor, and custodian of funds were transferred to the county manager.

Volusia County

Volusia County abolished the constitutional offices of the sheriff, tax collector, supervisor of elections, and property appraiser. The county transferred these offices' powers to new charter offices. The duties of the sheriff were transferred to and divided between the department of public safety and the department of corrections.⁵² The duties of the tax collector were transferred to the department of finance.⁵³ The duties of the property appraiser were transferred to the department of property appraisal.⁵⁴ The duties of the supervisor of elections were transferred to

⁴⁴ Though the Miami-Dade charter and ordinances do not expressly so state, the supervisor of elections is an appointed official. See MIAMIDADE.GOV, County Departments, <http://miamidade.gov/wps/portal/Main/departments>.

⁴⁵ MIAMIDADE.GOV, County Departments, <http://miamidade.gov/wps/portal/Main/departments>.

⁴⁶ MIAMIDADE.GOV, Miami-Dade County Finance Department, <http://www.miamidade.gov/finance/>; MIAMI-DADE COUNTY FLORIDA, Constitutional Amendment and Charter, Part I s. 9.10, *available at* https://www.municode.com/library/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

⁴⁷ At one point the county abolished the constitutional offices of sheriff, tax collector, and property appraiser but ultimately reconstituted the constitutional offices. ORANGE COUNTY FLORIDA, Charter, s. 703, *available at* https://www.municode.com/library/fl/orange_county/codes/code_of_ordinances.

⁴⁸ ORANGE COUNTY FLORIDA SUPERVISOR OF ELECTIONS, *About the Supervisor*, <http://www.ocfelections.com/aboutbillcowles.aspx>.

⁴⁹ ORANGE COUNTY FLORIDA, Code of Ordinances, Part I s. 2-66, *available at* https://www.municode.com/library/fl/orange_county/codes/code_of_ordinances.

⁵⁰ ORANGE COUNTY FLORIDA, Code of Ordinances, Part I s. 2-67, *available at* https://www.municode.com/library/fl/orange_county/codes/code_of_ordinances.

⁵¹ OSCEOLA COUNTY FLORIDA, Home Rule Charter, Article III s. 3.01, *available at* https://www.municode.com/library/fl/osceola_county/codes/code_of_ordinances?nodeId=11534.

⁵² VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(2), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁵³ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(1), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁵⁴ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(3), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

the department of elections.⁵⁵ The sheriff, property appraiser, and supervisor of elections are elected directors of their respective offices.⁵⁶ The tax collector is appointed by the county manager and confirmed by the county council.⁵⁷ The clerk of the circuit court remains a constitutionally elected officer except that the clerk's constitutional duties as clerk of the county commission were transferred to and divided between the department of central services and the department of finance.⁵⁸

Existing Selection and Removal Procedures for Constitutional Officers in Charter Counties

In addition to whether the five constitutional officers are elected or appointed, some counties provide in their charters for term limits, recall procedures, or the non-partisan election of these officers. While not expressly identified in Art. VIII, s. 1(d) of the Florida Constitution, these additional "selection and removal procedures" could be interpreted as affecting the selection of the five constitutional officers.

There is no constitutional or statutory prohibition limiting the ability of charter counties to impose additional selection and removal procedures on the five constitutional officers. The broad home rule power of counties allows them to act so long as the action taken is not "inconsistent with general law, or . . . special law."⁵⁹ This suggests that counties can currently modify their selection or removal procedures within the existing Art. VIII, s. 1(d), Florida Constitution, framework through charter amendment or special law.⁶⁰

Term Limits

Three charter counties have imposed term limits on one or more of the five constitutional officers.⁶¹ Although the imposition of term limits on the five constitutional officers is not constitutionally or statutorily prohibited, or expressly endorsed, the imposition of term limits currently is interpreted to be within the broad home rule power of the charter.⁶²

⁵⁵ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(4), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁵⁶ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter ss. 401 & 601.1(1)(b), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁵⁷ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 2-111(a), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO. VOLUSIA.ORG, Revenue Division-Tax Collection, <http://www.volusia.org/services/financial-and-administrative-services/revenue-services/>.

⁵⁸ CLERK OF THE CIRCUIT COURT, VOLUSIA COUNTY FLORIDA, Overview, <https://www.clerk.org/html/about.aspx#Overview>; VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1 (1)(b) & (5), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁵⁹ Art. VIII, s. 1(g), Fla. Const.

⁶⁰ Current statute and case law also supports this principle. *See* s. 100.361, F.S. (providing that whether or not a charter county adopts a recall provision, the county may exercise recall authority); *Telli v. Broward County*, 94 So. 3d 504, 512-13 (Fla. 2012) (allowing charter counties to adopt term limits on county commissioners and explicitly overruling a prior case which barred this in the case of the five constitutional officers).

⁶¹ Duval, Orange, and Sarasota Counties.

⁶² *Telli v. Broward County*, *supra* at n. 60.

Recall

Five counties have charters expressly providing for the recall of one or more of the five constitutional officers.⁶³ Regardless of whether a county charter includes a recall provision, counties have independent statutory authority to conduct a recall of any of the five constitutional officers.⁶⁴

Non-partisan Elections

Seven counties require non-partisan elections for some or all elections of the five constitutional officers.⁶⁵ Non-partisan election of the five constitutional officers is neither constitutionally nor statutorily prohibited and is therefore within the broad home rule power of charter counties.⁶⁶

III. Effect of Proposed Changes:

If the joint resolution is adopted and the proposed amendment is approved by the voters, the resulting limitation on revising the status of certain county officers will have no impact on non-charter counties⁶⁷ and those charter counties that retained the five constitutional officers without any changes to their selection or authority.⁶⁸ Charter counties that changed the selection or authority of any of the five constitutional officers will be required to revise their charters and ordinances to conform to the revised constitutional requirement.⁶⁹

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. The joint resolution provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

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

The mandate provisions in Article VII, section 18 of the Florida Constitution do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

⁶³ Brevard, Clay, Duval, Miami-Dade, and Sarasota Counties.

⁶⁴ Section 100.361, F.S.

⁶⁵ Lee, Leon, Miami-Dade, Orange, Palm Beach, Polk, and Volusia Counties.

⁶⁶ See Art. III s. 11(a)(1), Fla. Const. (prohibiting the Legislature from enacting special laws which alter local election procedure but excepting charter counties); Ch. 105, F.S. (providing for non-partisan elections and procedure).

⁶⁷ Baker, Bay, Bradford, Calhoun, Citrus, Collier, DeSoto, Dixie, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Levy, Liberty, Madison, Manatee, Marion, Martin, Monroe, Nassau, Okaloosa, Okeechobee, Pasco, Putnam, Santa Rosa, St. Johns, St. Lucie, Sumter, Suwannee, Taylor, Union, Walton, and Washington Counties.

⁶⁸ Alachua, Charlotte, Columbia, Hillsborough, Lee, Leon, Palm Beach, Pinellas, Polk, Sarasota, Seminole, and Wakulla Counties.

⁶⁹ See supra at n. 25.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(a) of the Florida Constitution and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”⁷⁰

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately before the week the election is held. The Department of State, Division of Elections, estimated the average cost per word to advertise an amendment to the Florida Constitution is \$135.97 for this fiscal year. The department has estimated the publication costs for advertising the joint resolution will be at least \$96,130.79 to \$100,735.77, possibly greater, depending on the final wording of the joint resolution and the resulting ballot language.⁷¹

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

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

None.

B. Private Sector Impact:

None.

⁷⁰ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

⁷¹ 2016 Agency Legislative Bill Analysis, Department of State, HJR 165.

C. Government Sector Impact:

Charter counties that changed the selection or authority of any of the five constitutional officers will incur an indeterminate negative fiscal impact to the extent of having to revise their charters and ordinances to conform to the revised constitutional requirement.

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately before the week the election is held. The Department of State, Division of Elections, estimated the average cost per word to advertise an amendment to the Florida Constitution is \$135.97 for this fiscal year. The department has estimated the publication costs for advertising the joint resolution will be at least \$96,130.79 to \$100,735.77, possibly greater, depending on the final wording of the joint resolution and the resulting ballot language.⁷²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

No statutes are affected. However, the amendment proposed by this joint resolution, if approved by the electorate and implemented by the Legislature, would amend Article VIII, section 1 of the Florida Constitution.

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 December 1, 2015:

Makes tax collectors subject to the same provisions of the joint resolution as the other four constitutional officers. Specifically, the amendment removes an exception which permitted a tax collector to be selected in a manner other than by election when provided by county charter or special law. As a result, a tax collector may now only be chosen through an election by the county's electors.

B. Amendments:

None.

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

⁷² 2016 Agency Legislative Bill Analysis, Department of State, HJR 165 (10/27/2015).



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 12/01/2015 | . | |
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The Committee on Community Affairs (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the resolving clause
and insert:

That the following amendment to Section 1 of Article VIII
of the State Constitution is agreed to and shall be submitted to
the electors of this state for approval or rejection at the next
general election or at an earlier special election specifically
authorized by law for that purpose:

ARTICLE VIII



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LOCAL GOVERNMENT

SECTION 1. Counties.—

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody and method of disbursing county funds shall be provided by general law.

(c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; ~~except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office.~~ When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds.

(e) COMMISSIONERS. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years. After each decennial census the



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40 board of county commissioners shall divide the county into
41 districts of contiguous territory as nearly equal in population
42 as practicable. One commissioner residing in each district shall
43 be elected as provided by law.

44 (f) NON-CHARTER GOVERNMENT. Counties not operating under
45 county charters shall have such power of self-government as is
46 provided by general or special law. The board of county
47 commissioners of a county not operating under a charter may
48 enact, in a manner prescribed by general law, county ordinances
49 not inconsistent with general or special law, but an ordinance
50 in conflict with a municipal ordinance shall not be effective
51 within the municipality to the extent of such conflict.

52 (g) CHARTER GOVERNMENT. Counties operating under county
53 charters shall have all powers of local self-government not
54 inconsistent with general law, or with special law approved by
55 vote of the electors. The governing body of a county operating
56 under a charter may enact county ordinances not inconsistent
57 with general law. The charter shall provide which shall prevail
58 in the event of conflict between county and municipal
59 ordinances.

60 (h) TAXES; LIMITATION. Property situate within
61 municipalities shall not be subject to taxation for services
62 rendered by the county exclusively for the benefit of the
63 property or residents in unincorporated areas.

64 (i) COUNTY ORDINANCES. Each county ordinance shall be filed
65 with the custodian of state records and shall become effective
66 at such time thereafter as is provided by general law.

67 (j) VIOLATION OF ORDINANCES. Persons violating county
68 ordinances shall be prosecuted and punished as provided by law.



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69 (k) COUNTY SEAT. In every county there shall be a county
70 seat at which shall be located the principal offices and
71 permanent records of all county officers. The county seat may
72 not be moved except as provided by general law. Branch offices
73 for the conduct of county business may be established elsewhere
74 in the county by resolution of the governing body of the county
75 in the manner prescribed by law. No instrument shall be deemed
76 recorded until filed at the county seat, or a branch office
77 designated by the governing body of the county for the recording
78 of instruments, according to law.

79 BE IT FURTHER RESOLVED that the following statement be
80 placed on the ballot:

81 CONSTITUTIONAL AMENDMENT

82 ARTICLE VIII, SECTION 1

83 SELECTION AND DUTIES OF COUNTY OFFICERS.—Proposing an
84 amendment to the State Constitution to remove the authority of a
85 county, by county charter or special law, to choose certain
86 county officers in a manner other than election and to abolish
87 any county office when its duties are transferred to another
88 office. The amendment also removes authority for a county
89 charter to transfer certain ex officio duties of the clerk of
90 the circuit court to another officer.

91 BE IT FURTHER RESOLVED that the following statement be
92 placed on the ballot if a court declares the preceding statement
93 defective and the decision of the court is not reversed:

94 CONSTITUTIONAL AMENDMENT

95 ARTICLE VIII, SECTION 1

96 SELECTION AND DUTIES OF COUNTY OFFICERS.—Proposing an
97 amendment to the State Constitution to remove the authority of a



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98 county, by county charter or special law approved by the
99 county's voters, to choose its sheriff, tax collector, property
100 appraiser, supervisor of elections, and clerk of the circuit
101 court in a manner other than election and to abolish any county
102 office when its duties are transferred to another office. The
103 amendment also removes authority for a county charter to
104 transfer to another officer the duties of the clerk of the
105 circuit court to serve as ex officio clerk of the board of
106 county commissioners, auditor, recorder, and custodian of all
107 county funds.

108
109 ===== T I T L E A M E N D M E N T =====

110 And the title is amended as follows:

111 Delete everything before the resolving clause
112 and insert:

113 A bill to be entitled
114 A joint resolution proposing an amendment to Section 1
115 of Article VIII of the State Constitution to remove
116 authority for certain county officers to be chosen in
117 a manner other than election, for any county office to
118 be abolished, or for certain ex officio duties of the
119 clerk of the circuit court to be transferred to
120 another officer.

By Senator Hutson

6-00468-16

2016648__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 1 of Article VIII of the State Constitution to remove authority for certain county officers to be chosen in a manner other than election, for any county office to be abolished, or for certain ex officio duties of the clerk of the circuit court to be transferred to another officer.

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

That the following amendment to Section 1 of Article VIII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VIII

LOCAL GOVERNMENT

SECTION 1. Counties.—

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody and method of disbursing county funds shall be provided by general law.

(c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose.

6-00468-16

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30 (d) COUNTY OFFICERS. There shall be elected by the electors
31 of each county, for terms of four years, a sheriff, a tax
32 collector, a property appraiser, a supervisor of elections, and
33 a clerk of the circuit court; except, when provided by county
34 charter or special law approved by vote of the electors of the
35 county, the tax collector ~~any county officer~~ may be chosen in
36 another manner therein specified, ~~or any county office may be~~
37 ~~abolished when all the duties of the office prescribed by~~
38 ~~general law are transferred to another office.~~ When not
39 otherwise provided by ~~county charter or~~ special law approved by
40 vote of the electors, the clerk of the circuit court shall be ex
41 officio clerk of the board of county commissioners, auditor,
42 recorder, and custodian of all county funds.

43 (e) COMMISSIONERS. Except when otherwise provided by county
44 charter, the governing body of each county shall be a board of
45 county commissioners composed of five or seven members serving
46 staggered terms of four years. After each decennial census the
47 board of county commissioners shall divide the county into
48 districts of contiguous territory as nearly equal in population
49 as practicable. One commissioner residing in each district shall
50 be elected as provided by law.

51 (f) NON-CHARTER GOVERNMENT. Counties not operating under
52 county charters shall have such power of self-government as is
53 provided by general or special law. The board of county
54 commissioners of a county not operating under a charter may
55 enact, in a manner prescribed by general law, county ordinances
56 not inconsistent with general or special law, but an ordinance
57 in conflict with a municipal ordinance shall not be effective
58 within the municipality to the extent of such conflict.

6-00468-16

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59 (g) CHARTER GOVERNMENT. Counties operating under county
60 charters shall have all powers of local self-government not
61 inconsistent with general law, or with special law approved by
62 vote of the electors. The governing body of a county operating
63 under a charter may enact county ordinances not inconsistent
64 with general law. The charter shall provide which shall prevail
65 in the event of conflict between county and municipal
66 ordinances.

67 (h) TAXES; LIMITATION. Property situate within
68 municipalities shall not be subject to taxation for services
69 rendered by the county exclusively for the benefit of the
70 property or residents in unincorporated areas.

71 (i) COUNTY ORDINANCES. Each county ordinance shall be filed
72 with the custodian of state records and shall become effective
73 at such time thereafter as is provided by general law.

74 (j) VIOLATION OF ORDINANCES. Persons violating county
75 ordinances shall be prosecuted and punished as provided by law.

76 (k) COUNTY SEAT. In every county there shall be a county
77 seat at which shall be located the principal offices and
78 permanent records of all county officers. The county seat may
79 not be moved except as provided by general law. Branch offices
80 for the conduct of county business may be established elsewhere
81 in the county by resolution of the governing body of the county
82 in the manner prescribed by law. No instrument shall be deemed
83 recorded until filed at the county seat, or a branch office
84 designated by the governing body of the county for the recording
85 of instruments, according to law.

86 BE IT FURTHER RESOLVED that the following statement be
87 placed on the ballot:

6-00468-16

2016648__

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CONSTITUTIONAL AMENDMENT
ARTICLE VIII, SECTION 1

SELECTION AND DUTIES OF COUNTY OFFICERS.—Proposing an amendment to the State Constitution to remove the authority of a county, by county charter or special law, to choose certain county officers in a manner other than election and to abolish any county office when its duties are transferred to another office. The amendment also removes authority for a county charter to transfer certain ex officio duties of the clerk of the circuit court to another officer.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot if a court declares the preceding statement defective and the decision of the court is not reversed:

CONSTITUTIONAL AMENDMENT
ARTICLE VIII, SECTION 1

SELECTION AND DUTIES OF COUNTY OFFICERS.—Proposing an amendment to the State Constitution to remove the authority of a county, by county charter or special law approved by the county's voters, to choose its sheriff, property appraiser, supervisor of elections, and clerk of the circuit court in a manner other than election and to abolish any county office when its duties are transferred to another office. The amendment also removes authority for a county charter to transfer to another officer the duties of the clerk of the circuit court to serve as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds.

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/1/15

Meeting Date

HJR 648

Bill Number (if applicable)

123686

Amendment Barcode (if applicable)

Topic HJR 648

Name Carole Jean Jordan

Job Title Tax Collector - Indian River County -

Address 216 S. Monroe St.
Street

Phone 850-222-7206

Tallahassee FL 32309
City State Zip

Email CJJORDAN@IRCTAX.COM

Speaking: For Against Information

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

Representing Florida Tax Collectors 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)

12/1/2015
Meeting Date

556648
Bill Number (if applicable)

123686
Amendment Barcode (if applicable)

Topic County Officers

Name Eddy Labrador

Job Title Director of Intergovernmental Affairs & Professional Standards

Address 115 S. Andrews Ave., Room 426
Street

Phone 954-357-7575

Fort Lauderdale FL 33
City State Zip

Email elabrador@broward.org

Speaking: For Against Information

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

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

APPEARANCE RECORD

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

12/1/15

Meeting Date

0678

Bill Number (if applicable)

123686

Amendment Barcode (if applicable)

Topic County Officers

Name Kelley Teague

Job Title Legislative Affairs, Orange County

Address 201 S. Rosalind Ave

Street

Orlando FL 32801

City

State

Zip

Phone

Email kelley.teague@ocfl.net

Speaking: For Against Information

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

Representing Orange 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)

12/1/15
Meeting Date

SJR 648
Bill Number (if applicable)

Topic County Officers

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr.

Phone _____

Street

Largo
City

Fla.
State

33773
Zip

Email _____

Speaking: For Against Information

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

Representing Pinellas Florida Government Corruption

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)

12-1-15

Meeting Date

648

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JESS McCARTY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 1st St 2810

Phone 305-979-7110

Street

MIAMI 33128

Email JMM2@MIAMIDADE.GOV

City

State

Zip

Speaking: For Against Information

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

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)

Dec 1, 2015
Meeting Date

648
Bill Number (if applicable)

Topic COUNTY OFFICERS

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title LEGISLATIVE ADVOCATE

Address 100 N. MONROE ST

Phone 294-1838

Street

TAL

City

FL

State

32301

Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: 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)

12-1-15
Meeting Date

SJR 648
Bill Number (if applicable)

Topic County Officers

Amendment Barcode (if applicable)

Name Ken "Cope-CHEN-ski" KOPCZYNSKI

Job Title Lobbyist

Address 300 East Brevard St

Phone 772-3329

Street

Talla FL 32301

Email ken@flpba.org

City

State

Zip

Speaking: For Against Information

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

Representing FLA PBA Inc

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
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SJR 648
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| FINAL VOTE | | SENATORS | 12/01/2015 Amendment 123686 | | | | | |
|------------|------------|---------------------|--------------------------------|------------|------------|------------|------------|------------|
| Yea | Nay | | Hutson | | Yea | Nay | Yea | Nay |
| | | Abruzzo | | | | | | |
| X | | Bradley | | | | | | |
| X | | Dean | | | | | | |
| | | Diaz de la Portilla | | | | | | |
| X | | Hutson | | | | | | |
| | X | Thompson | | | | | | |
| | | Brandes, VICE CHAIR | | | | | | |
| X | | Simpson, CHAIR | | | | | | |
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| 4 | 1 | TOTALS | RCS | - | | | | |
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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: SJR 170

INTRODUCER: Senator Brandes

SUBJECT: Renewable Energy Source Device

DATE: November 30, 2015

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Wiehle | Caldwell | CU | Favorable |
| 2. | Present | Yeatman | CA | Favorable |
| 3. | | | FT | |
| 4. | | | AP | |

I. Summary:

SJR 170 proposes to amend sections 3 and 4 of Article VII of the State Constitution and to create section 34 of Article XII of the State Constitution. These changes would: exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax; authorize the Legislature to prohibit the consideration of the installation of renewable energy source devices and related components in determining the assessed value of a property for the purpose of ad valorem taxation; and establish an implementation schedule under which the amendments would take effect January 1, 2017, and would expire on December 31, 2036, with the text of the amended sections reinstated at that time, with the exception of future amendments, which will be preserved.

II. Present Situation:

The State Constitution authorizes finance and taxation, including local government ad valorem taxes on real property and tangible personal property,¹ assessment of taxes,² and exemptions to these taxes.³ Among these provisions is authority for the Legislature to prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

- Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- The installation of a renewable energy source device.⁴

¹ Article VII, section 9, State Constitution.

² Article VII, section 4, State Constitution.

³ Article VII, section 3, State Constitution.

⁴ Article VII, section 4.(i), State Constitution.

The Legislature has implemented this prohibition in s. 193.624, F.S. The statute prohibits a property appraiser who is determining the assessed value of real property used for residential purposes from considering an increase in the just value of the property attributable to the installation of a renewable energy source device. The statute applies to a renewable energy source device installed on or after January 1, 2013, on new and existing residential real property. The statute defines the term “renewable energy source device” to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters;
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks;
- Rockbeds;
- Thermostats and other control devices;
- Heat exchange devices;
- Pumps and fans;
- Roof ponds;
- Freestanding thermal containers;
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy; and
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

A renewable energy source device may be installed on real property through two alternative methods of ownership: the property owner may purchase and install the device, in which case it becomes a part of the real property and subject to ad valorem tax, or the property owner may lease the device from another person, with it remaining separate and distinct property from the real property and subject to tangible personal property tax.

III. Effect of Proposed Changes:

This bill proposes amendments to the State Constitution to prevent the application of taxes to a renewable energy source device with either type of ownership. For a leased renewable energy source device, the bill amends section 3, Article VII of the State Constitution to require the Legislature to exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax. For a purchased renewable energy source device, the bill amends section 4, Article VII of the State Constitution to authorize the Legislature to make two types of expansions of the existing prohibition against a property appraiser considering the installation of renewable energy source devices in determining property value for the purpose of ad valorem taxation. The first expansion is the application of the prohibition to real property used for any purpose, not just for residential purposes. The second expansion is the inclusion of any component of a renewable energy source device in the prohibition.

The bill also creates section 34 of Article XII of the State Constitution to provide a schedule of implementation. The amendments and addition to the State Constitution would take effect January 1, 2017, and would expire December 31, 2036. Upon expiration, the schedule of implementation (section 34 of Article XII, State Constitution) would be repealed and the text of the amended substantive sections (subsection (e) of section 3 of Article VII and subsection (i) of section 4 of Article VII of the State Constitution) would revert to that in existence on December 31, 2016, except that any amendments to such text otherwise adopted are preserved and shall continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in section 18 of Article VII of the Florida Constitution do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

A joint resolution must be passed by three-fifths of the membership of each house of the Legislature. It must be submitted to the electors at the next general election held more than 90 days after the joint resolution proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than 90 days after such filing.⁵ To pass, a proposed constitutional amendment must be approved by vote of at least 60 percent of the electors voting on the measure, and if passed, it becomes effective as an amendment on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The proposed amendment, if approved by the voters, and implemented by the Legislature, would exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax, and authorize the

⁵ Article XI, section 5(a), State Constitution.

⁶ Article XI, section 5(e), State Constitution.

Legislature to prohibit the consideration of the installation of renewable energy source devices and related components in determining the assessed value of a property for the purpose of ad valorem taxation. The tax benefits of these changes may confer to applicants who would not have received them otherwise.

B. Private Sector Impact:

The exemptions from tangible personal property tax and ad valorem tax may stimulate sales and leases of renewable energy source devices.

C. Government Sector Impact:

The Revenue Estimating Conference determined that a similar bill, HJR 193, would have a negative indeterminate impact or zero impact to local governments or the state. If the proposed amendment does not pass, there is no impact. However, if the proposed amendment does pass, there will be an impact associated with the provisions relating to tangible personal property which do not need any further implementing language.⁷

The Department of State provided the following information on the fiscal impact of the constitutionally required advertising and other notice requirements:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments. The cost to advertise constitutional amendments for the 2014 general election was \$135.97 per word. Using 2014 rates, the cost to advertise this amendment for the 2016 general election could be \$349,578.87, at a minimum.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 3 and 4 of Article VII of the State Constitution.

This bill creates section 34 of Article XII of the State Constitution.

⁷ Revenue Estimating Conference, Renewable Energy Devices, 133 (November 6, 2015) available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1106.pdf (last visited November 17, 2015).

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.

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

By Senator Brandes

22-00328-16

2016170__

Senate Joint Resolution

A joint resolution proposing amendments to Sections 3 and 4 of Article VII and the creation of Section 34 of Article XII of the State Constitution to require the Legislature, by general law, to exempt the assessed value of a renewable energy source device or a component thereof from the tangible personal property tax, to allow the Legislature, by general law, to prohibit the consideration of the installation of such device or component in determining the assessed value of residential and nonresidential real property for the purpose of ad valorem taxation, and to provide effective and expiration dates.

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

That the following amendment to Sections 3 and 4 of Article VII and the creation of Section 34 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment

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30 to the taxing unit in which the property is located. Such
31 portions of property as are used predominantly for educational,
32 literary, scientific, religious or charitable purposes may be
33 exempted by general law from taxation.

34 (b) There shall be exempt from taxation, cumulatively, to
35 every head of a family residing in this state, household goods
36 and personal effects to the value fixed by general law, not less
37 than one thousand dollars, and to every widow or widower or
38 person who is blind or totally and permanently disabled,
39 property to the value fixed by general law not less than five
40 hundred dollars.

41 (c) Any county or municipality may, for the purpose of its
42 respective tax levy and subject to the provisions of this
43 subsection and general law, grant community and economic
44 development ad valorem tax exemptions to new businesses and
45 expansions of existing businesses, as defined by general law.
46 Such an exemption may be granted only by ordinance of the county
47 or municipality, and only after the electors of the county or
48 municipality voting on such question in a referendum authorize
49 the county or municipality to adopt such ordinances. An
50 exemption so granted shall apply to improvements to real
51 property made by or for the use of a new business and
52 improvements to real property related to the expansion of an
53 existing business and shall also apply to tangible personal
54 property of such new business and tangible personal property
55 related to the expansion of an existing business. The amount or
56 limits of the amount of such exemption shall be specified by
57 general law. The period of time for which such exemption may be
58 granted to a new business or expansion of an existing business

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59 shall be determined by general law. The authority to grant such
60 exemption shall expire ten years from the date of approval by
61 the electors of the county or municipality, and may be renewable
62 by referendum as provided by general law.

63 (d) Any county or municipality may, for the purpose of its
64 respective tax levy and subject to the provisions of this
65 subsection and general law, grant historic preservation ad
66 valorem tax exemptions to owners of historic properties. This
67 exemption may be granted only by ordinance of the county or
68 municipality. The amount or limits of the amount of this
69 exemption and the requirements for eligible properties must be
70 specified by general law. The period of time for which this
71 exemption may be granted to a property owner shall be determined
72 by general law.

73 (e) By general law and subject to conditions specified
74 therein:~~7~~

75 (1) Twenty-five thousand dollars of the assessed value of
76 property subject to tangible personal property tax shall be
77 exempt from ad valorem taxation.

78 (2) The assessed value of a renewable energy source device,
79 or a component thereof, shall be exempt from the tangible
80 personal property tax.

81 (f) There shall be granted an ad valorem tax exemption for
82 real property dedicated in perpetuity for conservation purposes,
83 including real property encumbered by perpetual conservation
84 easements or by other perpetual conservation protections, as
85 defined by general law.

86 (g) By general law and subject to the conditions specified
87 therein, each person who receives a homestead exemption as

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88 provided in section 6 of this article; who was a member of the
89 United States military or military reserves, the United States
90 Coast Guard or its reserves, or the Florida National Guard; and
91 who was deployed during the preceding calendar year on active
92 duty outside the continental United States, Alaska, or Hawaii in
93 support of military operations designated by the legislature
94 shall receive an additional exemption equal to a percentage of
95 the taxable value of his or her homestead property. The
96 applicable percentage shall be calculated as the number of days
97 during the preceding calendar year the person was deployed on
98 active duty outside the continental United States, Alaska, or
99 Hawaii in support of military operations designated by the
100 legislature divided by the number of days in that year.

101 SECTION 4. Taxation; assessments.—By general law
102 regulations shall be prescribed which shall secure a just
103 valuation of all property for ad valorem taxation, provided:

104 (a) Agricultural land, land producing high water recharge
105 to Florida's aquifers, or land used exclusively for
106 noncommercial recreational purposes may be classified by general
107 law and assessed solely on the basis of character or use.

108 (b) As provided by general law and subject to conditions,
109 limitations, and reasonable definitions specified therein, land
110 used for conservation purposes shall be classified by general
111 law and assessed solely on the basis of character or use.

112 (c) Pursuant to general law tangible personal property held
113 for sale as stock in trade and livestock may be valued for
114 taxation at a specified percentage of its value, may be
115 classified for tax purposes, or may be exempted from taxation.

116 (d) All persons entitled to a homestead exemption under

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117 Section 6 of this Article shall have their homestead assessed at
118 just value as of January 1 of the year following the effective
119 date of this amendment. This assessment shall change only as
120 provided in this subsection.

121 (1) Assessments subject to this subsection shall be changed
122 annually on January 1st of each year; but those changes in
123 assessments shall not exceed the lower of the following:

124 a. Three percent (3%) of the assessment for the prior year.

125 b. The percent change in the Consumer Price Index for all
126 urban consumers, U.S. City Average, all items 1967=100, or
127 successor reports for the preceding calendar year as initially
128 reported by the United States Department of Labor, Bureau of
129 Labor Statistics.

130 (2) No assessment shall exceed just value.

131 (3) After any change of ownership, as provided by general
132 law, homestead property shall be assessed at just value as of
133 January 1 of the following year, unless the provisions of
134 paragraph (8) apply. Thereafter, the homestead shall be assessed
135 as provided in this subsection.

136 (4) New homestead property shall be assessed at just value
137 as of January 1st of the year following the establishment of the
138 homestead, unless the provisions of paragraph (8) apply. That
139 assessment shall only change as provided in this subsection.

140 (5) Changes, additions, reductions, or improvements to
141 homestead property shall be assessed as provided for by general
142 law; provided, however, after the adjustment for any change,
143 addition, reduction, or improvement, the property shall be
144 assessed as provided in this subsection.

145 (6) In the event of a termination of homestead status, the

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146 property shall be assessed as provided by general law.

147 (7) The provisions of this amendment are severable. If any
148 of the provisions of this amendment shall be held
149 unconstitutional by any court of competent jurisdiction, the
150 decision of such court shall not affect or impair any remaining
151 provisions of this amendment.

152 (8)a. A person who establishes a new homestead as of
153 January 1, 2009, or January 1 of any subsequent year and who has
154 received a homestead exemption pursuant to Section 6 of this
155 Article as of January 1 of either of the two years immediately
156 preceding the establishment of the new homestead is entitled to
157 have the new homestead assessed at less than just value. If this
158 revision is approved in January of 2008, a person who
159 establishes a new homestead as of January 1, 2008, is entitled
160 to have the new homestead assessed at less than just value only
161 if that person received a homestead exemption on January 1,
162 2007. The assessed value of the newly established homestead
163 shall be determined as follows:

164 1. If the just value of the new homestead is greater than
165 or equal to the just value of the prior homestead as of January
166 1 of the year in which the prior homestead was abandoned, the
167 assessed value of the new homestead shall be the just value of
168 the new homestead minus an amount equal to the lesser of
169 \$500,000 or the difference between the just value and the
170 assessed value of the prior homestead as of January 1 of the
171 year in which the prior homestead was abandoned. Thereafter, the
172 homestead shall be assessed as provided in this subsection.

173 2. If the just value of the new homestead is less than the
174 just value of the prior homestead as of January 1 of the year in

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175 which the prior homestead was abandoned, the assessed value of
176 the new homestead shall be equal to the just value of the new
177 homestead divided by the just value of the prior homestead and
178 multiplied by the assessed value of the prior homestead.
179 However, if the difference between the just value of the new
180 homestead and the assessed value of the new homestead calculated
181 pursuant to this sub-subparagraph is greater than \$500,000, the
182 assessed value of the new homestead shall be increased so that
183 the difference between the just value and the assessed value
184 equals \$500,000. Thereafter, the homestead shall be assessed as
185 provided in this subsection.

186 b. By general law and subject to conditions specified
187 therein, the legislature shall provide for application of this
188 paragraph to property owned by more than one person.

189 (e) The legislature may, by general law, for assessment
190 purposes and subject to the provisions of this subsection, allow
191 counties and municipalities to authorize by ordinance that
192 historic property may be assessed solely on the basis of
193 character or use. Such character or use assessment shall apply
194 only to the jurisdiction adopting the ordinance. The
195 requirements for eligible properties must be specified by
196 general law.

197 (f) A county may, in the manner prescribed by general law,
198 provide for a reduction in the assessed value of homestead
199 property to the extent of any increase in the assessed value of
200 that property which results from the construction or
201 reconstruction of the property for the purpose of providing
202 living quarters for one or more natural or adoptive grandparents
203 or parents of the owner of the property or of the owner's spouse

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204 if at least one of the grandparents or parents for whom the
205 living quarters are provided is 62 years of age or older. Such a
206 reduction may not exceed the lesser of the following:

207 (1) The increase in assessed value resulting from
208 construction or reconstruction of the property.

209 (2) Twenty percent of the total assessed value of the
210 property as improved.

211 (g) For all levies other than school district levies,
212 assessments of residential real property, as defined by general
213 law, which contains nine units or fewer and which is not subject
214 to the assessment limitations set forth in subsections (a)
215 through (d) shall change only as provided in this subsection.

216 (1) Assessments subject to this subsection shall be changed
217 annually on the date of assessment provided by law; but those
218 changes in assessments shall not exceed ten percent (10%) of the
219 assessment for the prior year.

220 (2) No assessment shall exceed just value.

221 (3) After a change of ownership or control, as defined by
222 general law, including any change of ownership of a legal entity
223 that owns the property, such property shall be assessed at just
224 value as of the next assessment date. Thereafter, such property
225 shall be assessed as provided in this subsection.

226 (4) Changes, additions, reductions, or improvements to such
227 property shall be assessed as provided for by general law;
228 however, after the adjustment for any change, addition,
229 reduction, or improvement, the property shall be assessed as
230 provided in this subsection.

231 (h) For all levies other than school district levies,
232 assessments of real property that is not subject to the

22-00328-16

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233 assessment limitations set forth in subsections (a) through (d)
234 and (g) shall change only as provided in this subsection.

235 (1) Assessments subject to this subsection shall be changed
236 annually on the date of assessment provided by law; but those
237 changes in assessments shall not exceed ten percent (10%) of the
238 assessment for the prior year.

239 (2) No assessment shall exceed just value.

240 (3) The legislature must provide that such property shall
241 be assessed at just value as of the next assessment date after a
242 qualifying improvement, as defined by general law, is made to
243 such property. Thereafter, such property shall be assessed as
244 provided in this subsection.

245 (4) The legislature may provide that such property shall be
246 assessed at just value as of the next assessment date after a
247 change of ownership or control, as defined by general law,
248 including any change of ownership of the legal entity that owns
249 the property. Thereafter, such property shall be assessed as
250 provided in this subsection.

251 (5) Changes, additions, reductions, or improvements to such
252 property shall be assessed as provided for by general law;
253 however, after the adjustment for any change, addition,
254 reduction, or improvement, the property shall be assessed as
255 provided in this subsection.

256 (i) The legislature, by general law and subject to
257 conditions specified therein, may prohibit the consideration of
258 the following in the determination of the assessed value of real
259 property ~~used for residential purposes:~~

260 (1) Any change or improvement to real property used for
261 residential purposes made to improve ~~for the purpose of~~

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262 ~~improving~~ the property's resistance to wind damage.

263 (2) The installation of a renewable energy source device or
 264 a component thereof.

265 (j) (1) The assessment of the following working waterfront
 266 properties shall be based upon the current use of the property:

267 a. Land used predominantly for commercial fishing purposes.

268 b. Land that is accessible to the public and used for
 269 vessel launches into waters that are navigable.

270 c. Marinas and drystacks that are open to the public.

271 d. Water-dependent marine manufacturing facilities,
 272 commercial fishing facilities, and marine vessel construction
 273 and repair facilities and their support activities.

274 (2) The assessment benefit provided by this subsection is
 275 subject to conditions and limitations and reasonable definitions
 276 as specified by the legislature by general law.

277 ARTICLE XII

278 SCHEDULE

279 SECTION 34. Renewable energy source devices and components
 280 thereof; exemption from certain taxation and assessment.—This
 281 section, the amendment to subsection (e) of Section 3 of Article
 282 VII requiring the legislature, by general law, to exempt the
 283 assessed value of a renewable energy source device, or a
 284 component thereof, from the tangible personal property tax, and
 285 the amendment to subsection (i) of Section 4 of Article VII
 286 allowing the legislature, by general law, to prohibit the
 287 consideration of the installation of a renewable energy source
 288 device, or a component thereof, in determining the assessed
 289 value of real property for the purpose of ad valorem taxation
 290 shall take effect on January 1, 2017, and shall expire on

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2016170__

291 December 31, 2036. Upon expiration, this section shall be
 292 repealed and the text of subsection (e) of Section 3 of Article
 293 VII and subsection (i) of Section 4 of Article VII shall revert
 294 to that in existence on December 31, 2016, except that any
 295 amendments to such text otherwise adopted shall be preserved and
 296 continue to operate to the extent that such amendments are not
 297 dependent upon the portions of text which expire pursuant to
 298 this section.

299 BE IT FURTHER RESOLVED that the following statement be
 300 placed on the ballot:

301 CONSTITUTIONAL AMENDMENT

302 ARTICLE VII, SECTIONS 3 AND 4

303 ARTICLE XII, SECTION 34

304 RENEWABLE ENERGY SOURCE DEVICES AND COMPONENTS THEREOF;
 305 EXEMPTION FROM CERTAIN TAXATION AND ASSESSMENT.—Proposing an
 306 amendment to the State Constitution to require the Legislature
 307 to exempt the assessed value of a renewable energy source device
 308 or component thereof from the tangible personal property tax and
 309 allow the Legislature to prohibit consideration of the
 310 installation of such device or component in determining the
 311 assessed value of all real property for the purpose of ad
 312 valorem taxation. This amendment takes effect January 1, 2017,
 313 and expires on December 31, 2036.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: November 3, 2015

I respectfully request that **Senate Joint Resolution #170**, relating to **Renewable Energy Source Devices**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 22



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Criminal Justice
Education Pre-K - 12
Judiciary

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JEFF BRANDES

22nd District

November 30, 2015

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

Dear Chair Simpson,

I will be unable to present my bills, **SJR 170: Renewable Energy Source Devices**, **SB 172: Renewable Energy Source Devices** and **SB 584: Peril of Flood**, in the Senate Committee on Community Affairs on Tuesday, December 1st.

I am requesting that my legislative assistant Chris Spencer be permitted to present these bills on my behalf. Please contact me with any questions on this request.

Kind regards,

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal line extending to the right.

Jeff Brandes

CC: Tom Yeatman
Ann Whittaker

REPLY TO:

- 9800 Fourth Street North, Suite 200, St. Petersburg, Florida 33702 (727) 563-2100
- 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/1/15
Meeting Date

170
Bill Number (if applicable)

Topic SIR COURT Act re Renewable Amendment Barcode (if applicable)

Name DAVID COLLEN

Job Title _____

Address 1674 UNIVERSITY AVE
Street
SARASOTA FL 34743
City State Zip

Phone 941.323.2404

Email colld@senate.fl.gov

Speaking: For Against Information

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

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)

12-1-15

Meeting Date

170

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title _____

Address 106 E. College Ave #1200

Phone _____

Street

Tallahassee FL.

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Solar Energy Installers 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
APPEARANCE RECORD

12-1-2015

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

SJR 170

Meeting Date

Bill Number (if applicable)

Topic energy

Amendment Barcode (if applicable)

Name Susan Glickman

Job Title Florida Director

Address PO Box 310

Phone 727-742-9003

^{Street}
Indian Rocks Bch FL 33785

Email susan@cleanenergy.org

City

State

Zip

Speaking: For Against Information

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

Representing Southern Alliance for Clean Energy

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 (10/14/14)

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SJR 170
FINAL ACTION: Favorable
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| FINAL VOTE | | SENATORS | | | | | | |
|------------|------------|---------------------|------------|------------|------------|------------|------------|------------|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| | | Abruzzo | | | | | | |
| X | | Bradley | | | | | | |
| X | | Dean | | | | | | |
| | | Diaz de la Portilla | | | | | | |
| X | | Hutson | | | | | | |
| X | | Thompson | | | | | | |
| | | Brandes, VICE CHAIR | | | | | | |
| X | | Simpson, CHAIR | | | | | | |
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| 5 | 0 | TOTALS | | | | | | |
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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: CS/SB 172

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Renewable Energy Source Devices

DATE: December 1, 2015 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Wiehle | Caldwell | CU | Favorable |
| 2. | Present | Yeatman | CA | Fav/CS |
| 3. | | | FT | |
| 4. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 172 is the implementing legislation for SJR 170.

The bill expands the definition of “renewable energy source device” to include devices that store solar energy or energy derived from geothermal deposits and expands the current exemption for renewable energy source devices to include assessments of all real property rather than residential property only. The bill also creates s. 196.182, F.S., exempting renewable energy source devices, and any components thereof, from the tangible personal property tax.

These changes would take effect January 1, 2017, if the constitutional amendments proposed in SJR 170 or a similar joint resolution having substantially the same specific intent and purpose are passed by three-fifths of the membership of each house of the Legislature and are approved by vote of at least 60 percent of the electors voting on the measure at the next general election. If approved by the electors, the constitutional amendments proposed by SJR 170 will become effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

Consistent with the implementation schedule established in SJR 170:

- The amendments made by the bill to s. 193.624, F.S., expire December 31, 2036, and the text of the section reverts to that in existence on December 31, 2016, except that any amendments

to such text enacted other than by this bill are preserved and continue to operate to the extent that such amendments are not dependent upon the portion of text scheduled to expire, and

- Section 196.182, F.S., as created by the bill expires and is automatically repealed on December 31, 2036.

II. Present Situation:

The State Constitution authorizes finance and taxation, including local government ad valorem taxes on real property and tangible personal property,¹ assessment of taxes,² and exemptions to these taxes.³ Among these provisions is authority for the Legislature to prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

- Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- The installation of a renewable energy source device.⁴

The Legislature implemented this prohibition in s. 193.624, F.S. The statute prohibits a property appraiser who is determining the assessed value of real property used for residential purposes from considering an increase in the just value of the property attributable to the installation of a renewable energy source device. The statute applies to a renewable energy source device installed on or after January 1, 2013, on new and existing residential real property. The statute defines the term "renewable energy source device" to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters;
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks;
- Rockbeds;
- Thermostats and other control devices;
- Heat exchange devices;
- Pumps and fans;
- Roof ponds;
- Freestanding thermal containers;
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy; and
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

¹ Article VII, section 9, State Constitution.

² Article VII, section 4, State Constitution.

³ Article VII, section 3, State Constitution.

⁴ Article VII, section 4.(i), State Constitution.

III. Effect of Proposed Changes:

The bill implements SJR 170, which would amend sections 3 and 4 of Article VII of the State Constitution to exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax and authorizes the Legislature to prohibit the consideration of the installation of renewable energy source devices and related components in determining the assessed value of a property for the purpose of ad valorem taxation. It would also create section 34 of Article XII of the State Constitution to establish an implementation schedule under which the amendments would take effect January 1, 2017, and would expire on December 31, 2036, with the text of the amended sections reinstated at that time, with the exception of future amendments, which will be preserved.

This bill amends s. 193.624, F.S., to expand the definition of “renewable energy source device” to include devices that use solar energy and energy derived from geothermal deposits and devices that store energy from solar energy, wind energy, or energy derived from geothermal deposits. It also expands the application of the existing exemption of renewable energy devices. The exemption previously applied to the appraisal of residential property only, but as of January 1, 2017, the exemption will apply to the appraisals of all real property.

The bill also exempts a renewable energy source device or any component of such a device which is installed on real property on or after January 1, 2017, from tangible personal property tax.

The bill takes effect January 1, 2017, if SJR 170 or a similar joint resolution having substantially the same specific intent and purpose, is approved by the electors at the general election to be held in November 2016 or at an earlier special election specifically authorized by law for that purpose. Consistent with the implementation schedule established in SJR 170:

- The amendments made by the bill to s. 193.624, F.S., expire December 31, 2036, and the text of the section reverts to that in existence on December 31, 2016, except that any amendments to such text enacted other than by this bill are preserved and continue to operate to the extent that such amendments are not dependent upon the portion of text scheduled to expire, and
- Section 196.182, F.S., as created by the bill expires and is automatically repealed on December 31, 2036.

The bill also reenacts ss. 193.155 and 193.1554, F.S., to incorporate the amendments made to s. 193.624, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill would implement the constitutional amendments proposed in SJR 170. When the Legislature is *required* to implement a constitutional provision, the mandate provisions do not apply; when it is *authorized* to implement a constitutional provision, mandate provisions do apply. SJR 170 would *require* the Legislature to exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax and *authorize* the Legislature to expand the

existing prohibition against a property appraiser considering the installation of renewable energy source devices in determining property value for the purpose of ad valorem taxation. As such, mandate provisions do not apply to the provisions in this bill relating to tangible personal property tax, but do apply to the provisions on ad valorem real property taxes.

Section 18, Article VII, State Constitution, provides that except upon approval by two-thirds of the members of each house, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989. By reducing the tax base upon which counties and municipalities raise ad valorem revenue, this bill reduces their revenue-raising authority and may require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The proposed amendment, if approved by the voters, and implemented by the Legislature, would exempt the assessed value of a renewable energy source device, or a component of such a device, from the tangible personal property tax, and authorize the Legislature to prohibit the consideration of the installation of renewable energy source devices and related components in determining the assessed value of a property for the purpose of ad valorem taxation. The tax benefits of these changes may confer to applicants who would not have received them otherwise.

B. Private Sector Impact:

The exemptions from tangible personal property tax and ad valorem tax may stimulate sales and leases of renewable energy source devices.

C. Government Sector Impact:

The Revenue Estimating Conference determined that if a similar bill, HB 195, and the corresponding joint resolution, HJR 193, are passed, the combined school and non-school impact would reach a loss of \$21.2 million by 2020-21, the 5th year of implementation, holding the 2014 statewide average property taxes constant.⁵

⁵ Revenue Estimating Conference, *Renewable Energy Devices*, 133-134 (November 6, 2015) available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1106.pdf (last visited November 17,

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill implements SJR 170.

VIII. Statutes Affected:

This bill substantially amends section 193.624 of the Florida Statutes.

This bill creates section 196.182 of the Florida Statutes.

This bill reenacts sections 193.155 and 193.1554 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.)

CS by Community Affairs on December 1, 2015:

Inserts the linked bill, SJR 170, into the effective date of the bill.

B. Amendments:

None.

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

2015). However, if a component can be interpreted broadly to include electrical generation and delivery for all connected up-stream and down-stream equipment, then the impact would be at least 10 times greater than the current estimate.



262038

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 12/01/2015 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment

Delete line 115
and insert:
SJR 170, or a similar joint resolution having substantially
the

By Senator Brandes

22-00329-16

2016172__

1 A bill to be entitled
2 An act relating to renewable energy source devices;
3 amending s. 193.624, F.S.; revising the term
4 "renewable energy source device" to include certain
5 devices that store or use solar energy, wind energy,
6 or energy from geothermal deposits to generate
7 specified forms of energy; specifying a period during
8 which a property appraiser is prohibited from
9 considering an increase in the just value of real
10 property used for residential purposes which is
11 attributable to the installation of a renewable energy
12 source device; prohibiting consideration by a property
13 appraiser of an increase in the just value of real
14 property used for any purpose which is attributable to
15 the installation of a renewable energy source device
16 or of a component of such device on or after a
17 specified date; creating s. 196.182, F.S.; exempting a
18 renewable energy source device, or a component of such
19 device, which is installed upon real property on or
20 after a specified date from the tangible personal
21 property tax; reenacting ss. 193.155(4)(a) and
22 193.1554(6)(a), F.S., relating to homestead
23 assessments and nonhomestead residential property
24 assessments, respectively, to incorporate the
25 amendment made to s. 193.624, F.S., in references
26 thereto; providing that specified provisions of the
27 act expire on a certain date; providing a contingent
28 effective date.
29

22-00329-16

2016172__

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

31
32 Section 1. Section 193.624, Florida Statutes, is amended to
33 read:

34 193.624 Assessment of real ~~residential~~ property.—

35 (1) As used in this section, the term “renewable energy
36 source device” means any of the following equipment that
37 collects, transmits, stores, or uses solar energy, wind energy,
38 or energy derived from geothermal deposits:

39 (a) Solar energy collectors, photovoltaic modules, and
40 inverters.

41 (b) Storage tanks and other storage systems, excluding
42 swimming pools used as storage tanks.

43 (c) Rockbeds.

44 (d) Thermostats and other control devices.

45 (e) Heat exchange devices.

46 (f) Pumps and fans.

47 (g) Roof ponds.

48 (h) Freestanding thermal containers.

49 (i) Pipes, ducts, refrigerant handling systems, and other
50 equipment used to interconnect such systems; however, such
51 equipment does not include conventional backup systems of any
52 type.

53 (j) Windmills and wind turbines.

54 (k) Wind-driven generators.

55 (l) Power conditioning and storage devices that store or
56 use solar energy, wind energy, or energy derived from geothermal
57 deposits to generate electricity or mechanical forms of energy.

58 (m) Pipes and other equipment used to transmit hot

22-00329-16

2016172__

59 geothermal water to a dwelling or structure from a geothermal
60 deposit.

61 (2) In determining the assessed value of new and existing
62 real property used for:

63 (a) Residential purposes, an increase in the just value of
64 the property attributable to the installation of a renewable
65 energy source device between January 1, 2013, and December 31,
66 2016, may not be considered.

67 (b) ~~(3) Any purpose,~~ an increase in the just value of the
68 property attributable ~~This section applies~~ to the installation
69 of a renewable energy source device or of a component of such
70 device installed on or after January 1, 2017, may not be
71 considered ~~January 1, 2013, to new and existing residential real~~
72 ~~property.~~

73 Section 2. Section 196.182, Florida Statutes, is created to
74 read:

75 196.182 Exemption of renewable energy source devices and
76 components.—A renewable energy source device, as defined in s.
77 193.624, or a component of such device, which is installed on
78 real property on or after January 1, 2017, is exempt from the
79 tangible personal property tax.

80 Section 3. For the purpose of incorporating the amendment
81 made by this act to section 193.624, Florida Statutes, in a
82 reference thereto, paragraph (a) of subsection (4) of section
83 193.155, Florida Statutes, is reenacted to read:

84 193.155 Homestead assessments.—Homestead property shall be
85 assessed at just value as of January 1, 1994. Property receiving
86 the homestead exemption after January 1, 1994, shall be assessed
87 at just value as of January 1 of the year in which the property

22-00329-16

2016172__

88 receives the exemption unless the provisions of subsection (8)
89 apply.

90 (4) (a) Except as provided in paragraph (b) and s. 193.624,
91 changes, additions, or improvements to homestead property shall
92 be assessed at just value as of the first January 1 after the
93 changes, additions, or improvements are substantially completed.

94 Section 4. For the purpose of incorporating the amendment
95 made by this act to section 193.624, Florida Statutes, in a
96 reference thereto, paragraph (a) of subsection (6) of section
97 193.1554, Florida Statutes, is reenacted to read:

98 193.1554 Assessment of nonhomestead residential property.-

99 (6) (a) Except as provided in paragraph (b) and s. 193.624,
100 changes, additions, or improvements to nonhomestead residential
101 property shall be assessed at just value as of the first January
102 1 after the changes, additions, or improvements are
103 substantially completed.

104 Section 5. The amendment made by this act to s. 193.624,
105 Florida Statutes, expires December 31, 2036, and the text of
106 that section shall revert to that in existence on December 31,
107 2016, except that any amendments to such text enacted other than
108 by this act shall be preserved and continue to operate to the
109 extent that such amendments are not dependent upon the portion
110 of text which expires pursuant to this section.

111 Section 6. Section 196.182, Florida Statutes, as created by
112 this act, expires December 31, 2036, and shall be repealed on
113 that date.

114 Section 7. This act shall take effect January 1, 2017, if
115 SJR ____, or a similar joint resolution having substantially the
116 same specific intent and purpose, is approved by the electors at

22-00329-16

2016172__

117 the general election to be held in November 2016 or at an
118 earlier special election specifically authorized by law for that
119 purpose.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: November 3, 2015

I respectfully request that **Senate Bill #172**, relating to **Renewable Energy Source Devices**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 22



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Criminal Justice
Education Pre-K - 12
Judiciary

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JEFF BRANDES

22nd District

November 30, 2015

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

Dear Chair Simpson,

I will be unable to present my bills, **SJR 170: Renewable Energy Source Devices**, **SB 172: Renewable Energy Source Devices** and **SB 584: Peril of Flood**, in the Senate Committee on Community Affairs on Tuesday, December 1st.

I am requesting that my legislative assistant Chris Spencer be permitted to present these bills on my behalf. Please contact me with any questions on this request.

Kind regards,

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Jeff Brandes

CC: Tom Yeatman
Ann Whittaker

REPLY TO:

- 9800 Fourth Street North, Suite 200, St. Petersburg, Florida 33702 (727) 563-2100
- 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

12-1-2015
Meeting Date

SB 172
Bill Number (if applicable)

Topic Energy

Amendment Barcode (if applicable)

Name Susan Glickman

Job Title Florida Director

Address PO Box 310

Phone 727-7429003

Street

Indian Rocks Beach 33785

City

State

Zip

Email susan@clean

Speaking: For Against Information

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

Representing Southern Alliance for Clean Energy

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)

12-1-15
Meeting Date

172
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title _____

Address 106 E. College Ave. #1200
Street
Tallahassee FL.
City State Zip

Phone _____

Email _____

Speaking: For Against Information

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

Representing Florida Solar Energy Installers 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
APPEARANCE RECORD

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

12/1/15
Meeting Date

172
Bill Number (if applicable)

Topic RENEWABLE ENERGY DEV.

Amendment Barcode (if applicable)

Name DAVID COLLIER

Job Title _____

Address 1574 UNIVERSITY DRIVE #296
Street

Phone 941-323-2904

SARASOTA FL 34243
City State Zip

Email collierd@aol.com

Speaking: For Against Information

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

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
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 172
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| FINAL VOTE | | SENATORS | 12/01/2015 Amendment 262038 ¹ | | | | | |
|------------|-----|---------------------|---|-----|-----|-----|-----|-----|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| | | Abruzzo | | | | | | |
| X | | Bradley | | | | | | |
| X | | Dean | | | | | | |
| | | Diaz de la Portilla | | | | | | |
| X | | Hutson | | | | | | |
| X | | Thompson | | | | | | |
| | | Brandes, VICE CHAIR | | | | | | |
| X | | Simpson, CHAIR | | | | | | |
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| 5 | 0 | | RCS | - | | | | |
| Yea | Nay | TOTALS | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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: CS/SB 584

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Peril of Flood

DATE: December 1, 2015

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Cochran | Yeatman | CA | Fav/CS |
| 2. | | | ATD | |
| 3. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 584 authorizes the Division of Emergency Management (Division) to administer a matching grant program to provide up to \$50 million annually in technical and financial assistance, subject to appropriation, to local governments to implement certain flood risk reduction policies and projects. The Division is also authorized to contract with third parties to store elevation certificates and also to maintain a centralized database allowing the public to access elevation certificates.

Flood mitigation projects are added to the list of eligible projects under the Florida Communities Trust (FCT) program. The bill includes language indicating the proper purpose of the flood mitigation projects under FCT project guidelines. The bill adds to the conditions of grants and loans that land acquired for flood mitigation projects must be maintained strictly for flood mitigation purposes or conservation.

Finally, the bill extends the informational filing of rates for flood coverage until October 1, 2025, exempting insurers from the usual rate filing process. The bill also extends the date until which consumers can go to a surplus carrier for coverage without fulfilling the diligent search requirement beforehand to July 1, 2025.

II. Present Situation:

Flood Issues

Flood is defined in the standard National Flood Insurance Program (NFIP) policy as a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties from:

- Overflow of inland or tidal waters;
- Unusual and rapid accumulation or runoff of surface waters from any source;
- Mudflow; or
- Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.¹

National Flood Insurance Program Community Rating System

The National Flood Insurance Program Community Rating System (CRS) recognizes floodplain management and outreach activities performed by communities that exceed the NFIP minimum standards.² CRS is a voluntary program that recognizes these efforts by reducing the cost of flood insurance premiums by 5 to 45 percent for flood insurance policies in communities that participate in the CRS.³ The CRS recognizes 19 creditable activities organized under four categories: Public Information, Mapping and Regulations, Flood Damage Reduction, and Warning and Response.⁴

Communities can choose to undertake any or all of these activities.⁵ Based on the number of credit points received for each activity, a community is ranked in one of ten CRS classes with Class 1 requiring the most credit points and giving the largest premium reduction.⁶ Most communities regularly implement activities that will earn credit under the CRS.⁷ In Florida, communities are automatically awarded CRS credit points for various activities due to the Florida Building Code, water quality, local drainage protection regulations, and additional credits based on water management district requirements.⁸

The Florida Division of Emergency Management (FDEM) is moving forward with the Florida CRS Initiative, designed to assist participating and non-participating communities to better their CRS rating and/or enlist as many eligible non-participating communities.⁹ Currently, the CRS is the only means for residents to receive a flood insurance premium reduction.¹⁰

¹ Federal Emergency Management Agency, *Definitions*, <http://www.fema.gov/national-flood-insurance-program/definitions> (last visited November 18, 2015).

² Florida Disaster, *What is CRS?*, <http://www.floridadisaster.org/mitigation/CRS/> (last visited November 18, 2015).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Flood Insurance in Florida

NFIP Flood Insurance in Florida

The NFIP was created by the passage of the National Flood Insurance Act of 1968.¹¹ The NFIP is administered by Federal Emergency Management Agency (FEMA) and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government. Flood insurance through the NFIP is only available in communities that adopt and enforce federal floodplain management criteria.¹² Over two million NFIP policies are written on Florida properties, with approximately 268,500 policies receiving subsidized rates.¹³ This accounts for approximately 37 percent of the total policies written by the NFIP.

Historically, properties insured in Florida have paid approximately \$3.60 in premium for NFIP flood coverage for every \$1 received in claims payments.¹⁴ The rate impact of the Biggert-Waters Act on subsidized policies in Florida is approximately as follows:

- Approximately 50,000 secondary residences, businesses, and severe repetitive loss properties are subject to immediate, annual 25 percent increases until their premiums are full risk premiums.
- Approximately 103,000 primary residences will lose their subsidy if the property is sold, the policy lapses, the property suffers severe, repeated flood losses, or a new policy is purchased.
- Approximately 115,000 non-primary residences, business properties, and severe repetitive loss properties are subject to the elimination of subsidies once FEMA develops guidance for their removal.

Private Market Flood Insurance in Florida

Authorized insurers may sell five different types of flood insurance policies, contracts, or endorsements:

- Standard coverage, which covers only losses from the peril of flood, as defined in paragraph (b) of s. 627.715(1), F.S. The policy must be the same as coverage offered from the NFIP regarding the definition of flood, coverage, deductibles, and loss adjustment.¹⁵
- Preferred coverage, which includes the same coverage as standard flood insurance and also must cover flood losses caused by water intrusion from outside the structure that are not otherwise covered under the definition of flood in the bill.¹⁶
- Customized coverage, which is coverage that is broader than standard flood coverage.¹⁷

¹¹ National Emergency Management Agency, *National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973* <http://www.fema.gov/media-library/assets/documents/7277?id=2216> (last visited November 20, 2015).

¹² Federal Emergency Management Agency, *National Flood Insurance Program: Program Description*, pgs. 2-4., <http://www.fema.gov/media-library/assets/documents/1150?id=1480> (last visited November 20, 2015).

¹³ Office of Insurance Regulation, *The Biggert-Waters Flood Insurance Reform Act of 2012*, (Presentation to the Florida Senate Banking and Insurance Committee on October 8, 2013) http://flsenate.gov/PublishedContent/Committees/2012-2014/BI/MeetingRecords/MeetingPacket_2346.pdf (last visited November 18, 2015).

¹⁴ Wharton Center for Risk Management and Decision Processes, *Who's Paying and Who's Benefiting Most From Flood Insurance Under the NFIP? A Financial Analysis of the U.S. National Flood Insurance Program (NFIP)*, (Issue Brief, Fall 2011).

¹⁵ Section 627.715(1)(a)(1.), F.S.

¹⁶ Section 627.715(1)(a)(2.), F.S.

¹⁷ Section 627.715(1)(a)(3.), F.S.

- Flexible coverage, which is defined as coverage for the peril of flood that may include water intrusion coverage and differs from standard or preferred coverage by:
 - Being in an agreed upon amount between the insurer and policyholder.
 - Including a deductible as authorized in s. 627.701, F.S.
 - Being adjusted in accordance with s. 627.7011(3), F.S., or adjusted only on the basis of the actual cash value of the property.
 - Covering only the principal building, as defined in the policy.
 - Including or excluding coverage for additional living expenses.
 - Excluding coverage for personal property or contents.¹⁸
- Supplemental coverage, which supplements an NFIP flood policy or a standard or preferred policy from a private market insurer. Supplemental coverage may provide coverage for jewelry, art, deductibles, and additional living expenses. It does not include excess flood coverage over other flood policies.¹⁹

Insurers must provide prominent notice on the policy declarations page or face page of deductibles and any other limitations on flood coverage or policy limits. Insurance agents that receive a flood insurance application must obtain a signed acknowledgement from the applicant stating that the full risk rate for flood insurance may apply to the property if flood insurance is later obtained under the NFIP.

An insurer may establish flood rates through the standard process in s. 627.062, F.S.²⁰ Alternatively, rates filed before October 1, 2019, may be established through a rate filing with the Office of Insurance Regulation (OIR) that is not required to be reviewed by the OIR before implementation of the rate (“file and use” review) or shortly after implementation of the rate (“use and file” review).²¹ Specifically, the flood rate is exempt from the “file and use” and “use and file” requirements of s. 627.062(2)(a), F.S.²² Such filings are also exempt from the requirement to provide information necessary to evaluate the company and the reasonableness of the rate. The OIR may, however, examine a rate filing at its discretion. To enable the office to conduct such examinations, insurers must maintain actuarial data related to flood coverage for 2 years after the effective date of the rate change.²³ Upon examination, the OIR will use actuarial techniques and the standards of the rating law to determine if the rate is excessive, inadequate or unfairly discriminatory.²⁴

Insurers that seek to write flood coverage in Florida must notify the OIR at least 30 days before doing so and file a plan of operation, financial projections, and any such revisions with the OIR.²⁵ Surplus lines agents may export flood insurance without making a diligent effort to seek coverage from three or more authorized insurers until July 1, 2017.²⁶

¹⁸ Section 627.715(1)(a)(4.), F.S.

¹⁹ Section 627.715(1)(a)(5.), F.S.

²⁰ Section 627.715(3)(a), F.S.

²¹ Section 627.715(3)(b), F.S.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Section 627.715(5), F.S.

²⁶ Section 627.715(4), F.S.

Elevation Certificates

An elevation certificate is the certificate used to demonstrate the elevation of property which has been developed by FEMA pursuant to federal floodplain management regulation and which is completed by a surveyor and mapper.²⁷ The NFIP elevation certificate is used to provide elevation information necessary to ensure compliance to community floodplain management ordinances, to determine the proper insurance premium rate, or to support a request for a Letter of Map Amendment.²⁸ As part of the agreement for making flood insurance available in a community, the NFIP requires each community to adopt floodplain management regulations that specify minimum requirements for reducing flood losses.²⁹ One such requirement is for the community to obtain the elevation of the lowest floor (including basement) of all new and substantially improved buildings, and maintain a record of such information.³⁰ The elevation certificate provides a way for a community to document compliance with the community's floodplain management ordinance. Surveyors and mappers are required to submit elevation certificates to the Division within 30 days of completion.³¹

Florida Communities Trust

The FCT was created in 1989 as a nonlapsing revolving fund to be used by local governments and nonprofit organizations for the acquisition of community based projects, urban open spaces, parks, and greenways.³² The fund is held and administered by the Florida Communities Trust, which acts as a non-regulatory agency within the DEP. The governing body of the FCT is the Secretary of Environmental Protection, and four members appointed by the Governor: a former elected official of county government, a former elected official of a municipal government, a representative of a nonprofit organization, and a representative of the development industry.³³

The FCT is responsible for assisting local governments in implementing local comprehensive plans and bringing plans into compliance. The FCT is also tasked with responding to development patterns that degrade natural areas, enhancing resource values, restoring urban waterfronts, preserving working waterfronts, reserving land for purchase at a later date, promoting innovative land acquisition methods, and providing public access to water fronts.³⁴

The FCT receives approximately 21 percent of Florida Forever funds each year. Emphasis is placed on funding projects in low income or otherwise disadvantaged communities. A dollar for dollar local match is required for 75 percent of these funds. The local government match can consist of federal grants or funds, private donations, or environmental mitigation funds.³⁵ The FCT was last funded in 2011.

²⁷ Section 472.0366(1)(b), F.S.

²⁸ Federal Emergency Management Agency, *National Flood Insurance Program Elevation Certificate and Instructions*, <https://www.fema.gov/media-library/assets/documents/160> (last visited November 18, 2015).

²⁹ Federal Emergency Management Agency, *National Flood Insurance Program Elevation Certificate and Instructions Form 086-0-33* (2012).

³⁰ *Id.*

³¹ Section 472.0366(2), F.S.

³² Chapter 89-175, s. 28, Laws of Fla.

³³ Section 380.504, F.S.

³⁴ Section 380.502, F.S.

³⁵ Section 259.105(3)(c), F.S.

III. Effect of Proposed Changes:

Section 1 authorizes the Division to administer a matching grant program to provide up to \$50 million annually in technical and financial assistance, subject to appropriation, to local governments to implement certain flood risk reduction policies and projects consistent with the coastal management element of a local government comprehensive plan required under s. 163.3178, F.S., an approved local hazard mitigation plan, or an adaptation action plan. The Division may not spend more than 8 percent of funds appropriated to it under this section on administration. The bill requires the Division to rank applications submitted by local governments for assistance based on certain criteria, and to give priority to: projects providing the greatest scoring improvement within the NFIP CRS; the acquisition of flood-prone property for conversion to open space in perpetuity, or the development of natural or grey infrastructure, to reduce the risk of flooding; applications submitted by local governments that have encountered a significant increase in NFIP premiums during the preceding 5 years; projects that will protect the greatest number of structures from frequent flooding; applications that exceed the dollar-for-dollar matching funds threshold; and local governments that participate in the NFIP CRS. The Division is also given authority to adopt rules to administer this section, and shall consult with the state land planning agency in developing ranking criteria for project selection. Recipients of grant funds may not spend more than 8 percent of those funds on administration. The Division is also required to establish a monitoring system to ensure proper expenditure of grant funds and compliance with the recipient's contract.

Section 2 redesignates paragraphs (c) through (g) as (d) through (h) in s. 380.507(2), F.S. This section also adds a new paragraph (c), which adds flood mitigation projects to the list of purposes of the FCT. The section also amends subsection (4) to include that the FCT can acquire and dispose of real personal property or any interest therein when necessary or appropriate to reduce flood hazards.

Section 3 redesignates paragraphs (c) through (f) as (d) through (g) in s. 380.508(4), F.S. This section also adds a new paragraph (c) which states the purpose of acceptable flood mitigation projects per FCT guidelines. These projects should serve to lower a community's rating under the NFIP CRS, and the purpose shall be to acquire interests in lands designated as severe repetitive loss properties within coastal "V," "VE," and "V1-30" FEMA designated flood zones, which are suitable for enhancing beach and coastal access for the public, creating public parks, and providing flood control; or to provide technical and financial assistance to local governments to implement flood risk reduction policies and projects consistent with the coastal element of the local government comprehensive plan required under s. 163.3178, F.S., an approved local hazard mitigation plan, or an adaptation action plan.

Section 4 amends paragraph (d) of s. 380.510(3), F.S., to refer to the new paragraph numbering in s. 380.508(4), F.S. Specifically, it redesignates a reference from s. 380.508(4)(f), F.S., to s. 380.508(4)(g), F.S. A new paragraph (f) is added to this section and states that land acquired for flood mitigation projects must be maintained strictly for flood mitigation purposes or conservation purposes. Any conveyance to a private entity must contain conditions, covenants, restrictions, or other provisions that ensure that the land will be maintained for flood mitigation or conservation purposes.

Section 5 adds that the Division may contract with a third party to store elevation certificates received pursuant to s. 472.0366, F.S. The Division may also contract with a third party to maintain a centralized database allowing the public to access elevation certificates and the data contained within the certificates.

Section 6 inserts the word “flexible” into s. 627.715, F.S., as a technical fix. Flexible flood insurance is already a part of the statute, but is currently missing from the introductory paragraph that lists policy types. This section extends the informational filing of rates for flood coverage from October 1, 2019, to October 1, 2025. For rates filed before this date, the insurer may also establish and use such rates in accordance with the rates, rating schedules, or rating manuals filed by the insurer with the office which allow the insurer a reasonable rate of return on flood coverage. The bill also extends the removal of the diligent search requirement for surplus lines placement from July 1, 2017, to July 1, 2025.

Section 7 provides an effective date of July 1, 2016.

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:

There would likely be a positive effect on the private sector, with the possibility of reduced premiums for policy holders. Communities participating in NFIP’s CRS program recognizes certain activities that earn credit and reduce premiums anywhere from 5 to 45 percent.

C. Government Sector Impact:

There is a cap on usage of grant funds for administrative costs at 8 percent at the local level, and the Division would request a similar level of administrative costs annually to administer the program. In order to implement the proposed grant program under the current legislation, the Division would require seven additional full-time employees

including a program administrator and six project managers. The estimated cost for personnel for the Division will be \$598,716 per year for salary, benefits, travel, and expenses. An additional \$500,000 in funding for program support and contractual services would be required in the first year with an estimate of \$150,000 in recurring funding. Regarding technology, the fiscal impact would be dependent on the type of system required to collect the elevation certificates for use by the public. Currently, hardware and web-based database management program must be developed to allow the public to access elevation certificates. Additional technology would be required to develop a system to administer the flood mitigation grant program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 252.64 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 380.507, 380.508, 380.510, 472.0366, and 627.715.

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 December 1, 2015:

Clarifies that the \$50 million matching grant program cap is annual, subject to appropriation; extends the 8 percent administration expense cap to the Division, where it was previously only extended to the localities receiving grant monies.

- B. **Amendments:**

None.



868432

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 12/01/2015 | . | |
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The Committee on Community Affairs (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 45 - 51
and insert:
administer a matching grant program to provide up to \$50 million
annually in technical and financial assistance, subject to
appropriation, to local governments to implement flood risk
reduction policies and projects consistent with the coastal
management element of a local government comprehensive plan
required under s. 163.3178, an approved local hazard mitigation



868432

11 plan, or an adaptation action plan. To administer the program,
12 the division may not spend more than 8 percent of funds
13 appropriated to it under this section on administration.

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

16 And the title is amended as follows:

17 Delete lines 5 - 7

18 and insert:

19 provide up to \$50 million annually in technical and
20 financial assistance to local governments to implement
21 certain flood risk reduction policies and projects;
22 limiting certain administrative costs of the division;
23 requiring

By Senator Brandes

22-00568C-16

2016584__

1 A bill to be entitled
2 An act relating to the peril of flood; creating s.
3 252.64, F.S.; authorizing the Division of Emergency
4 Management to administer a matching grant program to
5 provide up to \$50 million in technical and financial
6 assistance to local governments to implement certain
7 flood risk reduction policies and projects; requiring
8 the division to rank applications for assistance based
9 on certain criteria; authorizing the division to adopt
10 rules; capping funds for administration; requiring the
11 division to establish a system to monitor grants;
12 amending s. 380.507, F.S.; authorizing the Florida
13 Communities Trust to undertake, coordinate, or fund
14 flood mitigation projects and to acquire and dispose
15 of real and personal property or specified interest
16 when necessary or appropriate to reduce flood hazards;
17 amending s. 380.508, F.S.; specifying the purpose of
18 acceptable flood mitigation projects undertaken,
19 coordinated, or funded by the trust; amending s.
20 380.510, F.S.; conforming a cross-reference;
21 specifying certain required conditions to be included
22 in trust grant or loan agreements for land
23 acquisition; amending s. 472.0366, F.S.; authorizing
24 the division to contract with third parties to store
25 elevation certificates and maintain a database for
26 public access to such certificates; amending s.
27 627.715, F.S.; authorizing an insurer to issue flood
28 insurance policies on a flexible basis; extending the
29 date by which an insurer may use certain statutory

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2016584__

30 rate standards for establishing and using flood
31 coverage rates; extending the date by which a surplus
32 lines agent may export a contract or endorsement
33 providing flood coverage to an eligible surplus lines
34 insurer without making a diligent effort to seek such
35 coverage from three or more authorized insurers;
36 providing an effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Section 252.64, Florida Statutes, is created to
41 read:

42 252.64 Local government flood hazard risk reduction
43 assistance.-

44 (1) The Division of Emergency Management is authorized to
45 administer a matching grant program to provide up to \$50 million
46 in technical and financial assistance, subject to appropriation,
47 to local governments to implement flood risk reduction policies
48 and projects consistent with the coastal management element of a
49 local government comprehensive plan required under s. 163.3178,
50 an approved local hazard mitigation plan, or an adaptation
51 action plan.

52 (2) The division shall rank each received application for
53 assistance and shall give priority to:

54 (a) Projects that provide the greatest scoring improvement
55 within the National Flood Insurance Program Community Rating
56 System;

57 (b) The acquisition of flood-prone property for conversion
58 to open space in perpetuity, or the development of natural or

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2016584__

59 grey infrastructure, to reduce the risk of flooding;

60 (c) Applications submitted by local governments that have
61 encountered a significant increase in National Flood Insurance
62 premiums during the preceding 5 years;

63 (d) Projects that will protect the greatest number of
64 structures from frequent flooding;

65 (e) Applications that exceed the dollar-for-dollar matching
66 funds threshold; and

67 (f) Local governments that participate in the National
68 Flood Insurance Program Community Rating System.

69 (3) The division may adopt rules to administer this section
70 and shall consult with the state land planning agency in
71 developing ranking criteria for project selection.

72 (4) A recipient may not spend more than 8 percent of grant
73 funds on administration.

74 (5) The division shall establish a system to monitor
75 grants, including site visits, to ensure proper expenditure of
76 funds and compliance with the conditions of the recipient's
77 contract.

78 Section 2. Present paragraphs (c) through (g) of subsection
79 (2) of section 380.507, Florida Statutes, are redesignated as
80 paragraphs (d) through (h), respectively, a new paragraph (c) is
81 added to that subsection, and subsection (4) of that section is
82 amended, to read:

83 380.507 Powers of the trust.—The trust shall have all the
84 powers necessary or convenient to carry out the purposes and
85 provisions of this part, including:

86 (2) To undertake, coordinate, or fund activities and
87 projects which will help bring local comprehensive plans into

22-00568C-16

2016584__

88 compliance and help implement the goals, objectives, and
89 policies of the conservation, recreation and open space, and
90 coastal elements of local comprehensive plans, or which will
91 otherwise serve to conserve natural resources and resolve land
92 use conflicts, including, but not limited to:

93 (c) Flood mitigation projects.

94 (4) To acquire and dispose of real and personal property or
95 any interest therein when necessary or appropriate to protect
96 the natural environment, provide public access or public
97 recreational facilities, including the Florida National Scenic
98 Trail, preserve wildlife habitat areas, provide access for
99 managing acquired lands, reduce flood hazards, or otherwise
100 carry out the purposes of this part. If the trust acquires land
101 for permanent state ownership, title to such land shall be
102 vested in the Board of Trustees of the Internal Improvement
103 Trust Fund; otherwise, title to property acquired in partnership
104 with a county or municipality shall vest in the name of the
105 local government. Notwithstanding any other provision of law,
106 the trust may enter into an option agreement to purchase lands
107 included in projects approved according to this part, when
108 necessary to reserve lands during the preparation of project
109 plans and during acquisition proceedings. The consideration for
110 an option shall not exceed \$100,000.

111 Section 3. Present paragraphs (c) through (f) of subsection
112 (4) of section 380.508, Florida Statutes, are redesignated as
113 paragraphs (d) through (g), respectively, and a new paragraph
114 (c) is added to that subsection, to read:

115 380.508 Projects; development, review, and approval.-

116 (4) Projects or activities which the trust undertakes,

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117 coordinates, or funds in any manner shall comply with the
118 following guidelines:

119 (c) The purpose of acceptable flood mitigation projects,
120 which should serve to lower a community's class rating under the
121 National Flood Insurance Program Community Rating System, shall
122 be:

123 1. To acquire interests in lands designated as severe
124 repetitive loss properties within coastal "V," "VE," and "V1-30"
125 designated flood zones, as designated by the Federal Emergency
126 Management Agency, which are suitable for enhancing beach and
127 coastal access for the public, creating public parks, and
128 providing flood control; or

129 2. To provide technical and financial assistance to local
130 governments to implement flood risk reduction policies and
131 projects consistent with the coastal element of the local
132 government comprehensive plan required under s. 163.3178, an
133 approved local hazard mitigation plan, or an adaptation action
134 plan.

135
136 Project costs may include costs of providing parks, open space,
137 public access sites, scenic easements, and other areas and
138 facilities serving the public where such features are part of a
139 project plan approved according to this part. In undertaking or
140 coordinating projects or activities authorized by this part, the
141 trust shall, when appropriate, use and promote the use of
142 creative land acquisition methods, including the acquisition of
143 less than fee interest through, among other methods,
144 conservation easements, transfer of development rights, leases,
145 and leaseback arrangements. The trust shall assist local

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146 governments in the use of sound alternative methods of financing
147 for funding projects and activities authorized under this part.
148 Any funds over and above eligible project costs, which remain
149 after completion of a project approved according to this part,
150 shall be transmitted to the state and deposited into the Florida
151 Forever Trust Fund.

152 Section 4. Paragraph (d) of subsection (3) of section
153 380.510, Florida Statutes, is amended, and paragraph (f) is
154 added to that subsection, to read:

155 380.510 Conditions of grants and loans.—

156 (3) In the case of a grant or loan for land acquisition,
157 agreements shall provide all of the following:

158 (d) If any essential term or condition of a grant or loan
159 is violated, title to all interest in real property acquired
160 with state funds shall be conveyed or revert to the Board of
161 Trustees of the Internal Improvement Trust Fund. The trust shall
162 treat such property in accordance with s. 380.508(4)(g) ~~s.~~
163 ~~380.508(4)(f)~~.

164 (f) Land acquired for flood mitigation projects must be
165 maintained strictly for flood mitigation purposes or
166 conservation purposes. Conveyance of such lands to private
167 entities must contain conditions, covenants, restrictions, or
168 other provisions that ensure that the land will be maintained
169 for flood mitigation or conservation purposes.

170
171 Any deed or other instrument of conveyance whereby a nonprofit
172 organization or local government acquires real property under
173 this section shall set forth the interest of the state. The
174 trust shall keep at least one copy of any such instrument and

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175 shall provide at least one copy to the Board of Trustees of the
176 Internal Improvement Trust Fund.

177 Section 5. Subsection (3) is added to section 472.0366,
178 Florida Statutes, to read:

179 472.0366 Elevation certificates; requirements for surveyors
180 and mappers.—

181 (3) The division may contract with a third party to store
182 elevation certificates received pursuant to this section. The
183 division may also contract with a third party to maintain a
184 centralized database allowing the public to access elevation
185 certificates and the data contained within the certificates.

186 Section 6. Section 627.715, Florida Statutes, is amended to
187 read:

188 627.715 Flood insurance.—An authorized insurer may issue an
189 insurance policy, contract, or endorsement providing personal
190 lines residential coverage for the peril of flood on any
191 structure or the contents of personal property contained
192 therein, subject to this section. This section does not apply to
193 commercial lines residential or commercial lines nonresidential
194 coverage for the peril of flood. This section also does not
195 apply to coverage for the peril of flood that is excess coverage
196 over any other insurance covering the peril of flood. An insurer
197 may issue flood insurance policies, contracts, or endorsements
198 on a standard, preferred, customized, flexible, or supplemental
199 basis.

200 (1)(a)1. Standard flood insurance must cover only losses
201 from the peril of flood, as defined in paragraph (b), equivalent
202 to that provided under a standard flood insurance policy under
203 the National Flood Insurance Program. Standard flood insurance

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204 issued under this section must provide the same coverage,
205 including deductibles and adjustment of losses, as that provided
206 under a standard flood insurance policy under the National Flood
207 Insurance Program.

208 2. Preferred flood insurance must include the same coverage
209 as standard flood insurance but:

210 a. Include, within the definition of "flood," losses from
211 water intrusion originating from outside the structure that are
212 not otherwise covered under the definition of "flood" provided
213 in paragraph (b).

214 b. Include coverage for additional living expenses.

215 c. Require that any loss under personal property or
216 contents coverage that is repaired or replaced be adjusted only
217 on the basis of replacement costs up to the policy limits.

218 3. Customized flood insurance must include coverage that is
219 broader than the coverage provided under standard flood
220 insurance.

221 4. Flexible flood insurance must cover losses from the
222 peril of flood, as defined in paragraph (b), and may also
223 include coverage for losses from water intrusion originating
224 from outside the structure which is not otherwise covered by the
225 definition of flood. Flexible flood insurance must include one
226 or more of the following provisions:

227 a. An agreement between the insurer and the insured that
228 the flood coverage is in a specified amount, such as coverage
229 that is limited to the total amount of each outstanding mortgage
230 applicable to the covered property.

231 b. A requirement for a deductible in an amount authorized
232 under s. 627.701, including a deductible in an amount authorized

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233 for hurricanes.

234 c. A requirement that flood loss to a dwelling be adjusted
235 in accordance with s. 627.7011(3) or adjusted only on the basis
236 of the actual cash value of the property.

237 d. A restriction limiting flood coverage to the principal
238 building defined in the policy.

239 e. A provision including or excluding coverage for
240 additional living expenses.

241 f. A provision excluding coverage for personal property or
242 contents as to the peril of flood.

243 5. Supplemental flood insurance may provide coverage
244 designed to supplement a flood policy obtained from the National
245 Flood Insurance Program or from an insurer issuing standard or
246 preferred flood insurance pursuant to this section. Supplemental
247 flood insurance may provide, but need not be limited to,
248 coverage for jewelry, art, deductibles, and additional living
249 expenses.

250 (b) "Flood" means a general and temporary condition of
251 partial or complete inundation of two or more acres of normally
252 dry land area or of two or more properties, at least one of
253 which is the policyholder's property, from:

254 1. Overflow of inland or tidal waters;

255 2. Unusual and rapid accumulation or runoff of surface
256 waters from any source;

257 3. Mudflow; or

258 4. Collapse or subsidence of land along the shore of a lake
259 or similar body of water as a result of erosion or undermining
260 caused by waves or currents of water exceeding anticipated
261 cyclical levels that result in a flood as defined in this

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262 paragraph.

263 (2) Flood coverage deductibles and policy limits pursuant
264 to this section must be prominently noted on the policy
265 declarations page or face page.

266 (3) (a) An insurer may establish and use flood coverage
267 rates in accordance with the rate standards provided in s.
268 627.062.

269 (b) For flood coverage rates filed with the office before
270 October 1, 2025 ~~2019~~, the insurer may also establish and use
271 such rates in accordance with the rates, rating schedules, or
272 rating manuals filed by the insurer with the office which allow
273 the insurer a reasonable rate of return on flood coverage
274 written in this state. Flood coverage rates established pursuant
275 to this paragraph are not subject to s. 627.062(2) (a) and (f).
276 An insurer shall notify the office of any change to such rates
277 within 30 days after the effective date of the change. The
278 notice must include the name of the insurer and the average
279 statewide percentage change in rates. Actuarial data with regard
280 to such rates for flood coverage must be maintained by the
281 insurer for 2 years after the effective date of such rate change
282 and is subject to examination by the office. The office may
283 require the insurer to incur the costs associated with an
284 examination. Upon examination, the office, in accordance with
285 generally accepted and reasonable actuarial techniques, shall
286 consider the rate factors in s. 627.062(2) (b), (c), and (d), and
287 the standards in s. 627.062(2) (e), to determine if the rate is
288 excessive, inadequate, or unfairly discriminatory. If the office
289 determines that a rate is excessive or unfairly discriminatory,
290 the office shall require the insurer to provide appropriate

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291 credit to affected insureds or an appropriate refund to affected
292 insureds who no longer receive coverage from the insurer.

293 (4) A surplus lines agent may export a contract or
294 endorsement providing flood coverage to an eligible surplus
295 lines insurer without making a diligent effort to seek such
296 coverage from three or more authorized insurers under s.
297 626.916(1) (a). This subsection expires July 1, 2025 2017.

298 (5) In addition to any other applicable requirements, an
299 insurer providing flood coverage in this state must:

300 (a) Notify the office at least 30 days before writing flood
301 insurance in this state; and

302 (b) File a plan of operation and financial projections or
303 revisions to such plan, as applicable, with the office.

304 (6) Citizens Property Insurance Corporation may not provide
305 insurance for the peril of flood.

306 (7) The Florida Hurricane Catastrophe Fund may not provide
307 reimbursement for losses proximately caused by the peril of
308 flood, including losses that occur during a covered event as
309 defined in s. 215.555(2) (b).

310 (8) An agent must, upon receiving an application for flood
311 coverage from an authorized or surplus lines insurer for a
312 property receiving flood insurance under the National Flood
313 Insurance Program, obtain an acknowledgment signed by the
314 applicant before placing the coverage with the authorized or
315 surplus lines insurer. The acknowledgment must notify the
316 applicant that, if the applicant discontinues coverage under the
317 National Flood Insurance Program which is provided at a
318 subsidized rate, the full risk rate for flood insurance may
319 apply to the property if the applicant later seeks to reinstate

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320 coverage under the program.

321 (9) With respect to the regulation of flood coverage
322 written in this state by authorized insurers, this section
323 supersedes any other provision in the Florida Insurance Code in
324 the event of a conflict.

325 (10) If federal law or rule requires a certification by a
326 state insurance regulatory official as a condition of qualifying
327 for private flood insurance or disaster assistance, the
328 Commissioner of Insurance Regulation may provide the
329 certification, and such certification is not subject to review
330 under chapter 120.

331 (11) (a) An authorized insurer offering flood insurance may
332 request the office to certify that a policy, contract, or
333 endorsement provides coverage for the peril of flood which
334 equals or exceeds the flood coverage offered by the National
335 Flood Insurance Program. To be eligible for certification, such
336 policy, contract, or endorsement must contain a provision
337 stating that it meets the private flood insurance requirements
338 specified in 42 U.S.C. s. 4012a(b) and may not contain any
339 provision that is not in compliance with 42 U.S.C. s. 4012a(b).

340 (b) The authorized insurer or its agent may reference or
341 include a certification under paragraph (a) in advertising or
342 communications with an agent, a lending institution, an insured,
343 or a potential insured only for a policy, contract, or
344 endorsement that is certified under this subsection. The
345 authorized insurer may include a statement that notifies an
346 insured of the certification on the declarations page or other
347 policy documentation related to flood coverage certified under
348 this subsection.

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349 (c) An insurer or agent who knowingly misrepresents that a
350 flood policy, contract, or endorsement is certified under this
351 subsection commits an unfair or deceptive act under s. 626.9541.

352 Section 7. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: November 3, 2015

I respectfully request that **Senate Bill #584**, relating to **Peril of Flood**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 22



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Criminal Justice
Education Pre-K - 12
Judiciary

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR JEFF BRANDES

22nd District

November 30, 2015

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

Dear Chair Simpson,

I will be unable to present my bills, **SJR 170: Renewable Energy Source Devices**, **SB 172: Renewable Energy Source Devices** and **SB 584: Peril of Flood**, in the Senate Committee on Community Affairs on Tuesday, December 1st.

I am requesting that my legislative assistant Chris Spencer be permitted to present these bills on my behalf. Please contact me with any questions on this request.

Kind regards,

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Jeff Brandes

CC: Tom Yeatman
Ann Whittaker

REPLY TO:

- 9800 Fourth Street North, Suite 200, St. Petersburg, Florida 33702 (727) 563-2100
- 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/1
Meeting Date

584
Bill Number (if applicable)

Topic Flood Ins.

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Legislative Consultant

Address PO Box 1757
Street

Phone 339 6211

Tallahassee, FL 32301
City State Zip

Email rohara@flcities.com

Speaking: For Against Information

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

Representing Fla. League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Dec. 1, 2015
Meeting Date

584
Bill Number (if applicable)

Topic Pearl of Food

Amendment Barcode (if applicable)

Name Janet Bowman

Job Title Director of Legislative Policy & Strategies

Address 236 E 5th Avenue
Street

Phone 251-9406

Tallahassee FL 32303
City State Zip

Email Janet-Bowman@nc.leg

Speaking: For Against Information

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

Representing The Nature Conservancy

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)

12-1-15

Meeting Date

584

Bill Number (if applicable)

Topic Peril of Flood

Amendment Barcode (if applicable)

Name LISA Miller

Job Title CEO

Address 331 N Monroe St

Phone 858 528 9229

Palm Beach FL 32301
City State Zip

Email lisamiller@

Speaking: For Against Information

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

Representing Lisa Miller + Associates

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)

12/1/2015

Meeting Date

584

Bill Number (if applicable)

Topic FLOOD

Amendment Barcode (if applicable)

Name CHRISTIAN CAMARA

Job Title STATE DIRECTOR

Address PO Box 10577

Phone (305) 608-4300

Street YALAHASSEE FL 32303

Email CCAMARA@RSTRTE.ORG

City State Zip

Speaking: For Against Information

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

Representing R STREET INST.

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)

12/1/2015
Meeting Date

SB 584
Bill Number (if applicable)

Topic Peril of Flood

Amendment Barcode (if applicable)

Name Diana Arteaga

Job Title Director Govt Relations City of Miami

Address 444 SW 2nd Ave, 10th Floor
Street

Phone 786-469-1644

miami FL
City State Zip

Email darteaga@miamigov.com

Speaking: For Against Information

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

Representing City of Miami

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)

584
Bill Number (if applicable)

Meeting Date _____

Topic Peril - F Flood

Amendment Barcode (if applicable) _____

Name ERIC POOLE

Job Title Asst. Leg Dir

Address 100 S Monroe
Street

Phone 9774300

Tallah FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida Assoc. 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
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 584
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| FINAL VOTE | | SENATORS | 12/01/2015 Amendment 868432 | | | | | |
|------------|-----|---------------------|--------------------------------|-----|-----|-----|-----|-----|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| | | Abruzzo | | | | | | |
| X | | Bradley | | | | | | |
| X | | Dean | | | | | | |
| | | Diaz de la Portilla | | | | | | |
| X | | Hutson | | | | | | |
| X | | Thompson | | | | | | |
| | | Brandes, VICE CHAIR | | | | | | |
| X | | Simpson, CHAIR | | | | | | |
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| 5 | 0 | TOTALS | RCS | - | | | | |
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 770

INTRODUCER: Senator Simpson

SUBJECT: Local Government Environmental Financing

DATE: November 30, 2015 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Present | Yeatman | CA | Favorable |
| 2. | | | AGG | |
| 3. | | | AP | |

I. Summary:

SB 770 is a comprehensive environmental stewardship bill for the benefit of the Florida Keys.

First, the bill expands the use of the local government infrastructure surtax to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to reduce the impacts of new development on hurricane evacuation clearance times.

The bill provides a 10-year annual authorization for the Legislature to appropriate \$20 million in bonds to finance or refinance the cost of the acquisition and improvement of lands, water areas, and related property interests and resources. These funds may be used in order to restore and conserve natural systems through implementation of water management projects and wastewater management projects. The areas in which these funds may now be used include the City of Key West Area of Critical State Concern. If \$20 million in bonds are not annually authorized by the Legislature in this manner, an additional \$20 million shall be appropriated to the Department of Environmental Protection to be distributed to local governments in the Florida Keys and the City of Key West Areas of Critical State Concern for projects that protect, restore, or enhance nearshore water quality and fisheries and projects to protect and enhance water supply to the Florida Keys.

Under certain circumstances, lands that are purchased in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern using proceeds from Everglades restoration bonds and that are no longer needed for restoration purposes, may be disposed of using a new procedure.

Finally, the bill also provides a 10-year annual appropriation of \$5 million in Florida Forever funding to the Florida Keys Area of Critical State Concern to help address the acquisition of vacant parcels for the purposes of protecting critical habitat, public safety, and private property rights.

II. Present Situation:

Areas of Critical State Concern

The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972."¹ The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.²

An Area of Critical State Concern may be designated only for an area:

- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, of which the uncontrolled private or public development would cause substantial deterioration of such resources; or
- Containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, of which the private or public development would cause substantial deterioration or complete loss of such resources, sites, or districts.³

The designated Areas of Critical State Concern are the Apalachicola Bay Area,⁴ the Green Swamp Area,⁵ the Big Cypress Area,⁶ and the Florida Keys Area and the City of Key West Area.⁷

As the state land planning agency, the Department of Economic Opportunity has the authority to review all development permits in the Areas of Critical State Concern. If Department of Economic Opportunity determines that the administration of the local land development regulations or local comprehensive plan within the area is inadequate to protect the state or regional interest, the agency may institute appropriate judicial proceedings to complete proper enforcement of the land development regulations or plans.⁸

The Florida Keys and the City of Key West Areas of Critical State Concern

The Legislature designated the Florida Keys (Monroe County and its municipalities) and the City of Key West as Areas of Critical State Concern in 1975 due to the area's environmental

¹ Chapter 72-317, s. 1, Laws of Fla.

² Department of Economic Opportunity, *Areas of Critical State Concern Program*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Nov. 23, 2015).

³ Section 380.05(2), F.S.

⁴ Section 380.0555, F.S.

⁵ Section 380.0551, F.S.

⁶ Section 380.055, F.S.

⁷ Section 380.0552, F.S.

⁸ Section 380.05(13), F.S.

sensitivity and mounting development pressures.⁹ The legislative intent was to establish a land use management system for the Florida Keys that would achieve the following:

- Protect the natural environment and improve the nearshore water¹⁰ quality;
- Support a diverse economic base that promotes balanced growth in accordance with the capacity of public facilities;
- Promote public land acquisition and ensure that the population of the Florida Keys can be safely evacuated;
- Provide affordable housing in close proximity to places of employment; and
- Protect property rights and promote coordination among governmental agencies that have permitting jurisdiction.¹¹

In the early 1990s, Monroe County revised its comprehensive plan to be consistent with the 1985 Growth Management Act.¹² The Plan drew legal challenges from numerous parties, with litigation lasting several years. In 1996, the litigation was resolved through a stipulated settlement agreement and the adoption by the Administration Commission of Rule 28-20, Florida Administrative Code.¹³ The rule contained a work program which, when complete, would improve water quality, better protect habitat for threatened and endangered species, resolve challenges that were raised by the various parties, and ultimately provide for the repeal of the designation. These administrative challenges highlighted specific aspects of the Florida Keys ecosystem as having limited capacity to sustain additional impacts from development. Of particular concern was the declining water quality of the nearshore environment due to a lack of central sewer facilities, the loss of habitat for state and federally listed species, public safety, adequate evacuation in the event of hurricanes, and a deficit of affordable housing. Rules containing work program tasks were adopted for Marathon and Islamorada after their subsequent incorporation.¹⁴

Concerns about water quality

Concerns about water quality resulted in legislative action which established requirements that by December 2015, all sewage disposal in the Florida Keys must be upgraded to meet advanced wastewater treatment standards that reduce the amount of nitrogen, phosphorus, biological oxygen demand, and total suspended solids.¹⁵ When the construction of central sewer systems is concluded, approximately 249 small package plants, 23,000 septic tanks and 2,800 cesspits will be eliminated and replaced with connections to central sewer systems providing advanced wastewater treatment.¹⁶ The bond financing in the Save the Everglades Program, approved by

⁹ Department of Economic Opportunity, *Florida Keys Area of Critical State Concern Annual Report*, 3 (2013), available at <http://www.floridajobs.org/docs/default-source/2015-community-development/2015-cnty-plan-acsc/2013annualreport.pdf?sfvrsn=2>.

¹⁰ Nearshore and inshore Florida waters is defined as “all Florida waters inside a line three miles seaward of the coastline along the Gulf of Mexico and inside a line one mile seaward of the coastline along the Atlantic Ocean.” Fla. Const. art. X, s. 16.

¹¹ *Id.* at 4.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

the Florida Legislature in 2012, and the extension of the Monroe County Infrastructure Sales Tax will provide the funds to complete central sewer by 2015.¹⁷

Water quality and the economy are inextricably linked in the Florida Keys. Tourism is the chief economic engine in the Florida Keys with over \$1.2 billion being spent annually by over 3.7 million visitors.¹⁸ Surrounded by sensitive coral reefs and highly productive marine nurseries, the Keys are an international destination for fishing and wildlife viewing. Recreational and commercial fishing are the next most important sectors of the local economy, annually contributing an estimated \$557 million.¹⁹ Hotel and motel properties alone constitute over \$1 billion in taxable property value and 90 percent of the top property taxpayers are tourism-related businesses.²⁰ In the Florida Keys, nearly half of all taxable sales are direct purchases by tourists.²¹

Maintenance of the Keys' natural resources is necessary for a sustainable economy which is dependent upon clean water and abundant natural resources and essential to maintaining a strong tourist industry.²² The Florida Keys contain the Florida Reef Tract which is the third largest barrier reef ecosystem in the world.²³ The water surrounding the Florida Keys is biologically rich and diverse, and sensitive to the impacts of development and land uses.²⁴ Excessive levels of nutrients in the water stress marine life and make them prone to disease.²⁵ The Florida Bay contains the most expansive seagrass meadow in the world.²⁶ Seagrass monitoring trends in the Florida Bay suggest that increased nutrient levels are resulting in decreased species diversity.

More than 35,000 jobs in the Keys are supported by ocean recreation and tourism and account for 58 percent of the local economy.²⁷

Development of Private Property

In 1992, Monroe County created and implemented the Rate of Growth Ordinance.²⁸ The Rate of Growth Ordinance is designed to control growth in a manner that is beneficial to the local environment, as well as the local residents. Land development in the Florida Keys is severely limited because the Florida Keys are home to many endangered and threatened species, and all residents of the Florida Keys are required to be evacuated within 24 hours before a hurricane making landfall.²⁹ As of 2013, the state has allotted only 350 building permits per year to the

¹⁷ *Id.* at 5.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Monroe County Growth Management Division, *A Layman's Guide to Residential ROGO*, available at <http://www.floridakeyskeywestrealestate.com/pdf/laymansguideROGO.pdf>.

²⁹ Section 380.0552 (9)(a)2., F.S.

Florida Keys for 10 years, for a total of 3,500 building permits.³⁰ If the state does not go beyond its current allotment, no further development will be permitted in the Florida Keys beginning in 2023. At that point, there would be approximately 7,800 undeveloped, privately-owned parcels that would be prohibited from development.³¹ The prohibition on land development could potentially result in litigation under the Takings Clause of the United States Constitution³² which requires the government to compensate a property owner when it takes his or her property for public use or when the state excessively regulates his or her property.

Everglades Restoration Bonds

Everglades restoration bonds are bonds that are used to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources to implement the Comprehensive Everglades Restoration Plan, the Lake Okeechobee Watershed Protection Plan, the Caloosahatchee River Watershed Protection Plan, the St. Lucie River Watershed Protection Plan, and the Florida Keys Area of Critical State Concern protection plan.³³ Everglades restoration bonds may be issued in amounts up to \$100 million per fiscal year through fiscal year 2019-2020, and in greater annual amounts upon request by the Department of Environmental Protection in order to achieve cost savings or accelerate land purchases.³⁴ In addition, up to \$50 million per fiscal year may be issued specifically for the purpose of funding the Florida Keys Area of Critical State Concern protection program.³⁵ Everglades restoration bonds are payable from, and secured as a first lien on, documentary stamp taxes distributed under s. 201.15(3)(b), F.S., and are not a general obligation or pledge of the full faith and credit of the state.

Local Government Infrastructure Sales Surtax

The Local Government Infrastructure Surtax is one of eight local discretionary sales surtaxes authorized by s. 212.055, F.S., which may be levied by the governing authority in each county after a majority vote of the electorate through a local referendum.³⁶ The surtax may be levied at 0.5 percent or 1.0 percent.³⁷ Proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, or if there is no interlocal agreement, according to the formula in s. 218.62, F.S.³⁸

The proceeds of the surtax must be expended only to:

³⁰ Presentation in Senate Appropriations Subcommittee on General Government by Heather Carruthers, Monroe County Board of County Commissioners, *Florida Keys Area of Critical State Concern Update*, (Nov. 18, 2015), available at https://www.flsenate.gov/media/videoplayer?EventID=2443575804_2015111205

³¹ *Id.*

³² U.S. Const. amend. V.

³³ Section 215.619(1), F.S.

³⁴ Section 215.619(1)(a), F.S.

³⁵ *Id.*

³⁶ Section 212.055(2)(a)1., F.S.

³⁷ However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent. Section 212.055(2)(h), F.S.

³⁸ Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.³⁹

Counties are also authorized to use surtax proceeds for other purposes under certain circumstances. Proceeds and accrued interest may not be used for the operational expenses of infrastructure.⁴⁰ The Attorney General (AG) has considered whether land improvement or design expenses could properly be purchased with the proceeds of this surtax. The AG determined that such items as fencing, swings, lumber for bleachers and lighting fixtures, and the materials for landscape design and tree and shrubbery planting would not be appropriate expenditures of surtax proceeds because they are more in the nature of day-to-day operational expenses.⁴¹

However, land improvement or design expenses that occur in conjunction with a fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction or improvement of public facilities, or an expenditure for such things as materials for landscape design may be purchased with the proceeds of the surtax when a new public facility is being built or an existing public facility is being improved. In 2012, the AG issued an opinion determining that a city would be authorized to use these surtax funds for a beach erosion control project, involving both the construction of fixtures and fixed equipment and also the studies, design, and planning involved in the construction of such capital projects.⁴²

While all counties are authorized to levy the surtax, only 18 counties currently do so. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of 1 percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla. During the 2015-2016 fiscal year, these counties are expected to receive combined county revenues of \$691,831,985.⁴³ Because the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent, Flagler and Miami-Dade are eligible to levy the surtax in the amount of 0.5 percent. Only an additional 19 counties are eligible to levy the surtax in the amount of 1 percent.

III. Effect of Proposed Changes:

Section 1 provides that the act may be cited as the “Florida Keys Stewardship Act.”

³⁹ Section 212.055(2)(d), F.S.

⁴⁰ Except in certain circumstances involving landfill maintenance associated with closure, or county bond indebtedness.

⁴¹ Op. Att’y Gen. Fla. 94-79 (1994).

⁴² Op. Att’y Gen. Fla. 2012-19 (2012).

⁴³ Dollar amounts are estimates. Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 226 (2015).

Section 2 amends s. 212.055, F.S., to provide additional uses for which the governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. Such uses include:

- Acquiring any interest in land for public recreation, conservation, or protection of natural resources; or
- Reducing the impacts of additional development on hurricane evacuation clearance items.

Section 212.055, F.S., is also amended to redefine infrastructure to include “any fixed capital expenditure or fixed capital outlay associated with... all other professional and related costs required to bring the public facilities into service.” The impacts of this change are twofold. First, by defining the term “public facilities” as a facility that is owned by any governmental entity, the bill clarifies that the county may use its infrastructure sales tax revenue for facilities under state or county ownership. Furthermore, public facility is defined to include a wide variety of major capital improvements including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities;⁴⁴ healthcare systems and facilities;⁴⁵ and water management and control facilities, alternative water systems, and certain spoil disposal sites for maintenance dredging in waters of the state.⁴⁶ Second, this provision expands the allowable use of funds to all other professional and related costs, which may cover legal services that are often required for procurement, contract preparation, or bid protests of projects. The surtax must be enacted by ordinance and approved by a referendum.

Section 3 amends s. 215.619, F.S., relating to bonds for Everglades restoration. The City of Key West Area of Critical State Concern as designated by the Administration Commission under s. 380.05, F.S., is added to the list of eligible areas for which Everglades restoration bonds may be issued. In addition, the section expands the range of uses for which the Everglades bonds may be issued to include projects that protect, restore, or enhance nearshore water quality and fisheries, such as storm water or canal restoration projects and projects to protect and enhance the water supply to the Florida Keys. The section also extends the period until which Everglades bonds may be issued from 2019-2020 to 2026-2027.

The section is also amended to change the conditions under which Everglades restoration bonds may be issued in an amount exceeding \$100 million per fiscal year. Beginning in fiscal year 2016-2017, such bonds may not be issued in excess of \$100 million per fiscal year unless the Department of Environmental Protection has requested these additional amounts in order to achieve cost savings or accelerate the purchase of land; or the Legislature authorizes an additional amount of bonds not to exceed \$20 million⁴⁷ per fiscal year or \$200 million total for the Florida Keys Area of Critical State Concern protection program.

Subsection (7) is added to s. 215.619, F.S., to address the issue of surplus lands within the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State

⁴⁴ Section 163.3164(38).

⁴⁵ Section 163.3221(13).

⁴⁶ Section 189.012(5).

⁴⁷ Current law provides that the additional amount of bonds may not exceed \$50 million per fiscal year or \$200 million total for the Florida Keys Area of Critical State Concern protection program.

Concern.⁴⁸ If the South Florida Water Management District and the Department of Environmental Protection determine that lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside the Florida Keys Area of Critical State Concern but which were required to be purchased to preserve and protect the potable water supply to the Florida Keys are no longer needed for those purposes, the entity owning the lands may dispose of them. However, before the lands can be disposed of, each general-purpose local government within whose boundaries a portion of the land lies must agree to the disposal of the land and must be offered the first right to purchase those lands. If the lands are surplus, they must be either:

- Surplused at not less than the appraised value with the proceeds from the sale of the lands being deposited into the Save Our Everglades Trust Fund and used to implement the respective plans; or
- The South Florida Water Management District must use a different source of funds to pay for or reimburse the Save Our Everglades Trust Fund for that portion of lands not needed to implement the respective plans.

Section 4 amends s. 259.045, F.S., relating to the purchase of lands in an Area of Critical State Concern. Specifically, the section revises the criteria that the Department of Environmental Protection shall consider in assessing what lands are appropriate for purchase. In addition to lands within an Area of Critical State Concern, the Department may also consider as appropriate for purchase lands outside the area of state concern that directly impact an area of state concern, such as for the purposes of water supply protection. The Department of Environment Protection is required to make recommendations to the board regarding the purchase of such lands that are:

- Environmentally endangered lands;
- Outdoor recreation lands;
- Lands that conserve a sensitive habitat;
- Lands that protect, restore, or enhance nearshore water quality and fisheries;
- Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or
- Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an Area of Critical State Concern.

The section also adds local governments and special districts within an Area of Critical State Concern to the list of entities that may make recommendations for additional purchases that were not included in the state land planning agency recommendations.

Section 5 amends s. 259.105, F.S., relating to The Florida Forever Act. Specifically, the section amends the legislative findings and declarations to include recognition that the continued alteration and development of Florida's natural and rural areas due to an increasing population has led to the fragmentation and destruction of coral reefs and that many of Florida's unique ecosystems, including coral reefs, are facing ecological collapse.

⁴⁸ Section 215.619(6) provides a similar process for surplus lands that are not needed to implement the Lake Okeechobee Watershed Protection Plan, the Caloosahatchee River Watershed Protection Plan, and the St. Lucie River Watershed Protection Plan.

The section also amends s. 259.105(3)(b), F.S., to provide that at least \$5 million of the funds allocated annually by the Department of Environmental Protection pursuant to paragraph (b) shall be spent on land acquisition within the Florida Keys Area of Critical State Concern. This annual allocation would begin in fiscal year 2016-2017 and continue through fiscal year 2026-2027.

Section 6 amends s. 380.0552, F.S., relating to the Florida Keys Area of Critical State Concern. Specifically, the section provides that it is the intent of the Legislature to provide state funds for water quality improvement projects, including the construction and operation of certain wastewater management facilities. The section also provides additional principles for guiding development in the Florida Keys Area of Critical State Concern. Specifically, any plan amendments to the Florida Keys Area of Critical State Concern must be consistent with the principle of protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of other water quality and water supply projects, including direct and indirect potable reuse.

Section 7 amends s. 380.0666, F.S., relating to the powers of land authority. Specifically, the land authority is given all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act. The section is amended to include the following additional powers:

- To acquire and dispose of real and personal property or any interest therein when such acquisition is necessary or appropriate to reduce the impacts of additional development on hurricane evacuation clearance items; and
- To contribute funds to the Department of Environment Protection for the purchase of lands by the department.

Section 8 is an unnumbered section of law. The section provides that, notwithstanding any other provision of law, in fiscal year 2016-2017 through fiscal year 2026-2027, if \$20 million in bonds are not authorized to be issued pursuant to s. 215.619, F.S.,⁴⁹ \$20 million shall be appropriated to the Department of Environmental Protection to be distributed to local governments in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern for projects that protect, restore, or enhance nearshore water quality and fisheries and projects to protect and enhance water supply to the Florida Keys.

Section 9 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴⁹ Section 215.619, F.S., is amended in bill section 3.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If tourism increases from the improvements to water quality, the state may see an increase in tax revenue.

B. Private Sector Impact:

The increase in water quality may help to increase tourism. In addition, private property owners who own land in the Florida Keys, but are unable to obtain a permit to develop the land may be compensated for their land. This may help to avoid litigation under the Takings Clause.⁵⁰

C. Government Sector Impact:

The bill provides a 10-year annual authorization for a minimum of \$250 million. Specifically, the 10-year annual authorization provides for the Legislature to appropriate \$20 million in bonds to finance or refinance the cost of the acquisition and improvement of lands, water areas, and related property interests and resources. If \$20 million in bonds are not annually authorized by the Legislature in this manner, an additional \$20 million shall be appropriated to the Department of Environmental Protection to be distributed to local governments in the Florida Keys and the City of Key West Areas of Critical State Concern for projects that protect, restore, or enhance nearshore water quality and fisheries and projects to protect and enhance water supply to the Florida Keys. Furthermore, the bill also provides a 10-year annual appropriation of \$5 million in Florida Forever funding to help address the acquisition of vacant parcels for the purposes of protecting critical habitat, public safety, and private property rights.

VI. Technical Deficiencies:

None.

VII. Related Issues:

If \$20 million in bonds are not annually authorized by the Legislature pursuant to s. 215.619, F.S., an additional \$20 million must be appropriated to the Department of Environmental Protection to be distributed to local governments in the Florida Keys and the City of Key West Areas of Critical State Concern for projects that protect, restore, or enhance nearshore water quality and fisheries and projects to protect and enhance water supply to the Florida Keys. If strictly construed, this provision may require an additional \$20 million appropriation to the Department of Environmental Protection if the Legislature does not annually appropriate exactly

⁵⁰ U.S. Const. amend. V.

\$20 million in bonds under s. 215.619, F.S.,—regardless of whether such amount is higher or lower than \$20 million.

VIII. Statutes Affected:

This bill substantially amends sections 212.055, 215.619, 259.045, 259.105, 380.0552, and 380.0666 of the Florida Statutes.

This bill creates an unnumbered section 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.

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

By Senator Simpson

18-00925-16

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1 A bill to be entitled
2 An act relating to local government environmental
3 financing; providing a short title; amending s.
4 212.055, F.S.; expanding the use of local government
5 infrastructure surtaxes to include acquiring any
6 interest in land for public recreation, conservation,
7 or protection of natural resources or to reduce
8 impacts of new development on hurricane evacuation
9 clearance times; revising definitions for purposes of
10 using surtax proceeds; amending s. 215.619, F.S.;
11 expanding the use of Everglades restoration bonds to
12 include the City of Key West Area of Critical State
13 Concern; expanding the types of water management
14 projects eligible for funding; revising the dates for
15 issuance and maturity of Everglades restoration bonds;
16 reducing the annual appropriation amount dedicated to
17 fund the Florida Keys Area of Critical State Concern
18 protection program; authorizing bond proceeds to be
19 spent on the City of Key West Area of Critical State
20 Concern; expanding projects that may be funded by bond
21 proceeds; specifying procedures for certain lands that
22 are no longer needed for certain restoration purposes;
23 amending s. 259.045, F.S.; requiring the Department of
24 Environmental Protection to annually consider certain
25 recommendations to buy specific lands within and
26 outside an area of critical state concern; authorizing
27 certain local governments and special districts to
28 recommend additional lands for purchase; amending s.
29 259.105, F.S.; revising Florida Forever provisions to

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30 recognize the diminishment of coral reefs; requiring
31 specific Florida Forever appropriations to be used for
32 the purchase of lands in the Florida Keys Area of
33 Critical State Concern; amending s. 380.0552, F.S.;
34 revising legislative intent regarding the Florida Keys
35 Area of Critical State Concern; specifying that plan
36 amendments in the Florida Keys must also be consistent
37 with protecting and improving specified water quality
38 and water supply projects; amending s. 380.0666, F.S.;
39 expanding powers of a land authority to include
40 acquiring lands to reduce impacts of new development
41 on hurricane evacuation clearance times and contribute
42 funds for certain land purchases by the department;
43 providing a contingent appropriation; providing an
44 effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. This act may be cited as the "Florida Keys
49 Stewardship Act."

50 Section 2. Paragraph (d) of subsection (2) of section
51 212.055, Florida Statutes, is amended to read:

52 212.055 Discretionary sales surtaxes; legislative intent;
53 authorization and use of proceeds.—It is the legislative intent
54 that any authorization for imposition of a discretionary sales
55 surtax shall be published in the Florida Statutes as a
56 subsection of this section, irrespective of the duration of the
57 levy. Each enactment shall specify the types of counties
58 authorized to levy; the rate or rates which may be imposed; the

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59 maximum length of time the surtax may be imposed, if any; the
60 procedure which must be followed to secure voter approval, if
61 required; the purpose for which the proceeds may be expended;
62 and such other requirements as the Legislature may provide.
63 Taxable transactions and administrative procedures shall be as
64 provided in s. 212.054.

65 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

66 (d) The proceeds of the surtax authorized by this
67 subsection and any accrued interest shall be expended by the
68 school district, within the county and municipalities within the
69 county, or, in the case of a negotiated joint county agreement,
70 within another county, to finance, plan, and construct
71 infrastructure; to acquire any interest in land for public
72 recreation, conservation, or protection of natural resources; or
73 to reduce the impacts of additional development on hurricane
74 evacuation clearance times; to provide loans, grants, or rebates
75 to residential or commercial property owners who make energy
76 efficiency improvements to their residential or commercial
77 property, if a local government ordinance authorizing such use
78 is approved by referendum; or to finance the closure of county-
79 owned or municipally owned solid waste landfills that have been
80 closed or are required to be closed by order of the Department
81 of Environmental Protection. Any use of the proceeds or interest
82 for purposes of landfill closure before July 1, 1993, is
83 ratified. The proceeds and any interest may not be used for the
84 operational expenses of infrastructure, except that a county
85 that has a population of fewer than 75,000 and that is required
86 to close a landfill may use the proceeds or interest for long-
87 term maintenance costs associated with landfill closure.

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88 Counties, as defined in s. 125.011, and charter counties may, in
89 addition, use the proceeds or interest to retire or service
90 indebtedness incurred for bonds issued before July 1, 1987, for
91 infrastructure purposes, and for bonds subsequently issued to
92 refund such bonds. Any use of the proceeds or interest for
93 purposes of retiring or servicing indebtedness incurred for
94 refunding bonds before July 1, 1999, is ratified.

95 1. For the purposes of this paragraph, the term
96 "infrastructure" means:

97 a. Any fixed capital expenditure or fixed capital outlay
98 associated with the construction, reconstruction, or improvement
99 of public facilities that have a life expectancy of 5 or more
100 years, ~~and~~ any related land acquisition, land improvement,
101 design, and engineering costs, and all other professional and
102 related costs required to bring the public facilities into
103 service. For purposes of this sub-subparagraph, the term "public
104 facility" means a facility as defined in s. 163.3164(38), s.
105 163.3221(13), or s. 189.012(5), regardless of whether the
106 facility is owned by the local taxing authority or another
107 governmental entity.

108 b. A fire department vehicle, an emergency medical service
109 vehicle, a sheriff's office vehicle, a police department
110 vehicle, or any other vehicle, and the equipment necessary to
111 outfit the vehicle for its official use or equipment that has a
112 life expectancy of at least 5 years.

113 c. Any expenditure for the construction, lease, or
114 maintenance of, or provision of utilities or security for,
115 facilities, as defined in s. 29.008.

116 d. Any fixed capital expenditure or fixed capital outlay

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117 associated with the improvement of private facilities that have
118 a life expectancy of 5 or more years and that the owner agrees
119 to make available for use on a temporary basis as needed by a
120 local government as a public emergency shelter or a staging area
121 for emergency response equipment during an emergency officially
122 declared by the state or by the local government under s.
123 252.38. Such improvements are limited to those necessary to
124 comply with current standards for public emergency evacuation
125 shelters. The owner must enter into a written contract with the
126 local government providing the improvement funding to make the
127 private facility available to the public for purposes of
128 emergency shelter at no cost to the local government for a
129 minimum of 10 years after completion of the improvement, with
130 the provision that the obligation will transfer to any
131 subsequent owner until the end of the minimum period.

132 e. Any land acquisition expenditure for a residential
133 housing project in which at least 30 percent of the units are
134 affordable to individuals or families whose total annual
135 household income does not exceed 120 percent of the area median
136 income adjusted for household size, if the land is owned by a
137 local government or by a special district that enters into a
138 written agreement with the local government to provide such
139 housing. The local government or special district may enter into
140 a ground lease with a public or private person or entity for
141 nominal or other consideration for the construction of the
142 residential housing project on land acquired pursuant to this
143 sub-subparagraph.

144 2. For the purposes of this paragraph, the term "energy
145 efficiency improvement" means any energy conservation and

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146 efficiency improvement that reduces consumption through
147 conservation or a more efficient use of electricity, natural
148 gas, propane, or other forms of energy on the property,
149 including, but not limited to, air sealing; installation of
150 insulation; installation of energy-efficient heating, cooling,
151 or ventilation systems; installation of solar panels; building
152 modifications to increase the use of daylight or shade;
153 replacement of windows; installation of energy controls or
154 energy recovery systems; installation of electric vehicle
155 charging equipment; installation of systems for natural gas fuel
156 as defined in s. 206.9951; and installation of efficient
157 lighting equipment.

158 3. Notwithstanding any other provision of this subsection,
159 a local government infrastructure surtax imposed or extended
160 after July 1, 1998, may allocate up to 15 percent of the surtax
161 proceeds for deposit into a trust fund within the county's
162 accounts created for the purpose of funding economic development
163 projects having a general public purpose of improving local
164 economies, including the funding of operational costs and
165 incentives related to economic development. The ballot statement
166 must indicate the intention to make an allocation under the
167 authority of this subparagraph.

168 Section 3. Subsection (1) of section 215.619, Florida
169 Statutes, is amended, subsections (7) and (8) are renumbered as
170 subsections (8) and (9), respectively, and a new subsection (7)
171 is added to that section, to read:

172 215.619 Bonds for Everglades restoration.—

173 (1) The issuance of Everglades restoration bonds to finance
174 or refinance the cost of the acquisition and improvement of

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175 land, water areas, and related property interests and resources
176 for the purpose of implementing the Comprehensive Everglades
177 Restoration Plan under s. 373.470, the Lake Okeechobee Watershed
178 Protection Plan under s. 373.4595, the Caloosahatchee River
179 Watershed Protection Plan under s. 373.4595, the St. Lucie River
180 Watershed Protection Plan under s. 373.4595, the City of Key
181 West Area of Critical State Concern as designated by the
182 Administration Commission under s. 380.05, and the Florida Keys
183 Area of Critical State Concern protection program under ss.
184 380.05 and 380.0552 in order to restore and conserve natural
185 systems through ~~the~~ implementation of water management projects,
186 including projects that protect, restore, or enhance nearshore
187 water quality and fisheries, such as stormwater or canal
188 restoration projects, projects to protect and enhance water
189 supply to the Florida Keys, including alternative water supplies
190 such as reverse osmosis and reclaimed water systems, and
191 wastewater management projects identified in the Keys Wastewater
192 Plan, dated November 2007, and submitted to the Florida House of
193 Representatives on December 4, 2007, is authorized in accordance
194 with s. 11(e), Art. VII of the State Constitution.

195 (a) Everglades restoration bonds, except refunding bonds,
196 may be issued only in fiscal years 2002-2003 through 2026-2027
197 ~~2019-2020~~ and may not be issued in an amount exceeding \$100
198 million per fiscal year unless:

199 1. The Department of Environmental Protection has requested
200 additional amounts in order to achieve cost savings or
201 accelerate the purchase of land; or

202 2. Beginning in fiscal year 2016-2017, the Legislature
203 authorizes an additional amount of bonds not to exceed \$200

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204 million, and limited to \$20 ~~\$50~~ million per fiscal year,
205 specifically for the purpose of funding the Florida Keys Area of
206 Critical State Concern protection program. Proceeds from the
207 bonds shall be managed by the Department of Environmental
208 Protection for the purpose of entering into financial assistance
209 agreements with local governments located in the Florida Keys
210 Area of Critical State Concern or the City of Key West Area of
211 Critical State Concern to finance or refinance the cost of
212 constructing sewage collection, treatment, and disposal
213 facilities or building projects that protect, restore, or
214 enhance nearshore water quality and fisheries, such as
215 stormwater or canal restoration projects and projects to protect
216 and enhance water supply to the Florida Keys, including
217 alternative water supplies such as reverse osmosis and reclaimed
218 water systems.

219 (b) The duration of Everglades restoration bonds may not
220 exceed 20 annual maturities and must mature by December 31, 2056
221 ~~2040~~. Except for refunding bonds, a series of bonds may not be
222 issued unless an amount equal to the debt service coming due in
223 the year of issuance has been appropriated by the Legislature.
224 Not more than 58.25 percent of documentary stamp taxes collected
225 may be taken into account for the purpose of satisfying an
226 additional bonds test set forth in any authorizing resolution
227 for bonds issued on or after July 1, 2015. Beginning July 1,
228 2010, the Legislature shall analyze the ratio of the state's
229 debt to projected revenues before authorizing the issuance of
230 bonds under this section.

231 (7) If the South Florida Water Management District and the
232 Department of Environmental Protection determine that lands

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233 purchased using bond proceeds within the Florida Keys Area of
234 Critical State Concern, the City of Key West Area of Critical
235 State Concern, or outside the Florida Keys Area of Critical
236 State Concern but which were required to be purchased to
237 preserve and protect the potable water supply to the Florida
238 Keys are no longer needed for the purpose for which they were
239 purchased, the entity owning the lands may dispose of them.
240 However, before the lands can be disposed of, each general-
241 purpose local government within whose boundaries a portion of
242 the land lies must agree to the disposal of lands within its
243 boundaries and must be offered the first right to purchase those
244 lands. If the lands are surplus, they shall either be
245 surplus at not less than appraised value with the proceeds
246 from the sale of such lands being deposited into the Save Our
247 Everglades Trust Fund and used to implement the respective
248 plans, or the South Florida Water Management District shall use
249 a different source of funds to pay for or reimburse the Save Our
250 Everglades Trust Fund for that portion of lands not needed to
251 implement the respective plans.

252 Section 4. Section 259.045, Florida Statutes, is amended to
253 read:

254 259.045 Purchase of lands in areas of critical state
255 concern; recommendations by department and land authorities.—
256 Within 45 days after ~~of the designation by~~ the Administration
257 Commission designates ~~of~~ an area as an area of critical state
258 concern under s. 380.05, and annually thereafter, the Department
259 of Environmental Protection shall consider the recommendations
260 of the state land planning agency pursuant to s. 380.05(1)(a)
261 relating to purchase of lands within an area of critical state

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262 concern or lands outside an area of critical state concern that
 263 directly impact an area of critical state concern, which may
 264 include lands used to preserve and protect water supply, ~~the~~
 265 ~~proposed area~~ and shall make recommendations to the board with
 266 respect to the purchase of the fee or any lesser interest in any
 267 such lands that are: ~~situated in such area of critical state~~
 268 ~~concern as~~

- 269 (1) Environmentally endangered lands; ~~or~~
 270 (2) Outdoor recreation lands;
 271 (3) Lands that conserve a sensitive habitat;
 272 (4) Lands that protect, restore, or enhance nearshore water
 273 quality and fisheries;
 274 (5) Lands used to protect and enhance water supply to the
 275 Florida Keys, including alternative water supplies such as
 276 reverse osmosis and reclaimed water systems; or
 277 (6) Lands used to prevent or satisfy private property
 278 rights claims resulting from limitations imposed by the
 279 designation of an area of critical state concern.

280
 281 The department, or a local government, special district, or ~~and~~
 282 a land authority within an area of critical state concern ~~as~~
 283 ~~authorized in chapter 380~~, may make recommendations with respect
 284 to additional purchases which were not included in the state
 285 land planning agency recommendations.

286 Section 5. Paragraph (a) of subsection (2) and paragraph
 287 (b) of subsection (3) of section 259.105, Florida Statutes, are
 288 amended to read:

289 259.105 The Florida Forever Act.—

290 (2) (a) The Legislature finds and declares that:

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291 1. Land acquisition programs have provided tremendous
292 financial resources for purchasing environmentally significant
293 lands to protect those lands from imminent development or
294 alteration, thereby ensuring present and future generations'
295 access to important waterways, open spaces, and recreation and
296 conservation lands.

297 2. The continued alteration and development of Florida's
298 natural and rural areas to accommodate the state's growing
299 population have contributed to the degradation of water
300 resources, the fragmentation and destruction of wildlife
301 habitats, the loss of outdoor recreation space, and the
302 diminishment of wetlands, forests, working landscapes, ~~and~~
303 coastal open space, and coral reefs as defined in s.
304 403.93345(3).

305 3. The potential development of Florida's remaining natural
306 areas and escalation of land values require government efforts
307 to restore, bring under public protection, or acquire lands and
308 water areas to preserve the state's essential ecological
309 functions and invaluable quality of life.

310 4. It is essential to protect the state's ecosystems by
311 promoting a more efficient use of land, to ensure opportunities
312 for viable agricultural activities on working lands, and to
313 promote vital rural and urban communities that support and
314 produce development patterns consistent with natural resource
315 protection.

316 5. Florida's groundwater, surface waters, and springs are
317 under tremendous pressure due to population growth and economic
318 expansion and require special protection and restoration
319 efforts, including the protection of uplands and springsheds

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320 that provide vital recharge to aquifer systems and are critical
321 to the protection of water quality and water quantity of the
322 aquifers and springs. To ensure that sufficient quantities of
323 water are available to meet the current and future needs of the
324 natural systems and citizens of the state, and assist in
325 achieving the planning goals of the department and the water
326 management districts, water resource development projects on
327 public lands, where compatible with the resource values of and
328 management objectives for the lands, are appropriate.

329 6. The needs of urban, suburban, and small communities in
330 Florida for high-quality outdoor recreational opportunities,
331 greenways, trails, and open space have not been fully met by
332 previous acquisition programs. Through such programs as the
333 Florida Communities Trust and the Florida Recreation Development
334 Assistance Program, the state shall place additional emphasis on
335 acquiring, protecting, preserving, and restoring open space,
336 ecological greenways, and recreation properties within urban,
337 suburban, and rural areas where pristine natural communities or
338 water bodies no longer exist because of the proximity of
339 developed property.

340 7. Many of Florida's unique ecosystems, such as the Florida
341 Everglades and coral reefs, are facing ecological collapse due
342 to Florida's burgeoning population growth and other economic
343 activities. To preserve these valuable ecosystems for future
344 generations, essential parcels of land must be acquired to
345 facilitate ecosystem restoration.

346 8. Access to public lands to support a broad range of
347 outdoor recreational opportunities and the development of
348 necessary infrastructure, where compatible with the resource

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349 values of and management objectives for such lands, promotes an
350 appreciation for Florida's natural assets and improves the
351 quality of life.

352 9. Acquisition of lands, in fee simple, less-than-fee
353 interest, or other techniques shall be based on a comprehensive
354 science-based assessment of Florida's natural resources which
355 targets essential conservation lands by prioritizing all current
356 and future acquisitions based on a uniform set of data and
357 planned so as to protect the integrity and function of
358 ecological systems and working landscapes, and provide multiple
359 benefits, including preservation of fish and wildlife habitat,
360 recreation space for urban and rural areas, and the restoration
361 of natural water storage, flow, and recharge.

362 10. The state has embraced performance-based program
363 budgeting as a tool to evaluate the achievements of publicly
364 funded agencies, build in accountability, and reward those
365 agencies which are able to consistently achieve quantifiable
366 goals. While previous and existing state environmental programs
367 have achieved varying degrees of success, few of these programs
368 can be evaluated as to the extent of their achievements,
369 primarily because performance measures, standards, outcomes, and
370 goals were not established at the outset. Therefore, the Florida
371 Forever program shall be developed and implemented in the
372 context of measurable state goals and objectives.

373 11. The state must play a major role in the recovery and
374 management of its imperiled species through the acquisition,
375 restoration, enhancement, and management of ecosystems that can
376 support the major life functions of such species. It is the
377 intent of the Legislature to support local, state, and federal

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378 programs that result in net benefit to imperiled species habitat
379 by providing public and private land owners meaningful
380 incentives for acquiring, restoring, managing, and repopulating
381 habitats for imperiled species. It is the further intent of the
382 Legislature that public lands, both existing and to be acquired,
383 identified by the lead land managing agency, in consultation
384 with the Florida Fish and Wildlife Conservation Commission for
385 animals or the Department of Agriculture and Consumer Services
386 for plants, as habitat or potentially restorable habitat for
387 imperiled species, be restored, enhanced, managed, and
388 repopulated as habitat for such species to advance the goals and
389 objectives of imperiled species management consistent with the
390 purposes for which such lands are acquired without restricting
391 other uses identified in the management plan. It is also the
392 intent of the Legislature that of the proceeds distributed
393 pursuant to subsection (3), additional consideration be given to
394 acquisitions that achieve a combination of conservation goals,
395 including the restoration, enhancement, management, or
396 repopulation of habitat for imperiled species. The Acquisition
397 and Restoration Council, in addition to the criteria in
398 subsection (9), shall give weight to projects that include
399 acquisition, restoration, management, or repopulation of habitat
400 for imperiled species. The term "imperiled species" as used in
401 this chapter and chapter 253, means plants and animals that are
402 federally listed under the Endangered Species Act, or state-
403 listed by the Fish and Wildlife Conservation Commission or the
404 Department of Agriculture and Consumer Services.

405 a. As part of the state's role, all state lands that have
406 imperiled species habitat shall include as a consideration in

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407 management plan development the restoration, enhancement,
408 management, and repopulation of such habitats. In addition, the
409 lead land managing agency of such state lands may use fees
410 received from public or private entities for projects to offset
411 adverse impacts to imperiled species or their habitat in order
412 to restore, enhance, manage, repopulate, or acquire land and to
413 implement land management plans developed under s. 253.034 or a
414 land management prospectus developed and implemented under this
415 chapter. Such fees shall be deposited into a foundation or fund
416 created by each land management agency under s. 379.223, s.
417 589.012, or s. 259.032(9)(c), to be used solely to restore,
418 manage, enhance, repopulate, or acquire imperiled species
419 habitat.

420 b. Where habitat or potentially restorable habitat for
421 imperiled species is located on state lands, the Fish and
422 Wildlife Conservation Commission and the Department of
423 Agriculture and Consumer Services shall be included on any
424 advisory group required under chapter 253, and the short-term
425 and long-term management goals required under chapter 253 must
426 advance the goals and objectives of imperiled species management
427 consistent with the purposes for which the land was acquired
428 without restricting other uses identified in the management
429 plan.

430 12. There is a need to change the focus and direction of
431 the state's major land acquisition programs and to extend
432 funding and bonding capabilities, so that future generations may
433 enjoy the natural resources of this state.

434 (3) Less the costs of issuing and the costs of funding
435 reserve accounts and other costs associated with bonds, the

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436 proceeds of cash payments or bonds issued pursuant to this
437 section shall be deposited into the Florida Forever Trust Fund
438 created by s. 259.1051. The proceeds shall be distributed by the
439 Department of Environmental Protection in the following manner:

440 (b) Thirty-five percent to the Department of Environmental
441 Protection for the acquisition of lands and capital project
442 expenditures described in this section. Of the proceeds
443 distributed pursuant to this paragraph, it is the intent of the
444 Legislature that an increased priority be given to those
445 acquisitions which achieve a combination of conservation goals,
446 including protecting Florida's water resources and natural
447 groundwater recharge. At a minimum, 3 percent, and no more than
448 10 percent, of the funds allocated pursuant to this paragraph
449 shall be spent on capital project expenditures identified during
450 the time of acquisition which meet land management planning
451 activities necessary for public access. Beginning in fiscal year
452 2016-2017 and continuing through fiscal year 2026-2027, at least
453 \$5 million of the funds allocated pursuant to this paragraph
454 shall be spent on land acquisition within the Florida Keys Area
455 of Critical State Concern.

456 Section 6. Paragraph (i) of subsection (2) and paragraph
457 (i) of subsection (7) of section 380.0552, Florida Statutes, are
458 amended to read:

459 380.0552 Florida Keys Area; protection and designation as
460 area of critical state concern.—

461 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature
462 to:

463 (i) Protect and improve the nearshore water quality of the
464 Florida Keys through state funding of water quality improvement

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465 projects, including the construction and operation of wastewater
466 management facilities that meet the requirements of ss.
467 381.0065(4)(1) and 403.086(10), as applicable.

468 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
469 and local agencies and units of government in the Florida Keys
470 Area shall coordinate their plans and conduct their programs and
471 regulatory activities consistent with the principles for guiding
472 development as specified in chapter 27F-8, Florida
473 Administrative Code, as amended effective August 23, 1984, which
474 is adopted and incorporated herein by reference. For the
475 purposes of reviewing the consistency of the adopted plan, or
476 any amendments to that plan, with the principles for guiding
477 development, and any amendments to the principles, the
478 principles shall be construed as a whole and specific provisions
479 may not be construed or applied in isolation from the other
480 provisions. However, the principles for guiding development are
481 repealed 18 months from July 1, 1986. After repeal, any plan
482 amendments must be consistent with the following principles:

483 (i) Protecting and improving water quality by providing for
484 the construction, operation, maintenance, and replacement of
485 stormwater management facilities; central sewage collection;
486 treatment and disposal facilities; ~~and~~ the installation and
487 proper operation and maintenance of onsite sewage treatment and
488 disposal systems; and other water quality and water supply
489 projects, including direct and indirect potable reuse.

490 Section 7. Subsection (3) of section 380.0666, Florida
491 Statutes, is amended to read:

492 380.0666 Powers of land authority.—The land authority shall
493 have all the powers necessary or convenient to carry out and

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494 effectuate the purposes and provisions of this act, including
495 the following powers, which are in addition to all other powers
496 granted by other provisions of this act:

497 (3) To acquire and dispose of real and personal property or
498 any interest therein when such acquisition is necessary or
499 appropriate to protect the natural environment, provide public
500 access or public recreational facilities, preserve wildlife
501 habitat areas, provide affordable housing to families whose
502 income does not exceed 160 percent of the median family income
503 for the area, reduce the impacts of additional development on
504 hurricane evacuation clearance times, or provide access to
505 management of acquired lands; to acquire interests in land by
506 means of land exchanges; to contribute tourist impact tax
507 revenues received pursuant to s. 125.0108 to its most populous
508 municipality or the housing authority of such municipality, at
509 the request of the commission or council of such municipality,
510 for the construction, redevelopment, or preservation of
511 affordable housing in an area of critical state concern within
512 such municipality; to contribute funds to the Department of
513 Environmental Protection for the purchase of lands by the
514 department; and to enter into all alternatives to the
515 acquisition of fee interests in land, including, but not limited
516 to, the acquisition of easements, development rights, life
517 estates, leases, and leaseback arrangements. However, the land
518 authority shall make an ~~such~~ acquisition or contribution only
519 if:

520 (a) Such acquisition or contribution is consistent with
521 land development regulations and local comprehensive plans
522 adopted and approved pursuant to this chapter;

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523 (b) The property acquired is within an area designated as
524 an area of critical state concern at the time of acquisition or
525 is within an area that was designated as an area of critical
526 state concern for at least 20 consecutive years prior to removal
527 of the designation; and

528 (c) The property to be acquired has not been selected for
529 purchase through another local, regional, state, or federal
530 public land acquisition program. Such restriction shall not
531 apply if the land authority cooperates with the other public
532 land acquisition programs which listed the lands for
533 acquisition, to coordinate the acquisition and disposition of
534 such lands. In such cases, the land authority may enter into
535 contractual or other agreements to acquire lands jointly or for
536 eventual resale to other public land acquisition programs.

537 Section 8. Notwithstanding any other provision of law, in
538 fiscal year 2016-2017 through fiscal year 2026-2027, if \$20
539 million in bonds are not authorized to be issued pursuant to s.
540 215.619, Florida Statutes, \$20 million shall be appropriated to
541 the Department of Environmental Protection to be distributed to
542 local governments in the Florida Keys Area of Critical State
543 Concern and the City of Key West Area of Critical State Concern
544 for projects that protect, restore, or enhance nearshore water
545 quality and fisheries and projects to protect and enhance water
546 supply to the Florida Keys, including alternative water supplies
547 such as reverse osmosis and reclaimed water systems.

548 Section 9. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/1/15
Meeting Date

770
Bill Number (if applicable)

Topic Local Govt. Env. Emergencies

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title

Address 1674 UNIVERSITY BLVD
Street

Phone 941-323-2404

SARASOTA FL 34749
City State Zip

Email cullen@sierraclub.org

Speaking: For Against Information

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

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)

12/1/15
Meeting Date

SB 710
Bill Number (if applicable)

Topic Keys

Amendment Barcode (if applicable)

Name CHARLES PATTISON

Job Title POLICY DIRECTOR

Address 308 N. MOOROE

Phone 222-6279

Street

City

TAL

FL

State

32308

Zip

Email cpattison@1000fof.org

Speaking: For Against Information

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

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

12/1/15
Meeting Date

770
Bill Number (if applicable)

Topic Florida keys Stewardship Act

Amendment Barcode (if applicable)

Name Frank Bernardino

Job Title _____

Address 201 West Park Ave, Suite 100

Phone (561) 718-2345

Street

Tallahassee

FL

32301

City

State

Zip

Email frankeantfield@florida.com

Speaking: For Against Information

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

Representing Monroe 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)

12-1-15
Meeting Date

SB770
Bill Number (if applicable)

Topic Fl Keys

Amendment Barcode (if applicable)

Name Eric Dwyer

Job Title _____

Address 708 N Monroe

Phone 251 130

Tallahassee FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing Ardukan

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)

Meeting Date _____

770
Bill Number (if applicable)

Topic Local Infus. Surtax

Amendment Barcode (if applicable) _____

Name ERIC POOLE

Job Title Asst. Leg Dir.

Address 100 MADRAC ST
Street

Phone 977 4300

T-4 FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida Assoc. 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)

12-1-15

Meeting Date

770

Bill Number (if applicable)

Topic Local Government Environmental Financing Amendment Barcode (if applicable)

Name RANA BROWN

Job Title consultant

Address 18851 NE 29 Ave Street

Phone 305 935 1860

Aventura FL 33180 City State Zip

Email rana@rlbookpa.com

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

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

Representing City of Marathon

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.

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)

Meeting Date _____

770
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Robert Reyes

Job Title _____

Address 325 W. College Ave

Phone 850 509, 802

Street
TALL
City State Zip

Email RReyes@capitolgrp.com

Speaking: For Against Information

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

Representing Monroe 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)

12/1/15

Meeting Date

770

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Cynthia Henderson

Job Title _____

Address 108 E. Jefferson St. Suite A

Phone 850 559 0855

Street

Tallahassee

FL

32303

Email cyhenderson@me.com

City

State

Zip

Speaking: For Against Information

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

Representing KLWTTD

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
COMMITTEE VOTE RECORD

COMMITTEE: Community Affairs
ITEM: SB 770
FINAL ACTION: Favorable
MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: 301 Senate Office Building

| FINAL VOTE | | SENATORS | | | | | | |
|------------|-----|---------------------|-----|-----|-----|-----|-----|-----|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| | | Abruzzo | | | | | | |
| X | | Bradley | | | | | | |
| X | | Dean | | | | | | |
| | | Diaz de la Portilla | | | | | | |
| X | | Hutson | | | | | | |
| X | | Thompson | | | | | | |
| | | Brandes, VICE CHAIR | | | | | | |
| X | | Simpson, CHAIR | | | | | | |
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| Yea | Nay | TOTALS | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

Minority Whip
25th District

December 1st, 2015



The Honorable Wilton Simpson

322 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1400

Dear Chairman Simpson:

Please accept this letter as a formal request to excuse myself from the Community Affairs Committee meeting today, Tuesday, December 1st, 2015. Unfortunately, due to a personal matter I will be unable to attend.

If I can provide any additional information for my excusal, please do not hesitate to contact me. Thank you in advance for your consideration.

Sincerely,

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

Joseph Abruzzo

Cc: Tom Yeatman, *Staff Director*

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE


Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Criminal Justice
Education Pre-K - 12
Judiciary

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR JEFF BRANDES
22nd District

November 30, 2015

Senator Wilton Simpson 
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Simpson,

I respectfully request that I be excused from the Committee on Community Affairs meeting on Tuesday, December 1st. Please contact me should you have any questions.

Kind regards,

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Jeff Brandes

REPLY TO:

- 9800 Fourth Street North, Suite 200, St. Petersburg, Florida 33702 (727) 563-2100
- 318 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Community Affairs
Finance and Tax
Regulated Industries
Rules

SENATOR MIGUEL DIAZ de la PORTILLA

40th District

December 1, 2015

The Honorable Wilton Simpson
Chair
Community Affairs



Re: Today's Meeting

Dear Chair Simpson:

Due to flight issues, I do not expect to arrive in time for the Community Affairs meeting today. I respectfully request that I be excused.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
Senator, District 40

Cc: Mr. Tom Yeatman, Staff Director; Ms. Ann Whittaker, Committee Administrative Assistant

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Community Affairs Committee Judge:

Started: 12/1/2015 1:02:30 PM

Ends: 12/1/2015 2:00:06 PM

Length: 00:57:37

1:02:35 PM Roll
1:02:47 PM Quorum Present
1:03:13 PM Senators Brandes and Diaz de la Portilla excused
1:03:32 PM SB 222 Senator Detert
1:03:46 PM Parking for Disabled Veterans
1:04:27 PM Questions
1:04:31 PM No Appearance Cards
1:04:33 PM No Debate
1:04:36 PM Senator Detert Close
1:04:49 PM Roll Call on SB 222
1:05:02 PM SB 222 Reported Favorably
1:05:26 PM SJR 170 Chris Spencer, Legislative Aide for Senator Brandes, recognized to explain the bill
1:05:37 PM Renewable Energy Source Device
1:05:59 PM Questions
1:06:05 PM 2 Appearances
1:06:11 PM David Cullen, Sierra Club FL
1:06:13 PM Richard Pinsky, FL Solar Energy Installers Assoc.
1:06:16 PM Susan Glickman, Southern Alliance for Clean Energy
1:06:20 PM Debate
1:06:26 PM Spencer waives close
1:06:30 PM SJR 170 Roll Call
1:06:38 PM SJR 170 Reported Favorably
1:06:48 PM SB 172 Senator Brandes
1:06:56 PM Chris Spencer, Legislative Aide, recognized to explain the bill
1:06:58 PM Questions
1:07:06 PM 1 Amendment 262038
1:07:22 PM Back on Bill as Amended
1:07:28 PM David Cullen, Sierra Club FL
1:07:31 PM Richard Pinsky, FL Solar Energy Installers Assoc.
1:07:33 PM Susan Glickman, Southern Alliance for Clean Energy
1:07:36 PM Debate
1:07:42 PM Waives close
1:07:46 PM SB 172 Roll Call
1:07:58 PM SB 172 Reported Favorably
1:08:13 PM SB 584 Senator Brandes
1:08:16 PM Chris Spencer, Legislative Aide, recognized to explain the bill
1:08:20 PM Peril of Flood
1:09:16 PM Questions
1:09:21 PM Senator Bradley
1:09:49 PM Chris Spencer with response
1:10:01 PM 1 Amendment 868432
1:10:07 PM Chris Spencer explains amendment
1:10:22 PM No appearance forms
1:10:23 PM Debate
1:10:32 PM Questions
1:10:36 PM Amendment Adopted
1:10:39 PM Back on Bill as Amended
1:10:41 PM Speaker Cards
1:10:44 PM Rebecca O'Hara, FL League of Cities
1:10:48 PM Janet Bowman, The Nature Conservancy
1:11:42 PM Lisa Miller, Lisa Miller and Assoc.
1:12:17 PM Christian Camara, R. Street Institute

1:12:22 PM Diana Arteaga, City of Miami
1:12:27 PM Eric Poole, FL Assoc. Counties
1:12:33 PM Debate
1:12:34 PM Close
1:12:36 PM Roll
1:12:54 PM SB 584 as Committee Substitute Reported Favorably
1:13:08 PM SB 156 Senator Smith
1:13:21 PM Amendment 605990 withdrawn
1:13:27 PM New Amendment 975840
1:13:38 PM Senator Smith
1:14:17 PM Amendment 975840 Delete-all
1:14:32 PM After-school Programs
1:15:29 PM Questions
1:15:32 PM Senator Hutson
1:15:41 PM Senator Smith with response
1:15:52 PM Senator Dean
1:16:04 PM Senator Smith
1:16:19 PM No Appearance Cards
1:16:22 PM Debate on Amendment
1:16:26 PM Close
1:16:29 PM Amendment Adopted
1:16:33 PM Questions on Bill
1:16:38 PM Appearance
1:16:41 PM Jeff Kottkamp, FL Alliance of Boys and Girls Club
1:16:43 PM Debate
1:16:48 PM Close
1:16:51 PM Roll Call
1:17:05 PM SB 156 as Committee Substitute Reported Favorably
1:17:17 PM SB 346 Senator Altman
1:17:25 PM Devon West, Legislative Aide to Senator Altman, recognized to explain
1:17:36 PM Infrastructure Surtax
1:18:15 PM Questions
1:18:25 PM Senator Bradley
1:19:38 PM Devon West
1:19:54 PM Senator Bradley
1:20:16 PM Devon West
1:20:51 PM Senator Bradley
1:21:11 PM Devon West
1:21:23 PM Senator Bradley
1:22:15 PM Senator Simpson
1:22:43 PM Senator Bradley
1:23:30 PM Bryan Present, Analyst
1:23:54 PM Devon West
1:24:44 PM Tom Yeatman, Committee Staff Director
1:25:35 PM Senator Bradley
1:26:02 PM Tom Yeatman
1:26:15 PM Senator Bradley
1:26:24 PM Tom Yeatman
1:26:41 PM Senator Bradley
1:26:58 PM Debate
1:27:05 PM Close
1:27:10 PM Roll Call SB 346
1:27:22 PM SB 346 Reported Favorably
1:27:37 PM SB 544 Senator Dean
1:27:45 PM Nonresidential Farm Buildings
1:27:54 PM Questions
1:27:59 PM Appearance Cards
1:28:16 PM Stephen James, FL Assoc. of Counties
1:30:07 PM Doug Mann, AIF
1:30:08 PM Debate
1:30:13 PM Close
1:30:27 PM Roll SB 544

1:30:40 PM SB 544 Reported Favorably
1:30:52 PM SJR 648 Senator Hutson
1:30:57 PM County Officers
1:31:13 PM Questions
1:31:28 PM Senator Hutson
1:31:46 PM Senator Bradley
1:32:12 PM Senator Thompson
1:32:36 PM Senator Hutson
1:32:55 PM Senator Simpson
1:33:11 PM Senator Hutson
1:33:26 PM Questions
1:33:40 PM Amendment late-filed delete-all 123686
1:33:46 PM Senator Hutson explain amendment
1:34:00 PM Questions
1:34:03 PM Senator Bradley
1:35:03 PM Senator Hutson
1:35:34 PM Senator Dean
1:36:10 PM Senator Hutson
1:36:18 PM Appearance
1:36:24 PM Carole Jean Jordan, FL Tax Collectors Assoc.
1:36:43 PM Eddy Labrador, Broward County
1:39:10 PM Kelley Teague, Orange County
1:39:47 PM Debate on Amendment
1:39:50 PM Close
1:39:55 PM Amendment Adopted
1:39:59 PM Back on Bill as Amended
1:40:00 PM Questions
1:40:02 PM Appearance
1:40:22 PM Greg Pound, Pinellas FL Government Corruption
1:42:43 PM Jess McCarty, Miami-Dade County
1:44:08 PM Laura Youmans, FL Assoc. of Counties
1:47:03 PM Ken Kopczynski, FL PBA Inc.
1:47:10 PM Debate
1:47:32 PM Senator Thompson
1:48:22 PM Senator Bradley
1:49:04 PM Close
1:49:08 PM Senator Hutson
1:49:43 PM Roll SJR 648 as Committee Substitute
1:49:57 PM SJR 648 Reported Favorably
1:50:05 PM Chair turned over to Senator Thompson
1:50:12 PM SB 770 Senator Simpson
1:50:47 PM Local Government Environmental Financing
1:50:52 PM Questions
1:50:57 PM Appearance
1:51:10 PM David Cullen, Sierra Club FL
1:53:34 PM Charles Pattison, 1000 Friends of FL
1:54:54 PM Frank Bernadino, Monroe County
1:55:10 PM Eric Draper, Asdulem
1:57:57 PM Eric Poole, FL Assoc. of Counties
1:58:03 PM Rana Brown, City of Marathon
1:58:06 PM Robert Reyes, Monroe County
1:58:11 PM Cynthia Henderson, KLWTD
1:58:17 PM Debate
1:58:21 PM Senator Bradley
1:59:25 PM Senator Simpson close
1:59:31 PM Roll SB 770
1:59:47 PM SB 770 Reported Favorably
1:59:58 PM Returned Chair to Senator Simpson
2:00:00 PM Meeting Adjourned