

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

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

**MEETING DATE:** Tuesday, January 19, 2016  
**TIME:** 4:00—6:00 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	<b>SJR 1194</b> Negron (Similar HJR 1009)	Tax Exemption for Senior, Totally Permanently Disabled First Responders; Proposing amendments to the State Constitution to authorize a first responder, who is age 65 or older and totally permanently disabled as a result of an injury sustained in the line of duty, to receive a discount on ad valorem taxes assessed on homestead property, if authorized by general law, and to provide an effective date.  CA 01/19/2016 Favorable FT AP	Favorable Yeas 8 Nays 0
2	<b>SB 444</b> Montford (Identical H 525)	Small Community Sewer Construction Assistance Act; Redefining the term "financially disadvantaged small community" to include counties and special districts; defining the term "special district", etc.  CA 01/19/2016 Favorable AGG AP	Favorable Yeas 7 Nays 0
3	<b>SB 1004</b> Hays (Similar H 869)	Public Records/Video and Audio Recordings; Expanding the items in a security system plan to include certain video or audio recordings; providing an exemption from public records requirements for video and audio recordings from a security system camera for properties owned or leased by, or in the possession of, certain entities; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; repealing a provision relating to security systems and records and meetings exempt from public access or disclosure, etc.  CA 01/19/2016 Fav/CS GO RC	Fav/CS Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, January 19, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1188</b> Altman (Compare H 1325)	Representatives of Military Installations Who Serve on Land Planning or Zoning Boards; Providing that a representative of a military installation is not required to file a specified statement of financial interests due solely to service on a local land planning or zoning board, etc.  CA 01/19/2016 Favorable EE RC	Favorable Yeas 8 Nays 0
5	<b>SB 956</b> Stargel (Similar CS/H 479, Compare H 593, H 745, H 7001, CS/S 516, CS/S 686)	Special Districts; Revising legislative intent with respect to the Uniform Special District Accountability Act to include dependent special districts; specifying the period of time for which certain budget information must remain on the special district's website; specifying the Legislature's authority to create dependent special districts by special act; revising the criteria that must be documented before a special district may be declared inactive, etc.  CA 01/19/2016 Favorable ATD FP	Favorable Yeas 8 Nays 0
6	<b>CS/SB 618</b> Criminal Justice / Evers (Similar H 1031)	Prearrest Diversion Programs; Encouraging local communities and public or private educational institutions to implement prearrest diversion programs for certain offenders; requiring that the programs allow law enforcement officers of participating agencies, at their sole discretion, to issue civil citations to adults under specified circumstances; prohibiting the issuance of the civil citation if the misdemeanor offense involves a victim and he or she objects to its issuance, etc.  CJ 11/17/2015 Fav/CS CA 01/19/2016 Fav/CS FP	Fav/CS Yeas 8 Nays 0
7	<b>SB 914</b> Detert (Similar H 901)	Public Records/Identifying Medical and Personal Information; Creating an exemption from public records requirements for medical and personal identifying information of an applicant for or a recipient of the property tax exemption for totally and permanently disabled persons; providing for retroactive application; authorizing disclosure of such information under certain conditions; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  CA 01/19/2016 Favorable GO RC	Favorable Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, January 19, 2016, 4:00—6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 1156</b> Hutson (Similar H 971)	Community Development Districts; Increasing minimum and maximum size requirements for the establishment of community development districts under certain circumstances; revising requirements related to the process of amending community development district boundaries; authorizing certain districts up to a specified number to merge into one surviving district, subject to certain requirements, etc.	Fav/CS Yeas 8 Nays 0
		CA 01/19/2016 Fav/CS CM RC	

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Other Related Meeting Documents

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

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

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

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BILL: SJR 1194

INTRODUCER: Senator Negron

SUBJECT: Tax Exemption for Senior, Totally Permanently Disabled First Responders

DATE: January 15, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	<b>Favorable</b>
2.			FT	
3.			AP	

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**I. Summary:**

SJR 1194 proposes an amendment to Article VII, section 6 of the Florida Constitution which would allow the Legislature to provide ad valorem tax relief to a first responder who is age 65 or older and totally permanently disabled as a result of an injury or injuries sustained in the line of duty. The amount of tax relief, to be defined by general law, can equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

The joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

**II. Present Situation:**

**Property Valuation in Florida**

Florida law provides a number of options to reduce property tax liability. Article VII, section 2 of the Florida Constitution provides for uniform ad valorem taxation, stating that “all ad valorem taxation shall be at a uniform rate within each taxing unit.”<sup>1</sup> The property tax burden for an owner of any particular piece of real estate will depend on the property’s just value, its assessed value, and whether the property benefits from any tax exemptions or assessment limitations.

***Just Value***

Article VII, section 4 of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. “Just value” has been interpreted by the courts to mean fair

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<sup>1</sup> FLA. CONST. art. VII, s. 2.

market value, or what a willing buyer would pay a willing seller for the property in an arms-length transaction.<sup>2</sup>

### ***Assessed Value***

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.<sup>3</sup> Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.<sup>4</sup> Land used for conservation purposes must be assessed solely on the basis of character or use.<sup>5</sup> Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.<sup>6</sup> Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 or older.<sup>7</sup> The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.<sup>8</sup> Certain working waterfront property is assessed based upon the property's current use.<sup>9</sup>

### ***Taxable Value***

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to, homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.<sup>10</sup>

### **Assessment Limitations**

#### ***Save Our Homes***

The Save Our Homes assessment limitation was amended into the Florida Constitution in 1992. Article VII, section 4(d) of the Florida Constitution limits the amount that a homestead's assessed value can increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index (CPI).<sup>11</sup> In addition, an assessment may not exceed just value.

In 2008, Florida voters approved an additional amendment to Article VII, section 4(d) of the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation. This amendment allows homestead property owners who relocate to a new homestead to transfer up to \$500,000 of the accrued benefit to the new homestead.

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<sup>2</sup> See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>3</sup> The constitutional provisions in Art. VII, section 4 of the Florida Constitution are implemented in Part II of ch. 193, F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 4(a).

<sup>5</sup> FLA. CONST. art. VII, s. 4(b).

<sup>6</sup> FLA. CONST. art. VII, s. 4(e).

<sup>7</sup> FLA. CONST. art. VII, s. 4(f).

<sup>8</sup> FLA. CONST. art. VII, s. 4(i).

<sup>9</sup> FLA. CONST. art. VII, s. 4(j).

<sup>10</sup> FLA. CONST. art. VII, ss. 3 and 6.

<sup>11</sup> FLA. CONST. art. VII, s. 4(d).

## **Property Tax Exemptions for Homesteads**

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>12</sup>

### ***Homestead Exemption***

Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including levies by school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by school districts.

### ***Additional Homestead Exemptions for Qualified Senior Citizens***

Since 1999, cities and counties have been authorized to offer an additional homestead exemption of up to \$50,000 to persons who are 65 or older and who satisfy certain low-income requirements. Section 196.075(2)(a), F.S., is the general law enacted to allow counties and municipalities to grant this additional homestead exemption.<sup>13</sup> This additional exemption applies to any person who has legal and equitable title to real estate, maintains a property as a permanent residence, has attained the age of 65, and has a household income, as defined by general law, which does not exceed \$20,000. In the implementing legislation for the exemption, the Legislature indexed the \$20,000 figure to inflation. Adjusted each year on January 1 according to changes in the consumer price index, the current household income threshold for the senior low income exemption is \$28,448.<sup>14</sup>

In November 2012, the voters approved a constitutional amendment that authorized the Legislature to allow cities and counties to grant an additional homestead exemption for persons 65 or older.<sup>15</sup> Amendment 11 allowed for an exemption equal to the assessed value of homestead property when the just value is less than \$250,000. The owner is still required to be 65 or older and maintain a permanent residence on the property. However, the owner must have maintained a permanent residence on the property for a minimum of 25 years. The same income limitations apply to both exemptions.

The county or municipality can grant either or both of the additional exemptions and must do so by ordinance, adopted by a supermajority vote of the county or municipal governing body pursuant to the procedures prescribed in ch. 125 or 166, F.S.

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<sup>12</sup>*Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>13</sup> Article VII, section 6(d)(1) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to \$50,000.

<sup>14</sup> Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited Oct. 29, 2015).

<sup>15</sup> Amendment 11, 2012 General Election. The amendment originated as CS/HJR 169 (2012). The text of the amendment can be found on the website of the Florida Department of State at <http://election.dos.state.fl.us/initiatives/fulltext/pdf/10-89.pdf>.

### **Homestead Exemptions for First Responders**

Homestead property of a surviving spouse of a first responder is exempt if the first responder died in the line of duty.<sup>16</sup> “First responder” means a law enforcement officer or correctional officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., who is a full-time paid employee, part-time paid employee, or unpaid volunteer.<sup>17</sup> “In the line of duty” means:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities listed above if the training has been authorized by the employing entity.<sup>18</sup>

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

The joint resolution proposes an amendment to Article VII, section 6 of the Florida Constitution that would allow the Legislature to provide ad valorem tax relief to a first responder who is age 65 or older and totally permanently disabled as a result of an injury or injuries sustained in the line of duty. The amount of tax relief, to be defined by general law, can equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

The proposed amendment requires a first responder’s total permanent disability to be determined by the United States Social Security Administration prior to qualifying for the ad valorem tax relief. Furthermore, causal connection between a disability and service in the line of duty will not be presumed, but must be determined as provided by general law. The term “disability” does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

If approved by 60 percent of voters, the proposed constitutional amendment will be effective January 1, 2017.

### **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.

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<sup>16</sup> Section 196.081, F.S.

<sup>17</sup> Section 196.081(6)(c)1., F.S.

<sup>18</sup> Section 196.081(6)(c)2., F.S.

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

None.

**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.’”<sup>19</sup>

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 preceding the week the election is held. The Department of State estimates that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$151,742.<sup>20</sup>

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect.

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

The proposed amendment, if approved by the voters and implemented by the Legislature, would make senior, totally permanently disabled first responders eligible for ad valorem tax relief.

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<sup>19</sup> *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).

<sup>20</sup> Dep’t of State, *Legislative Bill Analysis for SJR 1194*, 3 (Jan. 12, 2016).

**B. Private Sector Impact:**

If the proposed amendment is approved by the electorate and implemented by the Legislature, totally permanently disabled first responders who are over the age of 65 may receive property tax relief.

**C. Government Sector Impact:**

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 preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$151,742.<sup>21</sup>

If the proposed amendment is approved by voters and implemented by the Legislature, the Department of Revenue would need to amend forms DR-501 and DR-490 to add the new information.<sup>22</sup>

**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 VII, section 6 and create Article XII of the Florida Constitution.

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

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

None.

**B. Amendments:**

None.

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

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<sup>21</sup> *Id.*

<sup>22</sup> Florida Dep't of Revenue, *Legislative Bill Analysis for SJR 1194*, 2 (Jan. 4, 2016).

By Senator Negrón

32-01164A-16

20161194\_\_

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to authorize a first responder, who is age 65 or older and totally permanently disabled as a result of an injury sustained in the line of duty, to receive a discount on ad valorem taxes assessed on homestead property, if authorized by general law, and to provide an effective date.

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

That the following amendments to Section 6 of Article VII and the creation of a new section in 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 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the

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20161194\_\_

33 entireties, jointly, in common, as a condominium, or indirectly  
34 by stock ownership or membership representing the owner's or  
35 member's proprietary interest in a corporation owning a fee or a  
36 leasehold initially in excess of ninety-eight years. The  
37 exemption shall not apply with respect to any assessment roll  
38 until such roll is first determined to be in compliance with the  
39 provisions of section 4 by a state agency designated by general  
40 law. This exemption is repealed on the effective date of any  
41 amendment to this Article which provides for the assessment of  
42 homestead property at less than just value.

43 (b) Not more than one exemption shall be allowed any  
44 individual or family unit or with respect to any residential  
45 unit. No exemption shall exceed the value of the real estate  
46 assessable to the owner or, in case of ownership through stock  
47 or membership in a corporation, the value of the proportion  
48 which the interest in the corporation bears to the assessed  
49 value of the property.

50 (c) By general law and subject to conditions specified  
51 therein, the Legislature may provide to renters, who are  
52 permanent residents, ad valorem tax relief on all ad valorem tax  
53 levies. Such ad valorem tax relief shall be in the form and  
54 amount established by general law.

55 (d) The legislature may, by general law, allow counties or  
56 municipalities, for the purpose of their respective tax levies  
57 and subject to the provisions of general law, to grant either or  
58 both of the following additional homestead tax exemptions:

59 (1) An exemption not exceeding fifty thousand dollars to  
60 any person who has the legal or equitable title to real estate  
61 and maintains thereon the permanent residence of the owner and

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62 who has attained age sixty-five and whose household income, as  
63 defined by general law, does not exceed twenty thousand dollars;  
64 or

65 (2) An exemption equal to the assessed value of the  
66 property to any person who has the legal or equitable title to  
67 real estate with a just value less than two hundred and fifty  
68 thousand dollars and who has maintained thereon the permanent  
69 residence of the owner for not less than twenty-five years and  
70 who has attained age sixty-five and whose household income does  
71 not exceed the income limitation prescribed in paragraph (1).

72  
73 The general law must allow counties and municipalities to grant  
74 these additional exemptions, within the limits prescribed in  
75 this subsection, by ordinance adopted in the manner prescribed  
76 by general law, and must provide for the periodic adjustment of  
77 the income limitation prescribed in this subsection for changes  
78 in the cost of living.

79 (e) Each veteran who is age 65 or older who is partially or  
80 totally permanently disabled shall receive a discount from the  
81 amount of the ad valorem tax otherwise owed on homestead  
82 property the veteran owns and resides in if the disability was  
83 combat related and the veteran was honorably discharged upon  
84 separation from military service. The discount shall be in a  
85 percentage equal to the percentage of the veteran's permanent,  
86 service-connected disability as determined by the United States  
87 Department of Veterans Affairs. To qualify for the discount  
88 granted by this subsection, an applicant must submit to the  
89 county property appraiser, by March 1, an official letter from  
90 the United States Department of Veterans Affairs stating the

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91 percentage of the veteran's service-connected disability and  
92 such evidence that reasonably identifies the disability as  
93 combat related and a copy of the veteran's honorable discharge.  
94 If the property appraiser denies the request for a discount, the  
95 appraiser must notify the applicant in writing of the reasons  
96 for the denial, and the veteran may reapply. The Legislature  
97 may, by general law, waive the annual application requirement in  
98 subsequent years. This subsection is self-executing and does not  
99 require implementing legislation.

100 (f) By general law and subject to conditions and  
101 limitations specified therein, the Legislature may provide ad  
102 valorem tax relief equal to the total amount or a portion of the  
103 ad valorem tax otherwise owed on homestead property to ~~the~~:

104 (1) The surviving spouse of a veteran who died from  
105 service-connected causes while on active duty as a member of the  
106 United States Armed Forces.

107 (2) The surviving spouse of a first responder who died in  
108 the line of duty.

109 (3) A first responder who is age 65 or older and totally  
110 permanently disabled as a result of an injury or injuries  
111 sustained in the line of duty. A first responder's total  
112 permanent disability must first be determined by the United  
113 States Social Security Administration. Causal connection between  
114 a disability and service in the line of duty shall not be  
115 presumed, but must be determined as provided by general law. For  
116 purposes of this paragraph, the term "disability" does not  
117 include a chronic condition or chronic disease, unless the  
118 injury sustained in the line of duty was the sole cause of the  
119 chronic condition or chronic disease.



32-01164A-16

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January 1, 2017.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1/19/16  
Meeting Date

SR 1194  
Bill Number (if applicable)

Topic Tax Exp for Dis First Resp

Amendment Barcode (if applicable)

Name Jim Tolley

Job Title President Fla Prof Firefighters

Address 345 West Madison St Phone 321 543 6796

Street

Tallahassee FL 32301

City

State

Zip

Email JimT@FPFP.org

Speaking:  For  Against  Information

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

Representing Fla Prof Firefighters

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)

1/19/2014

Meeting Date

5JR 1194

Bill Number (if applicable)

Topic Tax Exemption for Senior, Totally Disabled First Responders Amendment Barcode (if applicable)

Name Matt Pukett

Job Title Lobbyist

Address 300 East Brevard St.

Street

Phone N/A

Tallahassee

FL

32301

Email N/A

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations Subcommittee on Criminal and  
Civil Justice, *Chair*  
Appropriations  
Banking and Insurance  
Ethics and Elections  
Higher Education  
Regulated Industries  
Rules

**SENATOR JOE NEGRON**  
32nd District

January 12, 2016

Wilton Simpson, Chair  
Committee on Community Affairs  
315 Knott  
404 S Monroe Street  
Tallahassee, FL 32399-1100

Re: Senate Joint Resolution 1194

Dear Chairman Simpson:

I would like to request Senate Joint Resolution 1194 relating to homestead exemption for disabled first responders be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

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

Joe Negron  
State Senator  
District 32

JN/hd

c: Tom Yeatman, Staff Director

**REPLY TO:**

3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666  
 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



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

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

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

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BILL: SB 444

INTRODUCER: Senator Montford

SUBJECT: Small Community Sewer Construction Assistance Act

DATE: January 15, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	<b>Favorable</b>
2.			AGG	
3.			AP	

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**I. Summary:**

SB 444 expands grant eligibility to small disadvantaged communities in need of adequate sewer facilities. The bill amends the Small Community Sewer Construction Assistance Act (Act) to broaden the term “financially disadvantaged small community” to include counties and special districts that fall under the same population and per capita annual income parameters as currently required under the Act. Specifically, the bill includes only special districts whose public purpose includes water and sewer services, utility systems and services, or wastewater systems and services.

**II. Present Situation:**

**Small Community Sewer Construction Assistance Act**

The Department of Environmental Protection (DEP) administers grant funds under s. 403.1838, F.S., to assist financially disadvantaged small communities with their needs for adequate sewer facilities. A “financially disadvantaged small community” is defined in statute as a municipality that has a population of 10,000 or fewer, according to the last decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce.<sup>1</sup> Per rules adopted by the Environmental Regulation Commission,<sup>2</sup> DEP may provide grants from funds specifically appropriated for this purpose to financially disadvantaged small communities for up to 100 percent of the costs of planning, designing, constructing, upgrading or replacing wastewater collection, transmission, treatment, disposal,

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<sup>1</sup> Section 403.1838(2), F.S.

<sup>2</sup> Section 403.1838(3)(b), F.S. Under the statute, the Environmental Regulation Commission must implement rules that follow specific guidelines, such as requiring that projects are cost-effective, environmentally sound, and implementable.

and reuse facilities, including necessary legal and administrative expenses.<sup>3</sup> DEP must perform overview of each grant, and may use up to 2 percent of the grant funds for administration costs.<sup>4</sup>

### **Small Community Wastewater Construction Grants Program**

Projects eligible to receive funds must be associated with wastewater collection, transmission, treatment, or disposal facilities.<sup>5</sup> This includes facilities to reuse reclaimed water from wastewater treatment plants.<sup>6</sup> Stormwater projects are not eligible.<sup>7</sup> Projects must compete with all other projects for funding, and a hearing is held each October to determine which projects are to be funded.<sup>8</sup> The highest priority is given to projects that address the most serious risks to public health, are necessary to achieve compliance, or assist systems most in need based on an affordability index.<sup>9</sup> Projects that eliminate failing septic tanks in areas where at least 10 percent of the septic tanks have failed in the last 3 years also receive higher priority.<sup>10</sup> A partial match of local funds will be required.<sup>11</sup>

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

**Section 1** amends s. 403.1838, F.S., to broaden the term “financially disadvantaged small community” to include counties and special districts with populations of 10,000 or fewer and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce. For the purposes of the bill, the term “special districts” includes only those special districts whose public purpose includes water and sewer services, utility system and services, or wastewater systems and services.

DEP indicates that by expanding the eligibility requirements, two counties (Liberty and Lafayette), and six special districts (Big Ben Water Authority, Cedar Key Special Water and Sewer District, Immokalee Water and Sewer District, Eastpoint Water and Sewer District, Suwanee Water and Sewer District, and Taylor Coastal Water and Sewer District) will be eligible for future grants.

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

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<sup>3</sup> Section 403.1838(3)(a), F.S.

<sup>4</sup> Sections 403.1838(c) and (d), F.S.

<sup>5</sup> Florida Department of Environmental Protection, *Water Pollution Control State Revolving Fund Loan Program Small Community Wastewater Facilities Grants*, <http://www.dep.state.fl.us/water/wff/cwsrf/smalcwgp.htm> (last visited January 7, 2016).

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

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

<sup>8</sup> Florida Department of Environmental Protection, *Small Community Wastewater Construction Grants Program Brochure*, available at <http://www.dep.state.fl.us/water/wff/cwsrf/docs/SCG-Brochure.pdf> (last visited January 7, 2016).

<sup>9</sup> Florida Department of Environmental Protection, *Water Pollution Control State Revolving Fund Loan Program Small Community Wastewater Facilities Grants*, <http://www.dep.state.fl.us/water/wff/cwsrf/smalcwgp.htm> (last visited January 7, 2016).

<sup>10</sup> Florida Department of Environmental Protection, *Small Community Wastewater Construction Grants Program Brochure*, available at <http://www.dep.state.fl.us/water/wff/cwsrf/docs/SCG-Brochure.pdf> (last visited January 7, 2016).

<sup>11</sup> Florida Department of Environmental Protection, *Water Pollution Control State Revolving Fund Loan Program Small Community Wastewater Facilities Grants*, <http://www.dep.state.fl.us/water/wff/cwsrf/smalcwgp.htm> (last visited January 7, 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:

None.

## C. Government Sector Impact:

The bill may provide a positive fiscal impact for those counties and special districts that are eligible for grant funding assistance under the Act. DEP will limit the projects selected to match the amount of funding expected for the fiscal year, which it estimates to be between \$9 and \$10 million.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 403.1838 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

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By Senator Montford

3-00575-16

2016444\_\_

1                   A bill to be entitled  
2           An act relating to the Small Community Sewer  
3           Construction Assistance Act; amending s. 403.1838,  
4           F.S.; redefining the term "financially disadvantaged  
5           small community" to include counties and special  
6           districts; defining the term "special district";  
7           providing an effective date.

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

10  
11           Section 1. Subsection (2) of section 403.1838, Florida  
12           Statutes, is amended to read:

13           403.1838 Small Community Sewer Construction Assistance  
14           Act.—

15           (2) The department shall use funds specifically  
16           appropriated to award grants under this section to assist  
17           financially disadvantaged small communities with their needs for  
18           adequate sewer facilities. For purposes of this section, the  
19           term "financially disadvantaged small community" means a county,  
20           municipality, or special district that has a population of  
21           10,000 or fewer, according to the latest decennial census, and a  
22           per capita annual income less than the state per capita annual  
23           income as determined by the United States Department of  
24           Commerce. For purposes of this subsection, the term "special  
25           district" has the same meaning as provided in s. 189.012 and  
26           includes only those special districts whose public purpose  
27           includes water and sewer services, utility systems and services,  
28           or wastewater systems and services.

29           Section 2. 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)

1/19/16  
Meeting Date

SB444  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Heather Martin

Job Title Deputy Director of Legislative Affairs

Address 3900 Commonwealth Blvd

Phone 3527450762

Street

Tall.  
City

FL  
State

32399  
Zip

Email Heather.Martin@  
dep.state.fl.us

Speaking:  For  Against  Information

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

Representing Department of Environmental Protection

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Agriculture, *Chair*  
Appropriations Subcommittee on Education, *Vice Chair*  
Appropriations  
Banking and Insurance  
Education Pre-K - 12  
Reapportionment  
Rules

**SENATOR BILL MONTFORD**

3rd District

December 9, 2015

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

Dear Chair Simpson:

I respectfully request that SB 444 be scheduled for a hearing before the Senate Community Affairs Committee. Senate Bill 444 would allow some small unincorporated communities/special districts to participate in the Small Community Wastewater Facilities Grant Program.

Your assistance and favorable consideration of my request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William "Bill" Montford  
State Senator, District 3

cc: Tom Yeatman, Staff Director

BJM/mam

REPLY TO:

- 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



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

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

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

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BILL: CS/SB 1004

INTRODUCER: Community Affairs Committee and Senator Hays

SUBJECT: Public Records/Video and Audio Recordings

DATE: January 15, 2016

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1004 provides additional circumstances under which information regarding security system plans which is otherwise confidential and exempt may be disclosed. Such information may now be disclosed to the property owner or leaseholder; in furtherance of the official duties and responsibilities of the agency holding the information; to another local, state, or federal agency in the furtherance of that agency's official duties and responsibilities; or upon a showing of good cause before a court of competent jurisdiction.

**II. Present Situation:**

**Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may create an exemption to public records requirements.<sup>9</sup> An exemption must pass by a two-thirds vote of the House and the Senate.<sup>10</sup> In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup> A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’<sup>13</sup> Records designated as ‘confidential and exempt’ may

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<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

<sup>10</sup> FLA. CONST., art. I, s. 24(c).

<sup>11</sup> FLA. CONST., art. I, s. 24(c).

<sup>12</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>13</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.<sup>14</sup>

### **Open Government Sunset Review Act**

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.<sup>15</sup> The OGSR provides that an exemption automatically repeals on October 2 of the 5th year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>16</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:<sup>17</sup>

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.<sup>18</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.<sup>19</sup>

### **Security System Exemptions from Public Access or Disclosure**

Exemptions for security systems and surveillance techniques are governed by ss. 281.301 and 119.071, F.S.

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<sup>14</sup> A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

<sup>15</sup> Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed; however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

<sup>16</sup> Section 119.15(3), F.S.

<sup>17</sup> Section 119.15(6)(a), F.S.

<sup>18</sup> FLA. CONST., art. I, s. 24(c).

<sup>19</sup> Section 119.15(7), F.S.

Section 281.301, F.S., provides that:

Information relating to the security systems for any property owned by or leased to the state or any of its political subdivisions, and information relating to the security systems for any privately owned or leased property which is in the possession of any agency as defined in s. 119.011(2), including all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to or revealing such systems or information, and all meetings relating directly to or that would reveal such systems or information are confidential and exempt from ss. 119.07(1) and 286.011 and other laws and rules requiring public access or disclosure.

Section 119.071(3)(a)2., F.S., provides that:

(3) SECURITY.—

2. A security system plan or portion thereof for:

- a. Any property owned by or leased to the state or any of its political subdivisions; or
- b. Any privately owned or leased property

held by any agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

As used in s. 119.071(3)(a), F.S., the term “security system plan” includes “all... records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems...”<sup>20</sup>

### **Statutory Interpretation by the Courts and the Attorney General**

The Attorney General and the courts have both weighed in on the issues relating to exemptions for security systems. The Attorney General concluded that the names and addresses of applicants for permits to install security systems would be information that would reveal the existence of a security system, and, therefore would be exempt from public disclosure.<sup>21</sup> Furthermore, the Second District Court of Appeal, in *Critical Intervention Services, Inc. v. City of Clearwater*, cited with approval the discussion in that Attorney General Opinion finding that the identity of residential and business alarm permit holders was exempt from public disclosure.<sup>22</sup> The court found that the plain language of ss. 281.301 and 119.071, F.S., makes confidential all records revealing a security system and stated that disclosure of such information “would imperil the safety of persons and property.”<sup>23</sup>

The Fifth District Court of Appeal in *Central Florida Regional Transportation Authority d/b/a Lynx v. Post-Newsweek Stations, Orlando, Inc.*, considered whether security tapes from cameras

<sup>20</sup> Section 119.071(3)(a)1.a., F.S.

<sup>21</sup> Op. Atty Gen. Fla. 2004-08 (2004).

<sup>22</sup> *Critical Intervention Services, Inc. v. City of Clearwater*, 908 So. 2d 1195 (Fla. 2d DCA 2005).

<sup>23</sup> *Id.* at 1197.

installed on transit authority buses were confidential as revealing the security system.<sup>24</sup> Citing to s. 281.301, F.S., which states that records that directly relate to or reveal information about security systems are confidential, the court concluded that the video footage captured by the bus camera “directly relates to and reveals information about a security system.”<sup>25</sup> The court found that the videos “which are records, reveal the capabilities—and as a corollary, the vulnerabilities—of the current system” and therefore, are confidential and exempt from public inspection.<sup>26</sup>

In similar fashion, the Attorney General opined that surveillance tapes that are made by a security system are confidential and exempt from the disclosure requirements of the public records law under ss. 281.301 and 119.071, F.S.<sup>27</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 119.071, F.S., expanding the circumstances under which an agency may disclose information regarding security system plans. Information made confidential and exempt under paragraph (a) may now be disclosed:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency’s official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

**Section 2** amends s. 281.301, F.S., expanding the circumstances under which information relating to the security systems for any property owned by or leased to the state or any privately owned or leased property which is in the possession of any agency as defined in s. 119.011(2), F.S., may be disclosed. Such information may be disclosed:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency’s official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

**Section 3** provides that the bill is effective upon becoming a law.

### IV. Constitutional Issues:

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

None.

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<sup>24</sup> *Cent. Florida Reg’l Transp. Auth. V. Post-Newsweek Stations, Orlando, Inc.*, 157 So. 3d. 401 (Fla. 5<sup>th</sup> DCA 2015), reh’g denied (Feb. 26, 2015).

<sup>25</sup> *Id.* at 405.

<sup>26</sup> *Id.*

<sup>27</sup> Op. Atty Gen. Fla. 2015-06 (2015).

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 119.071 and 281.301 of the Florida Statutes.

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

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

**CS by Community Affairs on January 19, 2016:**

Removes language that expanded the public records exemption for security plans to include video or audio recordings from a security system camera. The corresponding public necessity statement and OGSR language related to the expanded exemption are also removed.

**B. Amendments:**

None.



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2016	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (a) of subsection (3) of section  
119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of  
public records.—

(3) SECURITY.—

(a)1. As used in this paragraph, the term "security system



428796

11 plan" includes all:

12 a. Records, information, photographs, audio and visual  
13 presentations, schematic diagrams, surveys, recommendations, or  
14 consultations or portions thereof relating directly to the  
15 physical security of the facility or revealing security systems;

16 b. Threat assessments conducted by any agency or any  
17 private entity;

18 c. Threat response plans;

19 d. Emergency evacuation plans;

20 e. Sheltering arrangements; or

21 f. Manuals for security personnel, emergency equipment, or  
22 security training.

23 2. A security system plan or portion thereof for:

24 a. Any property owned by or leased to the state or any of  
25 its political subdivisions; or

26 b. Any privately owned or leased property

27

28 held by an agency is confidential and exempt from s. 119.07(1)  
29 and s. 24(a), Art. I of the State Constitution. This exemption  
30 is remedial in nature, and it is the intent of the Legislature  
31 that this exemption apply to security system plans held by an  
32 agency before, on, or after the effective date of this  
33 paragraph.

34 3. Information made confidential and exempt by this  
35 paragraph may be disclosed ~~by the custodian of public records~~  
36 ~~to~~:

37 a. To the property owner or leaseholder; ~~or~~

38 b. In furtherance of the official duties and  
39 responsibilities of the agency holding the information; ~~Another~~



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40 ~~state or federal agency to prevent, detect, guard against,~~  
41 ~~respond to, investigate, or manage the consequences of any~~  
42 ~~attempted or actual act of terrorism, or to prosecute those~~  
43 ~~persons who are responsible for such attempts or acts~~

44 c. To another local, state, or federal agency in  
45 furtherance of that agency's official duties and  
46 responsibilities; or

47 d. Upon a showing of good cause before a court of competent  
48 jurisdiction.

49 Section 2. Section 281.301, Florida Statutes, is amended,  
50 to read:

51 281.301 Security systems; records and meetings exempt from  
52 public access or disclosure.—

53 (1) Information relating to the security systems for any  
54 property owned by or leased to the state or any of its political  
55 subdivisions, and information relating to the security systems  
56 for any privately owned or leased property which is in the  
57 possession of any agency as defined in s. 119.011(2), including  
58 all records, information, photographs, audio and visual  
59 presentations, schematic diagrams, surveys, recommendations, or  
60 consultations or portions thereof relating directly to or  
61 revealing such systems or information, and all meetings relating  
62 directly to or that would reveal such systems or information are  
63 confidential and exempt from ss. 119.07(1) and 286.011 and other  
64 laws and rules requiring public access or disclosure.

65 (2) Information made confidential and exempt by this  
66 section may be disclosed:

67 (a) To the property owner or leaseholder;

68 (b) In furtherance of the official duties and



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69 responsibilities of the agency holding the information;  
70 (c) To another local, state, or federal agency in the  
71 furtherance of that agency's official duties and  
72 responsibilities; or  
73 (d) Upon a showing of good cause before a court of  
74 competent jurisdiction.

75 Section 3. This act shall take effect upon becoming a law.

76

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

78 And the title is amended as follows:

79 Delete everything before the enacting clause

80 and insert:

81

A bill to be entitled

82 An act relating to security system plans; amending s.  
83 119.071, F.S.; revising exceptions to a public records  
84 exemption; amending s. 281.301, F.S.; providing  
85 exceptions to a public records exemption; providing an  
86 effective date.

By Senator Hays

11-00855A-16

20161004\_\_

1                   A bill to be entitled  
2       An act relating to public records; amending s.  
3       119.071, F.S.; expanding the items in a security  
4       system plan to include certain video or audio  
5       recordings; providing an exemption from public records  
6       requirements for video and audio recordings from a  
7       security system camera for properties owned or leased  
8       by, or in the possession of, certain entities;  
9       providing criteria for disclosure of such confidential  
10      and exempt information; providing for future  
11      legislative review and repeal of the exemption under  
12      the Open Government Sunset Review Act; repealing s.  
13      281.301, F.S., relating to security systems and  
14      records and meetings exempt from public access or  
15      disclosure; providing legislative findings and a  
16      statement of public necessity; providing an effective  
17      date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21       Section 1. Paragraph (a) of subsection (3) of section  
22      119.071, Florida Statutes, is amended, and paragraph (d) is  
23      added to that subsection, to read:

24       119.071 General exemptions from inspection or copying of  
25      public records.—

26       (3) SECURITY.—

27       (a)1. As used in this paragraph, the term "security system  
28      plan" includes all:

29       a. Records, information, photographs, audio and visual

11-00855A-16

20161004\_\_

30 presentations, schematic diagrams, surveys, recommendations,  
31 video or audio recordings from a security system camera, or  
32 consultations or portions thereof relating directly to the  
33 physical security of the facility or revealing security systems;

34 b. Threat assessments conducted by any agency or any  
35 private entity;

36 c. Threat response plans;

37 d. Emergency evacuation plans;

38 e. Sheltering arrangements; or

39 f. Manuals for security personnel, emergency equipment, or  
40 security training.

41 2. A security system plan or portion thereof for:

42 a. Any property owned by or leased to the state or any of  
43 its political subdivisions; or

44 b. Any privately owned or leased property

45  
46 held by an agency is confidential and exempt from s. 119.07(1)  
47 and s. 24(a), Art. I of the State Constitution. This exemption  
48 is remedial in nature, and it is the intent of the Legislature  
49 that this exemption apply to security system plans held by an  
50 agency before, on, or after the effective date of this  
51 paragraph.

52 3. Information made confidential and exempt by this  
53 paragraph may be disclosed ~~by the custodian of public records~~  
54 ~~to~~:

55 a. To the property owner or leaseholder; ~~or~~

56 b. To another state or federal agency to prevent, detect,  
57 guard against, respond to, investigate, or manage the  
58 consequences of any attempted or actual act of terrorism or

11-00855A-16

20161004\_\_

59 criminal act, or to prosecute those persons who are responsible  
60 for such attempts or acts;

61 c. In furtherance of an agency's official duties and  
62 responsibilities;

63 d. To another governmental agency in the furtherance of its  
64 official duties and responsibilities; or

65 e. Upon a showing of good cause before a court of competent  
66 jurisdiction.

67 (d)1. Video or audio recordings from a security system  
68 camera for any property owned by or leased to the state or any  
69 of its political subdivisions, and for any privately owned or  
70 leased property which is in the possession of any agency as  
71 defined in s. 119.011(2), are confidential and exempt from s.  
72 119.07(1) and s. 24(a), Art. I of the State Constitution. It is  
73 the intent of the Legislature that this exemption apply to video  
74 and audio recordings held by an agency before, on, or after the  
75 effective date of this paragraph.

76 2. Information made confidential and exempt by this  
77 paragraph may be disclosed:

78 a. To the property owner or leaseholder;

79 b. To another state or federal agency to prevent, detect,  
80 guard against, respond to, investigate, or manage the  
81 consequences of any attempted or actual act of terrorism or  
82 criminal act, or to prosecute those persons who are responsible  
83 for such attempts or acts;

84 c. In furtherance of an agency's official duties and  
85 responsibilities;

86 d. To another governmental entity if disclosure is  
87 necessary for the receiving entity to perform its duties and

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20161004\_\_

88 responsibilities; or

89 e. Upon a showing of good cause before a court of competent  
90 jurisdiction.

91 3. This paragraph is subject to the Open Government Sunset  
92 Review Act in accordance with s. 119.15 and shall stand repealed  
93 on October 2, 2021, unless reviewed and saved from repeal  
94 through reenactment by the Legislature.

95 Section 2. Section 281.301, Florida Statutes, is repealed.

96 Section 3. (1) The Legislature finds that it is a public  
97 necessity that the video and audio recordings from a security  
98 system camera be made confidential and exempt from s. 119.07(1),  
99 Florida Statutes, and s. 24(a), Art. I of the State  
100 Constitution.

101 (2) The Legislature recognizes that sensitive information  
102 is captured on a security system camera; however, government  
103 entities must be able to review and release the video and audio  
104 captured on these cameras in order to ensure public safety and  
105 in furtherance of statutory duties.

106 (3) The Legislature finds that video and audio recorded by  
107 a security system camera should be disclosed to another state or  
108 federal agency to prevent, detect, guard against, respond to,  
109 investigate, or manage the consequences of any attempted or  
110 actual act of terrorism or criminal act, or to prosecute those  
111 persons who are responsible for such attempts or acts.

112 (4) The Legislature also finds that, in certain instances,  
113 video and audio recorded by a security system camera may be  
114 disclosed to the public. In these instances, the court, upon a  
115 showing of good cause, may issue an order authorizing any person  
116 to view or copy video and audio from a security system camera

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20161004\_\_

117 and may prescribe any restrictions or stipulations that the  
118 court deems appropriate. In determining good cause, the court  
119 shall consider whether such disclosure is necessary for the  
120 public evaluation of governmental performance.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/19/16  
Meeting Date

1004  
Bill Number (if applicable)

Topic Security System VIDEO

428796  
Amendment Barcode (if applicable)

Name ELECTRA BUSTLE

Job Title

Address 123 S. Adams St  
Street

Phone

City State Zip

Email

Speaking:  For  Against  Information

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

Representing Florida Sheriff's 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)

1004  
Bill Number (if applicable)

Meeting Date

Topic Security System Video

Amendment Barcode (if applicable)

Name Electra BUSTLE

Job Title

Address T  
Street

Phone

City

State

Zip

Email

Speaking:  For  Against  Information

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

Representing Florida Seniors Assoc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1/19/16  
Meeting Date

1004  
Bill Number (if applicable)

Topic Public Records / Video + Audio Meetings

Amendment Barcode (if applicable)

Name Lisa Bacot

Job Title Executive Director

Address PO Box 101128

Phone 850-465-8329

Tallahassee FL 32302  
City State Zip

Email lbacot@floridapublictrans.org

Speaking:  For  Against  Information

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

Representing Florida Public Transportation 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)

01-19-16

Meeting Date

1004

Bill Number (if applicable)

Topic Public Records / Video & Audio

Amendment Barcode (if applicable)

Name VICKI WOOLDRIDGE

Job Title GOV. AFFAIRS MNGR.

Address 800 NW 33rd ST.

Phone 954-213-8690

Street

POMPANO BEACH FL 33060

Email wooldridge@sfra.fl.gov

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In-Support  Against

(The Chair will read this information into the record.)

Representing SO. FLA. REGIONAL TRANSPORTATION AUTHORITY

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 Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs  
CC: Tom Yeatman  
Ann Whitaker

**Subject:** Committee Agenda Request

**Date:** November 12, 2015

---

I respectfully request that **SB 1004 Public Records Exemption- Audio & Video Recordings**, be placed on the:

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

A handwritten signature in cursive script that reads "D. Alan Hays" followed by a flourish.

---

Senator Alan Hays  
Florida Senate, District 11



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

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

---

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

---

BILL: SB 1188

INTRODUCER: Senators Altman and Richter

SUBJECT: Representatives of Military Installations Who Serve on Land Planning or Zoning Boards

DATE: January 15, 2016      REVISED: \_\_\_\_\_

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

---

**I. Summary:**

SB 1188 provides that a representative of a military installation is not required to file a specified statement of financial interests due solely to service on a local land planning or zoning board.

**II. Present Situation:**

**Military Representation on Local Planning or Zoning Board**

Section 163.3175(2), F.S., identifies the major military installations that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others, and also identifies the local governments proximate to these installations that are required to address compatibility of land development with military installations in their comprehensive plans.<sup>1</sup> The Community Planning Act recognizes the importance of local governments cooperating with military installations to encourage compatible land use and facilitate the continued presence of major military installations in this state.<sup>2</sup> As of July 1, 2014, all affected local governments have adopted the required comprehensive plan amendments to include criteria addressing compatibility of lands adjacent or closely proximate to military installations.<sup>3</sup>

To facilitate the exchange of information, a representative from the military acting on behalf of all military installations within that jurisdiction shall be included as an ex officio, nonvoting member of the county's or affected local government's land planning or zoning board.<sup>4</sup>

---

<sup>1</sup> Florida Department of Economic Opportunity, *Military Bases-Military Base Encroachment*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/military-base-encroachment> (last visited January 12, 2016).

<sup>2</sup> *Id.*

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

<sup>4</sup> Section 163.3175(7), F.S.

### **Financial Disclosure**

Under s. 112.3145, F.S., local officers are required to file a statement of financial interests no later than July 1 of each year.<sup>5</sup> “Local officer” is defined by statute, and includes those serving on a planning or zoning board.<sup>6</sup> Local officers are required to file “Form 1” with the supervisor of elections in the county in which they permanently reside.<sup>7,8</sup> Form 1 gives the filer the option of using reporting thresholds that are absolute dollar values, or using comparative thresholds (percentages).<sup>9</sup> The form requires reporting of gross income, secondary sources of income, real property in Florida, intangible personal property, liabilities, and interests in specified businesses.<sup>10</sup>

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

**Section 1** amends s. 163.3175(7), F.S., providing that a representative of a military installation is not required to file a specified statement of financial interests pursuant to s. 112.3145, F.S., due solely to service on a local land planning or zoning board.

**Section 2** 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.

---

<sup>5</sup> Local officers are also required to file within 60 days of termination, and within 30 days of start date; Section 112.3145, F.S.

<sup>6</sup> Section 112.3145(1)(a)(d), F.S.

<sup>7</sup> Florida Commission on Ethics, *Filing Information*, available at [http://www.ethics.state.fl.us/Documents/Forms/Form1.html#form\\_1](http://www.ethics.state.fl.us/Documents/Forms/Form1.html#form_1) (last visited January 12, 2016).

<sup>8</sup> Section 112.3145(2)(c), F.S.

<sup>9</sup> Justice Administrative Commission, Florida’s Financial Disclosure Requirements at 9, available at <https://www.justiceadmin.org/HR/2015%20JAC%20-%20Print%20Copy.pdf> (last visited January 12, 2016).

<sup>10</sup> *Id.* at 10-12.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Commission on Ethics has expressed concern due to the bill's effective date occurring on the date the 2015 financial disclosure forms are due. It would be more suitable for the bill to become effective upon becoming a law.

**VIII. Statutes Affected:**

This bill substantially amends section 163.3175 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 Altman

16-00954-16

20161188\_\_

1 A bill to be entitled

2 An act relating to representatives of military  
3 installations who serve on land planning or zoning  
4 boards; amending s. 163.3175, F.S.; providing that a  
5 representative of a military installation is not  
6 required to file a specified statement of financial  
7 interests due solely to service on a local land  
8 planning or zoning board; providing an effective date.  
9

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

11  
12 Section 1. Subsection (7) of section 163.3175, Florida  
13 Statutes, is amended to read:

14 163.3175 Legislative findings on compatibility of  
15 development with military installations; exchange of information  
16 between local governments and military installations.—

17 (7) To facilitate the exchange of information provided for  
18 in this section, a representative of a military installation  
19 acting on behalf of all military installations within that  
20 jurisdiction shall be included as an ex officio, nonvoting  
21 member of the county's or affected local government's land  
22 planning or zoning board. Such a representative is not required  
23 to file a statement of financial interests pursuant to s.  
24 112.3145 solely due to his or her service on the county's or  
25 affected local government's land planning or zoning board.

26 Section 2. 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)

1/19/16  
Meeting Date

1188  
Bill Number (if applicable)

Topic financial disclosure

Amendment Barcode (if applicable)

Name Ben Wilcox

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

Address 1719 Old Fort Dr.  
Street

Phone 544-2448

Tallahassee Fl. 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Common Cause 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)

1/19/16

Meeting Date

SB 1188

Bill Number (if applicable)

Topic SB 1188

Amendment Barcode (if applicable)

Name Col. Rocky McPherson, USMC (Ret)

Job Title VP, Military & Defense, Enterprise Florida

Address 4043 Kilmartno Dr.  
Street

Phone (w) 850-298-6652

Tallahassee FL 32309  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Defense Support Task Force

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  
**APPEARANCE RECORD**

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

1-19-14

Meeting Date

5B1188

Bill Number (if applicable)

Topic financial disclosure / ethics

Amendment Barcode (if applicable)

Name Wiley Horton

Job Title Ethics Commissioner

Address 325 John Knox Rd, Bldg E, Ste 200

Phone 850-488-7804

Street

Tallahassee, FL 32303

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Commission on Ethics

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

Tallahassee, Florida 32399-1100

**SENATOR THAD ALTMAN**

16th District

**COMMITTEES:**

Military Affairs, Space, and Domestic Security, *Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Finance and Tax  
Children, Families, and Elder Affairs  
Criminal Justice  
Environmental Preservation and Conservation

**SELECT COMMITTEE**

Indian River Lagoon and Lake Okeechobee

**JOINT COMMITTEE:**

Joint Administrative Procedures Committee

January 11, 2016

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 1188, related to *Representatives of Military Installations Who Serve on Land Planning or Zoning Boards*, 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](http://www.flsenate.gov)

**DON GAETZ**  
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

January 19, 2016

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 1188, related to *Representatives of Military Installations Who Serve on Land Planning or Zoning Boards*, is on the Community Affairs agenda today, January 19, 2016. I had previously scheduled matters to attend to in the District and am unable to attend today's meeting to present this bill myself.

Please recognize my Legislative Assistant, Ms. Devon West, to present SB 1188 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](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



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

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

---

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

---

BILL: SB 956

INTRODUCER: Senator Stargel

SUBJECT: Special Districts

DATE: January 15, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	<b>Favorable</b>
2.			ATD	
3.			FP	

---

**I. Summary:**

SB 956 requires special districts to publish additional information on their website and to ensure other current information is maintained on their website for longer periods of time. The bill also reorganizes the oversight provisions of the chapter to increase clarity and avoid duplication. The bill clarifies the power of the Legislature to create dependent special districts. The bill revises the process for the Department of Economic Opportunity (DEO) to declare a special district inactive and clarifies the power of the Legislature to dissolve inactive independent special districts by general law. It also makes conforming changes to a number of related statutes.

Based on the DEO analysis of a similar measure, SB 1388 (2015), the bill may have a minimal fiscal impact on the agency.

**II. Present Situation:**

**Special Districts**

A “special district” is “a unit of local government created for a special purpose... operat[ing] within a limited geographic boundary and is created by general law, special act, local ordinance, or rule of the Governor and Cabinet.”<sup>1</sup> Special districts are created to provide a wide variety of services, such as mosquito control,<sup>2</sup> beach facilities,<sup>3</sup> children’s services,<sup>4</sup> fire control and rescue,<sup>5</sup> or drainage control.<sup>6</sup>

---

<sup>1</sup> Section 189.012(6), F.S.

<sup>2</sup> Section 388.021(1), F.S. (however, new independent mosquito control districts are prohibited, *see* s. 388.021(2), F.S.).

<sup>3</sup> *See* Section 189.011, F.S.

<sup>4</sup> Section 125.901(1), F.S.

<sup>5</sup> Section 191.002, F.S.

<sup>6</sup> Section 298.01, F.S.

Special districts can be classified as “dependent special districts”<sup>7</sup> or “independent special districts.”<sup>8</sup> For a district to be classified as a “dependent special district,” the district must meet at least one of the following criteria:

- Membership of its governing body is identical to that of the governing body of a single county or a single municipality;<sup>9</sup>
- All members of its governing body are appointed by the governing body of a single county or a single municipality;<sup>10</sup>
- The members of its governing body are subject to removal at will by the governing body of a single county or single municipality, during their unexpired terms;<sup>11</sup> **or**
- The district’s budget requires approval or can be vetoed by the governing body of a single county or a single municipality.<sup>12</sup>

An “independent special district” is any special district that does not meet the definition of “dependent special district.”<sup>13</sup> Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely within the borders of a single municipality.<sup>14</sup>

According to DEO’s Special District Accountability Program Official List of Special Districts, the state currently has 1,662 special districts.<sup>15</sup> The districts can be further classified as follows:

- 1,652 active districts, 10 inactive districts;
- 635 dependent special districts, of which 632 are active and 3 are inactive; and
- 1,027 independent special districts, of which 1,020 are active and 7 are inactive.

Special districts are governed generally by the Uniform Special District Accountability Act (Act).<sup>16</sup> The Act, initially passed in 1989,<sup>17</sup> created ch. 189, F.S. to centralize provisions governing special districts. Chapter 189 applies to the formation,<sup>18</sup> governance,<sup>19</sup> administration,<sup>20</sup> supervision,<sup>21</sup> merger,<sup>22</sup> and dissolution<sup>23</sup> of special districts, unless otherwise expressly provided in law.<sup>24</sup> The Act also provided an extensive statement of legislative intent

<sup>7</sup> Section 189.012(2), F.S.

<sup>8</sup> Section 189.012(3), F.S.

<sup>9</sup> Section 189.012(2)(a), F.S.

<sup>10</sup> Section 189.012(2)(b), F.S.

<sup>11</sup> Section 189.012(2)(c), F.S.

<sup>12</sup> Section 189.012(2)(d), F.S.

<sup>13</sup> Section 189.012(3), F.S.

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

<sup>15</sup> See Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/>.

<sup>16</sup> Section 189.01, F.S., *but see* ch. 190, F.S. (community development districts), ch. 191, F.S. (independent special fire control districts).

<sup>17</sup> Ch. 89-169, Laws of Fla.

<sup>18</sup> See Section 189.02, F.S. (creation of dependent special districts), Section 189.031, F.S. (creation of independent special districts).

<sup>19</sup> See Section 189.0311, F.S. (charter requirements for independent special districts).

<sup>20</sup> See Section 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

<sup>21</sup> See Section 189.034, F.S. (oversight for special districts created by special act of the Legislature).

<sup>22</sup> Sections 189.071, 189.074, F.S.

<sup>23</sup> Sections 189.071, 189.072, F.S.

<sup>24</sup> See Section 190.004, F.S. (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

aiming to improve accountability of special districts to state and local governments and providing for more effective communication and coordination in the monitoring of required reporting.<sup>25</sup>

In 2014, the Act was revised extensively and reorganized into eight parts:<sup>26</sup> The revision made significant changes to provisions concerning independent special districts and special district oversight and accountability.<sup>27</sup>

### **Internet Accessible Budgets**

Each special district is required to post a tentative budget to its website at least 2 days before a budget hearing.<sup>28</sup> If the budget is approved at the hearing, it must be posted to the district's website within 30 days after adoption.<sup>29</sup> If the budget is later amended, the adopted amendment must be posted on the district's website within 5 days after adoption.<sup>30</sup> If a dependent special district does not operate a website, the Act creates alternative avenues for publication.<sup>31</sup>

Dependent special districts must submit the budget or amendment to the local governing authority on which the district is dependent.<sup>32</sup> The special district must transmit the budget or amendment to the local governing authority "within a reasonable period of time," as determined by the local governing authority.<sup>33</sup> After transmission, the local governing authority posts the budget or amendment to its own website.<sup>34</sup> Independent special districts follow the same procedure, but instead submit their budget and amendments to the local general-purpose governments in which the district is located.<sup>35</sup>

### **Creation of Dependent Special Districts**

Under current law, new dependent special districts typically are created by the passage of an ordinance by a county or municipal government.<sup>36</sup> A district must rest entirely inside the boundary lines of the creating local government entity.<sup>37</sup> The ordinance creating the special district must include:

- Purpose, powers, functions, and duties of the district;<sup>38</sup>
- Geographic boundaries of the district;<sup>39</sup>

---

<sup>25</sup> Section 189.06, F.S.

<sup>26</sup> Ch. 2014-22, Laws of Fla.

<sup>27</sup> Ch. 2014-22, s. 34, Laws of Fla.

<sup>28</sup> Section 189.016(4), F.S.

<sup>29</sup> *Id.*

<sup>30</sup> Section 189.016(7), F.S.

<sup>31</sup> *See* Section 189.016(4), (7), F.S.

<sup>32</sup> Section 189.016(4), (7), F.S.

<sup>33</sup> Section 189.016(4), (7), F.S.

<sup>34</sup> Section 189.016(4), (7), F.S.

<sup>35</sup> Section 189.016(4), (7), F.S.

<sup>36</sup> Section 189.02(1), F.S. Prior to September 30, 1989, some dependent special districts were created by general law or special act. There are currently 108 active dependent special districts that were created by general law and 74 created by special act.

<sup>37</sup> Section 189.02(2), (3), F.S.

<sup>38</sup> Section 189.02(4)(a), F.S.

<sup>39</sup> Section 189.02(4)(b), F.S.

- Authority of the district;<sup>40</sup>
- An explanation of why the district is the best mechanism for service delivery;<sup>41</sup>
- Membership, organization, compensation, and administrative duties of the district's board;<sup>42</sup>
- Applicable financial disclosure, noticing, and reporting requirements;<sup>43</sup>
- Method for financing the district;<sup>44</sup> and
- Declaration that the creation of the district is consistent with the approved local government comprehensive plans.<sup>45</sup>

General oversight for dependent special districts rests with the local general-purpose government to which the district is dependent.<sup>46</sup>

### Status Statements

The charter for any new special district created after October 1, 1997, must contain a reference to the status of the district as dependent or independent.<sup>47</sup> Existing special districts are required to amend their charter to contain status information, where practical.<sup>48</sup> If a district fails to submit its status to DEO as required by statute, DEO is authorized to determine the district's status as dependent or independent.<sup>49</sup>

### Oversight of Special Districts

When an independent special district fails to file required reports or requested information, the Joint Legislative Auditing Committee (JLAC) provides written notice of the district's noncompliance to the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and House of Representatives charged with special district oversight, and the legislators who represent any portion of the geographic jurisdiction of the district.<sup>50</sup> The JLAC may then convene a public hearing at the direction of the President of the Senate and the Speaker of the House of Representatives.<sup>51</sup> Before the JLAC's public hearing, the special district is required to provide:<sup>52</sup>

- Annual financial report for the prior fiscal year;<sup>53</sup>
- Audit report for the previous fiscal year;<sup>54</sup> and

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<sup>40</sup> Section 189.02(4)(c), F.S.

<sup>41</sup> Section 189.02(4)(d), F.S.

<sup>42</sup> Section 189.02(4)(e), F.S.

<sup>43</sup> Section 189.02(4)(f), F.S.

<sup>44</sup> Section 189.02(4)(g), F.S.

<sup>45</sup> Section 189.02(4)(h), F.S.

<sup>46</sup> Section 189.068(2)(c), F.S.

<sup>47</sup> Section 189.031(5), F.S.

<sup>48</sup> *Id.*

<sup>49</sup> Section 189.061(4), F.S.

<sup>50</sup> Section 189.034(2), F.S.

<sup>51</sup> Section 189.034(3), F.S. The hearing may address general oversight of the district as well as the district's noncompliance with reporting. *Id.*

<sup>52</sup> Section 189.034(4), F.S.

<sup>53</sup> Section 189.034(4)(a), F.S.

<sup>54</sup> Section 189.034(4)(b), F.S.

- Annual report for the previous fiscal year, providing a detailed review of the performance of the special district.<sup>55</sup>

When a dependent special district fails to file required reports or requested information, the JLAC provides written notice of the district's noncompliance to the head of the local general-purpose government to which the district is dependent.<sup>56</sup> The local general-purpose government may conduct a public hearing within 3 months of the receipt of the notice of noncompliance from the JLAC.<sup>57</sup> The local general-purpose government has 30 days upon receipt of the notice to inform the JLAC of the date, time, and place of the public hearing.<sup>58</sup> The special district must provide the local general-purpose government the same information required by an independent special district appearing before the JLAC.<sup>59</sup> If the local general-purpose government convenes a public hearing, it must provide DEO and the JLAC a report containing findings and conclusions within 60 days.<sup>60</sup>

### **Special District Accountability Program**

DEO is tasked with the administration of the Special District Accountability Program.<sup>61</sup> As part of administering the program, DEO is required to:

- Electronically publish special district noncompliance status reports;<sup>62</sup>
- Maintain an official "master" list of dependent and independent special districts; and<sup>63</sup>
- Publish and update the "Florida Special District Handbook."<sup>64</sup>

The Florida Special District Handbook must contain:

- Definitions of special districts and status distinctions;<sup>65</sup>
- Provisions concerning special district creation, implementation, modification, dissolution, and operating procedures; and<sup>66</sup>
- Summary of reporting requirements.<sup>67</sup>

The official list of special districts contains all special districts, sorted by county and containing an identification of independent or dependent status.<sup>68</sup> Each special district has 60 days to report

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<sup>55</sup> Section 189.034(4)(c), F.S. The "detailed review" required includes the special district's purpose, sources of funding, major activities, challenges or obstacles faced, ways to better fulfill its purpose, changes to the special act that would aid in fulfilling purpose, any other information reasonably required to provide accurate understanding of situation, reasons for noncompliance, whether district is now in compliance, plans to correct recurring issues of noncompliance, and efforts to promote transparency.

<sup>56</sup> Section 189.035(2), F.S.

<sup>57</sup> Section 189.035(3), F.S.

<sup>58</sup> *Id.*

<sup>59</sup> *See* Section 189.035(4), F.S.

<sup>60</sup> Section 189.035(5), F.S.

<sup>61</sup> Section 189.064, F.S.

<sup>62</sup> Section 189.064(1), F.S.

<sup>63</sup> Section 189.064(2), F.S.

<sup>64</sup> Section 189.064(3), F.S.

<sup>65</sup> Section 189.064(3)(a), F.S.

<sup>66</sup> Section 189.064(3)(b), F.S.

<sup>67</sup> Section 189.064(3)(c), F.S.

<sup>68</sup> Section 189.061(1), F.S.

its status to DEO upon request.<sup>69</sup> If the special district does not report its status within 60 days, DEO has the authority to determine the status of the district and then must render the determination to an agent of the district.<sup>70</sup> DEO must make the official list available on its website and must provide links to the website of each special district that operates a website.<sup>71</sup>

The determination of the status of a special district, or its inclusion on the official list of special districts, is not a final agency action under ch. 120, F.S.<sup>72</sup> If the status of the district on the official list is inconsistent with the status submitted by the district, the district may request that DEO issue a declaratory statement setting forth the steps to resolve the inconsistency.<sup>73</sup> A special district may then either appeal the declaratory statement pursuant to ch. 120 or apply to the entity which established its charter to amend the charter to correct the deficiency.<sup>74</sup>

### Inactive Special Districts

Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO is required to declare that district inactive by following a specified process.<sup>75</sup> DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of six specific factors:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
  - Provides DEO with written notice that the district has taken no action for 2 or more years.<sup>76</sup>
  - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years.<sup>77</sup>
  - Fails to respond to an inquiry from DEO within 21 days.<sup>78</sup>

<sup>69</sup> Section 189.061(2), F.S.

<sup>70</sup> Section 189.061(4), F.S.

<sup>71</sup> Section 189.061(5), F.S.

<sup>72</sup> Section 189.061(6), F.S. Ch. 120, F.S., is the Florida Administrative Procedure Act (APA). If an agency's decision constitutes final agency action under ch. 120, F.S., the party affected by the decision may be entitled to a hearing prior to the decision and may be entitled to appeal an adverse decision to the appropriate appellate court. *See* Sections 120.569, 120.57, and 120.68, F.S.

<sup>73</sup> *Id.* A declaratory statement is an agency's opinion on the applicability of a statute, agency rule, or order to the petitioner. Section 120.565, F.S. Denial of a petition for declaratory statement is subject to the hearing procedures of the APA as well as appellate review. Sections 120.52(2), (7), 120.569, and 120.68, F.S.

<sup>74</sup> *Id.*

<sup>75</sup> Section 189.062(1), F.S. Prior to 2014, the former statute required DEO to document the existence of one of five criteria listed in paragraph (1)(a), publication and service under paragraph (1)(b) of a notice of intent to declare the district inactive, and the lack of any administrative appeal of the declaration within 21 days of that publication. Section 189.4044, F.S. (2013). In 2014, as ch. 189, F.S., was extensively revised and restructured, the word "or" was added at the end of s. 189.062(1)(a)6, F.S., apparently allowing DEO either to document one of the six criteria *or* publish notice of intent to declare inactive and find no appeal is filed. Chapter 2014-22, s. 24, Laws of Florida. During the 2015 regular legislative session, the Florida Senate passed CS/SB 1388, its version of a bill resolving technical issues stemming from the 2014 revisions, which would have amended s. 189.062(1)(a)6., F.S., by removing the word "or." CS/SB 1388 (2015), s. 11, at line 414 (bill did not pass the Legislature). DEO still uses the 3-step process as described in the 2013 statute.

<sup>76</sup> Section 189.062(1)(a)1., F.S.

<sup>77</sup> Section 189.062(1)(a)2., F.S.

<sup>78</sup> Section 189.062(1)(a)3., F.S.

- Following statutory procedure,<sup>79</sup> DEO determines the district failed to file specified reports,<sup>80</sup> including required financial reports.<sup>81</sup>
- For more than 1 year, no registered office or agent for the district was on file with DEO.<sup>82</sup>
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.<sup>83</sup>

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.<sup>84</sup> The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to ch. 120, F.S., within 21 days after the publication date.<sup>85</sup> If no objection is filed within the 21-day period, DEO declares the district inactive.<sup>86</sup>

After declaring certain special districts as being inactive, DEO must send written notice of the declaration to the authorities which created the district. If the district was created by special act, DEO sends written notice to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight.<sup>87</sup>

The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district. Any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.<sup>88</sup>

A district declared inactive may not collect taxes, fees, or assessments.<sup>89</sup> This prohibition continues until the declaration of invalidity is withdrawn or revoked by DEO<sup>90</sup> or invalidated in an administrative proceeding<sup>91</sup> or civil action<sup>92</sup> timely brought by the governing body of the

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<sup>79</sup> Section 189.067, F.S.

<sup>80</sup> Section 189.066, F.S.

<sup>81</sup> Section 189.062(1)(a)4., F.S. *See, ss.* 189.016(9), 218.32, and 218.39, F.S.

<sup>82</sup> Section 189.062(1)(a)5., F.S.

<sup>83</sup> Section 189.062(1)(a)6., F.S.

<sup>84</sup> Section 189.062(1)(b), F.S. Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district's registered agent or chair of the district's governing body, if any.

<sup>85</sup> *Id.* The published notice also must include the name of the district, the law under which it was organized and operating, and a description of the district's territory.

<sup>86</sup> Section 189.062(1)(c), F.S.

<sup>87</sup> Section 189.062(3), F.S. The statute provides that the declaration of inactive status is sufficient notice under Art. III, s. 10 of the Florida Constitution to authorize the repeal of special laws creating or amending the charter of the inactive district. This statute stands in lieu of the normal requirement for publication of notice of intent to file a local bill at least 30 days before introducing the bill in the Legislature, under s. 11.02, F.S.

<sup>88</sup> Section 189.062(2), F.S.

<sup>89</sup> Section 189.062(5), F.S.

<sup>90</sup> Section 189.062(5)(a), F.S.

<sup>91</sup> Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

<sup>92</sup> Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

special district.<sup>93</sup> Failure of the special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.<sup>94</sup>

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature<sup>95</sup> or the entity that created the district.<sup>96</sup>

### **Internet Accessible Reporting**

Each special district is required to maintain an official website containing essential information<sup>97</sup> about the district.<sup>98</sup> Independent special districts are required to maintain their own website,<sup>99</sup> while a link to information about dependent special districts must be displayed on the home page of the local general-purpose government which created the district.<sup>100</sup>

### **Conversion or Merger of Independent Special Districts**

Section 165.0615, F.S., enables the qualified electors of an independent special district to file a petition to incorporate the district as a municipality, subject to approval via referendum.<sup>101</sup> If the electors approve of the conversion, the district is required to notify both the Special District Accountability Program and the local general-purpose governments where the district is located.<sup>102</sup>

Section 189.074, F.S., allows for the voluntary merger of two or more independent special districts.<sup>103</sup> The merger can be initiated by either the governing bodies of each independent special district<sup>104</sup> or by a petition of qualified electors in the district.<sup>105</sup> Both methods of voluntary merger require the governing boards of the respective independent special districts to notify the supervisor of elections of the relevant counties.<sup>106</sup> The supervisor of elections is

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<sup>93</sup> The special district must initiate the legal challenge within 30 days after the date the written notice of the department's declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.

<sup>94</sup> Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

<sup>95</sup> Sections 189.071(3) and 189.072(3), F.S.

<sup>96</sup> Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

<sup>97</sup> Section 189.069(2)(a), F.S. The website must include the district's legal name, public purpose, vital information about the governing body, fiscal year, charter and associated information, contact information, geographic area, table of all taxes and fees, contact information for district's spokesperson, code of ethics, budget, and audit report for the most recently completed fiscal year.

<sup>98</sup> Section 189.069(1), F.S.

<sup>99</sup> Section 189.069(1)(a), F.S.

<sup>100</sup> Section 189.069(1)(b), F.S. Dependent special districts may maintain their own webpage, but are not required to do so.

<sup>101</sup> Section 165.0615(1), F.S.

<sup>102</sup> Section 165.0615(16), F.S.

<sup>103</sup> Section 189.074, F.S.

<sup>104</sup> Section 189.074(2), F.S.

<sup>105</sup> Section 189.074(3), F.S.

<sup>106</sup> Section 189.074(2)(e), F.S. (for joint mergers by resolution), s. 189.074(3)(g), F.S. (for joint mergers by qualified elector petition).

required to schedule a referendum in each district, which must occur no more than 20 days apart.<sup>107</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 11.40, F.S., conforming cross-references.

**Section 2** amends s. 189.011, F.S., expanding legislative intent<sup>108</sup> to include all special districts in the requirements of registration, financial and other reporting and provides a mechanism for noncompliance with minimum disclosure requirements. The section also clarifies the intent of the Legislature to authorize action against a special district itself for failure to comply with disclosure requirements, instead of the members of the district's board.

**Section 3** amends s. 189.016, F.S., requiring special districts to make their budgets and subsequent amendments available on the special district's website.

- The tentative budget must remain on the website for at least 45 days after the meeting.
- The final budget must remain on the website for at least 2 years after the meeting.
- Amendments to the budget must remain on the website for at least 2 years after the meeting.

The section also removes the requirement for special districts without a website to transmit their tentative budgets, final budgets, and amendments to the local governing authority or the local general-purpose government in which the special district is located.

**Section 4** reenacts s. 165.0615(16), F.S., relating to municipal conversion of independent special districts upon elector-initiated and approved incorporation plans, to incorporate the amendment made by the bill to s. 189.016, F.S.

**Section 5** creates s. 189.02(5), F.S., clarifying the Legislature's ability to create dependent special districts by special act at the request or with the consent of the local government upon which the special district will be dependent.

**Section 6** creates s. 189.022, F.S., requiring dependent special districts to identify themselves as such in their charters.

**Section 7** amends s. 189.031, F.S., requiring independent special districts to identify themselves as such in their charters.

**Section 8** renumbers, transfers, and amends s. 189.034, F.S., concerning oversight of special districts created by special act of the Legislature. The section also removes several provisions shared by the independent and dependent special district oversight processes and places them in new s. 189.0653, F.S.

**Section 9** renumbers, transfers, and amends s. 189.035, F.S., concerning oversight of special districts created by local ordinance or resolution. The section also removes several provisions

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<sup>107</sup> Sections 189.074(2)(e) and 189.074(3)(g), F.S.

<sup>108</sup> Section 189.011(2), F.S.

shared by the independent and dependent special district oversight processes and places them in new s. 189.0653, F.S.

**Section 10** amends s. 189.061, F.S., revising criteria for the official list of special districts. The official list must exclude all districts that are declared inactive. The official list must also be maintained by DEO using the information filed by the special districts with DEO. If a special district does not submit the required written status statement, DEO may determine the status of the district. After DEO determines the status, DEO must render its determination to an agent of the special district.

The official list of special districts or the determination of status does not constitute a final agency action pursuant to ch. 120, F.S. The section also provides a procedural process if there is an inconsistency between the status of a special district on the official list and the status submitted by the district.

The Auditor General must notify DEO of each entity that attempts to report as a special district in an audit report issued pursuant to s. 218.39, F.S., which is not included on the official list of special districts. If DEO determines that such an entity is a special district, DEO shall add the entity to the official list and notify each such entity that it is required to comply with s. 189.013, F.S.

**Section 11** amends s. 189.062, F.S., clarifying that DEO shall declare a special district inactive by documenting that the special district meets one of the six statutory criteria for being considered inactive, publishing notice of intent to declare the district inactive, and affirming that no administrative appeal of the declaration has been filed within 21 days of publication.

The section also provides that each special act creating or amending the charter of a special district declared to be inactive may be repealed by general law initiated by either of the standing committees of the Senate or the House of Representatives with the approval of the chamber's presiding officer. However, notice of the introduction of legislation providing for such repeal of a special act must be given to each member of the Legislature who represents any portion of the area within the jurisdiction of the special district.

**Section 12** amends s. 189.064, F.S., revising the required content of the special district handbook to contain a section that summarizes the public facilities reporting requirements and the evaluation and appraisal notification schedule as provided in s. 189.08(2), F.S.

**Section 13** creates s. 189.0653, F.S., requiring a special district to provide certain information at the request of the local general-purpose government or the Legislative Auditing Committee. The section does not make any substantive changes to current law. Rather, this section is the consolidation of provisions that were shared by the independent and dependent special district oversight processes in ss. 189.034 and 189.035, F.S.

**Section 14** amends s. 189.067, F.S., conforming cross-references.

**Section 15** amends s. 189.068, F.S., conforming cross-references and changes made to the bill.

**Section 16** amends s. 189.069, F.S., revising the list of items required to appear on a special district's website. The section requires the website for a dependent special district to be displayed prominently on the home page of the local general-purpose government upon which it is dependent, whether that government created the special district or not. The section also requires the district's website to include a listing of regularly scheduled public meetings (including date, time, and location), a copy of the district's public facilities report, a link to the Department of Financial Services website, and an agenda of an upcoming meeting or workshop.

**Section 17** amends s. 189.071, F.S., clarifying language concerning the merger or dissolution of dependent special districts.

**Section 18** amends s. 189.072, F.S., removing redundant language.

**Section 19** reenacts ss. 189.074(2)(e), (3)(g), F.S., relating to voluntary merger of independent special districts, to incorporate the amendment made by the bill to s. 189.016, F.S.

**Section 20** provides an effective date of October 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:

None.

C. Government Sector Impact:

A similar bill from 2015, SB 1388, was determined to have a minimum fiscal impact on DEO.<sup>109</sup>

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<sup>109</sup> Department of Economic Opportunity, *SB 1388 Legislative Bill Analysis* (Mar. 3, 2015).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 11.40, 189.011, 189.016, 189.02, 189.031, 189.061, 189.062, 189.064, 189.067, 189.068, 189.069, 189.071, and 189.072 of the Florida Statutes.

This bill reenacts sections 165.0615 and 189.074 of the Florida Statutes.

This bill creates sections 189.022 and 189.0653 of the Florida Statutes.

This bill transfers, renumbers, and amends sections 189.034 and 189.035 of the Florida Statutes as sections 189.0651 and 189.0652, respectively.

**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.



866094

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/19/2016	.	
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The Committee on Community Affairs (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 727 and 728

insert:

Section 17. Section 189.0695, Florida Statutes, is created to read:

189.0695 Special districts regulating transit or transportation services; procedures.—

(1) An independent special district that regulates transit or transportation services is subject to the Administrative



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11 Procedure Act, chapter 120.

12 (2) This section does not apply to any entity authorized  
13 under s. 163.567 or under chapter 343, chapter 348, or chapter  
14 349, or any public airport.

15 Section 18. Paragraph (a) of subsection (1) of section  
16 120.52, Florida Statutes, is amended to read:

17 120.52 Definitions.—As used in this act:

18 (1) "Agency" means the following officers or governmental  
19 entities if acting pursuant to powers other than those derived  
20 from the constitution:

21 (a) The Governor; each state officer and state department,  
22 and each departmental unit described in s. 20.04; the Board of  
23 Governors of the State University System; the Commission on  
24 Ethics; the Fish and Wildlife Conservation Commission; a  
25 regional water supply authority; a regional planning agency; a  
26 multicounty special district, but only if a majority of its  
27 governing board is comprised of nonelected persons; an  
28 independent special district that regulates transit or  
29 transportation services; educational units; and each entity  
30 described in chapters 163, 373, 380, and 582 and s. 186.504.

31  
32 This definition does not include a municipality or legal entity  
33 created solely by a municipality; a legal entity or agency  
34 created in whole or in part pursuant to part II of chapter 361;  
35 a metropolitan planning organization created pursuant to s.  
36 339.175; a separate legal or administrative entity created  
37 pursuant to s. 339.175 of which a metropolitan planning  
38 organization is a member; an expressway authority pursuant to  
39 chapter 348 or any transportation authority or commission under



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40 chapter 343 or chapter 349; or a legal or administrative entity  
41 created by an interlocal agreement pursuant to s. 163.01(7),  
42 unless any party to such agreement is otherwise an agency as  
43 defined in this subsection.

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

45 And the title is amended as follows:

46       Between lines 71 and 72

47 insert:

48       creating s. 189.0695, F.S.; providing that certain  
49       independent special districts are subject to ch. 120,  
50       F.S.; providing applicability; amending s. 120.52,  
51       F.S.; expanding the definition of the term "agency" to  
52       include an independent special district that regulates  
53       transit or transportation services;



232806

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/19/2016	.	
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The Committee on Community Affairs (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 924 and 925  
insert:

Section 20. The Office of Program Policy Analysis and Government Accountability shall conduct a study that focuses on the board structures of independent special districts. The study must focus on all of the following:

(1) The responsibilities and oversight role of the boards of the various independent special districts.



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11           (2) The extent to which current board structures and  
12 regulations concerning boards enable effective oversight over  
13 the independent special districts.

14           (3) Whether current board compositions are adequate and  
15 resources allocated to the boards are sufficient to execute the  
16 oversight responsibility of boards over their independent  
17 special districts.

18  
19 The office shall report findings and recommendations to the  
20 President of the Senate and the Speaker of the House  
21 Representatives by January 1, 2017.

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

23 And the title is amended as follows:

24           Delete line 77

25 and insert:

26           references thereto; directing the Office of Program  
27           Policy Analysis and Government Accountability to  
28           conduct a study of the board structures of independent  
29           special districts; directing the office to report  
30           findings and recommendations to the Legislature by a  
31           specified date; providing an effective date.

By Senator Stargel

15-00419B-16

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1                   A bill to be entitled  
2           An act relating to special districts; amending s.  
3           11.40, F.S.; conforming cross-references; amending s.  
4           189.011, F.S.; revising legislative intent with  
5           respect to the Uniform Special District Accountability  
6           Act to include dependent special districts; amending  
7           s. 189.016, F.S.; specifying the period of time for  
8           which certain budget information must remain on the  
9           special district's website; deleting provisions  
10          requiring a special district to transmit certain  
11          budgets to the local government under specific  
12          circumstances; reenacting s. 165.0615(16), F.S.,  
13          relating to municipal conversion of independent  
14          special districts upon an elector-initiated and  
15          approved referendum, to incorporate the amendment to  
16          s. 189.016, F.S., in references thereto; amending s.  
17          189.02, F.S.; specifying the Legislature's authority  
18          to create dependent special districts by special act;  
19          creating s. 189.022, F.S.; providing for the  
20          identification of a dependent special district as  
21          dependent in its charter; amending s. 189.031, F.S.;  
22          providing for the identification of an independent  
23          special district as independent in its charter;  
24          transferring, renumbering, and amending ss. 189.034  
25          and 189.035, F.S.; authorizing the Legislative  
26          Auditing Committee, for districts created by special  
27          act, or local general-purpose governments, for  
28          districts created by local ordinance or enacted by  
29          local resolution, to convene public hearings for

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30 special districts that fail to file specified required  
31 reports or requested information; deleting related  
32 provisions requiring the committee to provide certain  
33 notice to the Legislature or local general-purpose  
34 government, as appropriate, when a special district  
35 fails to file certain required reports or requested  
36 information, to conform; amending s. 189.061, F.S.;  
37 requiring the Department of Economic Opportunity to  
38 exclude inactive special districts from the official  
39 list of special districts; revising procedures for  
40 maintaining the official list of special districts;  
41 specifying that the official list or determination of  
42 status of a special district does not constitute final  
43 agency action; providing procedures for use in  
44 resolving inconsistencies in status determinations of  
45 special districts as identified in the official lists;  
46 requiring the Auditor General to notify the department  
47 of entities that attempt to report as special  
48 districts in certain reports; amending s. 189.062,  
49 F.S.; revising the criteria that must be documented  
50 before a special district may be declared inactive;  
51 authorizing the repeal of certain special acts of  
52 inactive special districts by general law; providing  
53 criteria for initiating such general law; revising the  
54 circumstances under which a declaration of inactive  
55 status may be invalidated; requiring the department to  
56 remove special districts declared inactive from the  
57 official list of special districts; requiring the  
58 department to keep a separate list of inactive

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59 districts; amending s. 189.064, F.S.; revising the  
60 required content of the special district handbook;  
61 creating s. 189.0653, F.S.; requiring special  
62 districts created by special act or local ordinance to  
63 provide specified information to the committee or  
64 local general-purpose government, as appropriate;  
65 amending s. 189.067, F.S.; conforming cross-  
66 references; amending s. 189.068, F.S.; conforming  
67 cross-references; specifying that certain dependent  
68 special districts may be reviewed by specified local  
69 general-purpose governments; amending s. 189.069,  
70 F.S.; revising the list of items required to be  
71 included on the websites of special districts;  
72 amending ss. 189.071 and 189.072, F.S.; conforming  
73 provisions to changes made by the act; reenacting s.  
74 189.074(2)(e) and (3)(g), F.S., relating to the  
75 voluntary merger of independent special districts, to  
76 incorporate the amendment to s. 189.016, F.S., in  
77 references thereto; providing an effective date.

78

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

80

81 Section 1. Paragraph (b) of subsection (2) of section  
82 11.40, Florida Statutes, is amended to read:

83 11.40 Legislative Auditing Committee.—

84 (2) Following notification by the Auditor General, the  
85 Department of Financial Services, or the Division of Bond  
86 Finance of the State Board of Administration of the failure of a  
87 local governmental entity, district school board, charter

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88 school, or charter technical career center to comply with the  
89 applicable provisions within s. 11.45(5)-(7), s. 218.32(1), s.  
90 218.38, or s. 218.503(3), the Legislative Auditing Committee may  
91 schedule a hearing to determine if the entity should be subject  
92 to further state action. If the committee determines that the  
93 entity should be subject to further state action, the committee  
94 shall:

95 (b) In the case of a special district created by:

96 1. A special act, notify the President of the Senate, the  
97 Speaker of the House of Representatives, the standing committees  
98 of the Senate and the House of Representatives charged with  
99 special district oversight as determined by the presiding  
100 officers of each respective chamber, the legislators who  
101 represent a portion of the geographical jurisdiction of the  
102 special district ~~pursuant to s. 189.034(2)~~, and the Department  
103 of Economic Opportunity that the special district has failed to  
104 comply with the law. Upon receipt of notification, the  
105 Department of Economic Opportunity shall proceed pursuant to s.  
106 189.062 or s. 189.067. If the special district remains in  
107 noncompliance after the process set forth in s. 189.0651  
108 ~~189.034(3)~~, or if a public hearing is not held, the Legislative  
109 Auditing Committee may request the department to proceed  
110 pursuant to s. 189.067(3).

111 2. A local ordinance, notify the chair or equivalent of the  
112 local general-purpose government pursuant to s. 189.0652  
113 ~~189.035(2)~~ and the Department of Economic Opportunity that the  
114 special district has failed to comply with the law. Upon receipt  
115 of notification, the department shall proceed pursuant to s.  
116 189.062 or s. 189.067. If the special district remains in

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117 noncompliance after the process set forth in s. 189.0652  
118 ~~189.034(3)~~, or if a public hearing is not held, the Legislative  
119 Auditing Committee may request the department to proceed  
120 pursuant to s. 189.067(3).

121 3. Any manner other than a special act or local ordinance,  
122 notify the Department of Economic Opportunity that the special  
123 district has failed to comply with the law. Upon receipt of  
124 notification, the department shall proceed pursuant to s.  
125 189.062 or s. 189.067(3).

126 Section 2. Subsection (2) of section 189.011, Florida  
127 Statutes, is amended to read:

128 189.011 Statement of legislative purpose and intent.—

129 (2) The Legislature finds that special districts serve a  
130 necessary and useful function by providing services to residents  
131 and property in the state. The Legislature finds further that  
132 special districts operate to serve a public purpose and that  
133 this is best secured by certain minimum standards of  
134 accountability designed to inform the public and appropriate  
135 local general-purpose governments of the status and activities  
136 of special districts. It is the intent of the Legislature that  
137 this public trust be secured by requiring each ~~independent~~  
138 special district in the state to register and report its  
139 financial and other activities. The Legislature further finds  
140 that failure of a ~~an independent~~ special district to comply with  
141 the minimum disclosure requirements set forth in this chapter  
142 may result in action against the special ~~officers of such~~  
143 district ~~body~~.

144 Section 3. Subsections (4) and (7) of section 189.016,  
145 Florida Statutes, are amended to read:

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146 189.016 Reports; budgets; audits.-

147 (4) The tentative budget must be posted on the special  
148 district's official website at least 2 days before the budget  
149 hearing, held pursuant to s. 200.065 or other law, to consider  
150 such budget and must remain on the website for at least 45 days.  
151 The final adopted budget must be posted on the special  
152 district's official website within 30 days after adoption and  
153 must remain on the website for at least 2 years. ~~If the special~~  
154 ~~district does not operate an official website, the special~~  
155 ~~district must, within a reasonable period of time as established~~  
156 ~~by the local general purpose government or governments in which~~  
157 ~~the special district is located or the local governing authority~~  
158 ~~to which the district is dependent, transmit the tentative~~  
159 ~~budget or final budget to the manager or administrator of the~~  
160 ~~local general purpose government or the local governing~~  
161 ~~authority. The manager or administrator shall post the tentative~~  
162 ~~budget or final budget on the website of the local general-~~  
163 ~~purpose government or governing authority. This subsection and~~  
164 subsection (3) do not apply to water management districts as  
165 defined in s. 373.019.

166 (7) If the governing body of a special district amends the  
167 budget pursuant to paragraph (6) (c), the adopted amendment must  
168 be posted on the official website of the special district within  
169 5 days after adoption and must remain on the website for at  
170 least 2 years. ~~If the special district does not operate an~~  
171 ~~official website, the special district must, within a reasonable~~  
172 ~~period of time as established by the local general purpose~~  
173 ~~government or governments in which the special district is~~  
174 ~~located or the local governing authority to which the district~~

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175 ~~is dependent, transmit the adopted amendment to the manager or~~  
176 ~~administrator of the local general purpose government or~~  
177 ~~governing authority. The manager or administrator shall post the~~  
178 ~~adopted amendment on the website of the local general purpose~~  
179 ~~government or governing authority.~~

180 Section 4. For the purpose of incorporating the amendment  
181 made by this act to section 189.016, Florida Statutes, in a  
182 reference thereto, subsection (16) of section 165.0615, Florida  
183 Statutes, is reenacted to read:

184 165.0615 Municipal conversion of independent special  
185 districts upon elector-initiated and approved referendum.—

186 (16) If the incorporation plan is approved by a majority of  
187 the votes cast in the independent special district, the district  
188 shall notify the special district accountability program  
189 pursuant to s. 189.016(2) and the local general-purpose  
190 governments in which any part of the independent special  
191 district is situated pursuant to s. 189.016(7).

192 Section 5. Subsection (5) is added to section 189.02,  
193 Florida Statutes, to read:

194 189.02 Dependent special districts.—

195 (5) The Legislature may create a dependent special district  
196 by special act at the request or with the consent of the local  
197 government upon which the special district will be dependent.

198 Section 6. Section 189.022, Florida Statutes, is created to  
199 read:

200 189.022 Status statement.—The charter of a newly created  
201 dependent special district shall contain, and where practical  
202 and feasible, the charter of an existing dependent special  
203 district shall be amended to contain, a reference to the status

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204 of the special district as dependent. When necessary, the status  
205 statement shall be amended to conform to the department's  
206 determination or declaratory statement regarding the status of  
207 the district.

208 Section 7. Subsection (5) of section 189.031, Florida  
209 Statutes, is amended to read:

210 189.031 Legislative intent for the creation of independent  
211 special districts; special act prohibitions; model elements and  
212 other requirements; local general-purpose government/Governor  
213 and Cabinet creation authorizations.—

214 (5) STATUS STATEMENT. ~~After October 1, 1997,~~ The charter of  
215 a any newly created independent special district shall contain,  
216 and, where as practical and feasible, the charter of an existing  
217 independent ~~a preexisting~~ special district shall be amended to  
218 contain, a reference to the status of the special district as  
219 ~~dependent or~~ independent. When necessary, the status statement  
220 shall be amended to conform to with the department's  
221 determination or declaratory statement regarding the status of  
222 the district.

223 Section 8. Section 189.034, Florida Statutes, is  
224 transferred, renumbered as section 189.0651, Florida Statutes,  
225 and amended to read:

226 189.0651 ~~189.034~~ Oversight of special districts created by  
227 special act of the Legislature.—

228 (1) This section applies to any special district created by  
229 special act of the Legislature.

230 (2) If a special district fails to file required reports or  
231 requested information under s. 11.45(6), s. 11.45(7), s. 218.32,  
232 s. 218.38(3), s. 218.39, or s. 218.503(3) ~~7~~ with the appropriate

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233 state agency or office, the Legislative Auditing Committee ~~or~~  
234 ~~its designee shall provide written notice of the district's~~  
235 ~~noncompliance to the President of the Senate, the Speaker of the~~  
236 ~~House of Representatives, the standing committees of the Senate~~  
237 ~~and the House of Representatives charged with special district~~  
238 ~~oversight as determined by the presiding officers of each~~  
239 ~~respective chamber, and the legislators who represent a portion~~  
240 ~~of the geographical jurisdiction of the special district.~~

241 ~~(3) the Legislative Auditing Committee may convene a public~~  
242 ~~hearing on the issue of such noncompliance, as well as general~~  
243 ~~oversight of the special district as provided in s. 189.068, at~~  
244 ~~the direction of the President of the Senate and the Speaker of~~  
245 ~~the House of Representatives.~~

246 ~~(4) Before the public hearing as provided in subsection~~  
247 ~~(3), the special district shall provide the following~~  
248 ~~information at the request of the Legislative Auditing~~  
249 ~~Committee:~~

250 ~~(a) The district's annual financial report for the prior~~  
251 ~~fiscal year.~~

252 ~~(b) The district's audit report for the previous fiscal~~  
253 ~~year.~~

254 ~~(c) An annual report for the previous fiscal year providing~~  
255 ~~a detailed review of the performance of the special district,~~  
256 ~~including the following information:~~

257 ~~1. The purpose of the special district.~~

258 ~~2. The sources of funding for the special district.~~

259 ~~3. A description of the major activities, programs, and~~  
260 ~~initiatives the special district undertook in the most recently~~  
261 ~~completed fiscal year and the benchmarks or criteria under which~~

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262 ~~the success or failure of the district was determined by its~~  
263 ~~governing body.~~

264 ~~4. Any challenges or obstacles faced by the special~~  
265 ~~district in fulfilling its purpose and related responsibilities.~~

266 ~~5. Ways the special district believes it could better~~  
267 ~~fulfill its purpose and related responsibilities and a~~  
268 ~~description of the actions that it intends to take during the~~  
269 ~~ensuing fiscal year.~~

270 ~~6. Proposed changes to the special act that established the~~  
271 ~~special district and justification for such changes.~~

272 ~~7. Any other information reasonably required to provide the~~  
273 ~~Legislative Auditing Committee with an accurate understanding of~~  
274 ~~the purpose for which the special district exists and how it is~~  
275 ~~fulfilling its responsibilities to accomplish that purpose.~~

276 ~~8. Any reasons for the district's noncompliance.~~

277 ~~9. Whether the district is currently in compliance.~~

278 ~~10. Plans to correct any recurring issues of noncompliance.~~

279 ~~11. Efforts to promote transparency, including maintenance~~  
280 ~~of the district's website in accordance with s. 189.069.~~

281 Section 9. Section 189.035, Florida Statutes, is  
282 transferred, renumbered as section 189.0652, Florida Statutes,  
283 and amended to read:

284 189.0652 ~~189.035~~ Oversight of special districts created by  
285 local ordinance or enacted by local resolution.-

286 (1) This section applies to any special district created by  
287 local ordinance or enacted by local resolution.

288 (2) If a special district fails to file required reports or  
289 requested information under s. 11.45(6), s. 11.45(7), s. 218.32,  
290 s. 218.38(3), s. 218.39, or s. 218.503(3) with the appropriate

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291 state agency or office, ~~the Legislative Auditing Committee or~~  
292 ~~its designee shall provide written notice of the district's~~  
293 ~~noncompliance to the chair or equivalent of the local general-~~  
294 ~~purpose government.~~

295 ~~(3)~~ the chair or equivalent of the local general-purpose  
296 government may convene a public hearing on the issue of such  
297 noncompliance, as well as general oversight of the special  
298 district as provided in s. 189.068, within 3 months after  
299 receipt of notice of noncompliance from the Legislative Auditing  
300 Committee. Within 30 days after receiving written notice of  
301 noncompliance, the local general-purpose government shall notify  
302 the Legislative Auditing Committee as to whether a hearing under  
303 this section will be held and, if so, provide the date, time,  
304 and place of the hearing.

305 ~~(4) Before the public hearing as provided in subsection~~  
306 ~~(3), the special district shall provide the following~~  
307 ~~information at the request of the local general-purpose~~  
308 ~~government:~~

309 ~~(a) The district's annual financial report for the previous~~  
310 ~~fiscal year.~~

311 ~~(b) The district's audit report for the previous fiscal~~  
312 ~~year.~~

313 ~~(c) An annual report for the previous fiscal year, which~~  
314 ~~must provide a detailed review of the performance of the special~~  
315 ~~district and include the following information:~~

316 ~~1. The purpose of the special district.~~

317 ~~2. The sources of funding for the special district.~~

318 ~~3. A description of the major activities, programs, and~~  
319 ~~initiatives the special district undertook in the most recently~~

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320 ~~completed fiscal year and the benchmarks or criteria under which~~  
321 ~~the success or failure of the district was determined by its~~  
322 ~~governing body.~~

323 ~~4. Any challenges or obstacles faced by the special~~  
324 ~~district in fulfilling its purpose and related responsibilities.~~

325 ~~5. Ways in which the special district believes that it~~  
326 ~~could better fulfill its purpose and related responsibilities~~  
327 ~~and a description of the actions that it intends to take during~~  
328 ~~the ensuing fiscal year.~~

329 ~~6. Proposed changes to the ordinance or resolution that~~  
330 ~~established the special district and justification for such~~  
331 ~~changes.~~

332 ~~7. Any other information reasonably required to provide the~~  
333 ~~reviewing entity with an accurate understanding of the purpose~~  
334 ~~for which the special district exists and how it is fulfilling~~  
335 ~~its responsibilities to accomplish that purpose.~~

336 ~~8. Any reasons for the district's noncompliance.~~

337 ~~9. Whether the district is currently in compliance.~~

338 ~~10. Plans to correct any recurring issues of noncompliance.~~

339 ~~11. Efforts to promote transparency, including maintenance~~  
340 ~~of the district's website in accordance with s. 189.069.~~

341 ~~(3)(5)~~ If the local general-purpose government convenes a  
342 public hearing under subsection (2) ~~this section~~, it shall  
343 provide the department and the Legislative Auditing Committee  
344 with a report containing its findings and conclusions within 60  
345 days after completion of the public hearing.

346 Section 10. Subsections (1), (2), and (4) of section  
347 189.061, Florida Statutes, are amended, present subsection (3)  
348 of that section is renumbered as subsection (4) and amended, and

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349 a new subsection (3) is added to that section, to read:

350 189.061 Official list of special districts.-

351 (1) (a) The department shall maintain the official list of  
352 special districts. The official list of special districts shall  
353 include all special districts in this state and shall indicate  
354 the independent or dependent status of each district. All  
355 special districts on the list shall be sorted by county. The  
356 definitions in s. 189.012 shall be the criteria for  
357 determination of the independent or dependent status of each  
358 special district on the official list. The status of community  
359 development districts shall be independent on the official list  
360 of special districts.

361 (b) The official list shall exclude all districts declared  
362 inactive as provided in s. 189.062.

363 (2) The official list shall be maintained ~~produced~~ by the  
364 department using the information filed with the department by  
365 the special districts pursuant to this chapter. If a special  
366 district does not submit its written status statement required  
367 by s. 189.016(1) within the required time, the department may  
368 determine the status of the district. If the department  
369 determines the status, the department shall render its  
370 determination to an agent of the special district ~~after the~~  
371 ~~department has notified each special district that is currently~~  
372 ~~reporting to the department, the Department of Financial~~  
373 ~~Services pursuant to s. 218.32, or the Auditor General pursuant~~  
374 ~~to s. 218.39. Upon notification, each special district shall~~  
375 ~~submit, within 60 days, its determination of its status. The~~  
376 ~~determination submitted by a special district shall be~~  
377 ~~consistent with the status reported in the most recent local~~

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378 ~~government audit of district activities submitted to the Auditor~~  
379 ~~General pursuant to s. 218.39.~~

380 (3) The official list of special districts or the  
381 determination of status does not constitute final agency action  
382 pursuant to chapter 120. If the status of a special district on  
383 the official list is inconsistent with the status submitted by  
384 the district, the district may request the department to issue a  
385 declaratory statement setting forth the requirements necessary  
386 to resolve the inconsistency. If necessary, upon issuance of a  
387 declaratory statement by the department that is not appealed  
388 pursuant to chapter 120, the governing body of any special  
389 district receiving such a declaratory statement shall apply to  
390 the entity that originally established the district for an  
391 amendment to its charter correcting the specified defects in its  
392 original charter. This amendment shall be for the sole purpose  
393 of resolving inconsistencies between a district charter and the  
394 status of a district as it appears on the official list.

395 (4)~~(3)~~ The Department of Financial Services shall notify  
396 provide the department of each entity that attempts to report as  
397 a special district in the annual financial report with a list of  
398 dependent special districts reporting pursuant to s. 218.32 that  
399 is not included for inclusion on the official list of special  
400 districts. The Auditor General shall notify the department of  
401 each entity that attempts to report as a special district in an  
402 audit report issued pursuant to s. 218.39 which is not included  
403 on the official list of special districts. Upon notification by  
404 the Department of Financial Services or the Auditor General, the  
405 department shall determine whether the entity is a special  
406 district as defined in s. 189.012. If the entity is a special

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407 district, the department shall add the entity to the official  
408 list of special districts and shall notify each such entity that  
409 it is required to comply with s. 189.013.

410 ~~(4) If a special district does not submit its status to the~~  
411 ~~department within the required time period, then the department~~  
412 ~~shall have the authority to determine the status of said~~  
413 ~~district. After such determination of status is completed, the~~  
414 ~~department shall render the determination to an agent of the~~  
415 ~~special district.~~

416 Section 11. Section 189.062, Florida Statutes, is amended  
417 to read:

418 189.062 Special procedures for inactive districts.—

419 (1) The department shall declare inactive any special  
420 district in this state by documenting that:

421 (a) The special district meets one of the following  
422 criteria:

423 1. The registered agent of the district, the chair of the  
424 governing body of the district, or the governing body of the  
425 appropriate local general-purpose government notifies the  
426 department in writing that the district has taken no action for  
427 2 or more years;

428 2. The registered agent of the district, the chair of the  
429 governing body of the district, or the governing body of the  
430 appropriate local general-purpose government notifies the  
431 department in writing that the district has not had a governing  
432 body or a sufficient number of governing body members to  
433 constitute a quorum for 2 or more years;

434 3. The registered agent of the district, the chair of the  
435 governing body of the district, or the governing body of the

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436 appropriate local general-purpose government fails to respond to  
437 an inquiry by the department within 21 days;

438 4. The department determines, pursuant to s. 189.067, that  
439 the district has failed to file any of the reports listed in s.  
440 189.066;

441 5. The district has not had a registered office and agent  
442 on file with the department for 1 or more years; or

443 6. The governing body of a special district provides  
444 documentation to the department that it has unanimously adopted  
445 a resolution declaring the special district inactive. The  
446 special district is ~~shall be~~ responsible for payment of any  
447 expenses associated with its dissolution. ~~A special district~~  
448 ~~declared inactive pursuant to this subparagraph may be dissolved~~  
449 ~~without a referendum; or~~

450 (b) The department, special district, or local general-  
451 purpose government has published a notice of proposed  
452 declaration of inactive status in a newspaper of general  
453 circulation in the county or municipality in which the territory  
454 of the special district is located and has sent a copy of such  
455 notice by certified mail to the registered agent or chair of the  
456 governing body, if any. Such notice must include the name of the  
457 special district, the law under which it was organized and  
458 operating, a general description of the territory included in  
459 the special district, and a statement that any objections must  
460 be filed pursuant to chapter 120 within 21 days after the  
461 publication date. ~~;~~ and

462 (c) Twenty-one days have elapsed from the publication date  
463 of the notice of proposed declaration of inactive status and no  
464 administrative appeals were filed.

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465 (2) If any special district is declared inactive pursuant  
466 to this section, the property or assets of the special district  
467 are subject to legal process for payment of any debts of the  
468 district. After the payment of all the debts of said inactive  
469 special district, the remainder of its property or assets shall  
470 escheat to the county or municipality wherein located. If,  
471 however, it shall be necessary, in order to pay any such debt,  
472 to levy any tax or taxes on the property in the territory or  
473 limits of the inactive special district, the same may be  
474 assessed and levied by order of the local general-purpose  
475 government wherein the same is situated and shall be assessed by  
476 the county property appraiser and collected by the county tax  
477 collector.

478 (3) (a) In the case of a district created by special act of  
479 the Legislature, the department shall send a notice of  
480 declaration of inactive status to the Speaker of the House of  
481 Representatives and the President of the Senate, and the  
482 standing committees of the Senate and the House of  
483 Representatives charged with special district oversight as  
484 determined by the presiding officers of each respective chamber  
485 and the Legislative Auditing Committee. The notice of  
486 declaration of inactive status shall reference each known  
487 special act creating or amending the charter of any special  
488 district declared to be inactive under this section. The  
489 declaration of inactive status shall be sufficient notice as  
490 required by s. 10, Art. III of the State Constitution to  
491 authorize the Legislature to repeal any special laws so  
492 reported. Each special act creating or amending the charter of a  
493 special district declared to be inactive under this section may

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494 be repealed by general law initiated by either of the standing  
495 committees with the approval of the chamber's presiding officer;  
496 however, notice of the introduction of legislation providing for  
497 such repeal of a special act must be given to each member of the  
498 Legislature who represents any portion of the area within the  
499 jurisdiction of the special district.

500 (b) In the case of a district created by one or more local  
501 general-purpose governments, the department shall send a notice  
502 of declaration of inactive status to the chair of the governing  
503 body of each local general-purpose government that created the  
504 district.

505 (c) In the case of a district created by interlocal  
506 agreement, the department shall send a notice of declaration of  
507 inactive status to the chair of the governing body of each local  
508 general-purpose government which entered into the interlocal  
509 agreement.

510 (4) The entity that created a special district declared  
511 inactive under this section must dissolve the special district  
512 by repealing its enabling laws or by other ~~appropriate~~ means as  
513 set forth in s. 189.071 or s. 189.072. ~~Any special district~~  
514 ~~declared inactive pursuant to subparagraph (1)(a)5. may be~~  
515 ~~dissolved without a referendum.~~

516 (5) A special district declared inactive under this section  
517 may not collect taxes, fees, or assessments unless the  
518 declaration is:

519 (a) Withdrawn or revoked by the department; or

520 (b) Invalidated in proceedings initiated by the special  
521 district within 30 days after the publication date of the  
522 newspaper notice required under paragraph (1)(b) ~~written notice~~

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523 ~~of the declaration was provided to the special district~~  
524 ~~governing body by physical or electronic delivery, receipt~~  
525 ~~confirmed.~~ The special district governing body may initiate  
526 proceedings within the period authorized in this paragraph by:

527 1. Filing with the department a petition for an  
528 administrative hearing pursuant to s. 120.569; or

529 2. Filing an action for declaratory and injunctive relief  
530 under chapter 86 in the circuit court of the judicial circuit in  
531 which the majority of the area of the district is located.

532 (c) If a timely challenge to the declaration is not  
533 initiated by the special district governing body, or the  
534 department prevails in a proceeding initiated under paragraph  
535 (b), the department may enforce the prohibitions in this  
536 subsection by filing a petition for enforcement with the circuit  
537 court in and for Leon County. The petition may request  
538 declaratory, injunctive, or other equitable relief, including  
539 the appointment of a receiver, and any forfeiture or other  
540 remedy provided by law.

541 (d) The prevailing party shall be awarded costs of  
542 litigation and reasonable attorney fees in any proceeding  
543 brought under this subsection.

544 (6) (a) The department shall immediately remove each special  
545 district declared inactive as provided in this section from the  
546 official list of special districts maintained as provided in ss.  
547 189.061 and 189.064.

548 (b) The department shall create a separate list of all  
549 special districts declared inactive as provided in this section  
550 and shall maintain each such district on the inactive list until  
551 the department determines that the district has resumed active

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552 status, the district is merged as provided in s. 189.071 or s.  
553 189.074, or the district is dissolved as provided in s. 189.071  
554 or s. 189.072.

555 Section 12. Subsections (1), (2), and (3) of section  
556 189.064, Florida Statutes, are amended to read:

557 189.064 Special District Accountability Program; duties and  
558 responsibilities.—The Special District Accountability Program of  
559 the department has the following duties:

560 (1) Electronically publishing special district  
561 noncompliance status reports from the Department of Management  
562 Services, the Department of Financial Services, the Division of  
563 Bond Finance of the State Board of Administration, the Auditor  
564 General, and the Legislative Auditing Committee, for the  
565 reporting required in ss. 112.63, 218.32, 218.38, and 218.39.  
566 The noncompliance reports must list those special districts that  
567 did not comply with the statutory reporting requirements and be  
568 made available to the public electronically.

569 (2) Maintaining the official list of special districts as  
570 set forth in s. 189.061.

571 (3) Publishing and updating of a "Florida Special District  
572 Handbook" that contains, at a minimum:

573 (a) A section that specifies definitions of special  
574 districts and status distinctions in the statutes.

575 (b) A section or sections that specify current statutory  
576 provisions for special district creation, implementation,  
577 modification, dissolution, and operating procedures.

578 (c) A section that summarizes the reporting requirements  
579 applicable to all types of special districts as provided in ss.  
580 189.015 and 189.016.

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581 (d) A section that summarizes the public facilities  
582 reporting requirements and the evaluation and appraisal  
583 notification schedule as provided in s. 189.08(2).

584 Section 13. Section 189.0653, Florida Statutes, is created  
585 to read:

586 189.0653 Information before public hearing on  
587 noncompliance.—Before the public hearing as provided in s.  
588 189.0651(2) or s. 189.0652(2) is held, the special district  
589 shall provide the following information at the request of the  
590 local general-purpose government or the Legislative Auditing  
591 Committee, as appropriate:

592 (1) The district's annual financial report for the previous  
593 fiscal year.

594 (2) The district's audit report for the previous fiscal  
595 year.

596 (3) Minutes of meetings of the special district's governing  
597 body for the previous fiscal year and the current fiscal year to  
598 date.

599 (4) A report for the previous fiscal year providing the  
600 following:

601 (a) The purpose of the special district.

602 (b) The sources of funding for the special district.

603 (c) A description of the major activities, programs, and  
604 initiatives the special district undertook in the most recently  
605 completed fiscal year and the benchmarks or criteria under which  
606 the success or failure of the district was or will be determined  
607 by its governing body.

608 (d) Any challenges or obstacles faced by the special  
609 district in fulfilling its purpose and related responsibilities.

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610 (e) Ways in which the special district's governing body  
 611 believes it could better fulfill the special district's purpose  
 612 and a description of the actions it intends to take.

613 (f) Proposed changes to the special act, ordinance, or  
 614 resolution, as appropriate, which established the special  
 615 district and justification for such changes.

616 (g) Any other information reasonably required to provide  
 617 the reviewing entity with an accurate understanding of the  
 618 purpose of the special district and how the special district is  
 619 fulfilling that purpose.

620 (h) Any reasons for the district's noncompliance resulting  
 621 in the public hearing.

622 (i) Whether the district is currently in compliance.

623 (j) Plans to correct any recurring issues of noncompliance.

624 (k) Efforts to promote transparency, including a statement  
 625 indicating whether the district's website complies with s.  
 626 189.069.

627 Section 14. Subsection (2) of section 189.067, Florida  
 628 Statutes, is amended to read:

629 189.067 Failure of district to disclose financial reports.—

630 (2) Failure of a special district to comply with the  
 631 actuarial and financial reporting requirements under s. 112.63,  
 632 s. 218.32, or s. 218.39 after the procedures of subsection (1)  
 633 are exhausted shall be deemed final action of the special  
 634 district. The actuarial and financial reporting requirements are  
 635 declared to be essential requirements of law. Remedies for  
 636 noncompliance with ss. 218.32 and 218.39 shall be as provided in  
 637 ss. 189.0651 and 189.0652 ~~189.034 and 189.035~~. Remedy for  
 638 noncompliance with s. 112.63 shall be as set forth in subsection

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639 (4).

640 Section 15. Paragraphs (a), (b), and (c) of subsection (2)  
641 of section 189.068, Florida Statutes, are amended to read:

642 189.068 Special districts; authority for oversight; general  
643 oversight review process.—

644 (2) Special districts may be reviewed for general oversight  
645 purposes under this section as follows:

646 (a) Each ~~All~~ special district ~~districts~~ created by special  
647 act may be reviewed by the Legislature using the ~~public hearing~~  
648 process provided in s. 189.0651 ~~189.034~~.

649 (b) Each ~~All~~ special district ~~districts~~ created by local  
650 ordinance or resolution may be reviewed by the local general-  
651 purpose government that enacted the ordinance or resolution  
652 using the ~~public hearing~~ process provided in s. 189.0652  
653 ~~189.035~~.

654 (c) Each ~~All~~ dependent special district ~~not created by~~  
655 special act ~~districts~~ may be reviewed by the local general-  
656 purpose government upon ~~to~~ which it is ~~they are~~ dependent.

657 Section 16. Section 189.069, Florida Statutes, is amended  
658 to read:

659 189.069 Special districts; required reporting of  
660 information; web-based public access.—

661 (1) Beginning on October 1, 2015, or by the end of the  
662 first full fiscal year after its creation, each special district  
663 shall maintain an official ~~Internet~~ website containing the  
664 information required by this section ~~in accordance with s.~~  
665 ~~189.016~~. Each special district ~~districts~~ shall submit its ~~their~~  
666 official ~~Internet~~ website address ~~addresses~~ to the department.

667 (a) Each independent special district ~~districts~~ shall

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668 maintain a separate ~~Internet~~ website.

669 (b) Each dependent special district ~~districts~~ shall be  
670 prominently ~~preeminently~~ displayed on the home page of the  
671 ~~Internet~~ website of the local general-purpose government upon  
672 which it is dependent ~~that created the special district~~ with a  
673 hyperlink to such webpages as are necessary to provide the  
674 information required by this section. A dependent special  
675 district ~~districts~~ may maintain a separate ~~Internet~~ website  
676 providing the information required by this section.

677 (2) (a) A special district shall post the following  
678 information, at a minimum, on the district's official website:

- 679 1. The full legal name of the special district.
- 680 2. The public purpose of the special district.
- 681 3. The name, official address, official e-mail address,  
682 and, if applicable, ~~the~~ term and appointing authority for each  
683 member of the governing body of the special district.
- 684 4. The fiscal year of the special district.
- 685 5. The full text of the special district's charter, the  
686 date of establishment, the establishing entity, and the statute  
687 or statutes under which the special district operates, if  
688 different from the statute or statutes under which the special  
689 district was established. Community development districts may  
690 reference chapter 190 as the uniform charter, but must include  
691 information relating to any grant of special powers.
- 692 6. The mailing address, e-mail address, telephone number,  
693 and ~~Internet~~ website uniform resource locator of the special  
694 district.
- 695 7. A description of the boundaries or service area of, and  
696 the services provided by, the special district.

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697 8. A listing of all taxes, fees, assessments, or charges  
698 imposed and collected by the special district, including the  
699 rates or amounts for the fiscal year and the statutory authority  
700 for the levy of the tax, fee, assessment, or charge. For  
701 purposes of this subparagraph, charges do not include patient  
702 charges by a hospital or other health care provider.

703 9. The primary contact information for the special district  
704 for purposes of communication from the department.

705 10. A code of ethics adopted by the special district, if  
706 applicable, and a hyperlink to generally applicable ethics  
707 provisions.

708 11. The budget of the each special district and any, ~~in~~  
709 ~~addition to~~ amendments thereto in accordance with s. 189.016.

710 12. The final, complete audit report for the most recent  
711 completed fiscal year, ~~and~~ audit reports required by law or  
712 authorized by the governing body of the special district.

713 13. A listing of its regularly scheduled public meetings as  
714 required by s. 189.015(1).

715 14. The public facilities report, if applicable.

716 15. The link to the Department of Financial Services'  
717 website as set forth in s. 218.32(1)(g).

718 16. At least 7 days before each meeting or workshop, the  
719 agenda of the event, along with any meeting materials available  
720 in an electronic format, excluding confidential and exempt  
721 information. The information must remain on the website for at  
722 least 1 year after the event.

723 (b) The department's ~~Internet~~ website list of special  
724 districts in the state required under s. 189.061 shall include a  
725 link for each special district that provides web-based access to

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726 the public for all information and documentation required for  
727 submission to the department pursuant to subsection (1).

728 Section 17. Subsections (2) and (3) of section 189.071,  
729 Florida Statutes, are amended to read:

730 189.071 Merger or dissolution of a dependent special  
731 district.—

732 (2) The merger or dissolution of an active a dependent  
733 special district created and operating pursuant to a special act  
734 may be effectuated only by further act of the Legislature unless  
735 otherwise provided by general law.

736 (3) A dependent special district that meets any criteria  
737 for being declared inactive, ~~or that has already been declared~~  
738 ~~inactive~~, pursuant to s. 189.062 may be dissolved or merged by  
739 special act without a referendum.

740 Section 18. Subsection (3) of section 189.072, Florida  
741 Statutes, is amended to read:

742 189.072 Dissolution of an independent special district.—

743 (3) INACTIVE INDEPENDENT SPECIAL DISTRICTS.—An independent  
744 special district that meets any criteria for being declared  
745 inactive, ~~or that has already been declared inactive~~, pursuant  
746 to s. 189.062 may be dissolved by special act without a  
747 referendum. If an inactive independent special district was  
748 created by a county or municipality through a referendum, the  
749 county or municipality that created the district may dissolve  
750 the district after publishing notice as described in s. 189.062.

751 Section 19. For the purpose of incorporating the amendment  
752 made by this act to section 189.016, Florida Statutes, in  
753 references thereto, paragraph (e) of subsection (2) and  
754 paragraph (g) of subsection (3) of section 189.074, Florida

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755 Statutes, are reenacted to read:

756 189.074 Voluntary merger of independent special districts.-  
757 Two or more contiguous independent special districts created by  
758 special act which have similar functions and elected governing  
759 bodies may elect to merge into a single independent district  
760 through the act of merging the component independent special  
761 districts.

762 (2) JOINT MERGER PLAN BY RESOLUTION.-The governing bodies  
763 of two or more contiguous independent special districts may, by  
764 joint resolution, endorse a proposed joint merger plan to  
765 commence proceedings to merge the districts pursuant to this  
766 section.

767 (e) After the final public hearing, the governing bodies  
768 shall notify the supervisors of elections of the applicable  
769 counties in which district lands are located of the adoption of  
770 the resolution by each governing body. The supervisors of  
771 elections shall schedule a separate referendum for each  
772 component independent special district. The referenda may be  
773 held in each district on the same day, or on different days, but  
774 no more than 20 days apart.

775 1. Notice of a referendum on the merger of independent  
776 special districts must be provided pursuant to the notice  
777 requirements in s. 100.342. At a minimum, the notice must  
778 include:

779 a. A brief summary of the resolution and joint merger plan;

780 b. A statement as to where a copy of the resolution and  
781 joint merger plan may be examined;

782 c. The names of the component independent special districts  
783 to be merged and a description of their territory;

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784 d. The times and places at which the referendum will be  
785 held; and

786 e. Such other matters as may be necessary to call, provide  
787 for, and give notice of the referendum and to provide for the  
788 conduct thereof and the canvass of the returns.

789 2. The referenda must be held in accordance with the  
790 Florida Election Code and may be held pursuant to ss. 101.6101-  
791 101.6107. All costs associated with the referenda shall be borne  
792 by the respective component independent special district.

793 3. The ballot question in such referendum placed before the  
794 qualified electors of each component independent special  
795 district to be merged must be in substantially the following  
796 form:

797  
798 "Shall ...(name of component independent special  
799 district)... and ...(name of component independent special  
800 district or districts)... be merged into ...(name of newly  
801 merged independent district)...?"

802  
803 ....YES

804 ....NO"

805

806 4. If the component independent special districts proposing  
807 to merge have disparate millage rates, the ballot question in  
808 the referendum placed before the qualified electors of each  
809 component independent special district must be in substantially  
810 the following form:

811

812 "Shall ...(name of component independent special

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813 district)... and ...(name of component independent special  
814 district or districts)... be merged into ...(name of newly  
815 merged independent district)... if the voter-approved maximum  
816 millage rate within each independent special district will not  
817 increase absent a subsequent referendum?

818  
819 ....YES

820 ....NO"

821

822 5. In any referendum held pursuant to this section, the  
823 ballots shall be counted, returns made and canvassed, and  
824 results certified in the same manner as other elections or  
825 referenda for the component independent special districts.

826 6. The merger may not take effect unless a majority of the  
827 votes cast in each component independent special district are in  
828 favor of the merger. If one of the component districts does not  
829 obtain a majority vote, the referendum fails, and merger does  
830 not take effect.

831 7. If the merger is approved by a majority of the votes  
832 cast in each component independent special district, the merged  
833 independent district is created. Upon approval, the merged  
834 independent district shall notify the Special District  
835 Accountability Program pursuant to s. 189.016(2) and the local  
836 general-purpose governments in which any part of the component  
837 independent special districts is situated pursuant to s.  
838 189.016(7).

839 8. If the referendum fails, the merger process under this  
840 subsection may not be initiated for the same purpose within 2  
841 years after the date of the referendum.

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842 (3) QUALIFIED ELECTOR-INITIATED MERGER PLAN.—The qualified  
843 electors of two or more contiguous independent special districts  
844 may commence a merger proceeding by each filing a petition with  
845 the governing body of their respective independent special  
846 district proposing to be merged. The petition must contain the  
847 signatures of at least 40 percent of the qualified electors of  
848 each component independent special district and must be  
849 submitted to the appropriate component independent special  
850 district governing body no later than 1 year after the start of  
851 the qualified elector-initiated merger process.

852 (g) After the final public hearing, the governing bodies  
853 shall notify the supervisors of elections of the applicable  
854 counties in which district lands are located of the adoption of  
855 the resolution by each governing body. The supervisors of  
856 elections shall schedule a date for the separate referenda for  
857 each district. The referenda may be held in each district on the  
858 same day, or on different days, but no more than 20 days apart.

859 1. Notice of a referendum on the merger of the component  
860 independent special districts must be provided pursuant to the  
861 notice requirements in s. 100.342. At a minimum, the notice must  
862 include:

863 a. A brief summary of the resolution and elector-initiated  
864 merger plan;

865 b. A statement as to where a copy of the resolution and  
866 petition for merger may be examined;

867 c. The names of the component independent special districts  
868 to be merged and a description of their territory;

869 d. The times and places at which the referendum will be  
870 held; and

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871 e. Such other matters as may be necessary to call, provide  
872 for, and give notice of the referendum and to provide for the  
873 conduct thereof and the canvass of the returns.

874 2. The referenda must be held in accordance with the  
875 Florida Election Code and may be held pursuant to ss. 101.6101-  
876 101.6107. All costs associated with the referenda shall be borne  
877 by the respective component independent special district.

878 3. The ballot question in such referendum placed before the  
879 qualified electors of each component independent special  
880 district to be merged must be in substantially the following  
881 form:

882  
883 "Shall ...(name of component independent special  
884 district)... and ...(name of component independent special  
885 district or districts)... be merged into ...(name of newly  
886 merged independent district)...?"

887  
888 ....YES

889 ....NO"

890  
891 4. If the component independent special districts proposing  
892 to merge have disparate millage rates, the ballot question in  
893 the referendum placed before the qualified electors of each  
894 component independent special district must be in substantially  
895 the following form:

896  
897 "Shall ...(name of component independent special  
898 district)... and ...(name of component independent special  
899 district or districts)... be merged into ...(name of newly

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900 merged independent district)... if the voter-approved maximum  
901 millage rate within each independent special district will not  
902 increase absent a subsequent referendum?

903

904       ....YES

905       ....NO"

906

907       5. In any referendum held pursuant to this section, the  
908 ballots shall be counted, returns made and canvassed, and  
909 results certified in the same manner as other elections or  
910 referenda for the component independent special districts.

911       6. The merger may not take effect unless a majority of the  
912 votes cast in each component independent special district are in  
913 favor of the merger. If one of the component independent special  
914 districts does not obtain a majority vote, the referendum fails,  
915 and merger does not take effect.

916       7. If the merger is approved by a majority of the votes  
917 cast in each component independent special district, the merged  
918 district shall notify the Special District Accountability  
919 Program pursuant to s. 189.016(2) and the local general-purpose  
920 governments in which any part of the component independent  
921 special districts is situated pursuant to s. 189.016(7).

922       8. If the referendum fails, the merger process under this  
923 subsection may not be initiated for the same purpose within 2  
924 years after the date of the referendum.

925       Section 20. This act shall take effect October 1, 2016.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Higher Education, *Chair*  
Appropriations Subcommittee on Education  
Fiscal Policy  
Judiciary  
Military and Veterans Affairs, Space, and Domestic  
Security  
Regulated Industries

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

### SENATOR KELLI STARGEL

15th District

December 16, 2015

The Honorable Wilton Simpson  
Senate Community Affairs Committee, Chair  
322 Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chair Simpson:

I respectfully request that SB 956, related to *Special Districts*, 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 cursive script that reads "Kelli Stargel".

Kelli Stargel  
State Senator, District 15

Cc: Tom Yeatman/ Staff Director  
Ann Whittaker/ AA

#### REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Higher Education, *Chair*  
Appropriations Subcommittee on Education  
Fiscal Policy  
Judiciary  
Military and Veterans Affairs, Space, and Domestic Security  
Regulated Industries

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR KELLI STARGEL**

15th District

January 18, 2016

Chairman Simpson  
315 Knott Building

Dear Chair Simpson:

I am requesting permission for my LA, Rachel Barnes, to present SB 956 which is dealing with Special Districts. During the Community Affairs committee timeframe, I will be both in the Military and Veterans Affairs, Space, and Domestic Security committee and presenting a bill in another committee.

Thank you for this consideration,

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel  
State Senator, District 15

Cc: Tom Yeatman / Staff Director  
Ann Whittaker / CAA

#### REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



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

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

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

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**BILL:** CS/CS/SB 618

**INTRODUCER:** Community Affairs Committee; Criminal Justice Committee; and Senator Evers

**SUBJECT:** Prearrest Diversion Programs

**DATE:** January 15, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 618 encourages local communities and public or private educational institutions to implement a prearrest diversion program that affords certain adults who fulfill specified intervention and community service obligations the opportunity to avoid an arrest record. The program shall allow a law enforcement officer, at the officer's sole discretion, to issue a civil citation to an adult who commits an eligible misdemeanor offense, admits to committing the offense, and does not have a prior arrest as an adult. An adult is ineligible for a civil citation if the misdemeanor involves a victim and the victim objects to the issuance of the citation.

An adult who agrees to a civil citation must successfully complete a program that includes interventions and community service hours. If the adult successfully completes the program, an arrest record may not be associated with the offense. If the adult does not successfully complete the program, the law enforcement agency that issued the citation shall criminally charge the adult for the original offense and refer the case to the state attorney to determine if prosecution is appropriate.

**II. Present Situation:**

In its most general usage, diversion means that an individual is placed on a justice track that is less restrictive and affords more opportunities for rehabilitation and restoration. In its most pure form, diversion may result in the avoidance or dropping of a charge and dismissal of a case

completely. At either end of the diversion spectrum, the overriding goals are the same – to maximize the opportunity for success and minimize the likelihood of recidivism.<sup>1</sup>

One example of diversion is deferred prosecution, in which a state attorney enters into what is known as a “deferred prosecution agreement” with a defendant. This agreement requires the defendant to waive the right to speedy trial in order to allow time to complete the terms of the agreement. Often the terms of the agreement are tailored to the specific offense committed and require community service work, restitution, costs, and other requirements.<sup>2</sup> Upon completion of the terms of the agreement, the pending criminal case is disposed of by the state attorney.

Another example of diversion is prearrest diversion. One form of prearrest diversion is a civil citation program for juveniles or adults. A law enforcement officer may issue a civil citation to a juvenile or adult who commits an eligible misdemeanor offense (as determined by the prearrest diversion program), meets other eligibility requirements, and agrees to participate in and successfully complete a program (interventions and sanctions, including community service hours). If the juvenile or adult successfully completes the program, he or she does not have an arrest or arrest record.

Juvenile civil citation programs are in operation throughout the state and are established by Florida law.<sup>3</sup> It appears that Leon County currently operates the only adult civil citation program.<sup>4</sup> Florida law does not specifically address adult civil citation programs or other prearrest diversion programs for adults.

### **Juvenile Civil Citation**

Section 985.12, F.S., establishes “a juvenile civil citation process for the purpose of providing an efficient and innovative alternative to custody by the Department of Juvenile Justice for children who commit nonserious delinquent acts and to ensure swift and appropriate consequences.” This section requires the Department of Juvenile Justice (DJJ) to “encourage and assist in the implementation and improvement of civil citation programs or other similar diversion programs around the state.”<sup>5</sup> These programs are discretionary.<sup>6</sup> They exist at the local level with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved.<sup>7</sup> Civil citation programs require the youth to complete no more than 50 community service hours, and may require participation in intervention services

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<sup>1</sup> *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives* (2013), The Center for Health and Justice at TASC, available at [http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report\\_web.pdf](http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf) (last visited on December 21, 2015).

<sup>2</sup> For example, state attorneys are specifically authorized by law to establish worthless check case diversion programs. Restitution and costs are paid by the worthless check defendant through these programs and the defendant is required to attend a program designed to assist and educate them on the issue of worthless checks. Section 832.08, F.S.

<sup>3</sup> Section 985.12, F.S.

<sup>4</sup> Sean Rossman, *Adult Civil-Citations Program Announced*, available at <http://www.tallahassee.com/article/20121101/NEWS01/311010036/Adult-civil-citations-program-announced> (last visited December 21, 2015).

<sup>5</sup> Section 985.12(1), F.S.

<sup>6</sup> See example, Nineteenth Judicial Circuit Court of Florida Juvenile Programs-Civil Citation, available at <http://www.circuit19.org/programs/prgjuvenilecc.html> (last visited December 21, 2015).

<sup>7</sup> Section 985.12(1), F.S.

appropriate to the identified needs of the youth, including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services.<sup>8</sup>

A law enforcement officer is authorized to issue a civil citation to a youth who admits having committed a misdemeanor.<sup>9</sup> Upon issuance of a citation, the local law enforcement agencies are required to send a copy of the citation to the DJJ so that the department can enter the appropriate information into the Juvenile Justice Information System.<sup>10</sup> A copy must also be sent by law enforcement to the sheriff, state attorney, the DJJ's intake office, the community service performance monitor, the youth's parent, and the victim.<sup>11</sup> At the time a civil citation is issued, the law enforcement officer must advise the youth that he or she has the option of refusing the civil citation and of being referred to the DJJ. The youth may refuse the civil citation at any time before completion of the work assignment.<sup>12</sup>

The youth is required to report to a community service performance monitor within 7 working days after the civil citation has been issued, and must also complete at least 5 community service hours per week.<sup>13</sup> The monitor reports information to the DJJ regarding the youth's service hour completion and the expected completion date.<sup>14</sup> If the youth fails to timely report or complete a work assignment, fails to timely comply with assigned intervention services, or commits a subsequent misdemeanor, the law enforcement officer must issue a report to the DJJ alleging that the youth has committed a delinquent act, thereby initiating formal judicial processing.<sup>15</sup>

### **Adult Civil Citation**

The American Bar Association has observed: "Although Florida's civil citation programs are focused on juveniles, the guidelines and principles inherent in the programs are generally applicable to adults, as well."<sup>16</sup> As previously noted, it appears that Leon County currently operates the only adult civil citation program (ACCP). Stakeholders in the creation of the program included: the chief judge, state attorney, and public defender for the Second Judicial Circuit; the Leon County Commission; the Leon County Sheriff's Office (LCSO); the Tallahassee City Commission; the Tallahassee Police Department (TPD); and DISC Village, Inc. (the social services provider).<sup>17</sup>

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

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

<sup>10</sup> *Id.*

<sup>11</sup> Section 985.12(3), F.S.

<sup>12</sup> Section 985.12(6), F.S.

<sup>13</sup> Section 985.12(4), F.S.

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

<sup>15</sup> Section 985.12(5), F.S.

<sup>16</sup> *State Policy Implementation Project*, Criminal Justice Section, American Bar Association, available at [http://www.americanbar.org/content/dam/aba/administrative/criminal\\_justice/spip\\_civilcitations.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/criminal_justice/spip_civilcitations.authcheckdam.pdf) (last visited on December 21, 2015).

<sup>17</sup> Adult Civil Citation Program, see <http://www.discvillage.com/DOCS/AdultCivilCitationBrochure.pdf> (last visited December 21, 2015). DISC Village, Inc., is a non-profit social services provider. DISC Village, Inc., also operates the juvenile assessment center and juvenile civil citation program that serve counties in the Second Judicial Circuit.

### *The Leon County Adult Civil Citation Process*

Once the law enforcement officer has determined there is probable cause to arrest an adult<sup>18</sup> and has advised the adult of his or her Miranda rights, the officer has the discretion to issue a civil citation if he or she determines the adult meets all of the following criteria:<sup>19</sup>

- The offense is one of the following misdemeanor offenses:<sup>20</sup>
  - Possession of alcohol by a person under 21 years of age;
  - Possession of less than 20 grams of marijuana;
  - Possession of drug paraphernalia;
  - An open house party violation;
  - Selling or giving alcoholic beverages to a minor;
  - Criminal mischief (restitution may not exceed \$50);<sup>21</sup>
  - Trespass;
  - Non-domestic battery or assault;
  - Petit theft (restitution may not exceed \$50); or
  - Disorderly conduct.
- The adult must reside within the Second Judicial Circuit.<sup>22</sup>
- The adult must be a first-time adult offender (no previous arrest as an adult and no previous adult civil citation).<sup>23</sup>

If the officer determines that the adult is eligible to participate in the ACCP and that a civil citation is appropriate, the officer explains to the adult that he or she may participate in the ACCP.<sup>24</sup> Participation in the ACCP is voluntary.<sup>25</sup> If the adult agrees to participate in the ACCP, the officer issues a civil citation. If the adult chooses not to participate in the ACCP, the officer either issues a Notice to Appear (NTA) or transports the adult to the jail for formal booking.<sup>26</sup> Subsequently, the adult may face prosecution if the state attorney determines that prosecution is appropriate.

<sup>18</sup> Eighteen years of age or older. There is no age cap. Pilot Adult Civil Citation Program Implementation Guide, available at <http://www.civilcitationnetwork.com/docs/Implementation-Guide.pdf> (last visited December 21, 2015) (hereinafter “Implementation Guide”).

<sup>19</sup> Leon County Sheriff’s Office Crime Watch Publication, *Leon County Adult Civil Citation Program*, May-July 2014, [http://www.leoncountysos.com/docs/default-source/crime-watch-magazine/2014\\_cw\\_spring.pdf?sfvrsn=2](http://www.leoncountysos.com/docs/default-source/crime-watch-magazine/2014_cw_spring.pdf?sfvrsn=2) at 6 (last visited December 21, 2015) (hereinafter “Crime Watch Publication”); Implementation Guide at 4.

<sup>20</sup> Implementation Guide at 3.

<sup>21</sup> Restitution may be a sanction or condition of diversion. It is not part of the program fee; Implementation Guide at 3.

<sup>22</sup> The Second Judicial Circuit includes the following counties: Franklin; Gadsden; Jefferson; Leon; Liberty; and Wakulla. Florida’s Second Judicial Circuit, *Court Map*, available at <http://2ndcircuit.leoncountyfl.gov/> (last visited December 21, 2015); Implementation Guide at 2-3.

<sup>23</sup> A prior juvenile civil citation does not make the adult ineligible; Implementation Guide at 3.

<sup>24</sup> *Id.* at 4.

<sup>25</sup> DISC Village, Inc., *Adult Civil Citation Program Brochure*, available at <http://www.discvillage.com/DOCS/AdultCivilCitationBrochure.pdf> (last visited December 21, 2015) (hereinafter “ACCP Brochure”).

<sup>26</sup> Implementation Guide at 3.

The adult who agrees to participate in the ACCP has 7 days to report to the social service provider (DISC Village, Inc.) for intake and assessment.<sup>27</sup> Based on the results of the assessment and initial drug screening, the provider creates an individualized intervention plan.

The intervention plan includes:<sup>28</sup>

- Counseling sessions (at least three with a behavioral health specialist);
- Cognitive behavioral therapy;
- Motivational interviewing;
- Drug screening;
- At least one screening (and depending on offense assessment, up to three screenings);
- Online intervention modules, which may include drug education, anger management, decision making, and petit theft (associated behaviors and risks);
- Community service hours;<sup>29</sup> and
- A program fee.<sup>30</sup>

If the adult successfully completes all sanctions and intervention services, the social services provider notifies the referring law enforcement agency and the case is cleared “exceptionally” and the person does not have an arrest record.<sup>31</sup>

If the participant does not successfully complete the program, the social services provider notifies the referring law enforcement agency. The law enforcement agency contacts the adult and attempts to issue a NTA. If the adult does not comply with arrangements to receive a NTA, an arrest affidavit and warrant are submitted to the court. The case is closed and cleared by the law enforcement agency upon notification of the arrest. Subsequently, the adult may face prosecution if the state attorney determines that prosecution is appropriate.<sup>32</sup>

### ***Information on Leon County Adult Civil Citation Program Participants***<sup>33</sup>

According to information provided by the Civil Citation Network,<sup>34</sup> since March of 2013, approximately 1,000 adult civil citations have been issued by the Tallahassee Police Department and Leon County Sheriff's Office.

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<sup>27</sup> If there is no communication with the adult within the 7-day period, the case is referred back to the law enforcement agency for further action; Crime Watch Publication at 6.

<sup>28</sup> Implementation Guide at 4-11.

<sup>29</sup> The general requirement appears to be that the law enforcement officer assigns 25 hours of community service. The program case manager may impose additional community service hours; Implementation Guide at 2.

<sup>30</sup> Implementation Guide at 12.

<sup>31</sup> *Id.* at 12.

<sup>32</sup> *Id.*

<sup>33</sup> Information regarding ACCP participants comes from data provided by DISC Village, Inc. This data was aggregated by Dr. Albert Kopak, an assistant professor with the Department of Criminology and Criminal Justice, Western Carolina University.

<sup>34</sup> Supplemental information was provided by Greg Frost, President of the Civil Citation Network.

For the time period of March of 2013 to August of 2015, approximately 850 adult civil citations were issued. Most of the citations issued were for petit theft (54 percent).<sup>35</sup>

Approximately 80 percent of the ACCP participants successfully completed the program. The successful completion rate for each offense was:

- 93 percent for criminal mischief;
- 90 percent for possession of alcohol by a person under 21 years of age;
- 84 percent for petit theft;
- 80 percent for possession of less than 20 grams of marijuana;
- 68 percent for non-domestic battery or assault; and
- 68 percent for other offenses.

Of those who successfully completed the ACCP, the rearrest<sup>36</sup> rate was 6 percent. Of those who did not successfully complete the program, the rearrest rate was 43 percent.

### III. Effect of Proposed Changes:

The bill creates s. 901.40, F.S., which encourages local communities and public or private educational institutions to implement a prearrest diversion program that affords certain adults who fulfill specified intervention and community service obligations the opportunity to avoid an arrest record. The program shall allow a law enforcement officer, at the officer's sole discretion, to issue a civil citation to an adult who commits an eligible misdemeanor offense (as determined by the program), admits to committing the offense, and does not have a prior arrest as an adult. An adult is ineligible for a civil citation if the misdemeanor involves a victim and the victim objects to the issuance of the citation. A steering committee shall be created to develop policies and procedures for the program, including, but not limited to, eligibility criteria, program implementation and operation, and the fee to be paid by adults participating in the program. The steering committee shall be composed of representatives of the law enforcement agencies participating in the program, a representative of the program services provider, and other interested stakeholders.

The bill provides that misdemeanor offenses that qualify for a prearrest diversion program include, but are not limited to:

- Disorderly conduct.
- Open house parties.
- Petit theft of stolen property valued at less than \$50.
- Possession of alcohol by a person younger than 21 years of age.
- Possession of 20 grams or less of cannabis.
- Selling or providing alcoholic beverages to a minor.
- Trespass in structure or conveyance.

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<sup>35</sup> Other offenses: Possession of less than 20 grams of marijuana (24 percent); possession of alcohol by a person under 21 year of age (9 percent); non-domestic battery or assault (4 percent); possession of drug paraphernalia (3 percent); criminal mischief (2 percent); trespass (1 percent); and other offenses (1 percent).

<sup>36</sup> Rearrest covers arrests for any offense committed in this state.

An adult who receives a civil citation shall report for intake as required by the program. The adult shall be provided appropriate assessment, intervention, education, and behavioral health care services. While in the program, the adult shall complete community service hours as specified by the program.

If the adult successfully completes the program, an arrest record may not be associated with the offense. If the adult does not successfully complete the program, the law enforcement agency that issued the citation shall criminally charge the adult for the original offense and refer the case to the state attorney to determine if prosecution is appropriate.

Counties and municipalities are not preempted from enacting noncriminal sanctions for a violation of an ordinance or other violation. Counties, municipalities, and public or private educational institutions are not preempted from creating their own models for a prearrest diversion program for adults.

The bill takes effect on July 1, 2016.

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

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

The bill does not mandate that local governments create a prearrest diversion program for adults; it only “encourages” the creation of such a program. Additionally, criminal laws are excluded from Article VII, section 18 of the Florida Constitution, relating to state mandates that affect revenues and expenditures of local governments.

##### **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:**

Under the Leon County model, an eligible adult who chooses to participate in the ACCP must pay a program fee, but this fee may be waived if the participant does not have the means to pay it.

Under the Leon County model, the social services provider for the ACCP is a non-profit services provider: DISC Village, Inc. The program is paid for through program fees.

**C. Government Sector Impact:**

The bill does not require any state expenditures.

The bill does not mandate that local governments or public or private educational institutions create a prearrest diversion program for adults. Under the Leon County model, the adult civil citation program is self-sustaining (paid for by program fees). If this program model is adopted in other localities or by educational institutions (and the program fees are sufficient to sustain the program), there should be no fiscal impact.

Creation of an adult civil citation program could result in cost savings (e.g., reduced detention/confinement costs and booking/arrest-processing costs), depending on the number of eligible offenses, other eligibility criteria chosen, the pool of eligible adults, the number of participating law enforcement agencies, the use of civil citations by those agencies, and any impact the program may have in reducing arrests.

**VI. Technical Deficiencies:**

The reference to “petit theft of stolen property” should be reworded to read: “petit theft of property.”

**VII. Related Issues:**

Florida law does not specifically address adult civil citation programs or other prearrest diversion programs for adults. If the bill were to become law, the law would specifically indicate that the Legislature encourages the creation of such programs.

The approach taken by the bill affords law enforcement officers complete discretion in the decision to arrest or issue a civil citation. The Florida Supreme Court has remarked that “the discretionary judgmental power granted a police officer to make an arrest and enforce the law” is “considered basic to the police power function of governmental entities and is recognized as critical to a law enforcement officer’s ability to carry out his duties.”<sup>37</sup>

**VIII. Statutes Affected:**

This bill creates section 901.40 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Community Affairs on January 19, 2016:**

Recommends a steering committee to help develop policies and procedures for the prearrest diversion program; removes simple battery and assault from the list of qualifying offenses; clarifies that a county or municipality may create its own model for a program; and provides that a county, municipality, or public or private entity is not

<sup>37</sup> *Everton v. Willard*, 468 So.2d 936, 938 (Fla.1985) (citations omitted).

preempted from enacting noncriminal sanctions for a violation of an ordinance or other violation.

**CS by Criminal Justice on November 17, 2015:**

- Encourages public or private educational institutions to implement a prearrest diversion program that affords certain adults who fulfill specified intervention and community service obligations the opportunity to avoid an arrest record.
- Authorizes the prearrest diversion program to determine eligible “misdemeanor” offenses rather than eligible “nonviolent” misdemeanor offenses.
- Clarifies that an adult with a prior arrest as an adult is ineligible to receive a civil citation.
- Provides that an adult is ineligible to receive a civil citation if the misdemeanor involves a victim and the victim objects to the issuance of the citation.
- Provides that a prearrest diversion program shall also provide appropriate assessment, intervention, and education services to an adult in the program.
- Specifies some misdemeanor offenses the prearrest diversion program may wish to consider as eligible misdemeanor offenses.
- Clarifies that the law enforcement agency that issued a citation to an adult shall criminally charge the adult for the original offense if the adult does not successfully complete the prearrest diversion program and shall refer the case to the state attorney to determine if prosecution is appropriate.

**B. Amendments:**

None.



188122

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2016	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 901.40, Florida Statutes, is created to  
read:

901.40 Prearrest diversion programs.-

(1) INTENT.-The Legislature encourages local communities  
and public or private educational institutions to implement  
prearrest diversion programs that afford certain adults who



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11 fulfill specified intervention and community service obligations  
12 the opportunity to avoid an arrest record. The Legislature does  
13 not mandate that a particular prearrest diversion program for  
14 adults be adopted but finds that the adoption of the model  
15 provided in this section would allow certain adults to avoid an  
16 arrest record while ensuring that those adults receive  
17 appropriate intervention and fulfill community service  
18 obligations. The Legislature further encourages that a prearrest  
19 diversion program share information with other prearrest  
20 diversion programs.

21 (2) MODEL ADULT CIVIL CITATION PROGRAM.—

22 (a) Law enforcement officers, at their sole discretion, may  
23 issue civil citations to certain adults who commit a qualifying  
24 nonviolent misdemeanor offense listed in subsection (3). A civil  
25 citation may be issued only if the adult admits that he or she  
26 committed the offense and if the adult has not previously  
27 received a civil citation. However, an adult may not be issued a  
28 civil citation if the nonviolent misdemeanor offense involves a  
29 victim and the victim objects to issuance of the civil citation.

30 (b) An adult who receives a civil citation shall report for  
31 intake as required by the local prearrest diversion program and  
32 shall be provided appropriate assessment, intervention,  
33 education, and behavioral health care services. While in the  
34 local prearrest diversion program, the adult shall perform  
35 community service hours as specified by the local prearrest  
36 diversion program. If the adult does not successfully complete  
37 the prearrest diversion program, the law enforcement agency that  
38 issued the civil citation shall criminally charge the adult for  
39 the original offense and refer the case to the state attorney to



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40 determine if prosecution is appropriate. If the adult  
41 successfully completes the program, an arrest record may not be  
42 associated with the offense.

43 (c) A steering committee shall be created for the prearrest  
44 diversion program to develop policies and procedures for the  
45 program, including, but not limited to, eligibility criteria,  
46 program implementation and operation, and the fee to be paid by  
47 adults participating in the program. At a minimum, the steering  
48 committee shall be composed of representatives of the law  
49 enforcement agencies participating in the program, a  
50 representative of the program services provider, and other  
51 interested stakeholders.

52 (3) QUALIFYING OFFENSES.—Nonviolent misdemeanor offenses  
53 that qualify for a prearrest diversion program include, but are  
54 not limited to:

55 (a) Disorderly conduct.

56 (b) An open house party in violation of s. 856.015(2).

57 (c) Petit theft of stolen property valued at less than \$50.

58 (d) Possession of alcohol by a person younger than 21 years  
59 of age.

60 (e) Possession of 20 grams or less of cannabis.

61 (f) Selling or providing alcoholic beverages to a minor.

62 (g) Trespass in a structure or conveyance.

63 (4) APPLICABILITY.—This section does not preempt a county  
64 or municipality from enacting noncriminal sanctions for a  
65 violation of an ordinance or other violation, and does not  
66 preempt a county, a municipality, or a public or private  
67 educational institution from creating its own model for a  
68 prearrest diversion program for adults.



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

70

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

72 And the title is amended as follows:

73 Delete everything before the enacting clause  
74 and insert:

75 A bill to be entitled  
76 An act relating to prearrest diversion programs;  
77 creating s. 901.40, F.S.; encouraging local  
78 communities and public or private educational  
79 institutions to implement prearrest diversion programs  
80 for certain offenders; authorizing law enforcement  
81 officers of participating law enforcement agencies, at  
82 their sole discretion, to issue civil citations to  
83 adults under specified circumstances; requiring an  
84 adult who is issued a civil citation by a  
85 participating law enforcement agency to report for  
86 intake as required by the prearrest diversion program;  
87 requiring the provision of appropriate behavioral  
88 health care services; requiring that an adult who is  
89 issued a civil citation fulfill a community service  
90 requirement; providing for criminal prosecution of  
91 adults who fail to complete the prearrest diversion  
92 program; prohibiting an arrest record from being  
93 associated with a certain offense for adults who  
94 successfully complete the program; establishing a  
95 steering committee for the prearrest diversion  
96 program; providing duties and membership of the  
97 committee; specifying the nonviolent misdemeanor



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98 offenses that are eligible for the prearrest diversion  
99 program; providing applicability; providing an  
100 effective date.

By the Committee on Criminal Justice; and Senator Evers

591-01283-16

2016618c1

1                                   A bill to be entitled  
2       An act relating to prearrest diversion programs;  
3       creating s. 901.40, F.S.; encouraging local  
4       communities and public or private educational  
5       institutions to implement prearrest diversion programs  
6       for certain offenders; requiring that the programs  
7       allow law enforcement officers of participating  
8       agencies, at their sole discretion, to issue civil  
9       citations to adults under specified circumstances;  
10      prohibiting the issuance of the civil citation if the  
11      misdemeanor offense involves a victim and he or she  
12      objects to its issuance; requiring that an adult who  
13      receives a civil citation from a participating law  
14      enforcement agency report for intake as required by  
15      the local prearrest diversion program; requiring the  
16      provision of appropriate assessment, intervention,  
17      education, and behavioral health care services;  
18      requiring that an adult who is issued a citation  
19      fulfill a community service requirement specified by  
20      the local prearrest diversion program; requiring the  
21      law enforcement agency that issued the civil citation  
22      to criminally charge an adult who fails to complete  
23      the prearrest diversion program and refer that adult  
24      to the state attorney for prosecution; prohibiting the  
25      association of an arrest record with adults who  
26      successfully complete the program; specifying  
27      misdemeanor offenses that qualify for the local  
28      prearrest diversion program; providing an effective  
29      date.

591-01283-16

2016618c1

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

32  
33 Section 1. Section 901.40, Florida Statutes, is created to  
34 read:

35 901.40 Prearrest diversion programs.—The Legislature  
36 encourages local communities and public or private educational  
37 institutions to implement prearrest diversion programs that  
38 afford certain adults who fulfill specified intervention and  
39 community service obligations the opportunity to avoid an arrest  
40 record. Such programs shall allow law enforcement officers, at  
41 their sole discretion, to issue civil citations to certain  
42 adults who commit misdemeanor offenses. A civil citation may be  
43 issued under this section only if the adult admits that he or  
44 she committed the offense and if the adult has not been  
45 previously arrested as an adult for an offense. However, an  
46 adult may not be issued a civil citation if the misdemeanor  
47 offense involves a victim and the victim objects to issuance of  
48 the civil citation.

49 (1) An adult who receives a civil citation shall report for  
50 intake as required by the local prearrest diversion program and  
51 shall be provided appropriate assessment, intervention,  
52 education, and behavioral health care services. While in the  
53 local prearrest diversion program, the adult shall perform  
54 community service hours as specified by the local prearrest  
55 diversion program. If the adult does not successfully complete  
56 the prearrest diversion program, the law enforcement agency that  
57 issued the civil citation shall criminally charge the adult for  
58 the original offense and refer the case to the state attorney to

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2016618c1

59 determine if prosecution is appropriate. If the adult  
60 successfully completes the program, an arrest record may not be  
61 associated with the offense.

62 (2) Misdemeanor offenses that qualify for a prearrest  
63 diversion program include, but are not limited to:

64 (a) Disorderly conduct.

65 (b) Nondomestic assault as defined in s. 784.011 or  
66 nondomestic battery as provided in s. 784.03(1).

67 (c) Open house parties.

68 (d) Petit theft of stolen property valued at less than \$50.

69 (e) Possession of alcohol by a person younger than 21 years  
70 of age.

71 (f) Possession of 20 grams or less of cannabis.

72 (g) Selling or providing alcoholic beverages to a minor.

73 (h) Trespass in structure or conveyance.

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



# CIVIL CITATION NETWORK

*Making a Positive Change in the Right Direction*



## Our Mission

The Civil Citation Network® is a non-profit organization created and supported through a private foundation. Our mission is to advocate the use of adult and juvenile civil citations with integrated intervention services. Communities across the country have access to the Network's research and evaluation services, data resources, integrated technology platform, and technical assistance related to implementation of civil citation programs. Through participating communities the law enforcement direct diversion model improves public safety and reduces criminal justice system costs. Equally important, individuals are held accountable for committing a minor crime without the life-long negative consequences of being arrested.



# A Call for Reform

## President's Task Force on 21<sup>st</sup> Century Policing

“Law enforcement agencies should consider adopting preferences for seeking ‘least harm’ resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.”

## American Bar Association

“The ABA urges states to implement civil citation programs for non-violent, minor misdemeanors to promote judicial efficiency and save taxpayer money.”

## Florida Tax Watch

“The state should put in place the guidelines for an Adult Civil Citation program, patterned on the existing Juvenile Civil Citation program, which offers an alternative process to misdemeanor arrest for first-time nonviolent youth offenders. The adult program must include law enforcement discretion, as the responding officer is still in the best position to determine whether the use of civil citation is preferred to actual arrest.



## Criminal Arrests Result in Collateral Damage and Racial Disparity

“Yet too often we see ordinary people, some even our neighbors, held for minor violations such as driving with a suspended license, public intoxication, or shoplifting because they cannot afford bail as low as \$500. Single parents may lose custody of their children, sole wage-earners in families, their jobs...”

*[Center on Sentencing and Corrections. (February 2015) “Incarceration’s Front Door: The misuse of Jails in America,” Vera Institute of Justice.]*

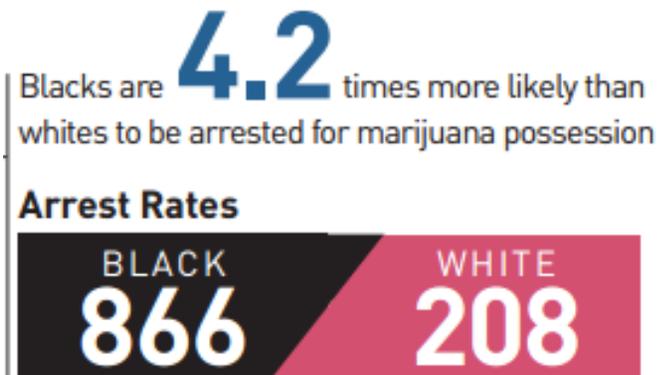
“Prosecutors, judges and defense counsel must pay more attention to the collateral consequences of convictions. In many jurisdictions, after an individual is convicted of an offense and completes his or her sentence (by serving time, paying a fine or completing probation or parole), the individual nevertheless faces a life sentence of disqualification and deprivation of educational, employment, housing and other opportunities. “

*[American Bar Association and NAACP Legal Defense and Educational Fund: (July 2015) “Joint Statement on Eliminating Bias in the Criminal Justice System,” [http://www.americanbar.org/content/dam/aba/images/abanews/aba-ldf\\_statement.pdf](http://www.americanbar.org/content/dam/aba/images/abanews/aba-ldf_statement.pdf)*



# Criminal Arrests Result in Collateral Damage and Racial Disparity

“The War on Marijuana in Black and White.”  
Comparison of Marijuana arrest rates in Florida for  
blacks and whites:



[[www.aclu.org/files/assets/aclu-thewaronmarijuana-rel2.pdf](http://www.aclu.org/files/assets/aclu-thewaronmarijuana-rel2.pdf)]

All counties with racial disparities  
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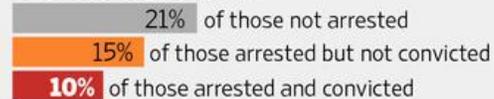


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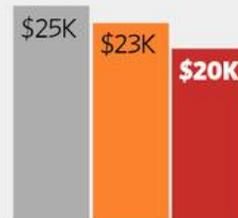
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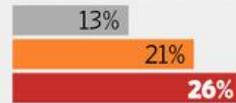
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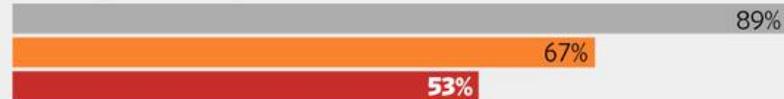
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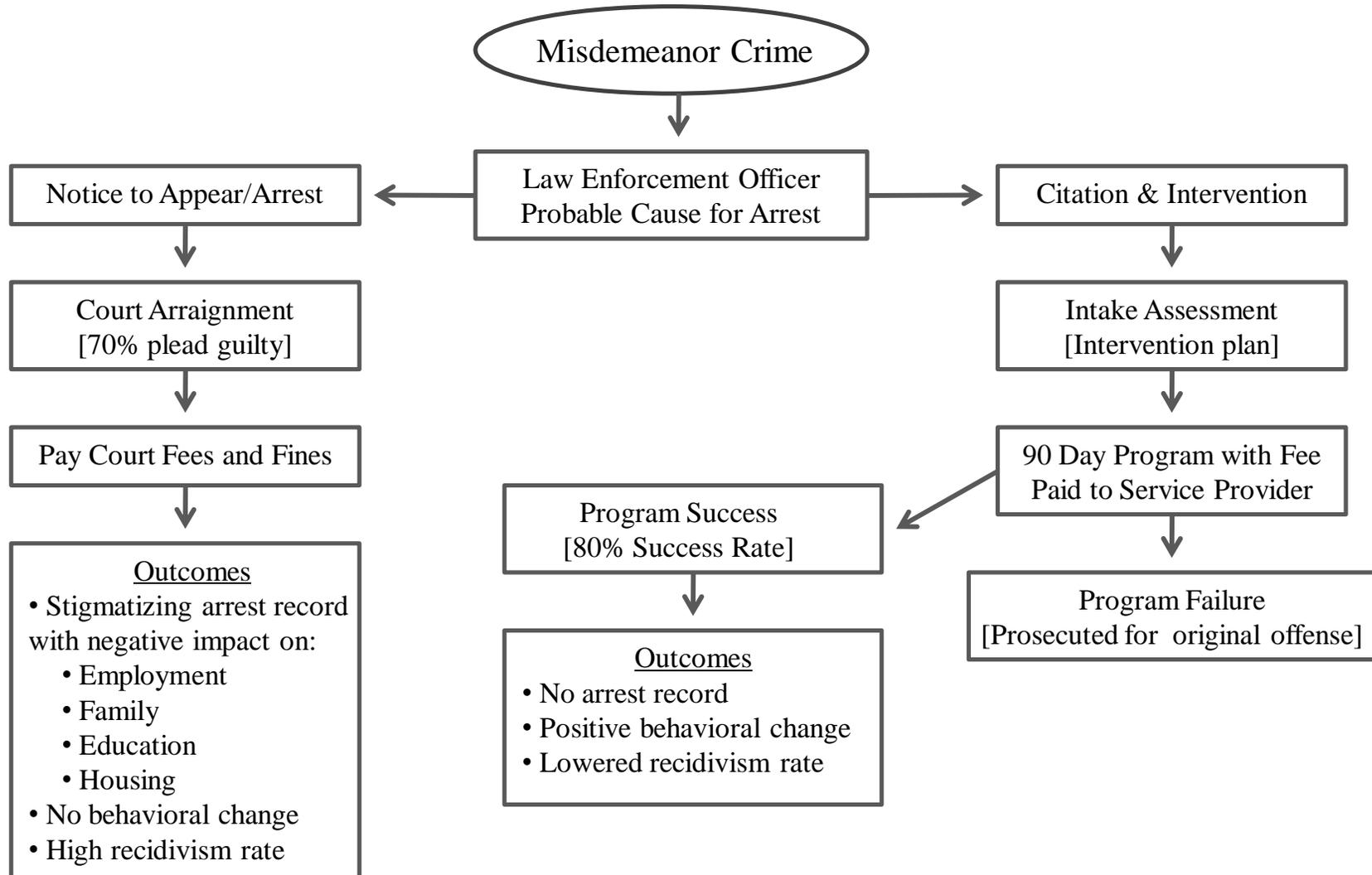
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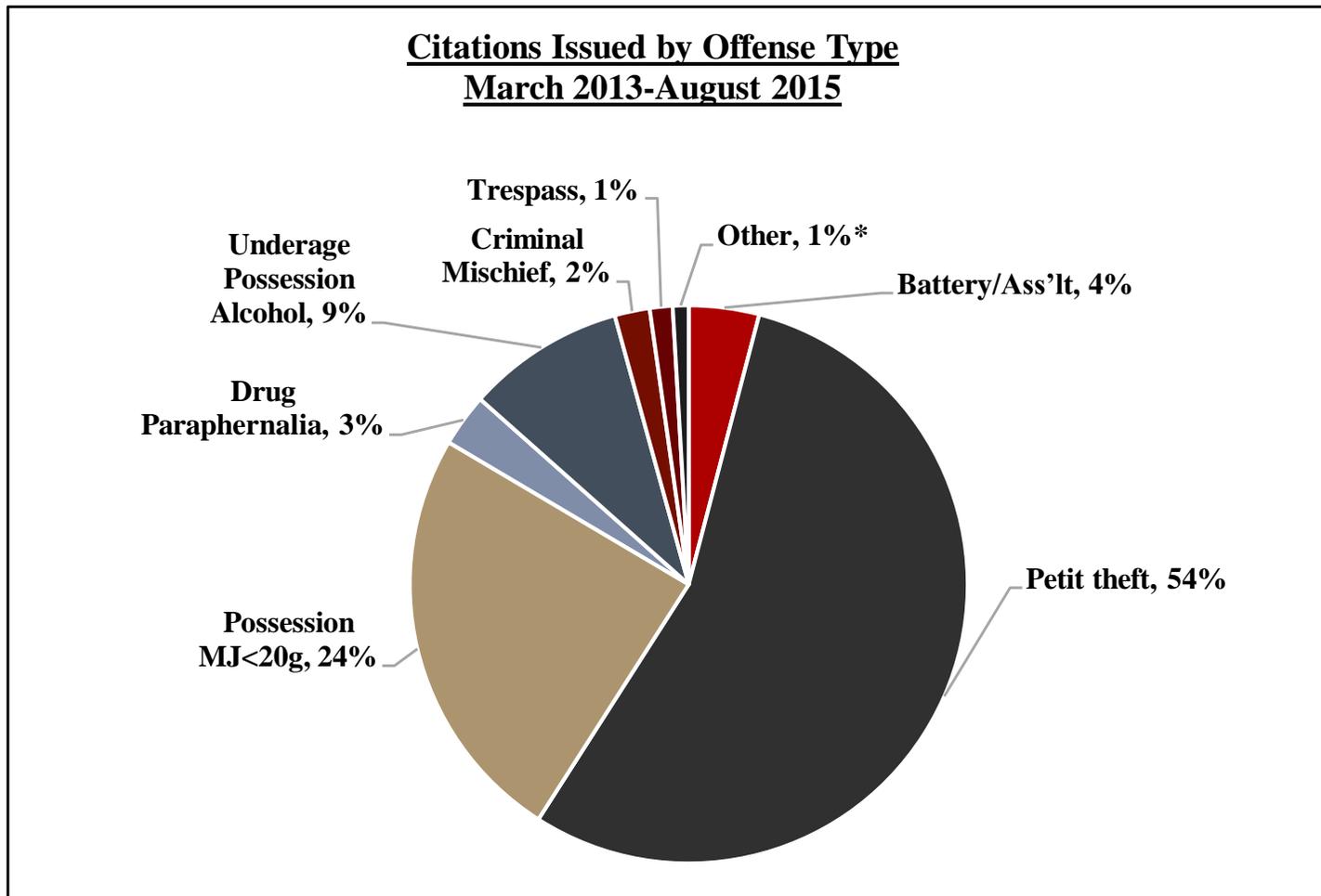
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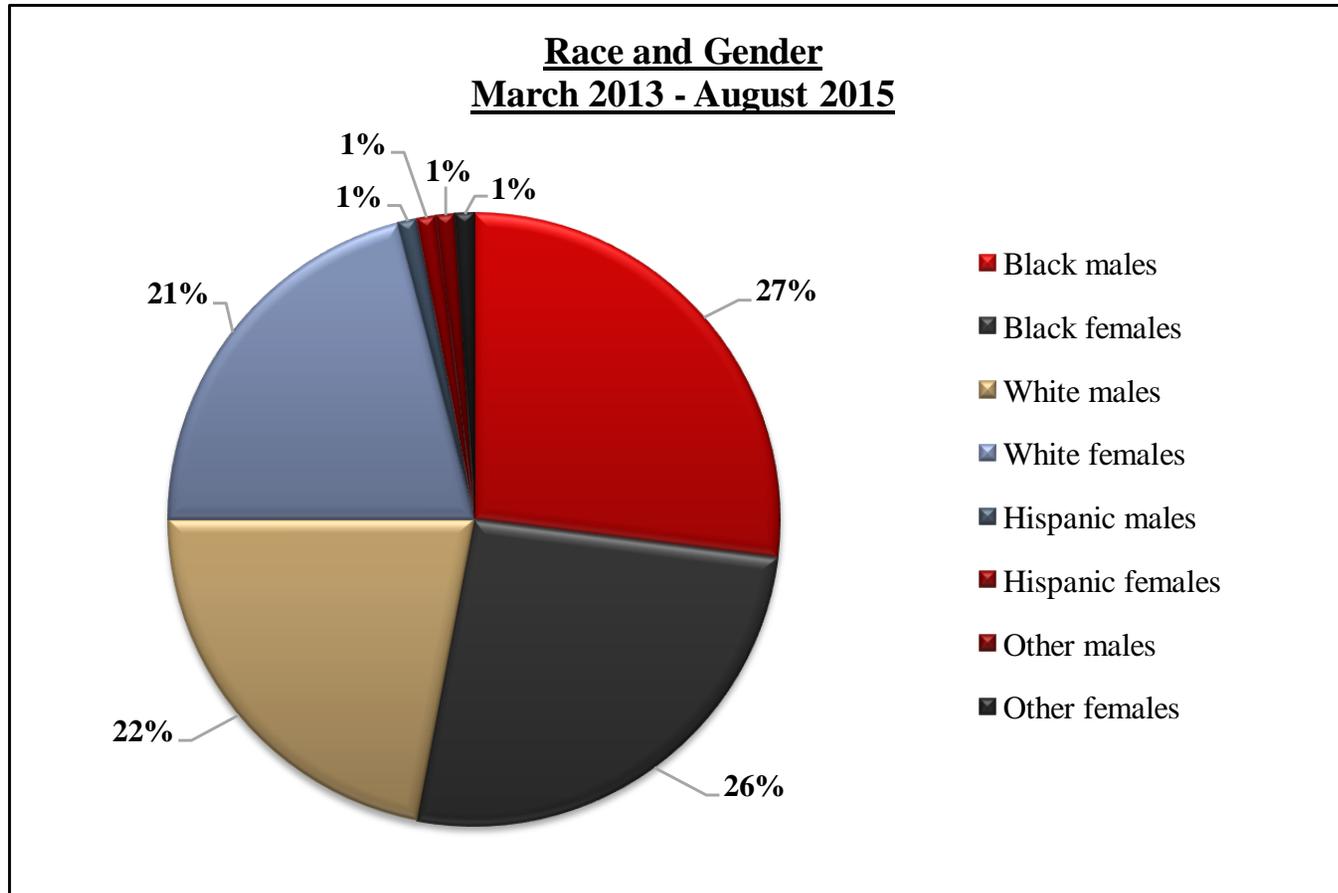
# Tallahassee/Leon County Program Outcomes



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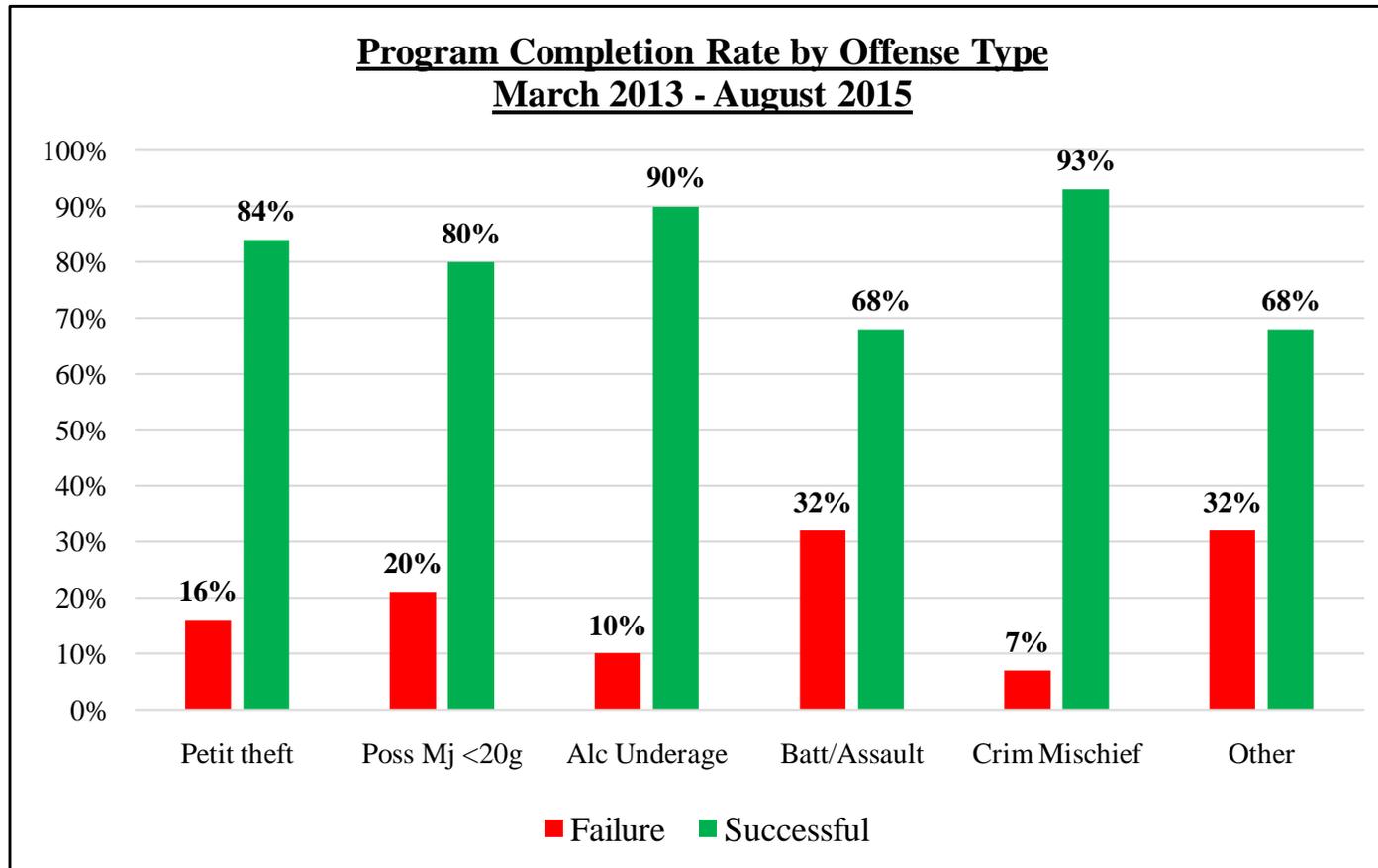


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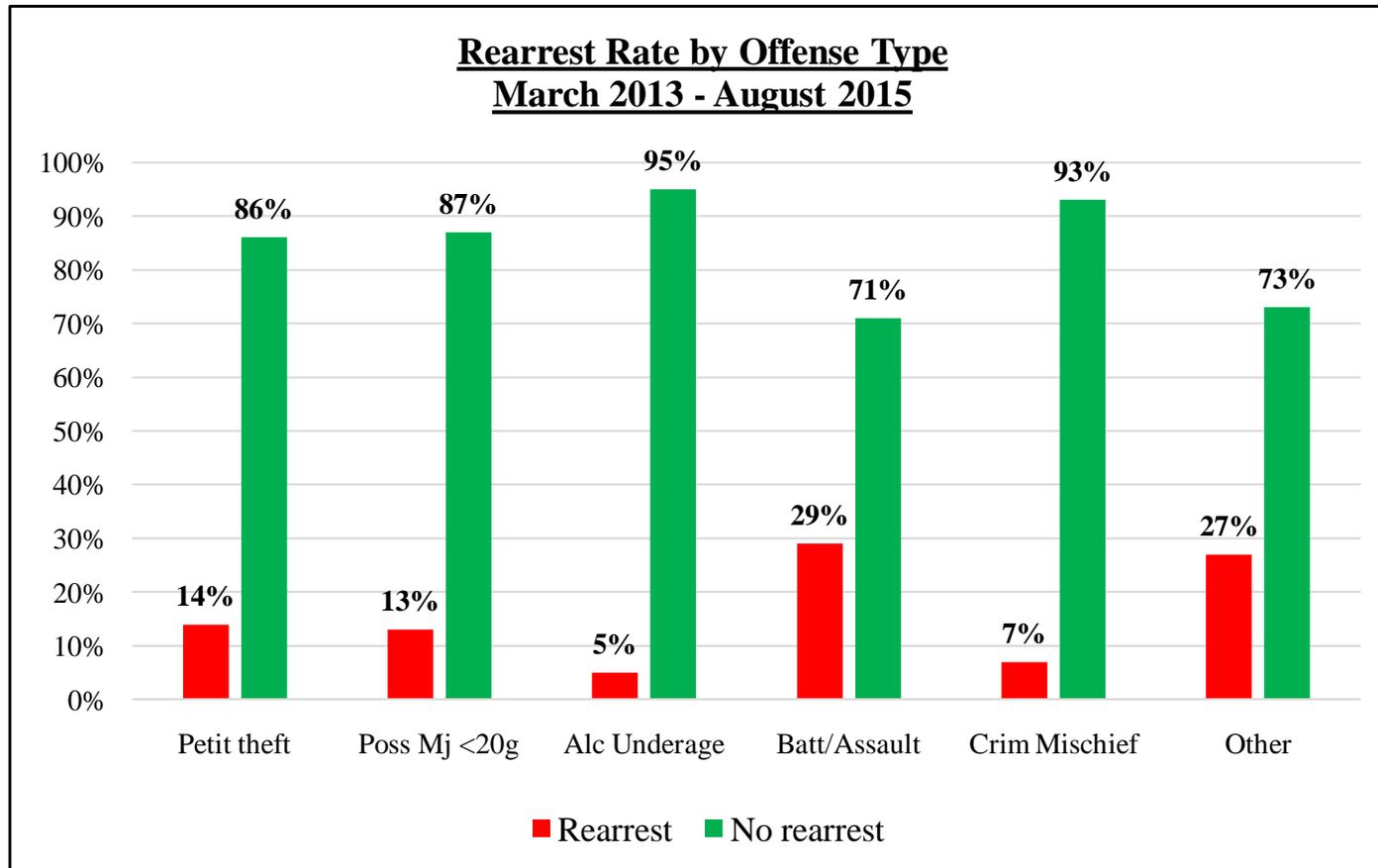


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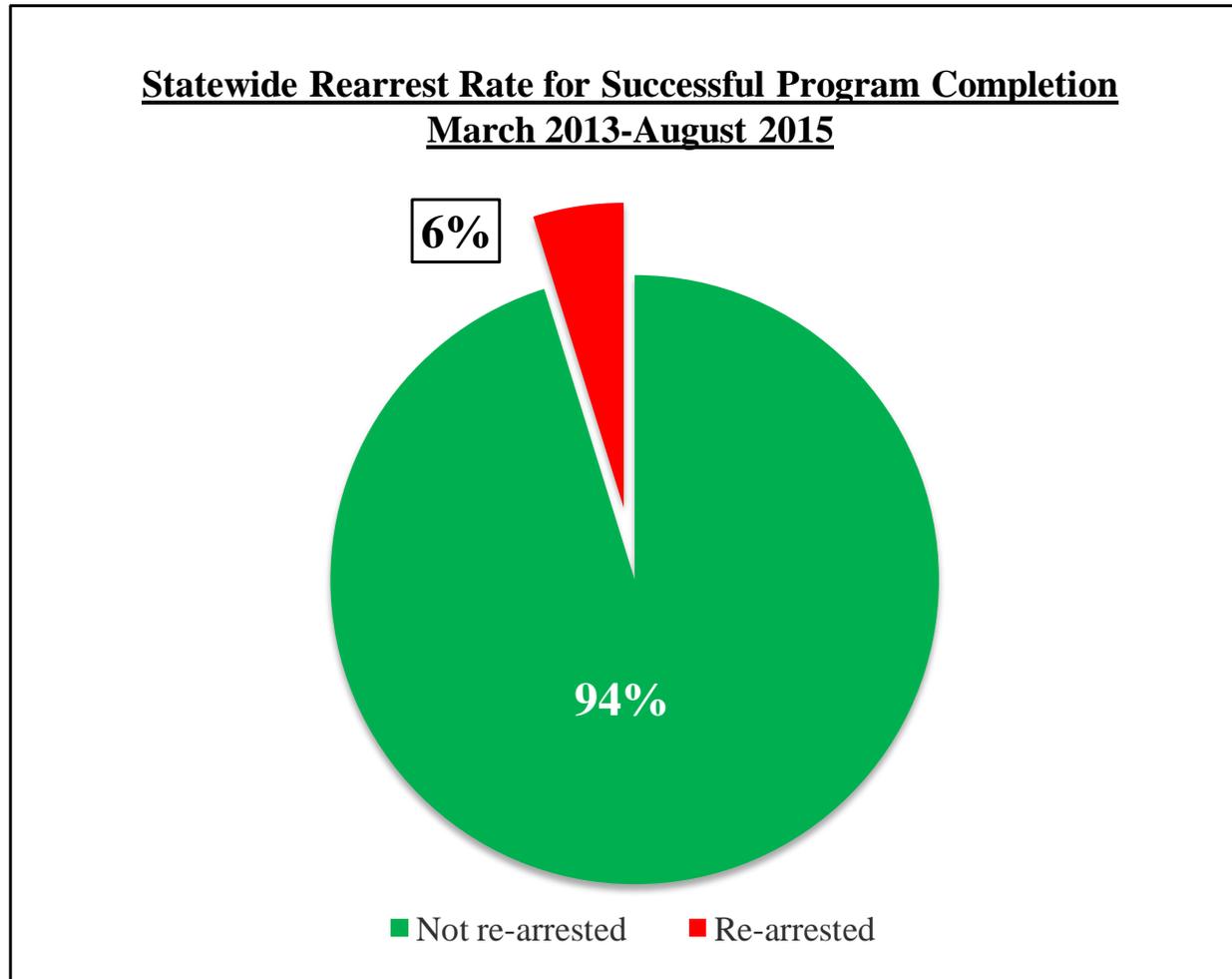


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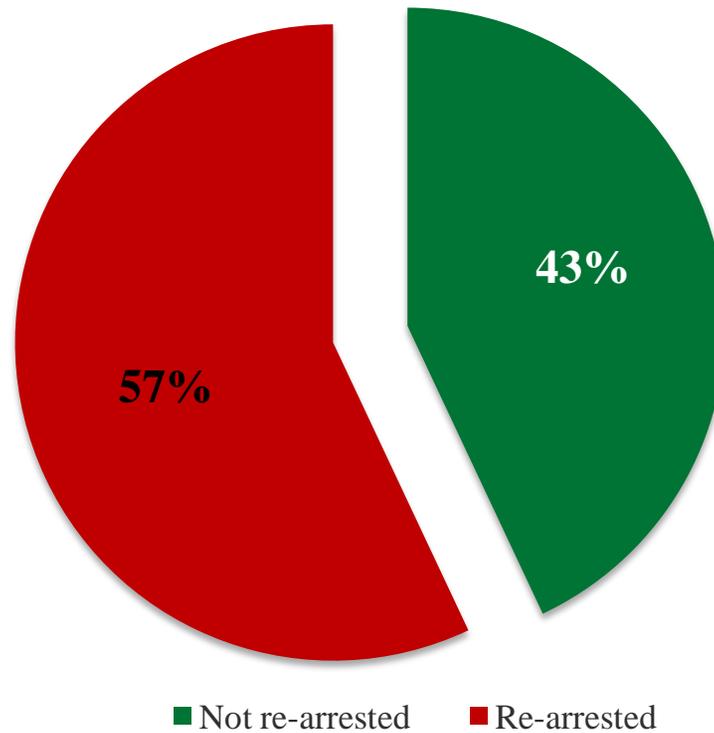
# Tallahassee/Leon County Program Outcomes





# Tallahassee/Leon County Program Outcomes

**Statewide Rearrest Rate for Unsuccessful Program Termination**  
**March 2013-August 2015**





# Barriers to Implementation

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# CIVIL CITATION NETWORK

*Making a Positive Change in the Right Direction*



## Our Mission

The Civil Citation Network® is a non-profit organization created and supported through a private foundation. Our mission is to advocate the use of adult and juvenile civil citations with integrated intervention services. Communities across the country have access to the Network's research and evaluation services, data resources, integrated technology platform, and technical assistance related to implementation of civil citation programs. Through participating communities the law enforcement direct diversion model improves public safety and reduces criminal justice system costs. Equally important, individuals are held accountable for committing a minor crime without the life-long negative consequences of being arrested.



# A Call for Reform

## President's Task Force on 21<sup>st</sup> Century Policing

“Law enforcement agencies should consider adopting preferences for seeking ‘least harm’ resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.”

## American Bar Association

“The ABA urges states to implement civil citation programs for non-violent, minor misdemeanors to promote judicial efficiency and save taxpayer money.”

## Florida Tax Watch

“The state should put in place the guidelines for an Adult Civil Citation program, patterned on the existing Juvenile Civil Citation program, which offers an alternative process to misdemeanor arrest for first-time nonviolent youth offenders. The adult program must include law enforcement discretion, as the responding officer is still in the best position to determine whether the use of civil citation is preferred to actual arrest.



## Criminal Arrests Result in Collateral Damage and Racial Disparity

“Yet too often we see ordinary people, some even our neighbors, held for minor violations such as driving with a suspended license, public intoxication, or shoplifting because they cannot afford bail as low as \$500. Single parents may lose custody of their children, sole wage-earners in families, their jobs...”

*[Center on Sentencing and Corrections. (February 2015) “Incarceration’s Front Door: The misuse of Jails in America,” Vera Institute of Justice.]*

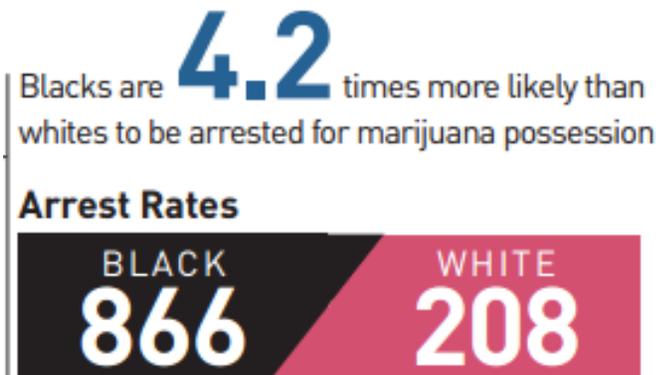
“Prosecutors, judges and defense counsel must pay more attention to the collateral consequences of convictions. In many jurisdictions, after an individual is convicted of an offense and completes his or her sentence (by serving time, paying a fine or completing probation or parole), the individual nevertheless faces a life sentence of disqualification and deprivation of educational, employment, housing and other opportunities. “

*[American Bar Association and NAACP Legal Defense and Educational Fund: (July 2015) “Joint Statement on Eliminating Bias in the Criminal Justice System,” [http://www.americanbar.org/content/dam/aba/images/abanews/aba-ldf\\_statement.pdf](http://www.americanbar.org/content/dam/aba/images/abanews/aba-ldf_statement.pdf)*



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“The War on Marijuana in Black and White.”  
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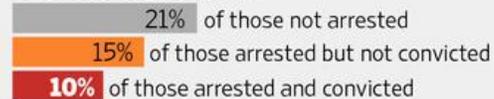


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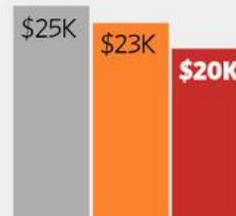
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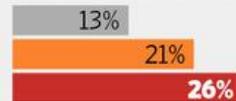
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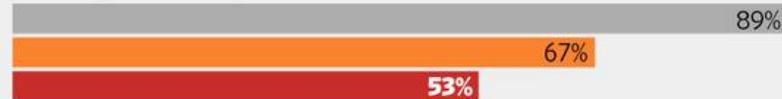
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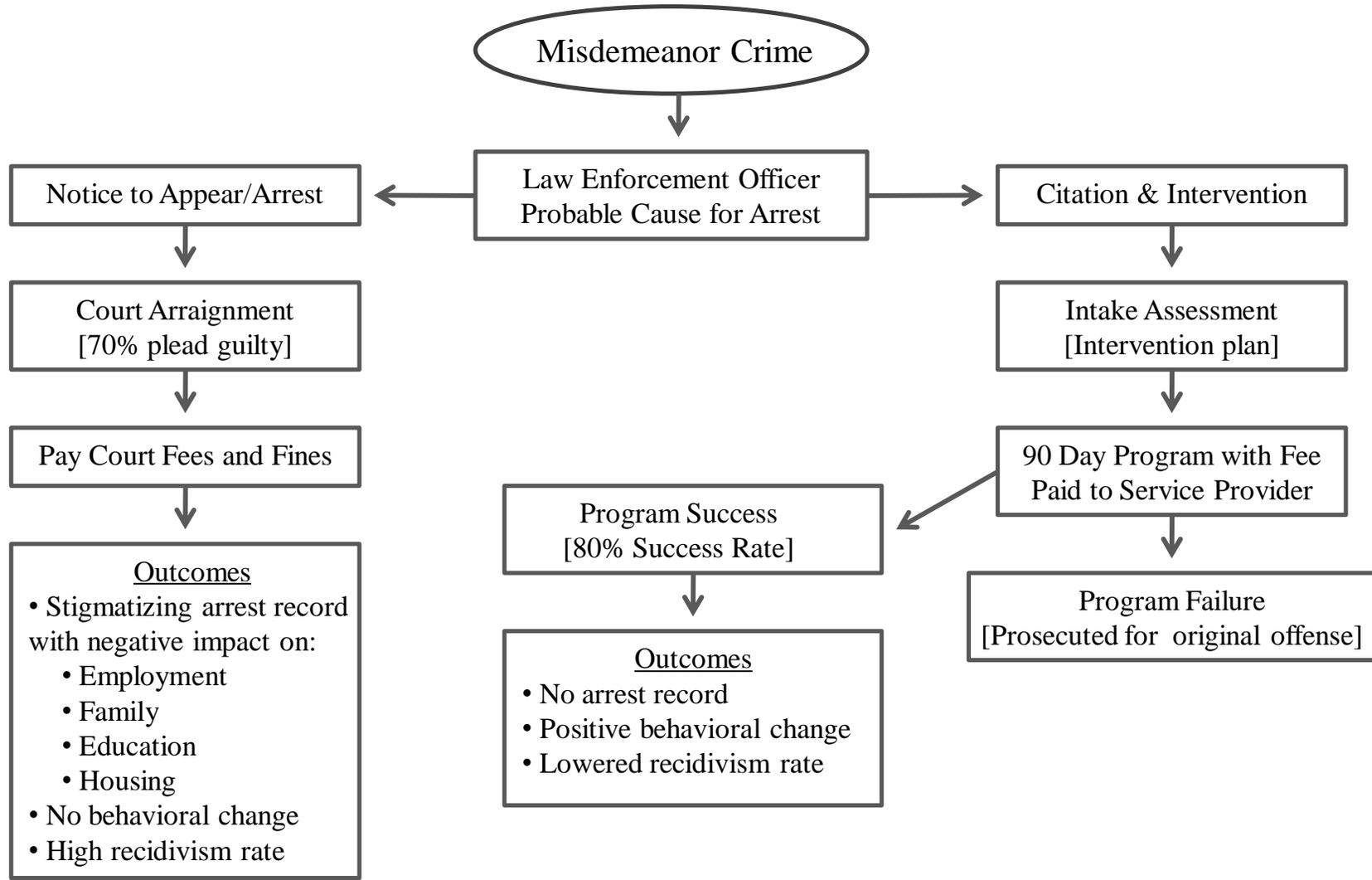
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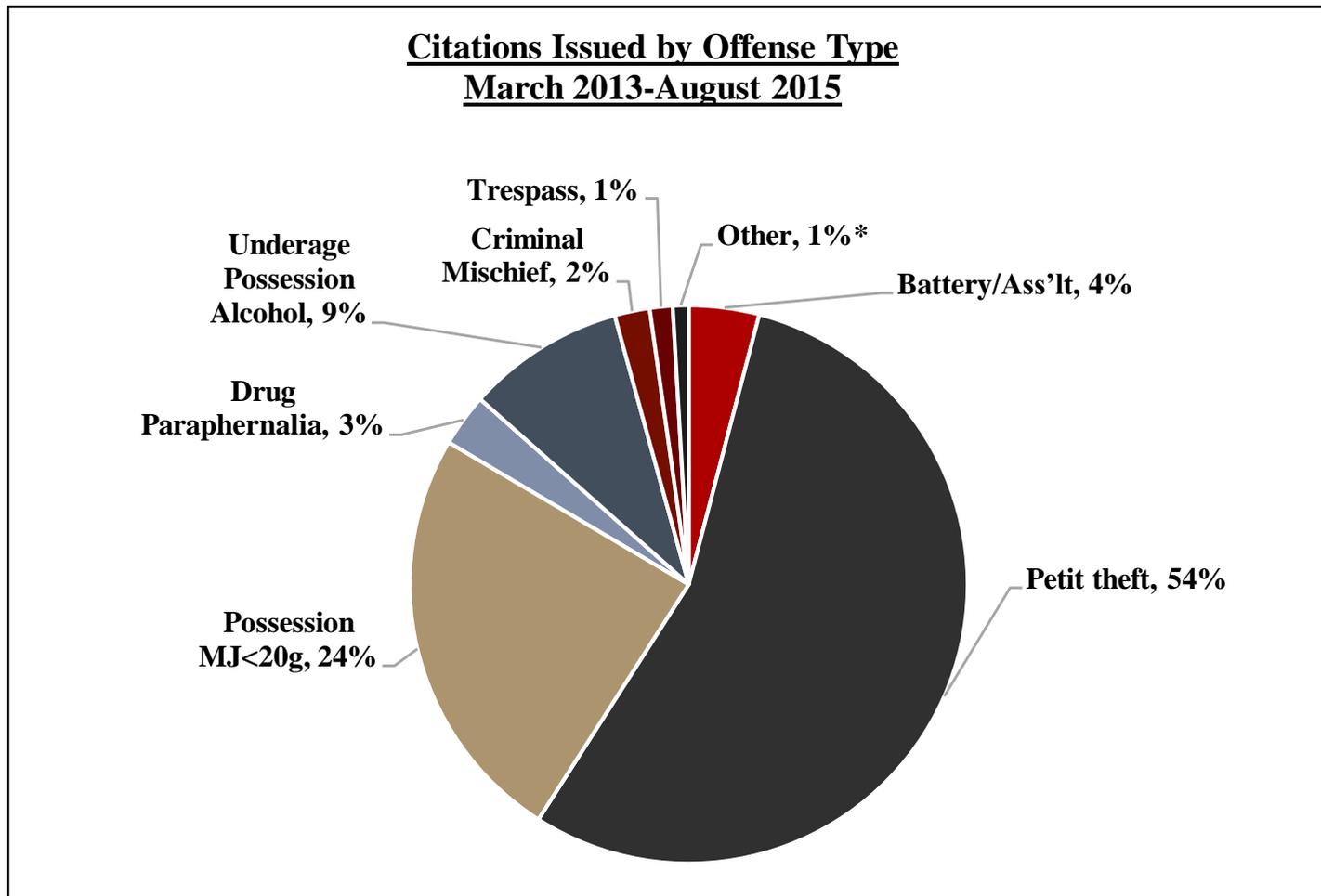
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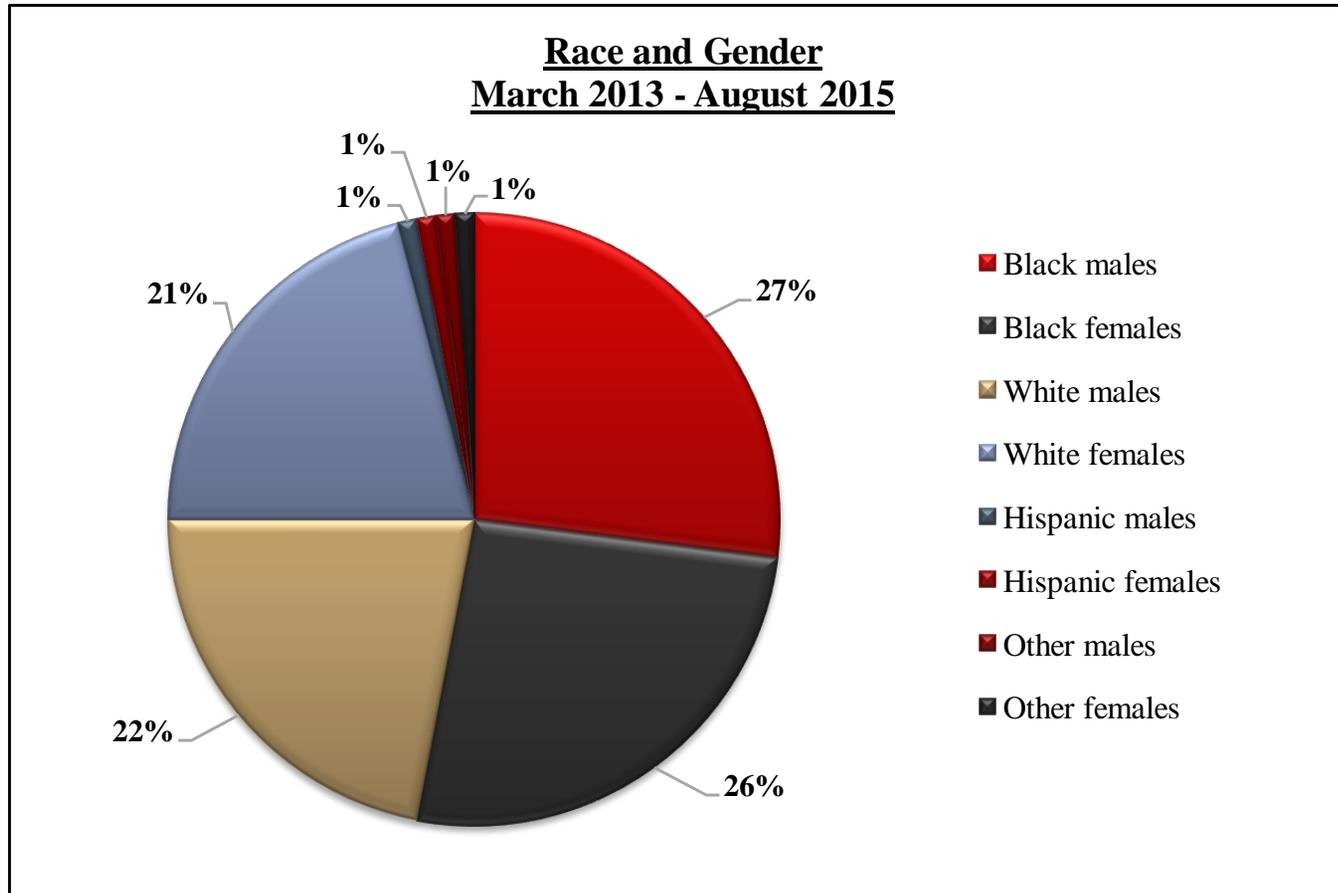
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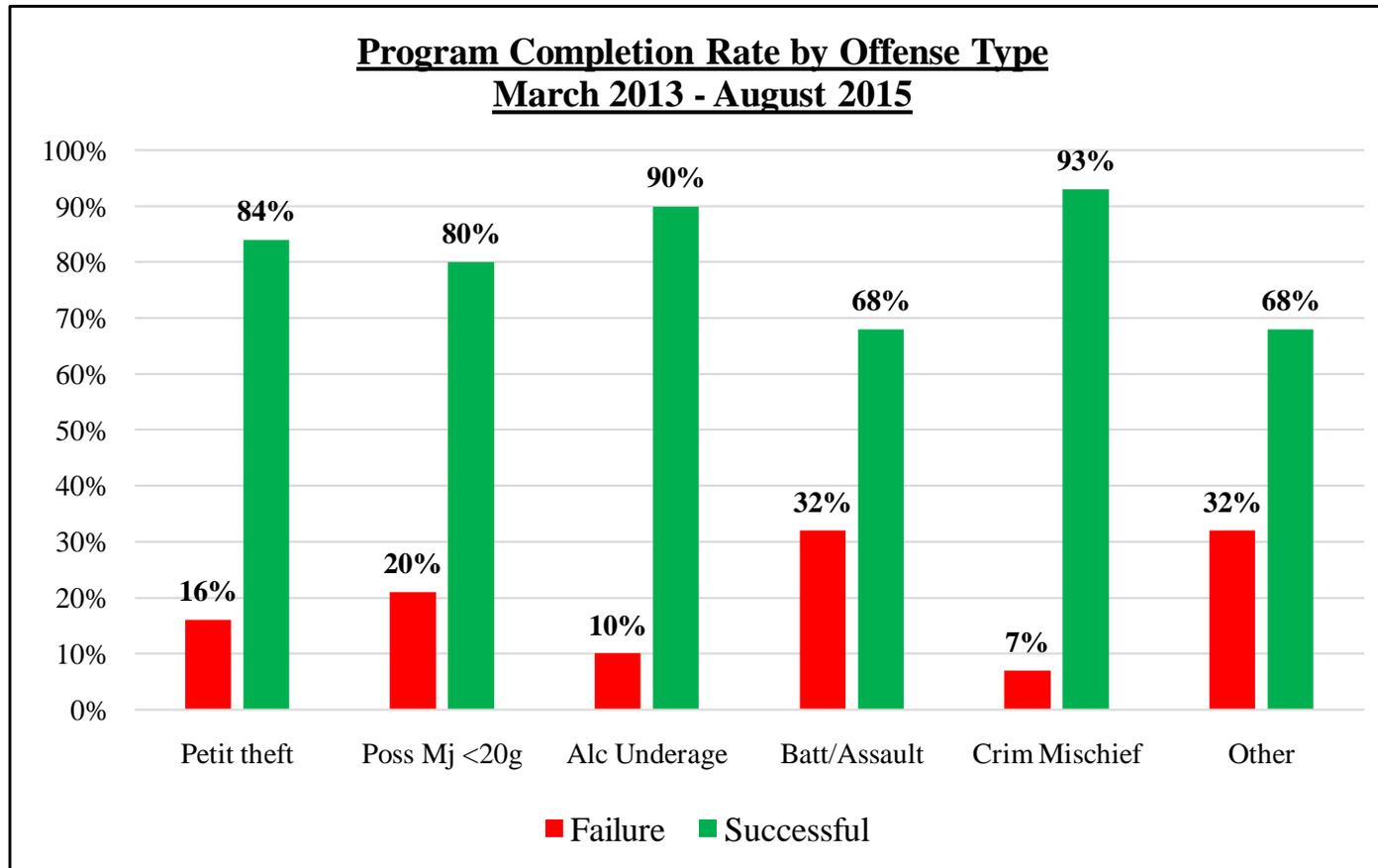


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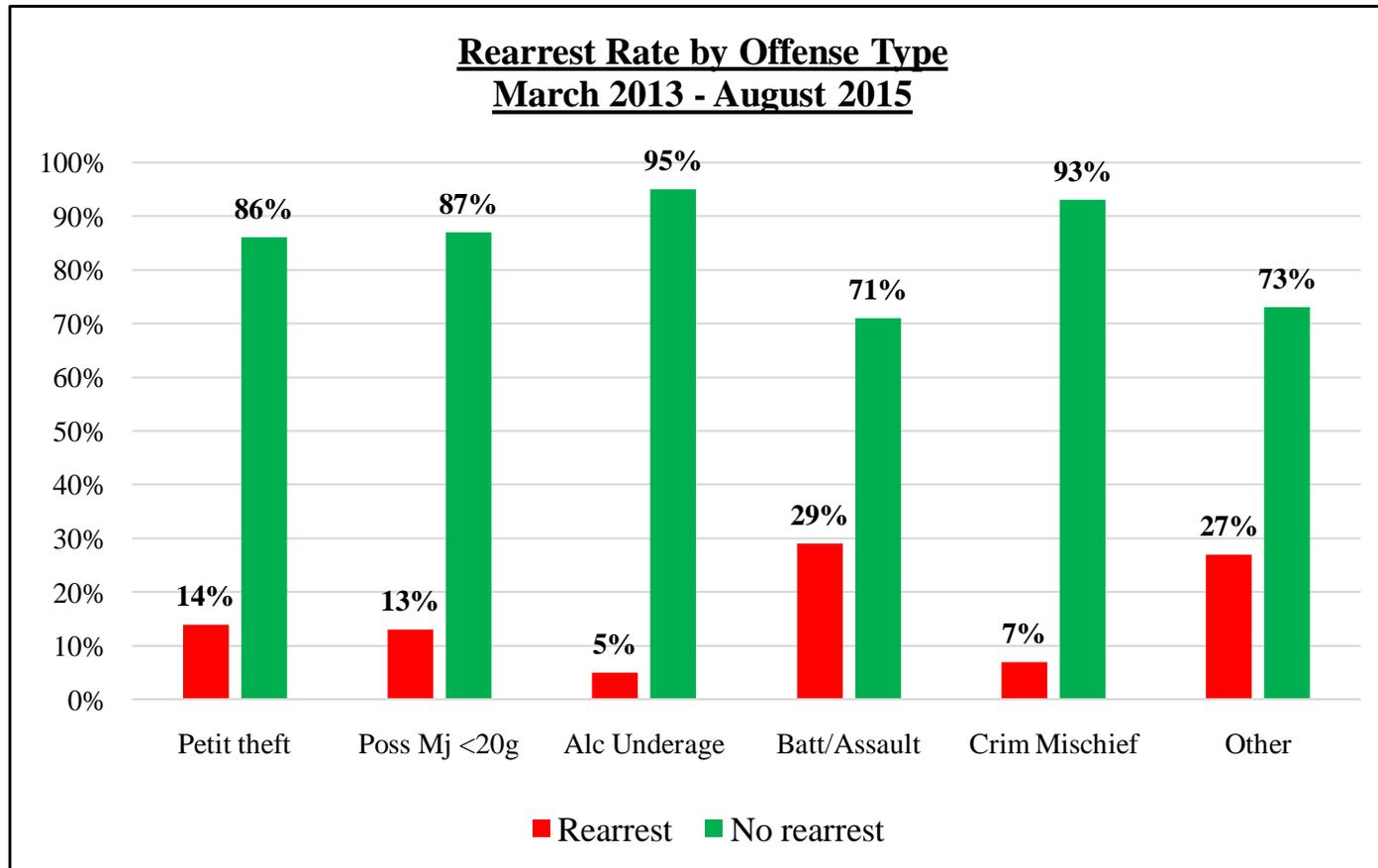


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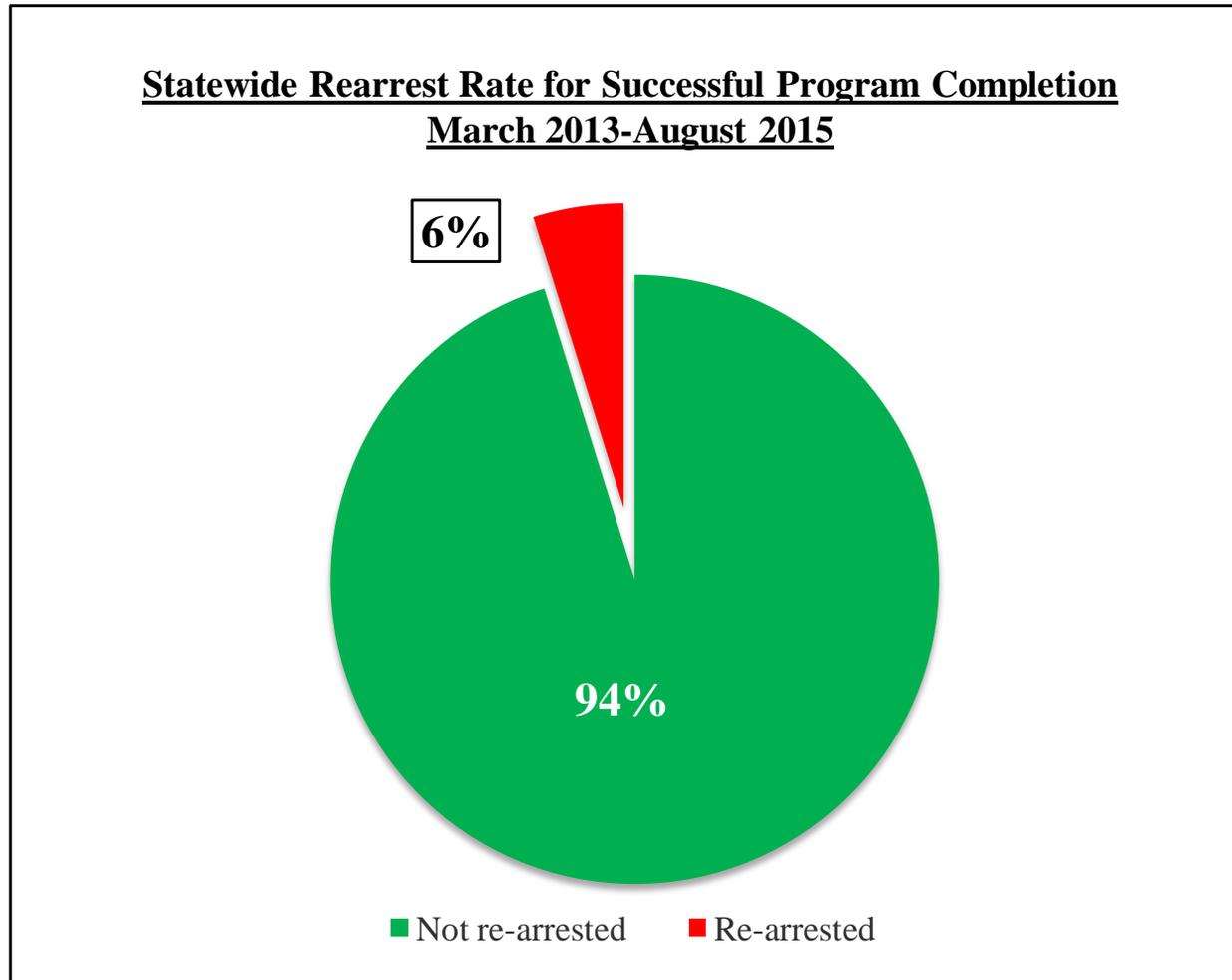


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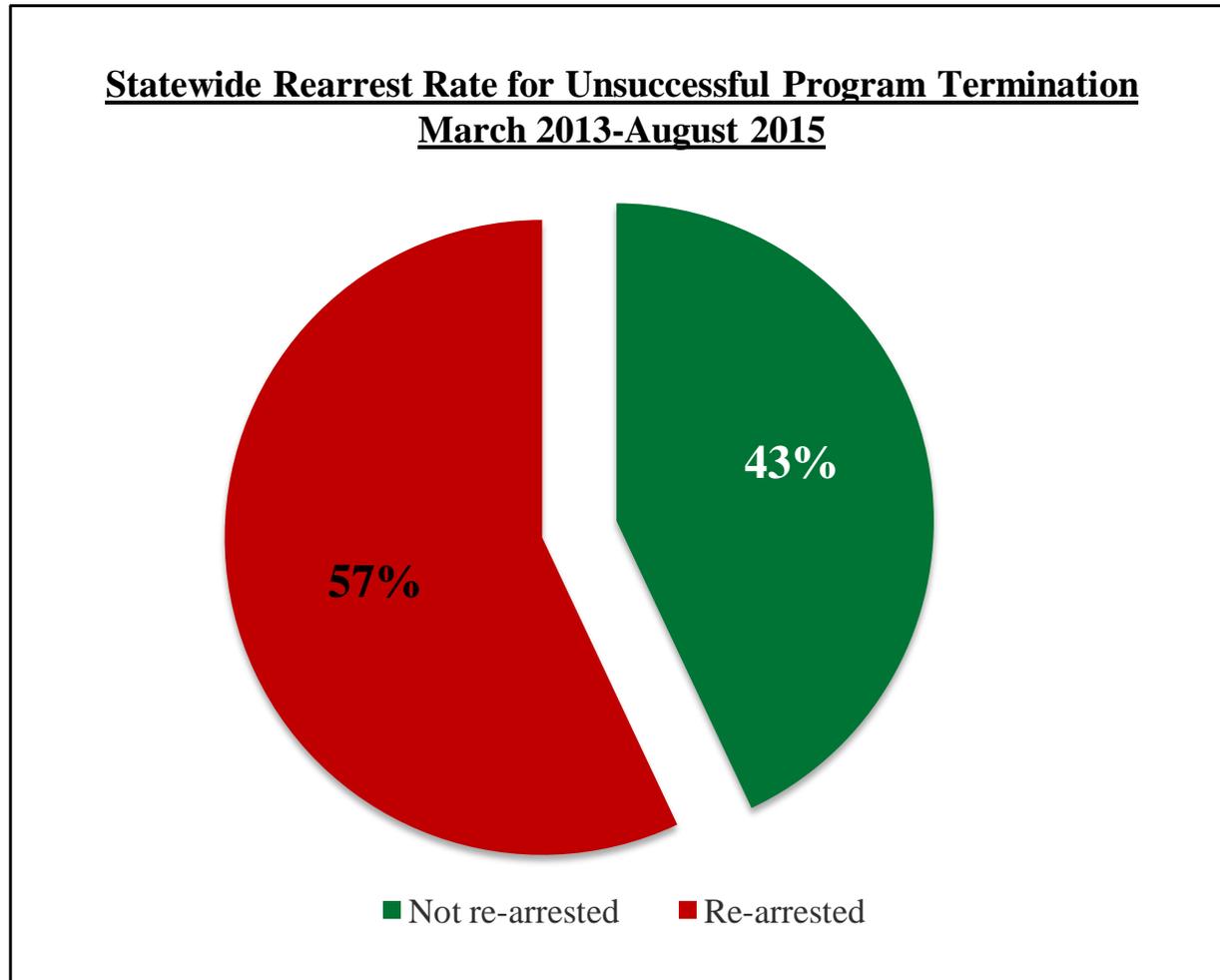


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The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

November 17, 2015

Dear Senator Simpson,

I respectfully request that **Senate Bill 0618**, regarding **Prearrest Diversion Programs**, be placed on the:

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

C

A handwritten signature in cursive script that reads "Greg Evers".

---

Senator Greg Evers  
Florida Senate, District 2



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

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

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

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BILL: SB 914

INTRODUCER: Senator Detert

SUBJECT: Public Records/Identifying Medical and Personal Information

DATE: January 15, 2016

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

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

---

**I. Summary:**

SB 914 creates an exemption from public records requirements for medical and personal identifying information of an applicant for or a recipient of the property tax exemption for totally and permanently disabled persons.

**II. Present Situation:**

**Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that

It is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> FLA. CONST., art. I, s. 24(a).

<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may create an exemption to public records requirements.<sup>9</sup> An exemption must pass by a two-thirds vote of the House and the Senate.<sup>10</sup> In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup> A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’<sup>13</sup> Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.<sup>14</sup>

### **Open Government Sunset Review Act<sup>15</sup>**

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

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<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

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<sup>11</sup> FLA. CONST., art. I, s. 24(c).

<sup>12</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>13</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>14</sup> A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

<sup>15</sup> Section 119.15, F.S.

The OGSR prescribes a legislative review process for newly created or substantially amended public records.<sup>16</sup> The OGSR provides that an exemption automatically repeals on October 2 of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>17</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:<sup>18</sup>

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.<sup>19</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.<sup>20</sup>

### **Statutory Exemptions from Public Records Law**

Section 119.07(1)(a), F.S., provides that any person is permitted to inspect and copy any public record unless the record falls under an exemption to the general rule.

Among the general exemptions set forth in s. 119.071, F.S., are exemptions for the home addresses, telephone numbers, social security numbers, dates of birth, and photographs of the following persons:

- Active or former sworn or civilian law enforcement officers, including correctional and correctional probation officers;
- Personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities;
- Personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect;

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<sup>16</sup> Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

<sup>17</sup> Section 119.15(3), F.S.

<sup>18</sup> Section 119.15(6)(a), F.S.

<sup>19</sup> FLA. CONST., art. I, s. 24(c).

<sup>20</sup> Section 119.15(7), F.S.

- Personnel of the Department of Revenue or local governments whose duties include revenue collection and enforcement or child support enforcement;
- Current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and
- Current or former public defenders, criminal conflict and civil regional counsel and their assistants.

The information exempted also includes the names, home addresses, telephone numbers, social security numbers, photographs, dates of birth, and places of employment of the persons' spouses and children, as well as the names and locations of schools and day care facilities attended by those persons' children.<sup>21</sup>

The commissioners and personnel of the Florida Commission on Offender Review, and capital collateral regional counsel and assistant capital collateral regional counsel are not subject to any public records exemptions, unlike public defenders, assistant public defenders, criminal conflict and civil regional counsel and assistant criminal conflict and civil regional counsel. Therefore, the home addresses, telephone numbers, dates of birth and photographs of current or former capital collateral regional counsel and assistant capital collateral regional counsel, and commissioners and personnel of the Florida Commission on Offender Review are currently public record. In addition, the home address, telephone number, dates of birth and places of employment of the spouses and children of those persons are public.

### **General Overview of Property Taxation**

The ad valorem tax or "property tax" is an annual tax levied by counties, cities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>22</sup> The property appraiser annually determines the "just value"<sup>23</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."<sup>24</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,<sup>25</sup> and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>26</sup>

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<sup>21</sup> Sections 119.071(4)(d)(2)(a), (d), and (j), F.S.

<sup>22</sup> Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>23</sup> Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>24</sup> *See* s. 192.001(2) and (16), F.S.

<sup>25</sup> FLA. CONST. art. VII, s. 1(a)

<sup>26</sup> *See* FLA. CONST. art. VII, s. 4.

The Florida Constitution authorizes the Legislature to provide an exemption for certain real estate owned by totally and permanently disabled persons.<sup>27</sup>

### **Property Tax Exemption for Totally and Permanently Disabled Persons<sup>28</sup>**

Section 196.101, F.S., provides that real estate used and owned as a homestead by a totally and permanently disabled person is exempt from taxation. To receive an exemption, persons must apply with their county property appraiser.<sup>29</sup> If filing for the first time, a certificate of total and permanent disability (Form DR-416)<sup>30</sup> from two licensed doctors of this state or from the United States Department of Veterans Affairs is required.<sup>31</sup> For the legally blind, one of the two may be a certificate from a Florida-licensed optometrist (Form DR-416B).<sup>32,33</sup> Real estate used and owned as a homestead by a quadriplegic, less any portion used for commercial purposes, is exempt from all ad valorem taxation.<sup>34</sup>

Real estate used and owned as a homestead by a paraplegic, hemiplegic, or other totally and permanently disabled person, who must use a wheelchair for mobility or who is legally blind, is exempt from taxation if the gross household income is below the current gross income limit of \$27,732.<sup>35,36</sup> Gross income is the income, including veterans' and social security benefits, of all persons residing in the homestead.<sup>37</sup>

### **Confidentiality of Returns**

Section 193.074, F.S., states:

All returns of property and returns required by former s. 201.022 submitted by the taxpayer pursuant to law shall be deemed to be confidential in the hands of the property appraiser, the clerk of the circuit court, the department, the tax collector, the Auditor General, and the Office of Program Policy Analysis and Government Accountability, and their employees and persons acting under their supervision and control, except upon court order or order of an administrative body having

<sup>27</sup> FLA. CONST. art. VII, s. 3(b).

<sup>28</sup> Section 196.101, F.S.

<sup>29</sup> Florida Department of Revenue, *Homestead and Other Exemptions*, <http://dor.myflorida.com/dor/property/taxpayers/exemptions.html> (last visited January 6, 2016).

<sup>30</sup> Florida Department of Revenue, *Physician's Certification of Total and Permanent Disability*, <http://dor.myflorida.com/dor/property/forms/current/dr416.pdf> (last visited January 6, 2016).

<sup>31</sup> Florida Department of Revenue, *Homestead and Other Exemptions*, <http://dor.myflorida.com/dor/property/taxpayers/exemptions.html> (last visited January 6, 2016).

<sup>32</sup> Florida Department of Revenue, *Optometrist's Certification of Total and Permanent Disability*, <http://dor.myflorida.com/dor/property/forms/current/dr416b.pdf> (last visited January 6, 2016).

<sup>33</sup> Florida Department of Revenue, *Homestead and Other Exemptions*, <http://dor.myflorida.com/dor/property/taxpayers/exemptions.html> (last visited January 6, 2016).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited January 8, 2016).

<sup>37</sup> Florida Department of Revenue, *Homestead and Other Exemptions*, <http://dor.myflorida.com/dor/property/taxpayers/exemptions.html> (last visited January 6, 2016).

quasi-judicial powers in ad valorem tax matters, and such returns are exempt from the provisions of s. 119.07(1).

### III. Effect of Proposed Changes:

**Section 1** exempts medical and personal identifying information of an applicant for or a recipient of the property tax exemption for totally and permanently disabled persons under s. 196.101, F.S., which is held by the property appraiser, the Department of Revenue, the tax collector, the Auditor General, and the Office of Program Policy Analysis and Government Accountability. The information is exempt from s. 119.071(1) and s. 24(a), Art. I of the Florida Constitution, if the applicant or recipient has made reasonable efforts to protect such information from being accessible through other means available to the public. This exemption applies to information held before, on, or after the effective date of this exemption. Information made confidential and exempt by this paragraph shall be disclosed with the express written consent of the applicant or recipient or the legally authorized representative of such person, by court order upon showing of good cause, or to another agency in the performance of its duties. The information disclosed to another agency will remain confidential and exempt. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal by the Legislature.

**Section 2** establishes the Legislature's purpose for enacting the new exemption, finding that it is a public necessity to exempt the medical and personal identifying information of an applicant for or a recipient of a property tax exemption for totally and permanently disabled persons under s. 196.101, F.S., from public records requirements. The release of an applicant's or recipient's medical or personal identifying information allows the public to gain knowledge of sensitive medical information, and could be used to harass or target these individuals in a negative way. The harm that may result from the release of this private information outweighs any public benefit that may be derived from disclosure of the information.

**Section 3** provides that the act shall take effect upon becoming a law.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Pursuant to Article I, s. 24(c) of the State Constitution, all public records exemptions require a two-thirds vote by both the Senate and the House.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 119.071 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 Detert

28-00315A-16

2016914\_\_

1                   A bill to be entitled  
2       An act relating to public records; amending s.  
3       119.071, F.S.; creating an exemption from public  
4       records requirements for medical and personal  
5       identifying information of an applicant for or a  
6       recipient of the property tax exemption for totally  
7       and permanently disabled persons; providing for  
8       retroactive application; authorizing disclosure of  
9       such information under certain conditions; providing  
10      for future legislative review and repeal of the  
11      exemption; providing a statement of public necessity;  
12      providing an effective date.

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

15  
16       Section 1. Paragraph (1) is added to subsection (5) of  
17      section 119.071, Florida Statutes, to read:

18       119.071 General exemptions from inspection or copying of  
19      public records.—

20       (5) OTHER PERSONAL INFORMATION.—

21       (1)1. Medical and personal identifying information of an  
22      applicant for or a recipient of the property tax exemption for  
23      totally and permanently disabled persons under s. 196.101, which  
24      is held by the property appraiser, the Department of Revenue,  
25      the tax collector, the Auditor General, and the Office of  
26      Program Policy Analysis and Government Accountability is  
27      confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
28      of the State Constitution, if the applicant or recipient has  
29      made reasonable efforts to protect such information from being

28-00315A-16

2016914\_\_

30 accessible through other means available to the public.

31 2. The exemption in this paragraph applies to information  
32 held by the property appraiser, the Department of Revenue, the  
33 tax collector, the Auditor General, and the Office of Program  
34 Policy Analysis and Government Accountability before, on, or  
35 after the effective date of this exemption.

36 3. Information made confidential and exempt by this  
37 paragraph shall be disclosed:

38 a. With the express written consent of the applicant or  
39 recipient or the legally authorized representative of such  
40 applicant or recipient;

41 b. By court order upon showing of good cause; or

42 c. To another agency in the performance of its duties and  
43 responsibilities. If disclosed to another agency, the  
44 information shall retain its confidential and exempt status.

45 4. This paragraph is subject to the Open Government Sunset  
46 Review Act in accordance with s. 119.15 and shall stand repealed  
47 on October 2, 2021, unless reviewed and saved from repeal  
48 through reenactment by the Legislature.

49 Section 2. The Legislature finds that it is a public  
50 necessity that medical and personal identifying information of  
51 an applicant for or a recipient of a property tax exemption for  
52 totally and permanently disabled persons under s. 196.101,  
53 Florida Statutes, which is held by the property appraiser, the  
54 Department of Revenue, the tax collector, the Auditor General,  
55 and the Office of Program Policy Analysis and Government  
56 Accountability, be made confidential and exempt from public  
57 records requirements. A totally and permanently disabled person  
58 is required to file an application containing medical and

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2016914\_\_

59 personal identifying information and a certification of his or  
60 her disability in order to claim a property tax exemption. The  
61 exemption is granted only to those who have a severe physical or  
62 mental disability. The Legislature finds that the release of an  
63 applicant's or a recipient's medical or personal identifying  
64 information allows the public to gain knowledge of sensitive,  
65 personal medical information that might be used to harass,  
66 embarrass, or humiliate the individual based on his or her  
67 disability. In addition, the release of an applicant's or a  
68 recipient's medical or personal identifying information would  
69 enable nefarious characters to gain knowledge of the applicant's  
70 or recipient's vulnerabilities, and such knowledge could result  
71 in these individuals becoming targets of acts of violence and  
72 other crimes. The Legislature further finds that the harm that  
73 may result from the release of such medical and personal  
74 identifying information outweighs any public benefit that may be  
75 derived from disclosure of the information.

76 Section 3. 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:** December 10, 2015

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I respectfully request that **Senate Bill #914**, relating to Public Records/Identifying Medical and Personal Information, be placed on the:

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

A handwritten signature in black ink, reading "Nancy C. Detert", written over a light blue rectangular background.

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Senator Nancy C. Detert  
Florida Senate, District 28



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

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

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

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BILL: CS/SB 1156

INTRODUCER: Community Affairs Committee and Senator Hutson

SUBJECT: Community Development Districts

DATE: January 15, 2016

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1156 revises the acreage size requirements that determine the track that a prospective Community Development District (CDD) must undertake as it seeks to become established. The bill also makes explicit that a CDD is not prohibited from contracting with a towing operator to remove a vehicle or vessel from a CDD-owned facility or property. The bill also provides a new process for the merger of CDDs—permitting up to five CDDs to combine into one surviving CDD, providing the composition for the surviving CDD board of supervisors, and providing other requirements for merger.

**II. Present Situation:**

**Community Development Districts**

Community Development Districts are special-purpose units of local government established to help Florida development and growth “pay for itself” by providing infrastructure and services for new and existing communities when such infrastructure and services would not otherwise be available from other local, general-purpose governments like counties and municipalities.<sup>1</sup> CDDs serve as an alternative means of financing, constructing, acquiring, operating, and maintaining public infrastructure improvements to communities throughout Florida such as roads, utilities,

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<sup>1</sup> Jere L. Earlywine and Katie S. Buchanan, *The Role of Community Development Districts In Florida*, Florida Environmental and Land Use Law Treatise 25.10-1 (2015).

hardscaping, landscaping, streetlights, stormwater infrastructure, conservation and mitigation areas, recreation facilities, and various other improvements allowed by statute.<sup>2</sup>

### **Creation of CDDs**

There are two different tracks for the establishment of a CDD: one for CDDs with 1,000 acres or more and one for CDDs with less than 1,000 acres. CDDs of 1,000 acres or more are reviewed at a state and local level and are established by administrative rule. Smaller CDDs of less than 1,000 acres are reviewed at a local level and establish by ordinance, though local governments may refer a petition for a smaller CDD to the state for processing.

### ***CDDs of 1,000 Acres or More in Size***

In order to establish a CDD of 1,000 acres or more, a petition must be filed with the FLWAC. An establishment petition filed with FLWAC must contain all of the following elements:<sup>3</sup>

- A metes and bounds description of the external boundaries of the CDD;
- The written consent to the establishment of the CDD by all landowners whose real property is to be included in the CDD;
- A designation of five persons to be the initial members of the board of supervisors, who shall serve in that office until replaced by elected members as provided in s. 190.006, F.S.;
- The proposed name of the CDD;
- A map of the proposed district showing current major trunk water mains and sewer inceptors and outfalls if in existence;
- Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services;
- A designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the CDD; and
- A statement of estimated regulatory costs in accordance with the requirements of s. 120.541, F.S.

Before filing the petition, a petitioner must pay a \$15,000 filing fee to each of the municipalities or counties in which the CDD would be located.<sup>4</sup> After the petition is filed, a local public hearing on the petition is conducted pursuant to the Administrative Procedure Act, ch. 120, F.S., in the county where the proposed CDD would be located.<sup>5</sup> This hearing is conducted by an administrative law judge selected by the Division of Administrative Hearings (DOAH). The petitioner is required to publish notice of the hearing in a newspaper of paid general circulation for 4 consecutive weeks immediately before the hearing and the notice must identify the date, time, and location of the hearing and describe the area to be included in the CDD, along with other applicable information.<sup>6</sup> All units of general-purpose local government which are affected and the general public must be given an opportunity to appear at the hearing and be given the ability to make oral or written comments on the petition.<sup>7</sup> Furthermore, each affected county and

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<sup>2</sup> *Id.*

<sup>3</sup> Section 190.005(1)(a), F.S.

<sup>4</sup> Section 190.005(1)(b), F.S.

<sup>5</sup> Section 190.005(1)(d), F.S.

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

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

municipality is authorized to conduct its own public hearing to recommend whether the petition should be granted or denied by FLWAC, but the hearing must take place before the DOAH hearing and must be concluded within 45 days after the petition is filed.<sup>8</sup> After such a hearing, the county or municipality may adopt a resolution expressing its support of, or objection to, the granting of the petition by FLWAC.<sup>9</sup>

The administrative law judge presiding over the DOAH hearing will prepare a report and recommendation to FLWAC. In determining whether to grant or deny an establishment petition, FLWAC is required to consider the entire record from the local DOAH hearing, the transcript from the hearing, any resolutions adopted by counties or municipalities addressing the petition, and must ultimately make a determination after considering each of the factors set forth in s. 190.005(1)(e), F.S.

If a CDD established by FLWAC wants any of the special powers enumerated in s. 190.012, F.S.,<sup>10</sup> it must request such powers from the local general-purpose government within the jurisdiction of which they are to be exercised.

### ***CDDs Less Than 1,000 Acres in Size***

For a CDD less than 1,000 acres in size, the petition is filed with the county or municipality in which the CDD would be located and must contain the same information as a petition filed with FLWAC.<sup>11</sup> However, municipalities and counties may impose additional petition requirements through policymaking or ordinance. Some municipalities and counties have also set their own filing fees, which are generally due at the time of filing.<sup>12</sup>

Petitions to establish a CDD less than 1,000 acres in size are processed similarly to FLWAC petitions with a few exceptions. The petition must contain the same elements as a FLWAC, but the petition is submitted to the municipality or county in which the proposed CDD would be located rather than FLWAC.<sup>13</sup> Furthermore, instead of a DOAH hearing, the municipality or county must conduct its own public hearing using the same requirements and procedures—i.e., the hearing must be held in the municipality or county in which the CDD would be located, must be noticed for 4 consecutive weeks in a newspaper of general circulation, and must allow all affected units of general-purpose local government and the general public an opportunity to appear at the hearing and present oral or written comments.<sup>14</sup> As is the case with FLWAC, the municipality or county commission must consider the entire record of the public hearing and the factors set forth in s. 190.005(1)(e), F.S., to determine whether to grant the petition.<sup>15</sup> Any ordinance adopted by a municipality or county establishing a CDD may only contain those

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<sup>8</sup> Section 190.005(1)(c), F.S.

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

<sup>10</sup> Such powers include the ability to finance, construct, acquire, operate, and maintain parks and facilities for certain uses; fire prevention and control; school buildings and related structures; security; control and elimination of mosquitoes; and waste collection and disposal. Section 190.012(2), F.S.

<sup>11</sup> Section 190.005(2), F.S.

<sup>12</sup> *Earlywine and Buchanan, supra* note 1, at 25.10-5.

<sup>13</sup> Section 190.005(2), F.S.

<sup>14</sup> Section 190.005(2)(b), F.S.

<sup>15</sup> Section 190.005(2)(c), F.S.

matters permitted to be included in a FLWAC rule as set forth in s. 190.005(1)(f), F.S., unless the county or municipality consents to any of the optional powers under s. 190.012, F.S.<sup>16</sup>

### **Boundary Amendments**

A CDD may amend its boundaries after it has been established. Section 190.046, F.S., governs this process. A boundary amendment petition must contain a metes and bounds description of the boundaries of the CDD, and a statement of estimated regulatory costs.<sup>17</sup> If the petitioner seeks to expand the CDD area, the petition shall describe “the proposed timetable for construction of any district services to the area, the estimated cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan.”<sup>18</sup> If the petitioner seeks to contract the CDD, the petition shall describe “what services and facilities are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.”<sup>19</sup> Generally, the boundary amendment petition must be filed with the entity that established the CDD.<sup>20</sup>

If FLWAC established the CDD, the boundary amendment petition must be filed with FLWAC.<sup>21</sup> The petitioner must pay a filing fee of \$1,500 to the county if the CDD or the land to be added to or deleted from the CDD is located within an unincorporated area, or to the municipality if the CDD or the land to be added to or deleted from the CDD is located within an incorporated area, and to each municipality the boundaries of which are contiguous with or contain all or a portion of the land within or to be added to or deleted from the external boundaries of the CDD.<sup>22</sup>

Each county and municipality has the opportunity to hold a public hearing as provided in s. 190.005(1)(c), F.S.<sup>23</sup> However, the public hearing shall be limited to consideration of the contents of the petition and whether the petition for amendment should be supported by the county or municipality.<sup>24</sup> Within 45 days after the conclusion of the public hearing, the CDD board of supervisors must transmit to FLWAC the full record of the local hearing, the transcript of the hearing, any resolutions adopted by the local general-purpose governments, and its recommendation stating whether to grant the petition for amendment.<sup>25</sup> The FLWAC must then determine whether to grant the petition based on the criteria used for establishment of CDDs, as set forth in s. 190.005(1)(e), F.S.<sup>26</sup>

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<sup>16</sup> Section 190.005(2)(d), F.S.

<sup>17</sup> Section 190.046(1)(a), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Section 190.046(1)(b) and (c), F.S.

<sup>21</sup> Section 190.046(1)(d), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

For FLWAC-established CDDs, a boundary amendment may not result in a cumulative net total greater than 10 percent of the land in the initial CDD and in no event greater than 250 acres on a cumulative net basis.<sup>27</sup> For a CDD established by a municipality or a county, a boundary amendment may not result in a cumulative net total greater than 50 percent of the land in the initial CDD and in no event greater than 500 acres on a cumulative net basis.<sup>28</sup> If the boundary amendment exceeds these criteria, the boundary amendment petition may still proceed but it is processed in accordance with s. 190.005, F.S., which has additional requirements including additional notice similar to that necessary for a new establishment. Any resulting administrative rule or ordinance may only amend the boundaries of the CDD; it does not result in the establishment of a new CDD or a change to the CDD election timeframes.<sup>29</sup>

In all cases of a petition to amend the boundaries of a CDD, the filing of the petition by the CDD constitutes consent of the landowners within the amended CDD.<sup>30</sup> As a result, the only other consent necessary for a boundary amendment is the written consent of those landowners whose land is to be added to or removed from the CDD.<sup>31</sup>

### **Merger of CDDs**

A CDD may merge with other community development districts upon filing a petition for merger, which shall include the elements set forth in s. 190.005(1), F.S., and which shall be evaluated pursuant to the criteria set forth in s. 190.005(1)(e), F.S.<sup>32</sup> The petition shall state whether a new district is to be established or whether one district shall be the surviving district.<sup>33</sup> The district may merge with any other special districts upon filing a petition of establishment of a CDD pursuant to s. 190.005, F.S.<sup>34</sup> The government formed by a merger involving a CDD shall assume all indebtedness of, and receive title to, all property owned by the preexisting special districts, and the rights of creditors and liens upon property are not impaired by such merger.<sup>35</sup> Any claim existing or action or proceeding pending by or against any CDD that is a party to the merger must enter into a merger agreement and must provide for the proper allocation of the indebtedness and the manner in which such debt is retired.<sup>36</sup> The approval of the merger agreement and the petition by the board of supervisors of the CDD constitutes consent of the landowners within the district.<sup>37</sup>

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

**Section 1** amends s. 190.005, F.S., revising the criteria for determining which establishment process a CDD must undertake. A CDD of 2,500 acres or more, rather than 1,000 acres or more, will now petition FLWAC for the establishment of a CDD. On the other hand, CDDs with less

<sup>27</sup> Section 190.046(1)(e), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Section 190.005(1)(f), F.S.

<sup>30</sup> Section 190.005(1)(g), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> Section 190.046(3), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

than 2,500 acres will now petition the county or municipality in which the CDD would be located.

**Section 2** amends s. 190.012, F.S., providing that a CDD is not prohibited from contracting with a towing operator to remove a vehicle or vessel from a district-owned facility or property. This is despite the provision in s. 190.012(2)(d), F.S., which requires prior consent from the local general-purpose government in order for a CDD to “have the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for...security.” When removing a vehicle or vessel from a CDD-owned facility or property, the CDD has the same authorization and is subject to the same notice and procedural requirements as provided in s. 715.07, F.S., for the owner or lessee of private property. The selection of a towing operator by a CDD is not subject to public bidding if the towing operator is included in an approved list of towing operators maintained by the local government that has jurisdiction over the CDD facility or property.

**Section 3** amends s. 190.046, F.S., revising the process for amending CDD boundaries. For FLWAC-established CDDs, the limitation on boundary amendments is raised from a maximum cumulative net total no greater than 10 percent of the initial land and no greater than 250 acres on a cumulative net basis to no greater than 50 percent of the initial land and no greater than 1,000 acres on a cumulative net basis. For municipality- or county-established CDDs, the limitation is raised from no greater than 500 acres on a cumulative net basis of the initial land to no greater than 1,000 acres on a cumulative net basis. The 50 percent maximum in current law does not change for CDDs established by county or municipal ordinance.

The section also provides that up to five CDDs whose boards of supervisors are composed entirely of qualified electors and established by the same local general-purpose government may merge into one surviving district through adoption of an ordinance by the local general-purpose government, regardless of the size of the surviving merged district. The filing of a petition by the majority of the members of each of the district board of supervisors seeking to merge constitutes consent of the landowners within each applicable district.

The merger agreement entered into between the district boards must meet the requirements in s. 190.046(3), F.S., and must also meet the following requirements:

- The surviving merged district board must consist of five elected board members.
- Each at-large board seat must represent the entire geographic area of the surviving merged district.
- Each CDD that seeks to merge is entitled to a fair allocation of board membership to represent the districts being merged. To that end:
  - If two districts merge, two board members shall be elected from each of the districts and one board member shall be elected at-large.
  - If three districts merge, one board member shall be elected from each of the three districts and two board members shall be elected at-large.
  - If four districts merge, one board member shall be elected from each of the four districts and one board member shall be elected at-large.
  - If five districts merge, one board member shall be elected from each of the five districts.

- The election of district supervisors for the surviving merged district must be held at the next general election following the merger, at which time all terms of preexisting supervisors shall end and the merger shall be legally in effect.
- Before filing a petition to merge by ordinance of the local general-purpose government, each district proposing to merge must hold a public hearing within its district for the purpose of providing information about and taking public comment on the proposed merger, merger agreement, and assignment of district supervisor seats on the surviving merged district board. Notice of the hearing must be published at least 14 days before the hearing. If, after the public hearing, a district board decides that it no longer wants to merge and cancels the merger agreement, the remaining districts must each hold another public hearing on the revised merger agreement. A petition to merge may not be filed for at least 30 days after the last public hearing held by the districts proposing to move.

**Section 4** 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:

The merger of CDDs may result in administrative cost savings which may be passed on to residents.

C. Government Sector Impact:

The FLWAC may see fewer applications for the establishment of a CDD, and counties and municipalities may see more applications, as CDDs between 1,000 and 2,499 acres will apply to the county or municipality in which it is to be located rather than FLWAC.

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

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 190.005, 190.012, and 190.046 of the Florida Statutes.

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

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

**CS by Community Affairs on January 19, 2016:**

Restores the requirement in current law that a petitioner publish notice of the hearing for the establishment of a CDD in a newspaper of paid general circulation for 4 consecutive weeks immediately before the hearing. In addition, provisions regarding merger are conformed to HB 971 with the only substantive changes being the removal of a provision regarding the possibility of a second merger and the additional requirement that each at-large board seat after merger represent the entire geographic area of the surviving merged district.

**B. Amendments:**

None.



302946

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2016	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 130 - 370  
and insert:  
week for the 4 successive weeks immediately before ~~prior to~~ the hearing. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require.



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11 The advertisement shall not be placed in that portion of the  
12 newspaper where legal notices and classified advertisements  
13 appear. The advertisement shall be published in a newspaper of  
14 general paid circulation in the county and of general interest  
15 and readership in the community, not one of limited subject  
16 matter, pursuant to chapter 50. If ~~Whenever~~ possible, the  
17 advertisement shall appear in a newspaper that is published at  
18 least 5 days a week, unless the only newspaper in the community  
19 is published fewer than 5 days a week. In addition to being  
20 published in the newspaper, the map referenced above must be  
21 part of the online advertisement required pursuant to s.  
22 50.0211. All affected units of general-purpose local government  
23 and the general public shall be given an opportunity to appear  
24 at the hearing and present oral or written comments on the  
25 petition.

26 (e) The Florida Land and Water Adjudicatory Commission  
27 shall consider the entire record of the local hearing, the  
28 transcript of the hearing, resolutions adopted by local general-  
29 purpose governments as provided in paragraph (c), and the  
30 following factors and make a determination to grant or deny a  
31 petition for the establishment of a community development  
32 district:

33 1. Whether all statements contained within the petition  
34 have been found to be true and correct.

35 2. Whether the establishment of the district is  
36 inconsistent with any applicable element or portion of the state  
37 comprehensive plan or of the effective local government  
38 comprehensive plan.

39 3. Whether the area of land within the proposed district is



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40 of sufficient size, is sufficiently compact, and is sufficiently  
41 contiguous to be developable as one functional interrelated  
42 community.

43 4. Whether the district is the best alternative available  
44 for delivering community development services and facilities to  
45 the area that will be served by the district.

46 5. Whether the community development services and  
47 facilities of the district will be incompatible with the  
48 capacity and uses of existing local and regional community  
49 development services and facilities.

50 6. Whether the area that will be served by the district is  
51 amenable to separate special-district government.

52 (f) The Florida Land and Water Adjudicatory Commission  
53 shall not adopt any rule which would expand, modify, or delete  
54 any provision of the uniform community development district  
55 charter as set forth in ss. 190.006-190.041, except as provided  
56 in s. 190.012. A rule establishing a community development  
57 district shall only contain the following:

58 1. A metes and bounds description of the external  
59 boundaries of the district and any real property within the  
60 external boundaries of the district which is to be excluded.

61 2. The names of five persons designated to be the initial  
62 members of the board of supervisors.

63 3. The name of the district.

64 (g) The Florida Land and Water Adjudicatory Commission may  
65 adopt rules setting forth its procedures for considering  
66 petitions to establish, expand, modify, or delete uniform  
67 community development districts or portions thereof consistent  
68 with the provisions of this section.



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69           (2) The exclusive and uniform method for the establishment  
70 of a community development district of less than 2,500 ~~1,000~~  
71 acres in size or a community development district of up to 7,000  
72 acres in size located within a connected-city corridor  
73 established pursuant to s. 163.3246(14) shall be pursuant to an  
74 ordinance adopted by the county commission of the county having  
75 jurisdiction over the majority of land in the area in which the  
76 district is to be located granting a petition for the  
77 establishment of a community development district as follows:

78           (a) A petition for the establishment of a community  
79 development district shall be filed by the petitioner with the  
80 county commission. The petition shall contain the same  
81 information as required in paragraph (1) (a).

82           (b) A public hearing on the petition shall be conducted by  
83 the county commission in accordance with the requirements and  
84 procedures of paragraph (1) (d).

85           (c) The county commission shall consider the record of the  
86 public hearing and the factors set forth in paragraph (1) (e) in  
87 making its determination to grant or deny a petition for the  
88 establishment of a community development district.

89           (d) The county commission shall not adopt any ordinance  
90 which would expand, modify, or delete any provision of the  
91 uniform community development district charter as set forth in  
92 ss. 190.006-190.041. An ordinance establishing a community  
93 development district shall only include the matters provided for  
94 in paragraph (1) (f) unless the commission consents to any of the  
95 optional powers under s. 190.012(2) at the request of the  
96 petitioner.

97           (e) If all of the land in the area for the proposed



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98 district is within the territorial jurisdiction of a municipal  
99 corporation, then the petition requesting establishment of a  
100 community development district under this act shall be filed by  
101 the petitioner with that particular municipal corporation. In  
102 such event, the duties of the county, hereinabove described, in  
103 action upon the petition shall be the duties of the municipal  
104 corporation. If any of the land area of a proposed district is  
105 within the land area of a municipality, the county commission  
106 may not create the district without municipal approval. If all  
107 of the land in the area for the proposed district, even if less  
108 than 2,500 ~~1,000~~ acres, is within the territorial jurisdiction  
109 of two or more municipalities or two or more counties, except  
110 for proposed districts within a connected-city corridor  
111 established pursuant to s. 163.3246(14), the petition shall be  
112 filed with the Florida Land and Water Adjudicatory Commission  
113 and proceed in accordance with subsection (1).

114 (f) Notwithstanding any other provision of this subsection,  
115 within 90 days after a petition for the establishment of a  
116 community development district has been filed pursuant to this  
117 subsection, the governing body of the county or municipal  
118 corporation may transfer the petition to the Florida Land and  
119 Water Adjudicatory Commission, which shall make the  
120 determination to grant or deny the petition as provided in  
121 subsection (1). A county or municipal corporation does not ~~shall~~  
122 have the ~~no~~ right or power to grant or deny a petition that has  
123 been transferred to the Florida Land and Water Adjudicatory  
124 Commission.

125 Section 2. Paragraph (d) of subsection (2) of section  
126 190.012, Florida Statutes, is amended to read:



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127           190.012 Special powers; public improvements and community  
128 facilities.—The district shall have, and the board may exercise,  
129 subject to the regulatory jurisdiction and permitting authority  
130 of all applicable governmental bodies, agencies, and special  
131 districts having authority with respect to any area included  
132 therein, any or all of the following special powers relating to  
133 public improvements and community facilities authorized by this  
134 act:

135           (2) After the local general-purpose government within the  
136 jurisdiction of which a power specified in this subsection is to  
137 be exercised consents to the exercise of such power by the  
138 district, the district shall have the power to plan, establish,  
139 acquire, construct or reconstruct, enlarge or extend, equip,  
140 operate, and maintain additional systems and facilities for:

141           (d) Security, including, but not limited to, guardhouses,  
142 fences and gates, electronic intrusion-detection systems, and  
143 patrol cars, when authorized by proper governmental agencies;  
144 except that the district may not exercise any police power, but  
145 may contract with the appropriate local general-purpose  
146 government agencies for an increased level of such services  
147 within the district boundaries. This paragraph does not prohibit  
148 a district from contracting with a towing operator to remove a  
149 vehicle or vessel from a district-owned facility or property.  
150 When removing a vehicle or vessel from a district-owned facility  
151 or property, the district has the same authorization and is  
152 subject to the same notice and procedural requirements as the  
153 authorization and the notice and procedural requirements  
154 provided in s. 715.07 for an owner or lessee of private  
155 property. The district's selection of a towing operator is not



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156 subject to public bidding if the towing operator is included in  
157 an approved list of towing operators maintained by the local  
158 government that has jurisdiction over the district's facility or  
159 property.

160 Section 3. Paragraph (e) of subsection (1) and subsection  
161 (2) of section 190.046, Florida Statutes, are amended, present  
162 subsections (4) through (9) of that section are redesignated as  
163 subsections (5) through (10), respectively, and a new subsection  
164 (4) is added to that section, to read:

165 190.046 Termination, contraction, or expansion of  
166 district.—

167 (1) A landowner or the board may petition to contract or  
168 expand the boundaries of a community development district in the  
169 following manner:

170 (e)1. During the existence of a district initially  
171 established by administrative rule, the process to amend the  
172 boundaries of the district pursuant to paragraphs (a)-(d) shall  
173 not permit a cumulative net total greater than 50 ~~10~~ percent of  
174 the land in the initial district, and in no event greater than  
175 1,000 ~~250~~ acres on a cumulative net basis.

176 2. During the existence of a district initially established  
177 by county or municipal ordinance, the process to amend the  
178 boundaries of the district pursuant to paragraphs (a)-(d) shall  
179 not permit a cumulative net total greater than 50 percent of the  
180 land in the initial district, and in no event greater than 1,000  
181 ~~500~~ acres on a cumulative net basis.

182 (2) The district shall remain in existence unless:

183 (a) The district is merged with another district as  
184 provided in subsection (3) or subsection (4);



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185 (b) All of the specific community development systems,  
186 facilities, and services that it is authorized to perform have  
187 been transferred to a general-purpose unit of local government  
188 in the manner provided in subsections ~~(4)~~, (5), (6), and (7)  
189 ~~(6)~~; or

190 (c) The district is dissolved as provided in ~~subsection~~  
191 ~~(7)~~, subsection (8), ~~or~~ subsection (9), or subsection (10).

192 (4) (a) To achieve economies of scale, reduce costs to  
193 affected district residents and businesses in areas with  
194 multiple existing districts, and encourage the merger of  
195 multiple districts, up to five districts that were established  
196 by the same local general-purpose government and whose board  
197 memberships are composed entirely of qualified electors may  
198 merge into one surviving district through adoption of an  
199 ordinance by the local general-purpose government,  
200 notwithstanding the acreage limitations otherwise set forth for  
201 the establishment of a district in this chapter. The filing of a  
202 petition by the majority of the members of each of the district  
203 board of supervisors seeking to merge constitutes consent of the  
204 landowners within each applicable district.

205 (b) In addition to meeting the requirements of subsection  
206 (3), a merger agreement entered into between the district boards  
207 subject to this subsection must also:

208 1. Require the surviving merged district board to consist  
209 of five elected board members.

210 2. Require each at-large board seat to represent the entire  
211 geographic area of the surviving merged district.

212 3. Ensure that each district to be merged is entitled to  
213 elect at least one board member from its former boundary.



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214 4. Ensure a fair allocation of board membership to  
215 represent the districts being merged. To that end:

216 a. If two districts merge, two board members shall be  
217 elected from each of the districts and one board member shall be  
218 elected at-large.

219 b. If three districts merge, one board member shall be  
220 elected from each of the three districts and two board members  
221 shall be elected at-large.

222 c. If four districts merge, one board member shall be  
223 elected from each of the four districts and one board member  
224 shall be elected at-large.

225 d. If five districts merge, one board member shall be  
226 elected from each of the five districts.

227 5. Require the election of board members for the surviving  
228 merged district to be held at the next general election  
229 following the merger, at which time all terms of preexisting  
230 board members shall end and the merger shall be legally in  
231 effect.

232 (c) Before filing the merger petition with the local  
233 general-purpose government under this subsection, each district  
234 proposing to merge must hold a public hearing within its  
235 district to provide information about and take public comment on  
236 the proposed merger, merger agreement, and assignment of board  
237 seats. Notice of the hearing shall be published at least 14 days  
238 before the hearing. If, after the public hearing, a district  
239 board decides that it no longer wants to merge and cancels the  
240 proposed merger agreement, the remaining districts shall each  
241 hold another public hearing on the revised merger agreement. A  
242 petition to merge may not be filed for at least 30 days after



243 the last public hearing held by the districts proposing to  
244 merge.

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

246 And the title is amended as follows:

247 Delete lines 6 - 28

248 and insert:

249 increasing maximum size requirements for the  
250 establishment of community development districts under  
251 certain circumstances; providing certain petition  
252 requirements if all of the land in the area for a  
253 proposed district is within the territorial  
254 jurisdiction of two or more counties; conforming a  
255 provision to changes made by the act; amending s.  
256 190.012, F.S.; providing that a district is not  
257 prohibited from contracting with a towing operator to  
258 remove vehicles or vessels from specified facilities  
259 or properties, subject to certain requirements;  
260 amending s. 190.046, F.S.; revising requirements  
261 related to the process of amending community  
262 development district boundaries; authorizing up to a  
263 certain number of districts to merge into one  
264 surviving district, subject to certain requirements;  
265 providing requirements of the merger agreement;  
266 providing for membership of the surviving merged  
267 district board; providing for public hearings subject  
268 to certain requirements; prohibiting a petition to  
269 merge from being filed within a specified timeframe;  
270 conforming cross-references; providing an effective  
271 date.

By Senator Hutson

6-00780A-16

20161156\_\_

1                   A bill to be entitled  
2           An act relating to community development districts;  
3           amending s. 190.005, F.S.; increasing minimum size  
4           requirements for the establishment of a community  
5           development district under certain circumstances;  
6           revising notice requirements; increasing maximum size  
7           requirements for the establishment of community  
8           development districts under certain circumstances;  
9           providing certain petition requirements if all of the  
10          land in the area for a proposed district is within the  
11          territorial jurisdiction of two or more counties;  
12          conforming a provision to changes made by the act;  
13          amending s. 190.012, F.S.; providing that a district  
14          is not prohibited from contracting with a towing  
15          operator to remove vehicles or vessels from specified  
16          facilities or properties, subject to certain  
17          requirements; amending s. 190.046, F.S.; revising  
18          requirements related to the process of amending  
19          community development district boundaries; authorizing  
20          certain districts up to a specified number to merge  
21          into one surviving district, subject to certain  
22          requirements; providing for membership of the  
23          surviving merged district board; providing  
24          requirements of the merger agreement; providing for  
25          public hearings subject to certain requirements;  
26          prohibiting a petition to merge from being filed  
27          within a specified timeframe; conforming provisions to  
28          changes made by the act; providing an effective date.

29  
30 Be It Enacted by the Legislature of the State of Florida:

31  
32           Section 1. Subsections (1) and (2) of section 190.005,

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33 Florida Statutes, are amended to read:

34 190.005 Establishment of district.—

35 (1) The exclusive and uniform method for the establishment  
36 of a community development district with a size of 2,500 ~~1,000~~  
37 acres or more shall be pursuant to a rule, adopted under chapter  
38 120 by the Florida Land and Water Adjudicatory Commission,  
39 granting a petition for the establishment of a community  
40 development district.

41 (a) A petition for the establishment of a community  
42 development district shall be filed by the petitioner with the  
43 Florida Land and Water Adjudicatory Commission. The petition  
44 shall contain:

45 1. A metes and bounds description of the external  
46 boundaries of the district. Any real property within the  
47 external boundaries of the district which is to be excluded from  
48 the district shall be specifically described, and the last known  
49 address of all owners of such real property shall be listed. The  
50 petition shall also address the impact of the proposed district  
51 on any real property within the external boundaries of the  
52 district which is to be excluded from the district.

53 2. The written consent to the establishment of the district  
54 by all landowners whose real property is to be included in the  
55 district or documentation demonstrating that the petitioner has  
56 control by deed, trust agreement, contract, or option of 100  
57 percent of the real property to be included in the district, and  
58 when real property to be included in the district is owned by a  
59 governmental entity and subject to a ground lease as described  
60 in s. 190.003(14), the written consent by such governmental  
61 entity.

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62           3. A designation of five persons to be the initial members  
63 of the board of supervisors, who shall serve in that office  
64 until replaced by elected members as provided in s. 190.006.

65           4. The proposed name of the district.

66           5. A map of the proposed district showing current major  
67 trunk water mains and sewer interceptors and outfalls if in  
68 existence.

69           6. Based upon available data, the proposed timetable for  
70 construction of the district services and the estimated cost of  
71 constructing the proposed services. These estimates shall be  
72 submitted in good faith but are not binding and may be subject  
73 to change.

74           7. A designation of the future general distribution,  
75 location, and extent of public and private uses of land proposed  
76 for the area within the district by the future land use plan  
77 element of the effective local government comprehensive plan of  
78 which all mandatory elements have been adopted by the applicable  
79 general-purpose local government in compliance with the  
80 Community Planning Act.

81           8. A statement of estimated regulatory costs in accordance  
82 with the requirements of s. 120.541.

83           (b) Before ~~Prior to~~ filing the petition, the petitioner  
84 shall:

85           1. Pay a filing fee of \$15,000 to the county, if located  
86 within an unincorporated area, or to the municipality, if  
87 located within an incorporated area, and to each municipality  
88 the boundaries of which are contiguous with, or contain all or a  
89 portion of the land within, the external boundaries of the  
90 district.

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91           2. Submit a copy of the petition to the county, if located  
92 within an unincorporated area, or to the municipality, if  
93 located within an incorporated area, and to each municipality  
94 the boundaries of which are contiguous with, or contain all or a  
95 portion of, the land within the external boundaries of the  
96 district.

97           3. If land to be included within a district is located  
98 partially within the unincorporated area of one or more counties  
99 and partially within a municipality or within two or more  
100 municipalities, pay a \$15,000 filing fee to each entity.  
101 Districts established across county boundaries shall be required  
102 to maintain records, hold meetings and hearings, and publish  
103 notices only in the county where the majority of the acreage  
104 within the district lies.

105           (c) Such county and each such municipality required by law  
106 to receive a petition may conduct a public hearing to consider  
107 the relationship of the petition to the factors specified in  
108 paragraph (e). The public hearing shall be concluded within 45  
109 days after the date the petition is filed unless an extension of  
110 time is requested by the petitioner and granted by the county or  
111 municipality. The county or municipality holding such public  
112 hearing may by resolution express its support of, or objection  
113 to the granting of, the petition by the Florida Land and Water  
114 Adjudicatory Commission. A resolution must base any objection to  
115 the granting of the petition upon the factors specified in  
116 paragraph (e). Such county or municipality may present its  
117 resolution of support or objection at the Florida Land and Water  
118 Adjudicatory Commission hearing and shall be afforded an  
119 opportunity to present relevant information in support of its

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120 resolution.

121 (d) A local public hearing on the petition shall be  
122 conducted by a hearing officer in conformance with the  
123 applicable requirements and procedures of the Administrative  
124 Procedure Act. The hearing shall include oral and written  
125 comments on the petition pertinent to the factors specified in  
126 paragraph (e). The hearing shall be held at an accessible  
127 location in the county in which the community development  
128 district is to be located. The petitioner shall cause a notice  
129 of the hearing to be published in a newspaper at least once a  
130 week for the 2 ~~4~~ successive weeks immediately before ~~prior to~~  
131 the hearing. Such notice shall give the time and place for the  
132 hearing, a description of the area to be included in the  
133 district, which description shall include a map showing clearly  
134 the area to be covered by the district, and any other relevant  
135 information which the establishing governing bodies may require.  
136 The advertisement shall not be placed in that portion of the  
137 newspaper where legal notices and classified advertisements  
138 appear. The advertisement shall be published in a newspaper of  
139 general paid circulation in the county and of general interest  
140 and readership in the community, not one of limited subject  
141 matter, pursuant to chapter 50. If ~~Whenever~~ possible, the  
142 advertisement shall appear in a newspaper that is published at  
143 least 5 days a week, unless the only newspaper in the community  
144 is published fewer than 5 days a week. In addition to being  
145 published in the newspaper, the map referenced above must be  
146 part of the online advertisement required pursuant to s.  
147 50.0211. All affected units of general-purpose local government  
148 and the general public shall be given an opportunity to appear

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149 at the hearing and present oral or written comments on the  
150 petition.

151 (e) The Florida Land and Water Adjudicatory Commission  
152 shall consider the entire record of the local hearing, the  
153 transcript of the hearing, resolutions adopted by local general-  
154 purpose governments as provided in paragraph (c), and the  
155 following factors and make a determination to grant or deny a  
156 petition for the establishment of a community development  
157 district:

158 1. Whether all statements contained within the petition  
159 have been found to be true and correct.

160 2. Whether the establishment of the district is  
161 inconsistent with any applicable element or portion of the state  
162 comprehensive plan or of the effective local government  
163 comprehensive plan.

164 3. Whether the area of land within the proposed district is  
165 of sufficient size, is sufficiently compact, and is sufficiently  
166 contiguous to be developable as one functional interrelated  
167 community.

168 4. Whether the district is the best alternative available  
169 for delivering community development services and facilities to  
170 the area that will be served by the district.

171 5. Whether the community development services and  
172 facilities of the district will be incompatible with the  
173 capacity and uses of existing local and regional community  
174 development services and facilities.

175 6. Whether the area that will be served by the district is  
176 amenable to separate special-district government.

177 (f) The Florida Land and Water Adjudicatory Commission

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178 shall not adopt any rule which would expand, modify, or delete  
179 any provision of the uniform community development district  
180 charter as set forth in ss. 190.006-190.041, except as provided  
181 in s. 190.012. A rule establishing a community development  
182 district shall only contain the following:

183 1. A metes and bounds description of the external  
184 boundaries of the district and any real property within the  
185 external boundaries of the district which is to be excluded.

186 2. The names of five persons designated to be the initial  
187 members of the board of supervisors.

188 3. The name of the district.

189 (g) The Florida Land and Water Adjudicatory Commission may  
190 adopt rules setting forth its procedures for considering  
191 petitions to establish, expand, modify, or delete uniform  
192 community development districts or portions thereof consistent  
193 with the provisions of this section.

194 (2) The exclusive and uniform method for the establishment  
195 of a community development district of less than 2,500 ~~1,000~~  
196 acres in size or a community development district of up to 7,000  
197 acres in size located within a connected-city corridor  
198 established pursuant to s. 163.3246(14) shall be pursuant to an  
199 ordinance adopted by the county commission of the county having  
200 jurisdiction over the majority of land in the area in which the  
201 district is to be located granting a petition for the  
202 establishment of a community development district as follows:

203 (a) A petition for the establishment of a community  
204 development district shall be filed by the petitioner with the  
205 county commission. The petition shall contain the same  
206 information as required in paragraph (1) (a).

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207 (b) A public hearing on the petition shall be conducted by  
208 the county commission in accordance with the requirements and  
209 procedures of paragraph (1)(d).

210 (c) The county commission shall consider the record of the  
211 public hearing and the factors set forth in paragraph (1)(e) in  
212 making its determination to grant or deny a petition for the  
213 establishment of a community development district.

214 (d) The county commission shall not adopt any ordinance  
215 which would expand, modify, or delete any provision of the  
216 uniform community development district charter as set forth in  
217 ss. 190.006-190.041. An ordinance establishing a community  
218 development district shall only include the matters provided for  
219 in paragraph (1)(f) unless the commission consents to any of the  
220 optional powers under s. 190.012(2) at the request of the  
221 petitioner.

222 (e) If all of the land in the area for the proposed  
223 district is within the territorial jurisdiction of a municipal  
224 corporation, then the petition requesting establishment of a  
225 community development district under this act shall be filed by  
226 the petitioner with that particular municipal corporation. In  
227 such event, the duties of the county, hereinabove described, in  
228 action upon the petition shall be the duties of the municipal  
229 corporation. If any of the land area of a proposed district is  
230 within the land area of a municipality, the county commission  
231 may not create the district without municipal approval. If all  
232 of the land in the area for the proposed district, even if less  
233 than 2,500 ~~1,000~~ acres, is within the territorial jurisdiction  
234 of two or more municipalities or two or more counties, except  
235 for proposed districts within a connected-city corridor

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236 established pursuant to s. 163.3246(14), the petition shall be  
237 filed with the Florida Land and Water Adjudicatory Commission  
238 and proceed in accordance with subsection (1).

239 (f) Notwithstanding any other provision of this subsection,  
240 within 90 days after a petition for the establishment of a  
241 community development district has been filed pursuant to this  
242 subsection, the governing body of the county or municipal  
243 corporation may transfer the petition to the Florida Land and  
244 Water Adjudicatory Commission, which shall make the  
245 determination to grant or deny the petition as provided in  
246 subsection (1). A county or municipal corporation does not ~~shall~~  
247 have the ~~no~~ right or power to grant or deny a petition that has  
248 been transferred to the Florida Land and Water Adjudicatory  
249 Commission.

250 Section 2. Paragraph (d) of subsection (2) of section  
251 190.012, Florida Statutes, is amended to read:

252 190.012 Special powers; public improvements and community  
253 facilities.—The district shall have, and the board may exercise,  
254 subject to the regulatory jurisdiction and permitting authority  
255 of all applicable governmental bodies, agencies, and special  
256 districts having authority with respect to any area included  
257 therein, any or all of the following special powers relating to  
258 public improvements and community facilities authorized by this  
259 act:

260 (2) After the local general-purpose government within the  
261 jurisdiction of which a power specified in this subsection is to  
262 be exercised consents to the exercise of such power by the  
263 district, the district shall have the power to plan, establish,  
264 acquire, construct or reconstruct, enlarge or extend, equip,

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265 operate, and maintain additional systems and facilities for:

266 (d) Security, including, but not limited to, guardhouses,  
267 fences and gates, electronic intrusion-detection systems, and  
268 patrol cars, when authorized by proper governmental agencies;  
269 except that the district may not exercise any police power, but  
270 may contract with the appropriate local general-purpose  
271 government agencies for an increased level of such services  
272 within the district boundaries. This paragraph does not prohibit  
273 a district from contracting with a towing operator to remove a  
274 vehicle or vessel from a district-owned facility or property.  
275 When removing a vehicle or vessel from a district-owned facility  
276 or property, the district has the same authorization and is  
277 subject to the same notice and procedural requirements as the  
278 authorization and the notice and procedural requirements  
279 provided in s. 715.07 for an owner or lessee of private  
280 property. The district's selection of a towing operator is not  
281 subject to public bidding if the towing operator is included in  
282 an approved list of towing operators maintained by the local  
283 government that has jurisdiction over the district's facility or  
284 property.

285 Section 3. Paragraph (e) of subsection (1) and subsection  
286 (2) of section 190.046, Florida Statutes, are amended, present  
287 subsections (4) through (9) of that section are redesignated as  
288 subsections (5) through (10), respectively, and a new subsection  
289 (4) is added to that section, to read:

290 190.046 Termination, contraction, or expansion of  
291 district.—

292 (1) A landowner or the board may petition to contract or  
293 expand the boundaries of a community development district in the

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294 following manner:

295 (e)1. During the existence of a district initially  
296 established by administrative rule, the process to amend the  
297 boundaries of the district pursuant to paragraphs (a)-(d) shall  
298 not permit a cumulative net total greater than 50 ~~10~~ percent of  
299 the land in the initial district, and in no event greater than  
300 1,000 ~~250~~ acres on a cumulative net basis.

301 2. During the existence of a district initially established  
302 by county or municipal ordinance, the process to amend the  
303 boundaries of the district pursuant to paragraphs (a)-(d) shall  
304 not permit a cumulative net total greater than 50 percent of the  
305 land in the initial district, and in no event greater than 1,000  
306 ~~500~~ acres on a cumulative net basis.

307 (2) The district shall remain in existence unless:

308 (a) The district is merged with another district as  
309 provided in subsection (3) or subsection (4);

310 (b) All of the specific community development systems,  
311 facilities, and services that it is authorized to perform have  
312 been transferred to a general-purpose unit of local government  
313 in the manner provided in subsections ~~(4)~~, (5), (6), and (7)  
314 ~~(6)~~; or

315 (c) The district is dissolved as provided in ~~subsection~~  
316 ~~(7)~~, subsection (8), ~~or~~ subsection (9), or subsection (10).

317 (4) Notwithstanding subsection (3), up to five districts  
318 whose district boards of supervisors are composed entirely of  
319 qualified electors and established by the same local general-  
320 purpose government may merge into one surviving district. The  
321 petition by the majority of the supervisors of each district  
322 board seeking to merge constitutes consent of the landowners

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323 within each applicable district. The merger process must meet  
324 the requirements provided in subsection (3). Notwithstanding the  
325 acreage limitations for establishment of districts in this  
326 chapter, the surviving merged district may be established by  
327 ordinance of the local general-purpose government regardless of  
328 the size of the surviving merged district. The surviving merged  
329 district board shall consist of five elected district  
330 supervisors.

331 (a) The merger agreement entered into between the district  
332 boards must meet, in addition to the requirements provided in  
333 subsection (3), the following requirements:

334 1. Each district that seeks to merge is entitled to at  
335 least one district supervisor elected after merger from within  
336 the district as the district existed before merger. If only two  
337 districts merge, two district supervisors of the surviving  
338 merged district shall be elected from each of the two districts,  
339 and one district supervisor shall be elected at large. If three  
340 districts merge, one district supervisor shall be elected from  
341 each of the three districts, and two district supervisors shall  
342 be elected at large. If four districts merge, one district  
343 supervisor shall be elected from each of the four districts, and  
344 one district supervisor shall be elected at large. If five  
345 districts merge, one district supervisor shall be elected from  
346 each district.

347 2. The election of district supervisors for the surviving  
348 merged district shall be held at the next general election  
349 following the merger, at which time all terms of preexisting  
350 supervisors shall end and the merger shall be legally in effect.  
351 If fewer than five districts merge into the surviving district,

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352 additional districts may later merge into the surviving district  
353 to reach the five-district limit, and the same election  
354 mechanism applies at the next general election for all district  
355 supervisor seats on the surviving merged district board. The  
356 election for a new merger may not occur less than 6 months after  
357 the date on which the previous merger is legally in effect.

358 (b) Before filing a petition to merge by ordinance of the  
359 local general-purpose government, each district proposing to  
360 merge must hold a public hearing within its district for the  
361 purpose of providing information about and taking public comment  
362 on the proposed merger, merger agreement, and assignment of  
363 district supervisor seats on the surviving merged district  
364 board. Notice of the hearing shall be published at least 14 days  
365 before the hearing. If, after the public hearing, a district  
366 board decides that it no longer wants to merge and cancels the  
367 merger agreement, the remaining districts must each hold another  
368 public hearing on the revised merger agreement. A petition to  
369 merge may not be filed for at least 30 days after the last  
370 public hearing held by the districts proposing to merge.

371 Section 4. 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)

1.19.16

Meeting Date

1156

Bill Number (if applicable)

Topic CDDs

Amendment Barcode (if applicable)

Name Cheryl Stuart

Job Title Attorney Hopper Green & Sams

Address 119 S. Monroe St #300

Phone 222 7500

Tallahassee FL 32301

City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Association of Florida Community Developers

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)

1/19/16

Meeting Date

1156

Bill Number (if applicable)

Topic CDDs

Amendment Barcode (if applicable)

Name Nancy Linnan

Job Title AHy

Address 215 S. Monroe St Ste 500

Phone 850 224 1585

Street

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32301

Zip

Email nlinnan@carltonfields.com

Speaking:  For  Against  Information

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

Representing The Villages

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 Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** January 11, 2016

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I respectfully request that **Senate Bill #1156**, relating to Community Development Districts, be placed on the:

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

  
\_\_\_\_\_  
Senator Travis Hutson  
Florida Senate, District 6



# CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Community Affairs Committee Judge:

Started: 1/19/2016 4:03:26 PM

Ends: 1/19/2016 5:28:58 PM

Length: 01:25:33

4:03:27 PM Come to Order  
4:03:31 PM Roll  
4:03:45 PM Quorum Present  
4:04:28 PM SJR 1194 Senator Negron  
4:04:37 PM Senator Negron recognized  
4:05:27 PM SJR 1194 Tax Exemption for Senior, Totally Permanently Disabled First Responders  
4:05:51 PM Questions  
4:05:55 PM Senator Dean  
4:08:08 PM Senator Negron  
4:09:00 PM Senator Dean  
4:09:39 PM Appearance Forms  
4:09:43 PM Matt Puckett - FL Police Benevolent Assoc  
4:09:46 PM Jim Tolley - FL Prof. Firefighters  
4:09:51 PM Debate  
4:09:55 PM Senator Negron Close  
4:10:02 PM Roll SJR 1194  
4:10:16 PM SJR 1194 Reported Favorably  
4:10:26 PM SB 444 Senator Montford  
4:11:05 PM Small Community Sewer Construction Assistance Act  
4:11:07 PM Questions  
4:11:11 PM Appearance  
4:11:16 PM Heather Martin - Dept of Environ Protection  
4:11:17 PM Debate  
4:11:22 PM Senator Montford Close  
4:11:24 PM Roll  
4:11:35 PM SB 444 Reported Favorably  
4:11:48 PM SB 1004 Senator Hays  
4:12:22 PM Public Records/Video and Audio Recordings  
4:12:58 PM Amendment Barcode 428796  
4:13:14 PM Senator Dean  
4:13:26 PM Questions  
4:13:31 PM Senator Brandes  
4:14:04 PM Appearance  
4:14:14 PM Electra Bustle - FL Sheriff's Assoc.  
4:14:16 PM Debate  
4:14:18 PM Senator Hays  
4:14:24 PM Amendment 428796 Adopted  
4:14:27 PM Back on Bill as Amended  
4:14:28 PM Questions  
4:14:31 PM Appearances  
4:14:42 PM Vicki Wooldridge - So FL Regional Transportation Authority  
4:14:46 PM Lisa Bacot - FL Public Transportation Assoc.  
4:14:55 PM Electra Bustle - FL Sheriffs Assoc.  
4:14:56 PM Debate  
4:15:04 PM Senator Hays Close  
4:15:14 PM Roll CS/SB 1004 as Committee Substitute  
4:15:23 PM CS/SB 1004 Reported Favorably  
4:15:38 PM CS/SB 618 Senator Evers  
4:15:51 PM Amendments  
4:16:07 PM Delete-all Amendment Barcode 188122 by Senator Bradley  
4:17:56 PM Questions  
4:18:01 PM Senator Thompson

4:19:12 PM Senator Evers  
4:19:45 PM Appearance  
4:19:52 PM Sheldon Gusky - FL Public Defender Assoc., Inc.  
4:19:56 PM Laura Youmans - FL Assoc. of Counties  
4:20:01 PM Debate  
4:20:07 PM Senator Evers Close on Amendment  
4:20:12 PM Amendment 188122 Adopted  
4:20:17 PM Back on Bill as Amended  
4:20:19 PM Appearances  
4:20:29 PM Jill Gran - FL Alcohol and Drug Abuse Assoc.  
4:20:33 PM Greg Frost - Civil Citation Network  
4:25:47 PM Questions  
4:25:49 PM Questions from Senators  
4:25:56 PM Senator Simpson  
4:26:36 PM Senator Dean  
4:27:28 PM Mike Watkins - Big Bend Community Based Care  
4:27:37 PM Neal McGarry - FL Certification Board Addiction Counselors  
4:27:49 PM Bob Inzer - FL Clerk of Courts of Comptrollers  
4:28:23 PM Questions  
4:35:58 PM Senator Thompson  
4:37:05 PM Bob Inzer  
4:37:09 PM Senator Thompson  
4:37:23 PM Senator Diaz de la Portilla  
4:37:57 PM Steven Harrelson - Leon County Sheriffs Office  
4:41:24 PM Senator Simpson  
4:41:42 PM James Turner - FL Sheriff's Assoc.  
4:41:55 PM Randy Miller - FL Retail Federation  
4:44:02 PM Barney Bishop - FL Smart Justice Alliance  
4:52:26 PM Senator Dean  
4:54:57 PM Debate  
4:55:00 PM Senator Thompson  
4:56:30 PM Senator Evers Close  
4:56:45 PM Roll CS/SB 618 Committee Substitute  
4:56:55 PM CS/SB 618 Reported Favorably  
4:57:06 PM SB 914 Senator Detert  
4:58:04 PM Public Records/Identifying Medical and Personal Information  
4:59:12 PM Questions  
4:59:17 PM No Appearances  
4:59:18 PM Debate  
4:59:23 PM Senator Diaz de la Portilla  
4:59:46 PM Senator Detert Close  
5:00:29 PM Roll SB 914  
5:00:41 PM SB 914 Reported Favorably  
5:00:53 PM SB 1188 Senator Altman  
5:00:56 PM Senator Altman's Legislative Assistant: Devon West  
5:01:28 PM Questions  
5:01:33 PM Appearances  
5:01:49 PM Wiley Horton - FL Commission on Ethics  
5:04:45 PM Senator Bradley  
5:05:01 PM Wiley Horton  
5:05:13 PM Senator Bradley  
5:05:18 PM Wiley Horton  
5:07:21 PM Col. Rocky McPherson - FL Defense Support Task Force  
5:12:10 PM Senator Hutson  
5:12:51 PM Staff Kellie  
5:14:55 PM Senator Dean  
5:15:35 PM Senator Hutson  
5:16:04 PM Senator Diaz de la Portilla  
5:17:05 PM Staff Member Kellie  
5:17:29 PM Senator Diaz de la Portilla  
5:19:11 PM Ben Wilcox - Common Cause FL  
5:19:54 PM Senator Bradley

5:21:32 PM Questions  
5:21:36 PM Debate on Bill  
5:21:41 PM Close  
5:21:45 PM Roll SB 1188  
5:21:58 PM SB 1188 Reported Favorably  
5:22:17 PM SB 956 Senator Stargel  
5:22:46 PM Legislative Assistant Rachel Barnes  
5:23:02 PM Amendment Barcode 232806 Senator Brandes  
5:23:33 PM Senator Brandes  
5:23:46 PM Withdraw Amendment 1 Barcode 232806  
5:24:41 PM Amendment 2 Barcode 866094 withdrawn  
5:24:43 PM Back on Bill  
5:24:46 PM No Debate  
5:24:49 PM No Appearance  
5:24:50 PM Close  
5:24:59 PM SB 956 Roll  
5:25:08 PM SB 956 Reported Favorably  
5:25:16 PM SB 1156 Senator Hutson  
5:25:36 PM Community Development Districts  
5:26:06 PM Amendment Barcode 302946 by Senator Hutson  
5:26:33 PM Questions  
5:26:40 PM Close on Amendment  
5:26:45 PM Amendment Adopted  
5:26:49 PM Back on Bill as Amended  
5:26:51 PM Questions  
5:26:53 PM Appearances  
5:26:56 PM Nancy Linnan - The Villages  
5:27:01 PM Cheryl Stuart - Assoc. of FL Community Developers  
5:27:04 PM Debate  
5:27:09 PM Senator Hutson Close  
5:27:19 PM CS/SB 1157 as Committee Substitute  
5:27:20 PM Roll  
5:27:30 PM CS/SB 1156 Reported Favorably  
5:27:38 PM Senator Diaz de la Portilla moves to be recorded as favorable on SB 1194 and SB 1004  
5:27:49 PM Any Other Recordings  
5:28:04 PM Senator Bradley moves to be recorded as favorable on SB 1194 and 1004  
5:28:16 PM Senator Abruzzo moves to be recorded as favorable on SJR 1194 SB 444 SB 1004  
5:28:28 PM Senator Brandes moves to be recorded as favorable on SB 618 and 914  
5:28:44 PM Senator Diaz de la Portilla moves to be recorded as favorable on SB 444  
5:28:50 PM Meeting Adjourned