

Tab 1 CS/SB 724 by EN, Albritton; (Identical to H 01031) Local Government Recycling Programs						
670630	A	S		CA, Albritton	Delete L.18 - 52:	01/30 08:15 AM
Tab 2 SB 1662 by Albritton; (Compare to CS/H 01249) Property Tax Exemption for Disabled Veterans						
166378	A	S		CA, Albritton	Delete L.48 - 62:	01/31 03:44 PM
Tab 3 SB 760 by Brandes; (Compare to H 01331) Independent Special Fire Control Districts						
624798	D	S	RCS	CA, Brandes	Delete everything after	02/05 01:59 PM
Tab 4 SB 888 by Perry; (Similar to CS/H 00625) Public Nuisances						
553860	A	S	RCS	CA, Perry	Delete L.64 - 338:	02/05 01:23 PM
Tab 5 SB 1336 by Perry; (Similar to CS/H 00003) Preemption of Local Occupational Licensing						
395716	A	S	RCS	CA, Perry	Delete L.29:	02/05 02:59 PM
260602	A	S	WD	CA, Farmer	Delete L.42 - 53:	02/05 02:59 PM
662766	A	S	WD	CA, Farmer	Delete L.42 - 53:	02/05 02:59 PM
132314	A	S	RCS	CA, Farmer	Delete L.42 - 53:	02/05 02:59 PM
812038	A	S	WD	CA, Perry	Delete L.42 - 53:	02/05 02:59 PM
Tab 6 SB 1424 by Gruters; (Identical to H 01009) Special Neighborhood Improvement Districts						
Tab 7 SB 856 by Pizzo; (Similar to H 01459) Affordable Housing Tax Reduction						
796642	D	S	RCS	CA, Pizzo	Delete everything after	02/05 01:23 PM
Tab 8 CS/SB 1302 by JU, Flores (CO-INTRODUCERS) Rodriguez; Sovereign Immunity						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Flores, Chair
Senator Farmer, Vice Chair

MEETING DATE: Monday, February 3, 2020

TIME: 4:00—6:00 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Flores, Chair; Senator Farmer, Vice Chair; Senators Broxson, Pizzo, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 724 Environment and Natural Resources / Albritton (Identical H 1031)	Local Government Recycling Programs; Creating the Florida Recycling Working Group; requiring the working group to submit a report to the Legislature by a specified date; providing an expiration date for the working group; providing an exemption for fiscally constrained counties from recycling requirements, etc. EN 12/09/2019 Fav/CS CA 02/03/2020 Temporarily Postponed AP	Temporarily Postponed
2	SB 1662 Albritton (Similar H 1249)	Property Tax Exemption for Disabled Veterans; Providing that the property tax exemption for certain veterans with a service-connected total and permanent disability may be applied to a tax year for homestead property acquired during that tax year if certain conditions are met; providing requirements for applying for such exemption with the property appraiser, etc. CA 02/03/2020 Temporarily Postponed FT AP	Temporarily Postponed
3	SB 760 Brandes (Compare H 1331)	Independent Special Fire Control Districts; Requiring an independent special fire control district to have, and authorizing the board of such district to exercise, specified powers and duties, etc. CA 02/03/2020 Fav/CS IS RC	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Monday, February 3, 2020, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 888 Perry (Similar CS/H 625)	Public Nuisances; Revising notice requirements for the filing of temporary injunctions relating to the enjoinder of certain nuisances; declaring that the use of a location by a criminal gang, criminal gang members, or criminal gang associates for criminal gang-related activity is a public nuisance; declaring that any place or premises that has been used on more than two occasions during a certain period as the site of any combination of specified violations is a nuisance and may be abated pursuant to specified procedures, etc. CJ 01/14/2020 Favorable CA 02/03/2020 Fav/CS RC	Fav/CS Yeas 4 Nays 0
5	SB 1336 Perry (Similar CS/H 3)	Preemption of Local Occupational Licensing; Preempting licensing of occupations to the state; prohibiting local governments from imposing additional licensing requirements or modifying licensing unless specified conditions are met; specifying that certain specialty contractors are not required to register with the Construction Industry Licensing Board; authorizing counties and municipalities to issue certain journeyman licenses, etc. CA 01/27/2020 Temporarily Postponed CA 02/03/2020 Fav/CS IT RC	Fav/CS Yeas 4 Nays 0
6	SB 1424 Gruters (Identical H 1009)	Special Neighborhood Improvement Districts; Revising the number of directors allowed on the boards of special neighborhood improvement districts; requiring local planning ordinances to specify the number of directors and provide for 4-year staggered terms; requiring that directors be landowners in the proposed area and be subject to certain taxation, etc. CA 02/03/2020 Favorable IT RC	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Monday, February 3, 2020, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 856 Pizzo (Similar H 1459)	Affordable Housing Tax Reduction; Providing a reduction in certain property taxes to taxpayers building or renovating certain affordable, elderly, or workforce housing projects; specifying the calculation of property assessments over the reduction term; authorizing certain counties to limit the total number of qualifying projects, subject to certain requirements; specifying a taxpayer's liability for back taxes, penalties, interest, and certain remedies under certain circumstances, etc. CA 02/03/2020 Fav/CS FT AP	Fav/CS Yeas 5 Nays 0
8	CS/SB 1302 Judiciary / Flores	Sovereign Immunity; Designating the "Florida Fair Claims Act"; increasing the statutory limits on liability for tort claims against the state and its agencies and subdivisions; revising when a state and its agencies and subdivisions may agree to settle a claim or judgment without further action from the Legislature; requiring that the limitations on tort liability be adjusted every year after a specified date; prohibiting an insurance policy from conditioning the payment of benefits on the enactment of claim bills, etc. JU 01/21/2020 Fav/CS CA 02/03/2020 Favorable AP	Favorable Yeas 4 Nays 1

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 724

INTRODUCER: Environment and Natural Resources Committee and Senator Albritton

SUBJECT: Local Government Recycling Programs

DATE: January 30, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	Fav/CS
2.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 724 provides an exemption for fiscally constrained counties from recycling goals required for county recycling programs. The bill creates within the Department of Environmental Protection (DEP) the Florida Recycling Working Group, consisting of members from eleven public and private organizations. The working group must submit a report to the Legislature. The working group is repealed on July 1, 2021.

II. Present Situation:

Recycling in Florida

Each Florida county has the responsibility and authority to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.¹ Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county.² Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities.³ Under Florida law, “recycling” is defined as “any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or

¹ Section 403.706(1), F.S. Municipalities may also be authorized to construct and operate solid waste disposal facilities, if certain statutory requirements are met; Fla. Admin. Code Ch. 62-701.

² *Id.*

³ *Id.*

processed and reused or returned to use in the form of raw materials or intermediate or final products.”⁴ “Municipal solid waste” includes any solid waste (except for sludge) resulting from the operation of residential, commercial, or governmental establishments that would normally be collected, processed, and disposed of through a solid waste management service (this excludes waste from industrial, mining, or agricultural operations).⁵

In 2008, the Legislature established a weight-based goal of recycling 75 percent of Florida’s municipal solid waste by 2020.⁶ In 2010, the Legislature established interim goals that counties must pursue leading up to 2020.⁷ The interim goals require each Florida county to have a recyclable materials recycling program with a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020.⁸ These programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream before final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers.
- Aluminum cans.
- Steel cans.
- Glass.
- Plastic bottles.
- Cardboard.
- Office paper.
- Yard trash.⁹

Counties with a population of 100,000 or less, in lieu of achieving the interim goals, may provide residents with the opportunity to recycle.¹⁰ Providing the “opportunity to recycle” must include both of the following:

- Either:
 - Providing a system for separating and collecting recyclable materials before disposal that is located at a solid waste management facility or solid waste disposal area; or
 - Providing a system of places within the county for collection of source-separated recyclable materials.
- Providing a public education and promotion program to inform residents of the opportunity to recycle, encourage source separation of recyclable materials, and teach the benefits of reducing, reusing, recycling and composting materials.

⁴ Section 403.703(31), F.S.

⁵ Section 403.706(5), F.S.

⁶ Section 403.7032, F.S.; Ch. 2008-227, s. 95, Laws of Fla.; see DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 5 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 29, 2019).

⁷ Section 403.706(2)(a), F.S.

⁸ Section 403.706(2)(a), F.S. These are interim goals to help Florida reach the goal of recycling at least 75% of municipal solid waste by 2020; Ch. 2010-143, s. 7, Laws of Fla.; see s. 403.7032(2), F.S.

⁹ Section 403.706(2)(f), F.S.

¹⁰ Section 403.706(4)(c), F.S.

According to DEP's report, only 36 of Florida's 67 counties have populations over 100,000.¹¹ These 36 counties contain approximately 95% of Florida's population and produced 45 million of the 47 million tons of municipal solid waste generated in Florida in 2018.¹²

Each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.¹³ Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs.¹⁴ Certain activities are eligible for special credit towards achieving a county's recycling goals, including the use of solid waste as a fuel in a renewable energy facility and the innovative use of yard trash or other clean wood waste or paper waste.¹⁵ To assess progress towards achieving the interim goals, the Department of Environmental Protection (DEP) requires counties to provide information on their solid waste management programs and recycling activities to the DEP by April 1 of each year.¹⁶ If DEP determines that a county has not reached the required recycling goals, DEP is authorized to direct the county to develop a plan to expand recycling programs to existing commercial and multifamily dwellings, including apartment complexes.¹⁷ Such an authorized directive applies to larger counties (with populations over 100,000), which are required to pursue the interim goals.¹⁸

In those years when the state's recycling rate does not meet the statutory thresholds for the interim goals, DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives.¹⁹ This report must identify those additional programs or statutory changes needed to achieve the state's recycling goals.²⁰ Florida achieved the interim recycling goals established for 2012 and 2014.²¹ However, Florida's recycling rate for 2016 was 56 percent, falling short of 60 percent by 2017.²² Florida's recycling rate declined from 52 percent in 2017 to 49 percent in 2018, both of which fall short of the interim targets.²³ This decrease can largely be attributed to a reduction in the reported amount of construction and demolition (C&D) debris recycled in 2018.²⁴ DEP submitted the most recent status report in 2019.²⁵ Without significant changes to the current approach, the 2020 goal of 75% will not be achieved.²⁶

¹¹ DEP, *Florida and the 2020 75% Recycling Goal: 2019 Status Report, Volume 1*, 3, 9 (2019)[hereinafter *DEP 2019 Report*], available at https://floridadep.gov/sites/default/files/Final%20Strategic_Plan_2019%2012-13-2019_1.pdf.

¹² *Id.* at 29.

¹³ Section 403.706(3), F.S.

¹⁴ Section 403.706(2)(a), F.S.

¹⁵ Section 403.706(4), F.S.

¹⁶ Section 403.706(7), F.S.; Fla. Admin. Code R. 62-716.450.

¹⁷ Section 403.706(2)(d), F.S.

¹⁸ *DEP 2019 Report*, at 3.

¹⁹ Section 403.706(2)(e), F.S.

²⁰ *Id.*

²¹ DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 5 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 30, 2019).

²² *Id.*

²³ *DEP 2019 Report*, at 3.

²⁴ *Id.* at 9.

²⁵ *Id.* at 3.

²⁶ *Id.* at 29.

In 2018, of Florida's 32 large counties (with populations over 100,000), four met the 70% interim recycling goal.²⁷ Recycling credits received for renewable energy and C&D debris were the primary factors in their success.²⁸ In August of 2019, DEP requested each of the 32 large counties not reaching the interim goals to develop a plan to expand current recycling programs to existing commercial and multifamily dwellings.²⁹ As of November 21st, DEP has received all 32 county recycling plans.³⁰

DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to DEP that:

- The achievement of the goal would harm the financial obligations of the county that are directly related to the county's waste-to-energy facility; and
- The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.³¹

The goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county's waste-to-energy facility.³²

In the development and implementation of a curbside recyclable materials collection program, a county or municipality must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality.³³ Local governments are authorized to enact ordinances that require and direct all residential properties, multifamily dwellings, and apartment complexes and industrial, commercial, and institutional establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government.³⁴ A market must exist for the recyclable materials, and the local government must specifically intend for them to be recycled.³⁵ Local governments are authorized to provide for the collection of recyclable materials. Such ordinances may include but are not limited to, prohibiting any person from knowingly disposing of recyclable materials that are designated by the local government and that ensure the collection of recovered materials as necessary to protect public health and safety.³⁶

A local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or a facility designated by the local government;
- Restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has registered with DEP; or

²⁷ *Id.* at 3.

²⁸ *Id.*

²⁹ *Id.* at 9.

³⁰ *Id.*

³¹ Section 403.706(6), F.S.

³² *Id.*

³³ Section 403.706(9), F.S.

³⁴ Section 403.706(21), F.S.

³⁵ *Id.*

³⁶ Section 403.706(21), F.S.

- Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.³⁷

Local governments may require a commercial establishment to source separate the recovered materials generated on the premises.³⁸

DEP has been working to increase recycling rates through grant programs, educational opportunities, and the development of a statewide outreach campaign called “Rethink. Reset. Recycle.”³⁹ DEP is also working on the following recycling options:

- Evaluating the implications of shifting from a weight-based recycling goal to sustainable materials management processes.⁴⁰
- Researching the concept of moving from a weight-based recycling goal of 75 percent by 2020 to market-specific goals such as a food diversion goal or an organics recycling goal.
- Requesting that Florida’s state universities and the Florida Department of Education review potential K-12 curriculum programs emphasizing waste reduction and recycling practices.
- Continuing to work with state agencies to identify recycling/cost-saving measures specific to their operations.
- Providing counties not achieving the interim recycling goals with assistance in analyzing, planning, and executing opportunities to increase recycling.⁴¹

Contamination

Many counties and municipalities have instituted single-stream recycling programs.⁴² Single-stream recycling programs allow all accepted recyclables to be placed in a single, curbside recycling cart, comingling materials from paper and plastic bottles to metal cans and glass containers. Single-stream recycling programs have been marginally successful in providing curbside collection efficiency by increasing the number of recyclables collected and residential participation. While there are many advantages to single-stream recycling, it has not consistently yielded positive results for the recycling industry. The unexpected consequence of single-stream recycling has been the collection of unwanted materials and poorly sorted recyclables, resulting in increased contamination originating in the curbside recycling cart.⁴³

Contamination hinders processing at MRFs when unwanted items are placed into recycling carts.⁴⁴ For example, plastic bags are harmful to the automated equipment typically used to process and separate recyclable materials from single-stream collections. While MRFs are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process resulting in additional sorting, processing, energy consumption, and other

³⁷ Section 403.7046(3), F.S.

³⁸ Section 403.7046(3)(a), F.S.

³⁹ *DEP 2019 Report*, at 22; Rethink. Reset. Recycle., *About*, <https://floridarecycles.org/> (last visited Dec. 20, 2019).

⁴⁰ See EPA, *Sustainable Materials Management Basics*, <https://www.epa.gov/smm/sustainable-materials-management-basics> (last visited Dec. 20, 2019).

⁴¹ *DEP 2019 Report*, at 10, available at https://floridadep.gov/sites/default/files/Final%20Strategic_Plan_2019%2012-13-2019_1.pdf.

⁴² *Id.* at 11.

⁴³ *Id.*

⁴⁴ *Id.*

increased costs due to equipment downtime, repair, or replacement needs. In addition to increased recycling processing costs, contamination also results in poorer quality recyclables, and increased rejection and landfilling of unusable materials. Although some local governments have implemented successful single-stream recycling programs with low contamination rates, contamination rates for other programs have continued to rise.⁴⁵

Recycling Markets

Until 2017, China consumed over 50 percent of the recycled paper and plastic in the world, including 70 percent of the plastics collected for recycling in the U.S.⁴⁶ In 2017, China banned the import of 24 recyclable materials, such as post-consumer plastics and mixed paper, and also announced a 0.5 percent contamination standard for most recyclables not named in the ban.⁴⁷ In 2018, the ban was expanded to include post-industrial plastics and a variety of scrap metals, and China implemented pre-shipment inspection requirements for inbound loads of scrap material.⁴⁸ The ban has caused shipments of recyclables to other Asian countries to increase dramatically, resulting in nations including India, Malaysia, Indonesia, Thailand, and Vietnam enacting policies restricting the import of recyclable materials.⁴⁹

China's recycling ban has created substantial challenges around the world for the solid waste and recycling industry.⁵⁰ The loss of the Chinese export markets has caused recyclable materials to be sent to landfills or burned.⁵¹ China's ban and higher standards for contamination are leading to higher costs and lower revenues for the U.S. recycling industry.⁵² In Florida, local governments are struggling with issues such as rising costs of processing and high contamination

⁴⁵ *Id.*

⁴⁶ National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1 (Apr. 2018), available at https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf (last visited Oct. 29, 2019); Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, *Yale Environment* 360 (March 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Oct. 29, 2019).

⁴⁷ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*, <https://resource-recycling.com/recycling/2018/02/13/green-fence-red-alert-china-timeline/> (last visited Oct. 29, 2019); National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1 (Apr. 2018), available at https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf (last visited Oct. 29, 2019).

⁴⁸ *Id.*; see Resource Recycling, *China Reiterates Total Ban and Tries to Define "Solid Waste"* (Apr. 9, 2019), available at <https://resource-recycling.com/recycling/2019/04/09/china-reiterates-total-ban-and-tries-to-define-solid-waste/> (last visited Oct. 31, 2019). China is planning a total ban on virtually all recovered material imports.

⁴⁹ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*, <https://resource-recycling.com/recycling/2018/02/13/green-fence-red-alert-china-timeline/> (last visited Oct. 29, 2019); Christopher Joyce, *Where Will Your Plastic Trash Go Now That China Doesn't Want It?*, *NPR* (Mar. 13, 2019), <https://www.npr.org/sections/goatsandsoda/2019/03/13/702501726/where-will-your-plastic-trash-go-now-that-china-doesnt-want-it> (last visited Oct. 29, 2019).

⁵⁰ See Brooks et. al., *The Chinese Import Ban and Its Impact on Global Plastic Waste Trade*, *SCIENCES ADVANCES* (Jun. 20, 2019), available at <https://advances.sciencemag.org/content/advances/4/6/eaat0131.full.pdf> (last visited Oct. 29, 2019).

⁵¹ Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, *Yale Environment* 360 (March 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Oct. 29, 2019).

⁵² National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1-2 (Apr. 2018), available at https://c.ymcdn.com/sites/wasterecycling.site-ym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pdf (last visited Oct. 29, 2019).

rates.⁵³ DEP reports that these changes in the markets create challenges for Florida as it tries to increase its recycling rates because future growth is dependent on healthy markets.⁵⁴ The increased supply of recyclable materials and decreased demand from end markets has resulted in a depression of commodities priced in the recycling industry.⁵⁵ In response, DEP has utilized state programs and engaged various stakeholders to develop and grow Florida's recycling markets.⁵⁶

The reduction in global markets has forced many waste haulers and waste management companies to reduce the amount of contamination transported and delivered to their processing facilities.⁵⁷ As the value of mixed recovered materials decreases, several counties have been asked to renegotiate their recycling contracts.⁵⁸ Many of the contracts have clauses that stipulate contamination must be below a certain percentage or the local government will be charged a much higher rate and penalized.⁵⁹

Exceptions to Requirements for Environmental Resource Permitting

DEP's Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows.⁶⁰ The ERP program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters).⁶¹

For some low impact activities and projects that are narrow in scope, an ERP permit is not required under state law.⁶² Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to DEP.⁶³ A broad array of activities are expressly exempt from the ERP program, these include but are not limited to: the installation of overhead transmission lines; installation and maintenance of boat ramps; work on seawalls and mooring pilings, swales, and footbridges; the removal of aquatic plants; construction and operation of floating vessel platforms; and work on county roads and bridges.⁶⁴ Included among activities exempt from the requirement to obtain an ERP permit is the replacement or repair of existing docks and piers if fill material is not used and the replaced or repaired dock or pier is in the same location and of the same configuration and dimensions as the

⁵³ Waste Dive, *How Recycling is Changing in All 50 States* (June 5, 2019), <https://www.wastedive.com/news/what-chinese-import-policies-mean-for-all-50-states/510751/> (last visited Oct. 31, 2019).

⁵⁴ DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 15 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 29, 2019).

⁵⁵ *Id.*

⁵⁶ *Id.* at 15-17; DEP 2019 Report, at 12-15, available at https://floridadep.gov/sites/default/files/Final%20Strategic_Plan_2019%2012-13-2019_1.pdf.

⁵⁷ DEP 2019 Report, at 12.

⁵⁸ *Id.*

⁵⁹ *Id.* at 12-13.

⁶⁰ Chapter 373, p. IV, F.S.; Fla. Admin. Code Ch. 62-330; DEP, *DEP 101: Environmental Resource Permitting*, available at <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Oct. 29, 2019).

⁶¹ Fla. Admin. Code R. 62-330.010. The responsibilities for implementing the statewide ERP program are partially delegated by DEP to the water management districts and certain local governments.

⁶² Section 403.813, F.S.

⁶³ Fla. Admin. Code Rules 62-330.050(1) and 62-330.051(2).

⁶⁴ Section 403.813(1), F.S.; Fla. Admin. Code R. 62-330.051.

dock or pier being replaced or repaired.⁶⁵ Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity.⁶⁶

III. Effect of Proposed Changes:

Section 1 amends s. 403.706, F.S., which contains recycling goals required for county government recycling programs.

The bill exempts from the required county recycling goals any fiscally constrained county, as defined in s. 218.67(1), F.S. This exemption expires on July 1, 2035.

The bill creates the Florida Recycling Working Group within the Department of Environmental Protection (DEP). The working group must be composed of eleven members, with each of the following eleven organizations appointing one representative member from within their respective organizations:

- DEP.
- The University of Florida's Engineering School of Sustainable Infrastructure and Environment.
- The Hinkley Center for Solid and Hazardous Waste Management.
- The Florida League of Cities.
- The Florida Association of Counties.
- The Florida Recycling Partnership.
- Keep Florida Beautiful.
- The Florida Beverage Association.
- Southern Waste Information eXchange, Inc.
- The Florida Chapter of the National Waste and Recycling Association.
- Recycle Florida Today, Inc.

The bill requires the working group to meet at least three times. A quorum must elect a chair and vice chair. A quorum will consist of a majority of the members. The chair of the working group must preside at all meetings and call meetings as often as necessary to carry out the working group's responsibilities. DEP must keep a complete record of the proceedings of each meeting, including the names of the members present at each meeting and the actions taken. The records are public records, according to ch. 119, F.S.

The bill requires the working group to compile a report recommending programs and statutory changes necessary for achieving future recycling goals based on current progress toward achieving the goals required of county recycling programs. The working group must submit the report to the President of the Senate and the Speaker of the House of Representatives by July 1, 2021.

The subsection creating the Florida Recycling Working Group expires on July 1, 2021.

⁶⁵ Section 403.813(1)(d), F.S.

⁶⁶ Section 403.813(1), F.S.

Section 2 states that the bill shall take effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires DEP to administer and participate in the Florida Recycling Working Group, including producing a report to the Legislature. These responsibilities may cause DEP to incur additional costs.

The bill exempts fiscally constrained counties from required recycling goals for county recycling programs. This may have an indeterminate, positive fiscal impact on fiscally constrained counties in the short term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.706 of the Florida Statutes.

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

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

CS by Environment and Natural Resources Committee on December 9, 2019:

- Removes all changes to the timeline regarding the goals required of county recycling programs, including DEP's reporting requirements related to the goals, but retains the exemption for fiscally constrained counties through July 1, 2035.
- Creates within DEP the Florida Recycling Working Group, which must produce a report recommending programs and statutory changes necessary for achieving future recycling goals based on current progress. The language establishes the working group's composition, administrative procedures, and obligations for submitting its report to the Legislature by July 1, 2021. The working group is repealed on July 1, 2021.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 18 - 52

and insert:

(23) In addition to any report required under subsection (2), the department shall prepare a report that, based on current progress toward achieving the recycling goals established under subsection (2), recommends any program or statutory changes necessary to achieve future redefined statewide recycling goals. In preparing the report, the



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11 department shall consult with affected stakeholders, including
12 local governments, research universities, recyclers,
13 manufacturers, materials producers, and waste haulers, to
14 recommend programs and education initiatives derived from
15 evidence-based science, best practices, and economics. The
16 department shall submit the report to the President of the
17 Senate and the Speaker of the House of Representatives by July
18 1, 2021. This subsection expires July 1, 2021.

19
20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 Delete lines 3 - 8

23 and insert:

24 programs; amending s. 403.706, F.S.; requiring the
25 Department of Environmental Protection to prepare a
26 report regarding necessary changes to meet certain
27 recycling goals in this state; providing requirements
28 for the report; requiring the department to submit the
29 report to the Legislature by a specified date;
30 providing an exemption for fiscally

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 1662

INTRODUCER: Senator Albritton

SUBJECT: Property Tax Exemption for Disabled Veterans

DATE: January 31, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	Pre-meeting
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1662 allows certain veterans with total and permanent disabilities to transfer a homestead property exemption to a new property acquired after January 1 of a tax year. Qualified disabled veterans who move homesteads after January 1 would no longer have to wait until the following year to receive the exemption.

Current law provides a full property tax exemption for homestead property owned by veterans who sustained a total and permanent service-connected disability.

To transfer a homestead property tax exemption under the bill, a qualified disabled veteran must have received the exemption on another homestead property in the previous tax year, file an application with the property appraiser describing both properties, and certify under oath that they are qualified to receive the exemption, hold the legal title to the new property, and intend to use the new property as a homestead.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of a property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Property tax bills are mailed in November of each year based on the previous January 1 valuation.⁴ If a taxpayer furnishes the outstanding taxes within 30 days after the tax collector mailed the tax notice, the taxpayer will receive a 4 percent discount on the total amount of taxes due.⁵ The full amount of taxes is due by March 31 of the following year.⁶

The Florida Constitution prohibits the state from levying ad valorem taxes⁷ and limits the Legislature’s authority to provide for property valuations at less than just value unless expressly authorized.⁸

Homestead Exemptions

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads with an exemption from taxes.⁹ Second, the homestead provisions protect the homestead from forced sale by creditors.¹⁰ Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.¹¹

Every person having a legal or equitable title to real estate and who maintains a permanent residence on the real estate is deemed to establish homestead property. Homestead property is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹² An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.¹³

¹ Both real property and tangible personal property are 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.

² 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).

³ *See* ss. 192.001(2) and (16), F.S.

⁴ *See* Florida Department of Revenue, Florida Property Tax Calendar, *available at*: <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Jan. 30, 2020)

⁵ *See* Florida Department of Revenue, Tax Collector Calendar - Property Tax Oversight, *available at*: <https://floridarevenue.com/property/Documents/tccalendar.pdf> (last visited Jan. 30, 2020)

⁶ *Id.*

⁷ FLA. CONST. art. VII, s. 1(a).

⁸ *See* FLA. CONST. art. VII, s. 4.

⁹ FLA. CONST. art. VII, s. 6.

¹⁰ FLA. CONST. art. VII, s. 4.

¹¹ *Id.* at (c).

¹² FLA. CONST. art VII, s. 6(a).

¹³ *Id.*

Annual Application

Each person or organization meeting the criteria for an ad valorem tax exemption may claim the exemption if the claimant held legal title to the real or personal property subject to the exemption on January 1.¹⁴ The application for exemption must be filed with the property appraiser on or before March 1, and failure to make an application constitutes a waiver of the exemption for that year. The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property. The claimant must reapply for the exemption on an annual basis unless the property appraiser (subject to approval by a vote of the governing body of the county) has waived the annual application requirement for a property after an initial application is made and the exemption granted.¹⁵

Veterans with Total and Permanent Service-Connected Disability

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation.¹⁶ To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or must have been a permanent resident of this state on January 1 of the year the veteran died. If the veteran predeceases their spouse, the spouse may continue to receive the exemption as long as the property remains the homestead property of the spouse, and the spouse is unmarried.¹⁷

The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.¹⁸ A veteran may apply for the exemption before receiving documentation from the United States Government or the United States Department of Veterans Affairs.¹⁹ When the property appraiser receives the documentation, the exemption is granted as of the date of the original application, with excess taxes paid refunded (subject to the four years of limitation under s. 197.182(1)(e), F.S.).

Property Taxes for Mortgaged Real Estate

Mortgage lenders are often the parties paying property taxes on behalf of homeowners. These property taxes are charged to the homeowner as a component of a mortgage payment. Under Florida's Consumer Protection statutes in ch. 501, F.S., mortgage lenders who collect payments for a loan secured by a mortgage on real property are required to promptly pay annual property taxes to receive the maximum tax discount available on behalf of the property owner.²⁰ This statutory requirement means that the property tax for most homeowners with mortgaged property in Florida is paid during November or within 30 days after the tax collector mails the tax notice.²¹

¹⁴ Section 196.011(1)(a), F.S.

¹⁵ Section 196.011(5) and (9)(a), F.S.

¹⁶ Section 196.081(1), F.S.

¹⁷ Section 196.081(3), F.S.

¹⁸ Section 196.081(2), F.S.

¹⁹ Section 196.081(5), F.S.

²⁰ Section 501.137(1), F.S.

²¹ *Id.*

Property Taxes and Transfer of Real Estate

Due to the fact Florida statutorily requires mortgage lenders to pay property taxes in November to receive the maximum available discount for property owners, annual property taxes are usually paid in full at the time ownership of real estate is transferred.²² So, if an individual buys a previously owned home, the individual or the mortgage lender will typically repay the seller or seller's mortgage lender a pro-rata share of the property taxes to cover the portion of the remaining tax year. On the other hand, these parties are also free to make alternative agreements regarding taxes. Notwithstanding, after this initial year elapses, the property tax schedule resumes the statutory timeframes.²³

III. Effect of Proposed Changes:

The bill amends ss. 196.011 and 196.081, F.S., to allow a veteran who was honorably discharged with a service-connected total and permanent disability to apply for the homestead property exemption under s. 196.081(1), F.S., in the current tax year for property acquired after January 1 of that year if the veteran had received the exemption on another property in the immediately preceding tax year.

The bill provides that notwithstanding the exemption filing deadline established by s. 196.011, F.S., the veteran may file for the exemption with the property appraiser up to the 25th day following the date the property appraiser mails the assessment notice under s. 194.011, F.S. The application for the exemption must list and describe both the previous homestead and new property. The applicant must also certify under oath that he or she:

- Is otherwise qualified to receive the tax exemption for permanently and totally disabled veterans;
- Holds legal title to the new property; and
- Intends to use the new property as his or her homestead.1, 2020.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18(b) of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the

²² *Id.*

²³ See Realtor.com, When Do You Start Paying Property Taxes on a New Home? (Dec. 12, 2019), available at: <https://www.moving.com/tips/when-do-you-start-paying-property-taxes-on-a-new-home/> (last visited Jan. 30, 2020).

mandate requirement does not apply to laws having an insignificant impact,²⁴ which for Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.^{25,26}

The mandate provision may apply because the bill would reduce ad valorem tax revenues to the extent qualified veterans will receive the benefit of ad valorem tax exemption on two parcels in the year of transfer. This decrease in tax revenue may be fiscally insignificant depending on the number of qualified veterans moving in a given year and taxable value of the property. If the bill does qualify as a mandate, the final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet analyzed the bill.

B. Private Sector Impact:

The bill may generate a positive fiscal impact for qualified disabled veterans by decreasing tax liabilities when moving between homestead properties.

C. Government Sector Impact:

Local governments may realize a reduction in ad valorem tax revenues from qualified disabled veterans moving homesteads while receiving the exemption.

²⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 7, 2020).

²⁵ FLA. CONST. art. VII, s. 18(d).

²⁶ Based on the Florida Demographic Estimating Conference's July 8, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 7, 2020).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill may fail to operate cleanly in real-world transactions. As previously noted, under s. 501.137, F.S., mortgage lenders have a statutory obligation to pay property taxes on behalf of property owners in November of each year to receive the maximum tax discount. In this scenario, sellers (or their mortgage lenders) may still require tax-exempt disabled veteran buyers to reimburse them a pro-rata amount of prepaid property taxes to cover the portion of the tax year the veteran owns the property.

It may be difficult to increase the portability of this tax exemption without curtailing the ability of private parties to allocate reimbursement of prepaid taxes or providing a windfall for tax-exempt veterans.

VIII. Statutes Affected:

This bill substantially amends sections 196.011 and 196.081 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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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 48 - 62

and insert:

(b) The exemption under paragraph (a) shall be applied to a current tax year if the real estate owned and used as a homestead is acquired by the veteran after January 1 of the current tax year and the veteran received the exemption on another property in the immediately prior tax year.

Notwithstanding the exemption filing requirements of s. 196.011,



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11 to receive the exemption under this paragraph, the veteran must
12 file an application with the property appraiser and may do so at
13 any time during the current tax year. If the application is
14 filed after the 25th day following the date the property
15 appraiser mails the assessment notice under s. 200.069, the
16 exemption shall be processed as a correction pursuant to s.
17 197.122(3). The application must identify both the previous
18 homestead and the new property and certify under oath that the
19 veteran meets all of the following requirements:

20 1. He or she is otherwise qualified to receive the
21 exemption under paragraph (a).

22 2. He or she holds legal or beneficial title to the new
23 property.

24 3. He or she uses or intends to use the new property as his
25 or her homestead.

26 Section 3. Subsection (3) of section 197.122, Florida
27 Statutes, is amended to read:

28 197.122 Lien of taxes; application.—

29 (3) A property appraiser shall correct an assessment to
30 reflect an exemption granted under s. 196.081(1)(b) if the
31 application for the exemption was filed after the 25th day
32 following the date the property appraiser mails the assessment
33 notice under s. 200.069. A property appraiser may also correct a
34 material mistake of fact relating to an essential condition of
35 the subject property to reduce an assessment if to do so
36 requires only the exercise of judgment as to the effect of the
37 mistake of fact on the assessed or taxable value of the
38 property.

39 (a) As used in this subsection, the term "an essential



40 condition of the subject property" means a characteristic of the
41 subject parcel, including only:

42 1. Environmental restrictions, zoning restrictions, or
43 restrictions on permissible use;

44 2. Acreage;

45 3. Wetlands or other environmental lands that are or have
46 been restricted in use because of such environmental features;

47 4. Access to usable land;

48 5. Any characteristic of the subject parcel which, in the
49 property appraiser's opinion, caused the appraisal to be clearly
50 erroneous; or

51 6. Depreciation of the property that was based on a latent
52 defect of the property which existed but was not readily
53 discernible by inspection on January 1, but not depreciation
54 from any other cause.

55 (b) The material mistake of fact, or the assessment
56 benefiting from an exemption granted under s. 196.081(1)(b) if
57 the application for the exemption was filed after the 25th day
58 following the date the property appraiser mails the assessment
59 notice under s. 200.069, may be corrected by the property
60 appraiser, in the same manner as provided by law for performing
61 the act in the first place only within 1 year after the approval
62 of the tax roll pursuant to s. 193.1142. If corrected, the tax
63 roll becomes valid ab initio and does not affect the enforcement
64 of the collection of the tax. If the correction results in a
65 refund of taxes paid on the basis of an erroneous assessment
66 included on the current year's tax roll, the property appraiser
67 may request the department to pass upon the refund request
68 pursuant to s. 197.182 or may submit the correction and refund



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69 order directly to the tax collector in accordance with the
70 notice provisions of s. 197.182(2). Corrections to tax rolls for
71 previous years which result in refunds must be made pursuant to
72 s. 197.182.

73

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

75 And the title is amended as follows:

76 Delete line 11

77 and insert:

78 with the property appraiser; amending s. 197.122,
79 F.S.; providing a requirement and a procedure for a
80 property appraiser, under certain circumstances, to
81 correct an assessment to reflect the exemption;
82 providing an effective

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 760

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Fire Control Districts and Firefighter Pensions

DATE: February 5, 2020

REVISED: 2/5/20

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u></u>	<u></u>	<u>IS</u>	<u></u>
3.	<u></u>	<u></u>	<u>RC</u>	<u></u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 760 amends provisions of the Marvin B. Clayton firefighters Pension Trust Fund Act (Act) to expand the Act to cover municipalities providing fire protection services to a Municipal Service Taxing Unit (MSTU) through an interlocal agreement. Currently, the Act only provides an incentive – access to insurance premium tax revenues – to municipalities organized and established by law, and it does not apply to unincorporated areas of any county or counties. The bill expands the applicability of the Act to allow a municipality that provides fire protection services to an MSTU through an interlocal agreement to receive insurance premium taxes collected within the MSTU boundary, to provide pension benefits to the municipality’s firefighters.

The bill also amends the general powers of independent special fire control districts to allow them to provide fire control and rescue services outside the geographical boundaries of a district. Fire control districts would be able to provide services outside of their district through an interlocal agreement with another governmental entity that shares powers in common with the district.

Although special districts occasionally provide services to other governmental entities outside of their geographic boundaries,¹ the Florida Supreme Court recently ruled that this practice is

¹ See Florida Auditor General, *Health Care District of Palm Beach* (Report No. 2019-011, August 2018), available at: https://flauditor.gov/pages/pdf_files/2019-011.pdf (last visited Jan. 28, 2020). In finding 4, the auditor general recommends

unauthorized by ch. 189, F.S., the Uniform Special District Accountability Act. In *Halifax Hospital Medical Center v. State* (decided April 18, 2019), the court ruled that special districts only have the power to provide services and operate within the specific geographic boundaries established for a district in its charter. As contemplated in the court ruling, the bill provides statutory authority for independent special fire control districts to operate outside established geographic boundaries through interlocal agreements.

II. Present Situation:

Municipal Firefighters Pension Trust Fund

Local firefighter pension plans are governed by ch. 175, F.S., which is known as the Marvin B. Clayton Firefighters Pension Trust Fund Act (Act). The Act declares a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters.² All municipal and special district firefighter retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighters' pension trust funds.³

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive – access to premium tax revenues – to encourage the establishment of firefighter pension plans by cities. In 1993, special fire control districts became eligible to participate under ch. 175, F.S.

The Act sets forth the minimum benefits or minimum standards for pensions for municipal firefighters. Municipalities may not reduce the benefits provided in the Act; however, the benefits provided in a local plan may vary from the provisions in the Act so long as the minimum standards are met.

Funding for these pension plans comes from four sources:⁴

- Net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the premium tax);
- Employee contributions;
- Other revenue sources; and
- Mandatory payments by the city of the normal cost of the plan.

The Firefighters' Pension Trust Fund is funded in part through an excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or special fire control district.⁵ It is payable by the insurers to the Department of Revenue, and the net proceeds are transferred to the appropriate fund at the Department of Management Services, Division of Retirement (division). The division, in coordination with the Municipal Police Officers' and Firefighters' Retirement Trust Funds Office, then distributes the

that the district enter into cooperative agreements with other government authorities to provide services outside the district's boundaries, *id.* at 4.

² Section 175.021(1), F.S.

³ *Id.*

⁴ Section 175.091(1), F.S.

⁵ Section 175.101, F.S.

retirement trust funds to the appropriate local taxing jurisdiction. The Florida Department of Financial Services performs all trust fund market conduct exams.⁶

As of 2017, the Department of Management Services recorded that the membership of the pension plan consisted of 26,942 individual firefighters.⁷ In 2018, premium tax distributions to municipalities and special fire control districts from the Firefighters' Pension Trust Fund amounted to \$77.1 million.⁸

To qualify for insurance premium tax dollars, municipalities and districts must develop pension plans that meet the requirements found in ch. 175, F.S. Responsibility for overseeing and monitoring these plans is assigned to the division; however, the day-to-day operational control rests with the local boards of trustees.⁹ The board of trustees must invest and reinvest the assets of the fund according to s. 175.071, F.S., unless specifically authorized to vary from the law. If the division deems that a firefighter pension plan created under ch. 175, F.S., is not in compliance, the sponsoring municipality could be denied its insurance premium tax revenues.¹⁰

Firefighter's Supplemental Compensation Trust Fund

Every firefighter is entitled to supplemental compensation from the employing agency when specified circumstances are met.¹¹ The Firefighters' Supplemental Compensation Trust Fund, created under the Department of Revenue, provides the funds necessary for firefighters to receive supplemental compensation under Florida law.¹² Supplemental compensation is provided to firefighters who pursue higher educational opportunities that directly relate to the improvement of the health, safety, and welfare of firefighters and those who firefighters protect.¹³ The Firefighters' Supplemental Compensation Trust Fund is funded by certain amounts appropriated from the Police and Firefighter's Premium Tax Trust Fund.¹⁴

The amount of supplemental compensation for a firefighter is determined as follows:

- Fifty dollars is paid monthly to a firefighter who receives an associate degree from a college if the degree is applicable to fire department duties; and
- One hundred and ten dollars is paid monthly to a firefighter who receives a bachelor's degree from a college or university, regardless of whether the firefighter earned an associate degree earlier if the bachelor's degree is applicable to fire department duties.¹⁵

⁶ Department of Revenue, Florida Insurance Premium Taxes and Fees, *available at*: <https://floridarevenue.com/taxes/taxesfees/Pages/jpt.aspx> (last visited Feb. 3, 2020).

⁷ Department of Management Services, Police & Fire Pension Funds Membership Information, *available at*: https://www.rol.frs.state.fl.us/forms/Membership_Information.pdf (last visited Feb. 3, 2020).

⁸ Department of Management Services, Municipal Police and Fire Plans, *available at*: http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans (last visited Feb. 3, 2020).

⁹ See s. 175.071, F.S.

¹⁰ See s. 175.341(1), F.S.

¹¹ Section 633.422, F.S.

¹² *Id.*

¹³ *Id.* at (1)

¹⁴ *Id.* at (3)

¹⁵ *Id.* at (2)

Municipal Services Taxing Units

A Municipal Service Taxing Unit (MSTU) is a funding mechanism for community members to create, through approval of the Board of County Commissioners, a special taxing unit to make improvements to a community area or provide additional services based on community needs.¹⁶

The legislative and governing body of a county has the power to carry on the county government.¹⁷ This power includes the power to establish MSTUs for any part or all of the unincorporated areas of a county.¹⁸ The creation of an MSTU allows the county's governing body to place the burden of ad valorem taxes upon property in a geographic area less than countywide to fund a particular municipal-type service or services. The MSTU is used in a county budget to separate those ad valorem taxes levied within the taxing unit itself to ensure that the funds derived from the tax levy are used within the boundaries of the taxing unit for the contemplated services. If ad valorem taxes are levied to provide these municipal services, counties are authorized to levy up to 10 mills.¹⁹

The MSTU may encompass the entire unincorporated area, a portion of the unincorporated area, or all or part of the boundaries of a municipality. However, the inclusion of municipal boundaries within the MSTU is subject to consent by ordinance of the governing body of the affected municipality given either annually or for a term of years.²⁰

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.”²¹ Special districts are created to provide a wide variety of services, such as mosquito control,²² beach facilities,²³ children's services,²⁴ fire control and rescue,²⁵ or drainage control.²⁶

Special districts are classified as “dependent special districts” or “independent special districts.” For a special 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;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;

¹⁶ See Collier County, MSTU Information, available at: <https://www.colliercountyfl.gov/your-government/divisions-f-r/public-transit-neighborhood-enhancement/our-services/mstu-information> (last visited Feb. 3, 2020).

¹⁷ Section 125.01(1), F.S.

¹⁸ *Id.* at (q)

¹⁹ Section 200.071(3), F.S.

²⁰ Section 125.01(1)(q), F.S.

²¹ Section 189.012(6), F.S.

²² Section 388.021(1), F.S., (however, new independent mosquito control districts are prohibited, *see* s. 388.021(2), F.S.).

²³ *See* Section 189.011, F.S.

²⁴ Section 125.901(1), F.S.

²⁵ Section 191.002, F.S.

²⁶ Section 298.01, F.S.

- 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; or
- The district has a budget that requires approval or can be vetoed by the governing body of a single county or a single municipality.²⁷

Alternatively, an independent special district is any special district that does not meet the definition of a “dependent special district.”²⁸ 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.²⁹

Excluding community development districts, the charter creating an independent special district must contain the following information:

- The purpose of the special district;
- The powers, functions, and duties of the special district relating to ad valorem taxes, bonds and other revenue-raising abilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and certificates for non-ad valorem assessments and contractual agreements;
- Method for establishing the district and amending the district charter;
- The membership, organization, compensation, and administrative duties of the governing board and its members;
- Applicable financial disclosure, noticing, and reporting requirements;
- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- Method for financing the district;
- Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- District boundaries.

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.³⁰

Special districts may enter into interlocal agreements with one or more other local governmental units, provided that the special district is authorized to operate in the geographic bounds of the other local government unit.³¹ Under such an agreement, the special district may exercise jointly with the other participating local governments, those powers, privileges, or authorities which they have in common, and each may exercise separately.³²

²⁷ Section 189.012(2), F.S.

²⁸ Section 189.012(3), F.S.

²⁹ *Id.*

³⁰ FLA. CONST. Art. VII, s. 9(a),.

³¹ Sections 163.01(2) and (3)(b), F.S.

³² Section 163.10(4), F.S.

Independent Special Fire Control Districts

Chapter 191, F.S., the “Independent Special Fire Control District Act” (Fire Control Act or Act), establishes standards and procedures for the operation and governance of independent special fire control districts and provides greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of districts.³³ There are currently 64 fire control districts established by ch. 191, F.S., operating across Florida.³⁴

Unless otherwise exempted by special or general law, each district, whether created by special act, a general law of local application, or county ordinance, must comply with the Fire Control Act. The Act supersedes any special act or general law of local application containing the charter of a district, excluding provisions addressing district boundaries and geographical sub-districts for the election of members of the governing board.³⁵

The Fire Control Act prescribes procedures for the election, composition, and general administration of a district’s governing board, and contains a broad list of the district’s general powers to be exercised by a majority vote of the governing board.³⁶ The Act grants districts special powers related to facilities and duties, and are required to provide for fire suppression and prevention by establishing and maintaining fire stations and substations, and by acquiring and maintaining firefighting and fire protection equipment necessary to prevent or fight fires. All construction must comply with applicable state, regional, and local regulations, including applicable comprehensive plans and land development regulations.³⁷

A fire control district may levy ad valorem taxes up to 3.75 mills unless a greater millage rate is authorized by law, subject to a referendum as required by the Florida Constitution and the Fire Control Act. Districts may also be authorized to levy special assessments, user charges, and impact fees under the Fire Control Act.³⁸

Boundaries of a district may be modified, extended, or enlarged only upon approval or ratification by the Legislature.³⁹ New independent fire control districts may be created only by the Legislature under s. 189.031, F.S.

Fire control districts are authorized to cooperate or contract with other persons or entities, including other governmental agencies, as necessary, convenient, incidental, or proper in connection with providing effective mutual aid and furthering any power, duty, or the purpose authorized by the Fire Control Act.⁴⁰ Additionally, the Act affords districts the right to issue usage charges for special emergency services, including firefighting occurring in or to structures outside the district, if called to render such emergency services.⁴¹

³³ Section 191.002, F.S.

³⁴ See Florida Department of economic Opportunity, Official List of Special Districts Online, *available at*: <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Jan. 30, 2020).

³⁵ Section 191.004, F.S.

³⁶ Section 191.006, F.S.

³⁷ Section 191.008, F.S.

³⁸ Section 191.009, F.S.

³⁹ Section 191.014, F.S.

⁴⁰ Section 191.006(13), F.S.

⁴¹ Section 191.009(3)(a), F.S.

Florida Interlocal Cooperation Act of 1969

The Florida Interlocal Cooperation Act provides local governmental units the right to enter into mutually advantageous agreements to provide services or facilities to other localities.⁴² This section of the law allows public agencies of the state to exercise jointly with any other public agency of the state, of any other state, or the United States Government any power, privilege, or authority which such agencies share in common and which each might exercise separately.⁴³ To effectuate interlocal cooperation under this section, local governmental units jointly exercising power must form and execute a contract detailing the terms and conditions of the interlocal relationship.⁴⁴

Halifax Hospital Medical Center v. State, 278 So.3d 545 (Fla. 2019)

Created in 1925 as the Halifax Hospital District,⁴⁵ the Halifax Hospital Medical Center (commonly known as Halifax Health)⁴⁶ is an independent special district located in a portion of Volusia County.⁴⁷ As originally adopted, the charter for Halifax Hospital District authorized the establishment, construction, operation, and maintenance of hospitals as necessary for the use of the people in the district.⁴⁸ The 1925 enabling act and subsequent amendments⁴⁹ were recodified in 1979.⁵⁰ Halifax Hospital Medical Center interpreted a change in the first sentence of the basic authorization section in the 1979 charter⁵¹ as allowing the district to provide services and open facilities outside the borders of the district.⁵²

Applying this interpretation, the district established and operated extra-territorial facilities and services for several years.⁵³ The text on which the district relies was substantially unchanged

⁴² Section 163.01, F.S.

⁴³ *Id.* at (4)

⁴⁴ *Id.* at (5)

⁴⁵ Chapter 11272, Laws of Fla. (1925).

⁴⁶ See Halifax Health, “Our History,” at <https://www.halifaxhealth.org> (last visited Jan. 30, 2020). The official name of the district in the current charter is “Halifax Hospital Medical Center” and is so referenced in this analysis.

⁴⁷ Chapter 2003-374, Laws of Fla.

⁴⁸ Chapter 11272, s. 5, Laws of Fla. (1925).

⁴⁹ Chapters 13489 & 13490, Laws of Fla. (1927); ch. 16037, Laws of Fla. (1933); ch. 17977, Laws of Fla. (1937); chapter 19097, Laws of Fla. (1939); chapters 21748 & 21749, Laws of Fla. (1943); chapters 22688 & 22689, Laws of Fla. (1945); chapters 26280, 26283, 26292, Laws of Fla. (1949); chapter 27944, Laws of Fla. (1951); chapters 29579 & 29580, Laws of Fla.; chapter 31333, Laws of Fla. (1955); chapters 57-1925, 59-1952, 59-1953, 59-1954, 61-2961, 61-2963, 61-2964, 63-2019, 65-2353, 65-2354, 65-2356, 67-2155, 67-2156, 72-710, 72-711, 72-712, 74-622, 77-661, 77-662, Laws of Fla.

⁵⁰ Chapter 79-577, Laws of Fla.

⁵¹ Chapter 79-577, s. 5, Laws of Fla.

⁵² See Amended Brief of Halifax Hospital Medical Center, 17-18, 20, *Halifax Hospital Medical Center v. State of Fla., et al.*, Case No. SC18-683 in the Florida Supreme Court (filed 6/19/2018) [herein Appellant’s Initial Brief]; Reply Brief of Halifax Hospital Medical Center, 3-5, *Halifax Hospital Medical Center v. State of Fla., et al.*, Case No. SC18-683 in the Florida Supreme Court (filed 9/19/2018) [herein Appellant’s Reply Brief]. At the time these arguments were made, the legal standard for reviewing an agency’s determination of its operative law required the court to give deference to the agency’s interpretation if further interpretation was necessary. On November 6, 2018, the voters of Florida approved proposed Amendment 6 to the Florida Constitution, creating art. V, s. 21, which prohibits a reviewing court from deferring to an agency’s interpretation of law and requiring an original, or *de novo* review by the court. That amendment was effective on January 8, 2019. Art. XI, s. 5(e), Fla. Const. The Supreme Court found the laws at issue were unambiguous and could be applied by the Court without need for other rules of interpretation. *Halifax Hospital Medical Center v. State of Florida*, No. SC18-683 (Fla. Apr. 18, 2019), 4.

⁵³ Appellant’s Initial Brief, 8.

when the 1979 charter and subsequent amending acts⁵⁴ were again recodified in 2003.⁵⁵ Each version of the charter for the Halifax Hospital Medical Center required the act to be liberally interpreted to achieve its stated purposes.⁵⁶

On November 6, 2017, Deltona and the Halifax district entered into an interlocal agreement for the district to construct and operate health facilities within the City.⁵⁷ To finance the development and completion of the Deltona hospital, on January 8, 2018, the Board of the Halifax district adopted a resolution to issue \$115 million in bonds using the district's authority.⁵⁸ Following the statutory procedure,⁵⁹ the district filed a complaint in the Circuit Court to validate the bonds.⁶⁰ The Circuit Court found the district was not authorized to construct the Deltona hospital outside the geographical boundaries of the district, and accordingly refused to validate the proposed bond issue.⁶¹ On April 18, 2019, the Supreme Court affirmed the decision of the circuit court, holding that the district's enabling law and ch. 189, F.S., did not expressly authorize any operation outside the district boundaries.⁶²

III. Effect of Proposed Changes:

The bill expands the applicability of ch. 175, F.S., the Marvin B. Clayton Firefighters Pension Trust Fund Act (Act), to provide that the Act applies to municipalities providing fire protection services to an MSTU through an interlocal agreement. The bill authorizes municipalities to receive insurance premium taxes collected within the boundaries of an MSTU to afford pension benefits to firefighters serving the area. It conforms ch. 175, F.S., to authorize the levy and imposition of the insurance premium tax within an MSTU in the same manner as prescribed for municipalities and fire control districts. The bill requires that certain pension trust fund money not distributed to an MSTU be appropriated to the Firefighters' Supplemental Compensation Trust Fund.

The bill also amends s. 191.006, F.S., to expressly provide that independent special fire control districts have all powers and duties provided in ch. 189, F.S., (Uniform Special District Accountability Act), ch. 191, F.S., (Fire Control Act), and s. 163.01, F.S., (Florida Interlocal Cooperation Act), including the exercise of such powers within or without the independent special fire control district's boundary in cooperation with another governmental agency when such agency shares such powers in common with the district.

The bill takes effect on July 1, 2020.

⁵⁴ Chapters 79-578, 84-539, 89-409, 91-352, Laws of Fla.

⁵⁵ Chapter 2003-374, Laws of Fla.

⁵⁶ Chapter 11272, s. 20, Laws of Fla. (1925); chapter 79-577, s. 15, Laws of Fla.; chapter 2003-374, s. 15 of s. 3, Laws of Fla.

⁵⁷ Appellant's Initial Brief, 10. *See* s. 163.01, F.S.

⁵⁸ Appellant's Initial Brief, 10. *See* chapter 2003-374, s. 8 of s. 3, Laws of Fla.

⁵⁹ Chapter 75, F.S.

⁶⁰ *Halifax Hospital Medical Center v. State of Florida, et al.*, Case no. 2018 30059 CICI, in the 7th Judicial Circuit Court in and for Volusia County, Florida.

⁶¹ "Order on Motion for Final Judgment," Case no. 2018 30059 CICI (4/17/2018).

⁶² *Halifax Hospital Medical Center v. State of Florida*, 278 So.3d 545, No. SC18-683 (Fla. Apr. 18, 2019).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that the provisions of the bill pertaining to the insurance premium tax will reduce General Revenue receipts by \$100,000 in fiscal year 2020-2021, with a recurring reduction of \$300,000 beginning in fiscal year 2021-2022. The bill will increase local government receipts by \$100,000 in fiscal year 2020-2021, with a recurring increase of \$300,000 beginning in fiscal year 2021-2022.⁶³

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill specifies that a municipality is entitled to premium tax distributions provided by chapter 175, F.S., for providing fire services to MSTUs. As a result, the bill will have a negative fiscal impact on state revenues. Premium taxes paid by an insurer to fund a municipal firefighter retirement plan are credited against the total premium taxes paid to the state by the insurance company.⁶⁴ Numerations allocated to MSTU firefighter pension

⁶³ Revenue Estimating Conference, *Fire Control District Surtax, HB 1331* (Jan. 30, 2020), available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page326-328.pdf (last visited Feb. 5, 2020).

⁶⁴ See s. 624.509(4), F.S.

funds would be deducted from the general revenue fund of the state and would not increase or decrease premium taxes paid by insurers.⁶⁵

The bill will result in a positive fiscal impact on local governments because the bill provides that a municipality may collect insurance premium tax revenues within the MSTU boundary receiving firefighter services if the municipality provides a municipal firefighter retirement plan as provided for in ch. 175, F.S.

The bill may also have a positive fiscal impact on special independent fire control districts. These districts may be able to increase revenues by entering interlocal agreements and providing services outside the specific geographic boundaries established in a district charter.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 175.032, 175.041, 175.071, 175.101, 175.111, 175.121, 175.122, 175.351, 175.381, 175.411, 191.006, and 633.422.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on February 3, 2020:

The committee substitute adds provisions allowing municipalities that provide fire protection services to a municipal services taxing unit (MSTU) through an interlocal agreement to receive insurance premium taxes collected within the boundaries of an MSTU in order to provide pension benefits to the municipality's firefighters serving the MSTU.

- B. **Amendments:**

None.

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

⁶⁵ *Id.*



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2020	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (14) of section 175.032, Florida
Statutes, is amended to read:

175.032 Definitions.—For any municipality, special fire
control district, chapter plan, local law municipality, local
law special fire control district, or local law plan under this
chapter, the term:



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11 (14) "Local law plan" means a retirement plan that includes
12 both a defined benefit plan component and a defined contribution
13 plan component for firefighters, or for firefighters and police
14 officers if both are included, as described in s. 175.351,
15 established by ~~municipal~~ ordinance, special district resolution,
16 or special act of the Legislature, which enactment sets forth
17 all plan provisions. Local law plan provisions may vary from the
18 provisions of this chapter if minimum benefits and minimum
19 standards are met. However, any such variance must provide a
20 greater benefit for firefighters, or firefighters and police
21 officers if both are included. Actuarial valuations of local law
22 plans shall be conducted by an enrolled actuary as provided in
23 s. 175.261(2).

24 Section 2. Section 175.041, Florida Statutes, is amended to
25 read:

26 175.041 Firefighters' Pension Trust Fund created;
27 applicability of provisions.—For any municipality, municipal
28 services taxing unit, special fire control district, chapter
29 plan, local law municipality, local law special fire control
30 district, or local law plan under this chapter:

31 (1) There shall be established a special fund exclusively
32 for the purpose of this chapter, which ~~in the case of chapter~~
33 ~~plans~~ shall be known as the "Firefighters' Pension Trust Fund,"
34 in each municipality, municipal services taxing unit, and ~~each~~
35 special fire control district of this state ~~heretofore or~~
36 ~~hereafter created~~ which now has or which may hereafter have a
37 constituted fire department or an authorized volunteer fire
38 department, or any combination thereof.

39 (2) To qualify as a fire department or volunteer fire



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40 department or combination thereof under ~~the provisions of~~ this
41 chapter, the department shall own and use apparatus for the
42 fighting of fires that was in compliance with National Fire
43 Protection Association Standards for Automotive Fire Apparatus
44 at the time of purchase.

45 (3) ~~The provisions of~~ This chapter applies ~~shall apply~~ only
46 to municipalities organized and established under ~~pursuant to~~
47 the laws of the state and to special fire control districts.
48 This chapter does, ~~and said provisions shall~~ not apply to the
49 unincorporated areas of any county or counties except with
50 respect to municipal services taxing units established in
51 unincorporated areas for the purpose of receiving fire
52 protection services from a municipality and special fire control
53 districts that include unincorporated areas. This chapter also
54 does not, ~~nor shall the provisions hereof~~ apply to any
55 governmental entity whose firefighters are eligible to
56 participate in the Florida Retirement System.

57 (a) Special fire control districts that include, or consist
58 exclusively of, unincorporated areas of one or more counties may
59 levy and impose the tax and participate in the retirement
60 programs created ~~enabled~~ by this chapter.

61 (b) With respect to the distribution of premium taxes, a
62 single consolidated government consisting of a former county and
63 one or more municipalities, consolidated under ~~pursuant to~~ s. 3
64 or s. 6(e), Art. VIII of the State Constitution, is also
65 eligible to participate under this chapter. The consolidated
66 government shall notify the division when it has entered into an
67 interlocal agreement to provide fire services to a municipality
68 within its boundaries. The municipality may enact an ordinance



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69 levying the tax as provided in s. 175.101. Upon being provided
70 copies of the interlocal agreement and the municipal ordinance
71 levying the tax, the division may distribute any premium taxes
72 reported for the municipality to the consolidated government as
73 long as the interlocal agreement is in effect.

74 (c) Any municipality that has entered into an interlocal
75 agreement to provide fire protection services to any other
76 incorporated municipality, in its entirety, or a municipal
77 services taxing unit in an unincorporated area, ~~in its entirety,~~
78 for a period of 12 months or more may be eligible to receive the
79 premium taxes reported for such other municipality or municipal
80 services taxing unit. In order to be eligible for such premium
81 taxes, the municipality providing the fire services must notify
82 the division that it has entered into an interlocal agreement
83 with another municipality or a county on behalf of a municipal
84 services taxing unit. The municipality receiving the fire
85 services, or a county on behalf of the municipal services taxing
86 unit receiving the fire services, may enact an ordinance levying
87 the tax as provided in s. 175.101. Upon being provided copies of
88 the interlocal agreement and the ~~municipal~~ ordinance levying the
89 tax, the division may distribute any premium taxes reported for
90 the municipality or municipal services taxing unit receiving the
91 fire services to the participating municipality providing the
92 fire services as long as the interlocal agreement is in effect.

93 (4) No municipality shall establish more than one
94 retirement plan for public safety officers which is supported in
95 whole or in part by the distribution of premium tax funds as
96 provided by this chapter or chapter 185, nor shall any
97 municipality establish a retirement plan for public safety



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98 officers which receives premium tax funds from both this chapter
99 and chapter 185.

100 Section 3. Section 175.071, Florida Statutes, is amended to
101 read:

102 175.071 General powers and duties of board of trustees.—For
103 any municipality, municipal services taxing unit, special fire
104 control district, chapter plan, local law municipality, local
105 law special fire control district, or local law plan under this
106 chapter:

107 (1) The board of trustees, subject to the fiduciary
108 standards in ss. 112.656, 112.661, and 518.11 and the Code of
109 Ethics in ss. 112.311-112.3187, may:

110 (a) Invest and reinvest the assets of the firefighters'
111 pension trust fund in annuity and life insurance contracts of
112 life insurance companies in amounts sufficient to provide, in
113 whole or in part, the benefits to which all of the participants
114 in the firefighters' pension trust fund are entitled under this
115 chapter and pay the initial and subsequent premiums thereon.

116 (b) Invest and reinvest the assets of the firefighters'
117 pension trust fund in:

118 1. Time or savings accounts of a national bank, a state
119 bank insured by the Bank Insurance Fund, or a savings, building,
120 and loan association insured by the Savings Association
121 Insurance Fund administered by the Federal Deposit Insurance
122 Corporation or a state or federal chartered credit union whose
123 share accounts are insured by the National Credit Union Share
124 Insurance Fund.

125 2. Obligations of the United States or obligations
126 guaranteed as to principal and interest by the government of the



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127 United States.

128 3. Bonds issued by the State of Israel.

129 4. Bonds, stocks, or other evidences of indebtedness issued
130 or guaranteed by a corporation organized under the laws of the
131 United States, any state or organized territory of the United
132 States, or the District of Columbia, if:

133 a. The corporation is listed on any one or more of the
134 recognized national stock exchanges or on the National Market
135 System of the NASDAQ Stock Market and, in the case of bonds
136 only, holds a rating in one of the three highest classifications
137 by a major rating service; and

138 b. The board of trustees may not invest more than 5 percent
139 of its assets in the common stock or capital stock of any one
140 issuing company, nor may the aggregate investment in any one
141 issuing company exceed 5 percent of the outstanding capital
142 stock of that company or the aggregate of its investments under
143 this subparagraph at cost exceed 50 percent of the assets of the
144 fund.

145
146 This paragraph applies to all boards of trustees and
147 participants. However, if a municipality, municipal services
148 taxing unit, or special fire control district has a duly enacted
149 pension plan under ~~pursuant to~~, and in compliance with, s.
150 175.351, and the trustees desire to vary the investment
151 procedures, the trustees of such plan must request a variance of
152 the investment procedures as outlined herein only through an a
153 ~~municipal~~ ordinance, special act of the Legislature, or
154 resolution by the governing body of the special fire control
155 district; if a special act, or a municipality by ordinance



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156 adopted before July 1, 1998, permits a greater than 50-percent
157 equity investment, such municipality is not required to comply
158 with the aggregate equity investment provisions of this
159 paragraph. Notwithstanding any other provision of law, this
160 section may not be construed to take away any preexisting legal
161 authority to make equity investments that exceed the
162 requirements of this paragraph. Notwithstanding any other
163 provision of law, the board of trustees may invest up to 25
164 percent of plan assets in foreign securities on a market-value
165 basis. The investment cap on foreign securities may not be
166 revised, amended, increased, or repealed except as provided by
167 general law.

168 (c) Issue drafts upon the firefighters' pension trust fund
169 pursuant to this act and rules prescribed by the board of
170 trustees. All such drafts must be consecutively numbered, be
171 signed by the chair and secretary, or by two individuals
172 designated by the board who are subject to the same fiduciary
173 standards as the board of trustees under this subsection, and
174 state upon their faces the purpose for which the drafts are
175 drawn. The treasurer or depository of each municipality or
176 special fire control district shall retain such drafts when
177 paid, as permanent vouchers for disbursements made, and no money
178 may be otherwise drawn from the fund.

179 (d) Convert into cash any securities of the fund.

180 (e) Keep a complete record of all receipts and
181 disbursements and the board's acts and proceedings.

182 (2) Any and all acts and decisions shall be effectuated by
183 vote of a majority of the members of the board; however, no
184 trustee shall take part in any action in connection with the



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185 trustee's own participation in the fund, and no unfair
186 discrimination shall be shown to any individual firefighter
187 participating in the fund.

188 (3) The board's action on all claims for retirement under
189 this act shall be final, provided, however, that the rules and
190 regulations of the board have been complied with.

191 (4) The secretary of the board of trustees shall keep a
192 record of all persons receiving retirement payments under ~~the~~
193 ~~provisions of~~ this chapter, in which shall be noted the time
194 when the pension is allowed and the time when the pension shall
195 cease to be paid. In this record, the secretary shall keep a
196 list of all firefighters employed by the municipality, municipal
197 services taxing unit, or special fire control district. The
198 record shall show the name, address, and time of employment of
199 such firefighters and when they cease to be employed by the
200 municipality, municipal services taxing unit, or special fire
201 control district.

202 (5) The sole and exclusive administration of, and the
203 responsibilities for, the proper operation of the firefighters'
204 pension trust fund and for making effective ~~the provisions of~~
205 this chapter are vested in the board of trustees; however,
206 nothing herein shall empower a board of trustees to amend ~~the~~
207 ~~provisions of~~ a retirement plan without the approval of the
208 municipality, municipal services taxing unit, or special fire
209 control district. The board of trustees shall keep in convenient
210 form such data as shall be necessary for an actuarial valuation
211 of the firefighters' pension trust fund and for checking the
212 actual experience of the fund.

213 (6) (a) At least once every 3 years, the board of trustees



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214 shall retain a professionally qualified independent consultant
215 who shall evaluate the performance of any existing professional
216 money manager and shall make recommendations to the board of
217 trustees regarding the selection of money managers for the next
218 investment term. These recommendations shall be considered by
219 the board of trustees at its next regularly scheduled meeting.
220 The date, time, place, and subject of this meeting shall be
221 advertised in the same manner as for any meeting of the board.

222 (b) For purposes of this subsection, the term
223 "professionally qualified independent consultant" means a
224 consultant who, based on education and experience, is
225 professionally qualified to evaluate the performance of
226 professional money managers, and who, at a minimum:

- 227 1. Provides his or her services on a flat-fee basis.
- 228 2. Is not associated in any manner with the money manager
229 for the pension fund.
- 230 3. Makes calculations according to the American Banking
231 Institute method of calculating time-weighted rates of return.
232 All calculations must be made net of fees.
- 233 4. Has 3 or more years of experience working in the public
234 sector.

235 (7) To assist the board in meeting its responsibilities
236 under this chapter, the board, if it so elects, may:

237 (a) Employ independent legal counsel at the pension fund's
238 expense.

239 (b) Employ an independent enrolled actuary, as defined in
240 s. 175.032, at the pension fund's expense.

241 (c) Employ such independent professional, technical, or
242 other advisers as it deems necessary at the pension fund's



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243 expense.

244

245 If the board chooses to use the municipality's, municipal
246 services taxing unit's, or special district's legal counsel or
247 actuary, or chooses to use any of the municipality's, municipal
248 services taxing unit's, or special district's other
249 professional, technical, or other advisers, it must do so only
250 under terms and conditions acceptable to the board.

251 (8) Notwithstanding paragraph (1)(b) and as provided in s.
252 215.473, the board of trustees must identify and publicly report
253 any direct or indirect holdings it may have in any scrutinized
254 company, as defined in that section, and proceed to sell,
255 redeem, divest, or withdraw all publicly traded securities it
256 may have in that company beginning January 1, 2010. The
257 divestiture of any such security must be completed by September
258 30, 2010. The board and its named officers or investment
259 advisors may not be deemed to have breached their fiduciary duty
260 in any action taken to dispose of any such security, and the
261 board shall have satisfactorily discharged the fiduciary duties
262 of loyalty, prudence, and sole and exclusive benefit to the
263 participants of the pension fund and their beneficiaries if the
264 actions it takes are consistent with the duties imposed by s.
265 215.473, and the manner of the disposition, if any, is
266 reasonable as to the means chosen. For the purposes of effecting
267 compliance with that section, the pension fund shall designate
268 terror-free plans that allocate their funds among securities not
269 subject to divestiture. No person may bring any civil, criminal,
270 or administrative action against the board of trustees or any
271 employee, officer, director, or advisor of such pension fund



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272 based upon the divestiture of any security pursuant to this
273 subsection.

274 Section 4. Section 175.101, Florida Statutes, is amended to
275 read:

276 175.101 State excise tax on property insurance premiums
277 authorized; procedure.—For any municipality, municipal services
278 taxing unit, special fire control district, chapter plan, local
279 law municipality, local law special fire control district, or
280 local law plan under this chapter:

281 (1) Each municipality, municipal services taxing unit, or
282 special fire control district in this state described and
283 classified in s. 175.041, having a lawfully established
284 ~~firefighters'~~ pension trust fund, ~~or~~ municipal fund, or special
285 fire control district fund, by whatever name known, providing
286 pension benefits to firefighters, or firefighters and police
287 officers if both are included, as provided under this chapter,
288 or receiving fire protection services from a municipality
289 participating under this chapter, may assess and impose on every
290 insurance company, corporation, or other insurer now engaged in
291 or carrying on, or who shall hereinafter engage in or carry on,
292 the business of property insurance as shown by the records of
293 the Office of Insurance Regulation of the Financial Services
294 Commission, an excise tax in addition to any lawful license or
295 excise tax now levied by each of the municipalities, municipal
296 services taxing units, or special fire control districts,
297 respectively, amounting to 1.85 percent of the gross amount of
298 receipts of premiums from policyholders on all premiums
299 collected on property insurance policies covering property
300 within the corporate limits of such municipalities or within the



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301 | legally defined boundaries of municipal services taxing units or
302 | special fire control districts, respectively. Whenever the
303 | boundaries of a special fire control district that has lawfully
304 | established a firefighters' pension trust fund encompass a
305 | portion of the corporate territory of a municipality that has
306 | also lawfully established a firefighters' pension trust fund, or
307 | a municipal services taxing unit receiving fire protection
308 | services from a municipality participating under this chapter,
309 | that portion of the tax receipts attributable to insurance
310 | policies covering property situated both within the municipality
311 | or municipal services taxing unit and the special fire control
312 | district shall be given to the fire service provider. For the
313 | purpose of this section, the boundaries of a special fire
314 | control district include an area that has been annexed until the
315 | completion of the 4-year period provided for in s. 171.093(4),
316 | or other agreed-upon extension, or if a special fire control
317 | district is providing services under an interlocal agreement
318 | executed in accordance with s. 171.093(3). The agent shall
319 | identify the fire service provider on the property owner's
320 | application for insurance. Remaining revenues collected under
321 | ~~pursuant to~~ this chapter shall be distributed to the
322 | municipality or special fire control district according to the
323 | location of the insured property.

324 | (2) In the case of multiple peril policies with a single
325 | premium for both the property and casualty coverages in such
326 | policies, 70 percent of such premium shall be used as the basis
327 | for the 1.85-percent tax.

328 | (3) This excise tax is ~~shall be~~ payable annually on March 1
329 | of each year after the passage of an ordinance, in the case of a



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330 municipality or municipal services taxing unit, or resolution,
331 in the case of a special fire control district, assessing and
332 imposing the tax authorized by this section. Installments of
333 taxes shall be paid according to ~~the provision of~~ s.
334 624.5092(2) (a), (b), and (c).

335
336 This section also applies to any municipality consisting of a
337 single consolidated government which is made up of a former
338 county and one or more municipalities, consolidated under
339 ~~pursuant to~~ the authority in s. 3 or s. 6(e), Art. VIII of the
340 State Constitution, and to property insurance policies covering
341 property within the boundaries of the consolidated government,
342 regardless of whether the properties are located within one or
343 more separately incorporated areas within the consolidated
344 government, provided the properties are being provided fire
345 protection services by the consolidated government. This section
346 also applies to any municipality or municipal services taxing
347 unit in an unincorporated area, as provided in s. 175.041(3)(c),
348 which has entered into an interlocal agreement to receive fire
349 protection services from another municipality participating
350 under this chapter. The excise tax may be levied on all premiums
351 collected on property insurance policies covering property
352 located within the corporate limits of the municipality or
353 municipality services taxing unit receiving the fire protection
354 services, but will be available for distribution to the
355 municipality providing the fire protection services.

356 Section 5. Section 175.111, Florida Statutes, is amended to
357 read:

358 175.111 Certified copy of ordinance or resolution filed;



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359 insurance companies' annual report of premiums; duplicate files;
360 book of accounts.—For any municipality, municipal services
361 taxing unit, special fire control district, chapter plan, local
362 law municipality, local law special fire control district, or
363 local law plan under this chapter, whenever any municipality, or
364 any county on behalf of a municipal services taxing unit, passes
365 an ordinance or whenever any special fire control district
366 passes a resolution establishing a chapter plan or local law
367 plan assessing and imposing the taxes authorized in s. 175.101,
368 a certified copy of such ordinance or resolution shall be
369 deposited with the division. Thereafter every insurance company,
370 association, corporation, or other insurer carrying on the
371 business of property insurance on real or personal property, on
372 or before the succeeding March 1 after the date of the passage
373 of the ordinance or resolution, shall report fully in writing
374 and under oath to the division and the Department of Revenue a
375 just and true account of all premiums by such insurer received
376 for property insurance policies covering or insuring any real or
377 personal property located within the corporate limits of each
378 such municipality, municipal services taxing unit, or special
379 fire control district during the period of time elapsing between
380 the date of the passage of the ordinance or resolution and the
381 end of the calendar year. The report shall include the code
382 designation as prescribed by the division for each piece of
383 insured property, real or personal, located within the corporate
384 limits of each municipality and within the legally defined
385 boundaries of each special fire control district and municipal
386 services taxing unit. The ~~aforsaid~~ insurer shall annually
387 thereafter, on March 1, file with the Department of Revenue a



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388 similar report covering the preceding year's premium receipts,
389 and every such insurer at the same time of making such reports
390 shall pay to the Department of Revenue the amount of the imposed
391 tax ~~hereinbefore mentioned~~. Every insurer engaged in carrying on
392 such insurance business in the state shall keep accurate books
393 of accounts of all such business done by it within the corporate
394 limits of each such municipality and within the legally defined
395 boundaries of each such special fire control district and
396 municipal services taxing unit, and in such manner as to be able
397 to comply with ~~the provisions of~~ this chapter. Based on the
398 insurers' reports of premium receipts, the division shall
399 prepare a consolidated premium report and shall furnish to any
400 municipality, municipal services taxing unit, or special fire
401 control district requesting the same a copy of the relevant
402 section of that report.

403 Section 6. Section 175.121, Florida Statutes, is amended to
404 read:

405 175.121 Department of Revenue and Division of Retirement to
406 keep accounts of deposits; disbursements.—For any municipality,
407 municipal services taxing unit, or special fire control district
408 having a chapter or local law plan established under ~~pursuant to~~
409 this chapter:

410 (1) The Department of Revenue shall keep a separate account
411 of all moneys collected for each municipality, municipal
412 services taxing unit, and ~~each~~ special fire control district
413 under ~~the provisions of~~ this chapter. All moneys so collected
414 must be transferred to the Police and Firefighters' Premium Tax
415 Trust Fund and shall be separately accounted for by the
416 division. The moneys budgeted as necessary to pay the expenses



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417 of the division for the daily oversight and monitoring of the
418 firefighters' pension plans under this chapter and for the
419 oversight and actuarial reviews conducted under part VII of
420 chapter 112 are annually appropriated from the interest and
421 investment income earned on the moneys collected for each
422 municipality, municipal services taxing unit, or special fire
423 control district and deposited in the Police and Firefighters'
424 Premium Tax Trust Fund. Interest and investment income remaining
425 thereafter in the trust fund which is unexpended and otherwise
426 unallocated by law shall revert to the General Revenue Fund on
427 June 30 of each year.

428 (2) The Chief Financial Officer shall, on or before July 1
429 of each year, and at such other times as authorized by the
430 division, draw his or her warrants on the full net amount of
431 money then on deposit in the Police and Firefighters' Premium
432 Tax Trust Fund under ~~pursuant to~~ this chapter, specifying the
433 municipalities, municipal services taxing units, and special
434 fire control districts to which the moneys must be paid and the
435 net amount collected for and to be paid to each municipality,
436 municipal services taxing unit, or special fire control
437 district, respectively, subject to the limitation on
438 disbursement under s. 175.122. The sum payable to each
439 municipality, municipal services taxing unit, or special fire
440 control district is appropriated annually out of the Police and
441 Firefighters' Premium Tax Trust Fund. The warrants of the Chief
442 Financial Officer shall be payable to the respective
443 municipalities, municipal services taxing units, and special
444 fire control districts entitled to receive them and shall be
445 remitted annually by the division to the respective



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446 municipalities, municipal services taxing units, and special
447 fire control districts. In lieu thereof, the municipality,
448 municipal services taxing unit, or special fire control district
449 may provide authorization to the division for the direct payment
450 of the premium tax to the board of trustees. In order for a
451 municipality, municipal services taxing unit, or special fire
452 control district and its pension fund to participate in the
453 distribution of premium tax moneys under this chapter, all the
454 provisions shall be complied with annually, including state
455 acceptance under ~~pursuant to~~ part VII of chapter 112.

456 (3) (a) All moneys not distributed to municipalities,
457 municipal services taxing units, and special fire control
458 districts under this section as a result of the limitation on
459 disbursement contained in s. 175.122, or as a result of any
460 municipality, municipal services taxing unit, or special fire
461 control district not having qualified in any given year, or
462 portion thereof, shall be transferred to the Firefighters'
463 Supplemental Compensation Trust Fund administered by the
464 Department of Revenue, as provided in s. 633.422.

465 (b)1. Moneys transferred under paragraph (a) but not needed
466 to support the supplemental compensation program in a given year
467 shall be redistributed pro rata to those participating
468 municipalities, municipal services taxing units, and special
469 fire control districts that transfer any portion of their funds
470 to support the supplemental compensation program in that year.
471 Such additional moneys shall be used to cover or offset costs of
472 the retirement plan.

473 2. To assist the Department of Revenue, the division shall
474 identify those municipalities, municipal services taxing units,



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475 and special fire control districts that are eligible for
476 redistribution as provided in s. 633.422(3)(c)2., by listing the
477 municipalities, municipal services taxing units, and special
478 fire control districts from which funds were transferred under
479 paragraph (a) and specifying the amount transferred by each.

480 Section 7. Section 175.122, Florida Statutes, is amended to
481 read:

482 175.122 Limitation of disbursement.—For any municipality,
483 municipal services taxing unit, special fire control district,
484 chapter plan, local law municipality, local law special fire
485 control district, or local law plan under this chapter, any
486 municipality, municipal services taxing unit, or special fire
487 control district participating in the firefighters' pension
488 trust fund under ~~pursuant to the provisions of~~ this chapter,
489 whether under a chapter plan or local law plan, is ~~shall be~~
490 limited to receiving any moneys from such fund in excess of that
491 produced by one-half of the excise tax, as provided for in s.
492 175.101; however, any such municipality, municipal services
493 taxing unit, or special fire control district receiving less
494 than 6 percent of its fire department payroll from such fund is
495 ~~shall be~~ entitled to receive from such fund the amount
496 determined under s. 175.121, in excess of one-half of the excise
497 tax, not to exceed 6 percent of its fire department payroll.
498 Payroll amounts of members included in the Florida Retirement
499 System are ~~shall~~ not be included.

500 Section 8. Section 175.351, Florida Statutes, is amended to
501 read:

502 175.351 Municipalities, municipal services taxing units,
503 and special fire control districts that have their own



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504 retirement plans for firefighters.—In order for a municipality,
505 municipal services taxing unit, or special fire control district
506 that has its own retirement plan for firefighters, or for
507 firefighters and police officers if both are included, to
508 participate in the distribution of the tax fund established
509 under s. 175.101, a local law plan must meet minimum benefits
510 and minimum standards, except as provided in the mutual consent
511 provisions in paragraph (1)(g) with respect to the minimum
512 benefits not met as of October 1, 2012.

513 (1) If a municipality, municipal services taxing unit, or
514 special fire control district has a retirement plan for
515 firefighters, or for firefighters and police officers if both
516 are included, which in the opinion of the division meets minimum
517 benefits and minimum standards, the board of trustees of the
518 retirement plan must place the income from the premium tax in s.
519 175.101 in such plan for the sole and exclusive use of its
520 firefighters, or for firefighters and police officers if both
521 are included, where it shall become an integral part of that
522 plan and be used to fund benefits as provided herein. Effective
523 October 1, 2015, for noncollectively bargained service or upon
524 entering into a collective bargaining agreement on or after July
525 1, 2015:

526 (a) The base premium tax revenues must be used to fund
527 minimum benefits or other retirement benefits in excess of the
528 minimum benefits as determined by the municipality, municipal
529 services taxing unit, or special fire control district.

530 (b) Of the additional premium tax revenues received that
531 are in excess of the amount received for the 2012 calendar year,
532 50 percent must be used to fund minimum benefits or other



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533 retirement benefits in excess of the minimum benefits as
534 determined by the municipality, municipal services taxing unit,
535 or special fire control district, and 50 percent must be placed
536 in a defined contribution plan to fund special benefits.

537 (c) Additional premium tax revenues not described in
538 paragraph (b) must be used to fund benefits that are not
539 included in the minimum benefits. If the additional premium tax
540 revenues subject to this paragraph exceed the full annual cost
541 of benefits provided through the plan which are in excess of the
542 minimum benefits, any amount in excess of the full annual cost
543 must be used as provided in paragraph (b).

544 (d) Of any accumulations of additional premium tax revenues
545 which have not been allocated to fund benefits in excess of the
546 minimum benefits, 50 percent of the amount of the accumulations
547 must be used to fund special benefits, and 50 percent must be
548 applied to fund any unfunded actuarial liabilities of the plan;
549 provided that any amount of accumulations in excess of the
550 amount required to fund the unfunded actuarial liabilities must
551 be used to fund special benefits.

552 (e) For a plan created after March 1, 2015, 50 percent of
553 the insurance premium tax revenues must be used to fund defined
554 benefit plan component benefits, with the remainder used to fund
555 defined contribution plan component benefits.

556 (f) If a plan offers benefits in excess of the minimum
557 benefits, such benefits, excluding supplemental plan benefits in
558 effect as of September 30, 2014, may be reduced if the plan
559 continues to meet minimum benefits and minimum standards. The
560 amount of insurance premium tax revenues previously used to fund
561 benefits in excess of minimum benefits before the reduction,



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562 excluding the amount of any additional premium tax revenues
563 distributed to a supplemental plan for the 2012 calendar year,
564 must be used as provided in paragraph (b). However, benefits in
565 excess of minimum benefits may not be reduced if a plan does not
566 meet the minimum percentage amount of 2.75 percent of the
567 average final compensation of a full-time firefighter, as
568 required by s. 175.162(2)(a)1., or provides an effective benefit
569 that is below 2.75 percent as a result of a maximum benefit
570 limitation as described in s. 175.162(2)(a)2.

571 (g) Notwithstanding paragraphs (a)-(f), the use of premium
572 tax revenues, including any accumulations of additional premium
573 tax revenues which have not been allocated to fund benefits in
574 excess of minimum benefits, may deviate from the provisions of
575 this subsection by mutual consent of the members' collective
576 bargaining representative or, if there is no representative, by
577 a majority of the firefighter members, or firefighter and police
578 officer members if both are included, of the fund, and by
579 consent of the municipality, municipal services taxing unit, or
580 special fire control district, provided that the plan continues
581 to meet minimum benefits and minimum standards; however, a plan
582 that operates under ~~pursuant to~~ this paragraph and does not meet
583 minimum benefits as of October 1, 2012, may continue to provide
584 the benefits that do not meet the minimum benefits at the same
585 level as was provided as of October 1, 2012, and all other
586 benefit levels must continue to meet the minimum benefits. Such
587 mutually agreed deviation must continue until modified or
588 revoked by subsequent mutual consent of the members' collective
589 bargaining representative or, if none, by a majority of the
590 firefighter members, or firefighter and police officer members



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591 if both are included, of the fund, and the municipality,
592 municipal services taxing unit, or special fire control
593 district. An existing arrangement for the use of premium tax
594 revenues contained within a special act plan or a plan within a
595 supplemental plan municipality is considered, as of July 1,
596 2015, to be a deviation for which mutual consent has been
597 granted.

598 (2) The premium tax provided by this chapter must be used
599 in its entirety to provide retirement benefits to firefighters,
600 or to firefighters and police officers if both are included.
601 Local law plans created by special act before May 27, 1939, are
602 deemed to comply with this chapter.

603 (3) A retirement plan or amendment to a retirement plan may
604 not be proposed for adoption unless the proposed plan or
605 amendment contains an actuarial estimate of the costs involved.
606 Such proposed plan or proposed plan change may not be adopted
607 without the approval of the municipality, municipal services
608 taxing unit, special fire control district, or, if where
609 required, the Legislature. Copies of the proposed plan or
610 proposed plan change and the actuarial impact statement of the
611 proposed plan or proposed plan change shall be furnished to the
612 division before the last public hearing on the proposal is held.
613 Such statement must also indicate whether the proposed plan or
614 proposed plan change is in compliance with s. 14, Art. X of the
615 State Constitution and those provisions of part VII of chapter
616 112 which are not expressly provided in this chapter.
617 Notwithstanding any other provision, only those local law plans
618 created by special act of legislation before May 27, 1939, are
619 deemed to meet minimum benefits and minimum standards.



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620 (4) Notwithstanding any other provision, with respect to
621 any supplemental plan municipality:

622 (a) A local law plan and a supplemental plan may continue
623 to use their definition of compensation or salary in existence
624 on March 12, 1999.

625 (b) Section 175.061(1) (b) does not apply, and a local law
626 plan and a supplemental plan shall continue to be administered
627 by a board or boards of trustees numbered, constituted, and
628 selected as the board or boards were numbered, constituted, and
629 selected on December 1, 2000.

630 (5) The retirement plan setting forth the benefits and the
631 trust agreement, if any, covering the duties and
632 responsibilities of the trustees and the regulations of the
633 investment of funds must be in writing, and copies made
634 available to the participants and to the general public.

635 (6) In addition to the defined benefit plan component of
636 the local law plan, each plan sponsor must have a defined
637 contribution plan component within the local law plan by October
638 1, 2015, for noncollectively bargained service, upon entering
639 into a collective bargaining agreement on or after July 1, 2015,
640 or upon the creation date of a new participating plan. Depending
641 upon the application of subsection (1), a defined contribution
642 plan component may or may not receive any funding.

643 (7) Notwithstanding any other provision of this chapter, a
644 municipality, municipal services taxing unit, or special fire
645 control district that has implemented or proposed changes to a
646 local law plan based on the municipality's, municipal services
647 taxing unit's, or district's reliance on an interpretation of
648 this chapter by the Department of Management Services on or



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649 after August 14, 2012, and before March 3, 2015, may continue
650 the implemented changes or continue to implement proposed
651 changes. Such reliance must be evidenced by a written collective
652 bargaining proposal or agreement, or formal correspondence
653 between the municipality, municipal services taxing unit, or
654 district and the Department of Management Services which
655 describes the specific changes to the local law plan, with the
656 initial proposal, agreement, or correspondence from the
657 municipality, municipal services taxing unit, or district dated
658 before March 3, 2015. Changes to the local law plan which are
659 otherwise contrary to minimum benefits and minimum standards may
660 continue in effect until the earlier of October 1, 2018, or the
661 effective date of a collective bargaining agreement that is
662 contrary to the changes to the local law plan.

663 Section 9. Section 175.381, Florida Statutes, is amended to
664 read:

665 175.381 Applicability.—This act shall apply to all
666 municipalities, municipal services taxing units, special fire
667 control districts, chapter plans, local law municipalities,
668 local law special fire control districts, or local law plans
669 presently existing or to be created under ~~pursuant to~~ this
670 chapter. Those plans presently existing under ~~pursuant to~~ s.
671 175.351 and not in compliance with ~~the provisions of~~ this act
672 must comply no later than December 31, 1999. However, the plan
673 sponsor of any plan established by special act of the
674 Legislature shall have until July 1, 2000, to comply with ~~the~~
675 ~~provisions of~~ this act, except as otherwise provided in this act
676 with regard to establishment and election of board members. ~~The~~
677 ~~provisions of~~ This act shall be construed to establish minimum



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678 standards and minimum benefit levels, and nothing contained in
679 this act or in chapter 175 operates ~~shall operate~~ to reduce
680 presently existing rights or benefits of any firefighter,
681 directly, indirectly, or otherwise.

682 Section 10. Section 175.411, Florida Statutes, is amended
683 to read:

684 175.411 Optional participation.—A municipality, municipal
685 services taxing unit, or special fire control district may
686 revoke its participation under this chapter by rescinding the
687 legislative act, ordinance, or resolution which assesses and
688 imposes the taxes authorized in s. 175.101, and by furnishing a
689 certified copy of such legislative act, ordinance, or resolution
690 to the division. Thereafter, the municipality, municipal
691 services taxing unit, or special fire control district is ~~shall~~
692 ~~be~~ prohibited from participating under this chapter, and is
693 ~~shall not be~~ eligible for future premium tax moneys. Premium tax
694 moneys previously received shall continue to be used for the
695 sole and exclusive benefit of firefighters, or firefighters and
696 police officers if both are ~~where~~ included, and no amendment,
697 legislative act, ordinance, or resolution shall be adopted which
698 has ~~shall have~~ the effect of reducing the then-vested accrued
699 benefits of the firefighters, or firefighters and police
700 officers if both are included, retirees, or their beneficiaries.
701 The municipality, municipal services taxing unit, or special
702 fire control district shall continue to furnish an annual report
703 to the division as provided in s. 175.261. If the municipality,
704 municipal services taxing unit, or special fire control district
705 subsequently terminates the defined benefit plan, they shall do
706 so in compliance with ~~the provisions of~~ s. 175.361.



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707 Section 11. Subsection (13) of section 191.006, Florida
708 Statutes, is amended to read:

709 191.006 General powers.—The district shall have, and the
710 board may exercise by majority vote, the following powers:

711 (13) To cooperate or contract with other persons or
712 entities, including other governmental agencies, as necessary,
713 convenient, incidental, or proper in connection with providing
714 effective mutual aid and furthering any power, duty, or purpose
715 authorized by this act. The district shall have, and the board
716 may exercise, all powers and duties provided in s. 163.01,
717 chapter 189, and this chapter, including such powers within or
718 without the district's boundary in cooperation with another
719 governmental agency when such agency shares such powers in
720 common with the district.

721 Section 12. Paragraph (c) of subsection (3) of section
722 633.422, Florida Statutes, is amended to read:

723 633.422 Firefighters; supplemental compensation.—

724 (3) FUNDING.—

725 (c) There is appropriated from the Police and Firefighter's
726 Premium Tax Trust Fund to the Firefighters' Supplemental
727 Compensation Trust Fund, which is created under the Department
728 of Revenue, all moneys which have not been distributed to
729 municipalities, municipal services taxing units, and special
730 fire control districts in accordance with s. 175.121 as a result
731 of the limitation contained in s. 175.122 on the disbursement of
732 revenues collected under ~~pursuant to~~ chapter 175 or as a result
733 of any municipality, municipal services taxing unit, or special
734 fire control district not having qualified in any given year, or
735 portion thereof, for participation in the distribution of the



736 revenues collected under ~~pursuant to~~ chapter 175. The total
737 required annual distribution from the Firefighters' Supplemental
738 Compensation Trust Fund shall equal the amount necessary to pay
739 supplemental compensation as provided in this section, provided
740 that:

741 1. Any deficit in the total required annual distribution
742 shall be made up from accrued surplus funds existing in the
743 Firefighters' Supplemental Compensation Trust Fund on June 30,
744 1990, for as long as such funds last. If the accrued surplus is
745 insufficient to cure the deficit in any given year, the
746 proration of the appropriation among the counties,
747 municipalities, municipal services taxing units, and special
748 fire service taxing districts shall equal the ratio of
749 compensation paid in the prior year to county, municipal,
750 municipal services taxing unit, and special fire service taxing
751 district firefighters under ~~pursuant to~~ this section. This ratio
752 shall be provided annually to the Department of Revenue by the
753 division. Surplus funds that have accrued or accrue on or after
754 July 1, 1990, shall be redistributed to municipalities,
755 municipal services taxing units, and special fire control
756 districts as provided in subparagraph 2.

757 2. By October 1 of each year, any funds that have accrued
758 or accrue on or after July 1, 1990, and remain in the
759 Firefighters' Supplemental Compensation Trust Fund following the
760 required annual distribution shall be redistributed by the
761 Department of Revenue pro rata to those municipalities,
762 municipal services taxing units, and special fire control
763 districts identified by the Department of Management Services as
764 being eligible for additional funds under ~~pursuant to~~ s.



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765 175.121(3)(b).

766 Section 13. This act shall take effect July 1, 2020.

767

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

769 And the title is amended as follows:

770 Delete everything before the enacting clause

771 and insert:

772 A bill to be entitled

773 An act relating to fire control districts and

774 firefighter pensions; amending s. 175.041, F.S.;

775 revising applicability of the Firefighters' Pension

776 Trust Fund; authorizing a municipality that provides

777 fire protection services to a municipal services

778 taxing unit under an interlocal agreement to receive

779 property insurance premium taxes; authorizing a county

780 to enact an ordinance levying a tax on behalf of a

781 municipal services taxing unit receiving fire

782 protection services; amending s. 175.101, F.S.;

783 authorizing a municipal services taxing unit that

784 enters into an interlocal agreement for fire

785 protection services with a municipality to impose an

786 excise tax on property insurance premiums; amending s.

787 175.111, F.S.; requiring a municipal services taxing

788 unit to provide the Division of Retirement of the

789 Department of Management Services with a certified

790 copy of an ordinance assessing and imposing certain

791 taxes; amending ss. 175.121, 175.122, and 175.351,

792 F.S.; revising provisions relating to the disbursement

793 of moneys by the division and the Department of



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794 Revenue and the limitation of disbursement to conform
795 to changes made by the act; amending s. 175.411, F.S.;
796 authorizing a municipal services taxing unit to revoke
797 its participation and cease to receive property
798 insurance premium taxes under certain conditions;
799 amending s. 191.006, F.S.; requiring an independent
800 special fire control district to have, and authorizing
801 the board of such district to exercise by majority
802 vote, specified powers; amending ss. 175.032, 175.071,
803 175.381, and 633.422, F.S.; conforming provisions to
804 changes made by the act; providing an effective date.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/2020

Bill Number (if applicable) HB 1331 / SB 760

Topic Independent Special Fire Districts Amendment Barcode (if applicable) _____

Name Laura Donaldson

Job Title _____

Address 109 W. Bush St., Suite 300 Phone 813-514-4700

Street Tampa, State FL Zip 33602 Email ldonaldson@mansukhades.com

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

Representing North Collier Fire Control District & Immokalee Fire District

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/20

Bill Number (if applicable) 760

Topic Independent Special Districts

Amendment Barcode (if applicable)

Name Jim Milligan

Job Title Division Chief

Address 4360-55 NW 2

Phone 727-526-5650

Street SR Pete State FL Zip 33214

Email jmilligan@jelmengha.com

Speaking: For Against Information

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

Representing Lealman Fire District

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/2020

Bill Number (if applicable) SR ~~760~~ 760

Topic Support of Bill

Amendment Barcode (if applicable)

Name Ryan Lamb

Job Title Fire Chief

Address Ro. 15002?

Phone 239-574-0501

City Cape Coral State FL Zip 33915

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

Representing W/A City of Cape Coral

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/20

Bill Number (if applicable) 760

Topic _____

Amendment Barcode (if applicable) _____

Name Chris Lynn

Job Title _____

Address 315 S. Calhoun St., Ste. 830

Phone 850/222-5702

Street Tallahassee City FL State 32305 Zip

Email clynn@lhw-law.com

Speaking: For Against Information

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

Representing Florida Association of Special Districts

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 888

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Public Nuisances

DATE: February 4, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 888 amends s. 60.05, F.S., which generally provides for the enjoinder of public nuisances. The bill amends this statute to:

- Extend and increase the frequency of notice, so a property owner has sufficient time to receive a notice and correct the use of the property;
- Provide more detail on what must be provided in the notice and serving the notice; and
- Afford property owners the ability to respond to notices with details of actions taken to abate a nuisance that may result in an extended timeframe for abatement before an application for a temporary injunction is filed.

The bill also amends s. 823.05, F.S., relating to public nuisances, to:

- Delete the requirement that a criminal gang or member or associate of such gang must use a location “on two or more occasions” to engage in criminal gang-related activity for such use to qualify as a public nuisance that can be abated or enjoined;
- Provide that any place or premises that has been used on more than two occasions within six months as the site of dealing in stolen property, assault, aggravated assault, battery, aggravated battery, burglary, theft, or robbery by sudden snatching, may be declared a public nuisance and may be abated or enjoined; and
- Provide that a rental property that is declared a public nuisance based upon the previously-described circumstances may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the owner of the property and the property owner commences rehabilitation of the property within 30

days after the property is declared a public nuisance and completes the rehabilitation within a reasonable time thereafter.

The bill also amends s. 893.138, F.S., to authorize a declaration of a public nuisance and abated, if a place or premises has been used on more than two occasions within six months as the site of any combination of the following offenses: murder; attempted felony murder; aggravated battery with a deadly weapon; or aggravated assault with deadly weapon without intent to kill. Additionally, the bill clarifies that a rental property that is declared a nuisance may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the offense was committed by someone other than the property owner, and the owner commences rehabilitation of the property within 30 days of it being declared a nuisance.

The abatement or enjoining of a public nuisance described in the bill may result in a cost-savings or cost-avoidance to homeowners or businesses if they have sustained an economic loss, and a cost-savings or cost-avoidance to local governments if they have sustained an economic loss. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2020.

II. Present Situation:

Enjoining or Abating a Public Nuisance (ss. 60.05 and 60.06, F.S.)

Public nuisances are generally enjoined under s. 60.05, F.S., and abated under s. 60.06, F.S.¹ Section 60.05(1), F.S., authorizes the Attorney General, state attorney, city attorney, county attorney, and any citizen of the county to sue in the name of the state to enjoin the nuisance, the person(s) maintaining it, and the owner or agent of the building or ground on which the nuisance exists. The court, based on evidence² or affidavit, may issue a temporary injunction enjoining:

- The maintaining of a nuisance;
- The operating and maintaining of the place or premises where the nuisance is maintained;
- The owner or agent of the building or ground upon which the nuisance exists; and
- The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of the nuisance.³

The injunction must specify the activities enjoined and must not preclude the operation of any lawful business not conducive to the maintenance of the alleged nuisance.⁴ If the existence of a nuisance is shown at the final hearing, the court must issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance.⁵ The court must adjudge that the costs are a lien on all personal property found in the place of the nuisance; however, if

¹ Section 823.05(1), (2)(b) and (c), and (3), F.S.

² Evidence of the general reputation of the alleged nuisance and place is admissible to prove the existence of a nuisance. Section 60.05(3), F.S.

³ Section 60.05(2), F.S.

⁴ Section 60.05(2), F.S. At least 3 days' notice in writing shall be given to the defendant of the time and place of application for the temporary injunction. *Id.*

⁵ Section 60.05(4), F.S.

the property fails to bring enough to pay costs, the lien is on the real estate occupied by the nuisance.⁶

Section 60.06, F.S., requires the court, upon “proper” proof, to order the abatement of all nuisances mentioned in s. 823.05, F.S., and authorizes the court to enforce injunctions by contempt. However, this jurisdiction does not repeal or alter s. 823.01, F.S., which provides criminal penalties for nuisances described in that section.⁷

Public Nuisances: Places and Groups Engaged in Criminal Gang-Related Activity (s. 823.05, F.S.)

Section 823.05(1), F.S., provides that a person is guilty of maintaining a public nuisance⁸ if he or she erects, establishes, continues, or maintains, owns or leases any building, booth, tent or place which tends to annoy the community or injure the health of the community or become manifestly injurious to the morals or manners of the people as described in s. 823.01, F.S., or any house or place of prostitution, assignation, lewdness, or place or building where games of chance are engaged in a violation of law or any place where a person violates a law of the state. The building, erection, place, tent or booth, and the furniture, fixtures, and contents are declared a public nuisance.

Section 823.05(2), F.S., provides that a criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity⁹ is a public nuisance,¹⁰ and the use of a location on two or more occasions by a criminal gang or member or associate of such gang to engage in criminal gang-related activity is also a public nuisance.¹¹

Section 823.05(2), F.S., does not prevent a local governing body from adopting and enforcing laws consistent with ch. 823, F.S., relating to criminal gangs and gang violence.¹² Further, the

⁶ *Id.* However, no lien attaches to the real estate of any person other than the person establishing or maintaining the nuisance unless five days’ written notice has been given to the owner or owner’s agent who fails to abate the nuisance within this five-day period. *Id.*

⁷ Section 60.06, F.S.

⁸ Although s. 823.05(1), F.S., refers to a person being “guilty of maintaining a public nuisance,” s. 823.05, F.S., does not make maintaining a public nuisance a crime. However, s. 823.01, F.S., provides that all nuisances that tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are second degree misdemeanors, except that a violation of s. 823.10, F.S., is a third degree felony. Section 823.10(1), F.S., provides that certain places visited by persons for the purpose of unlawfully using any controlled substance under ch. 893, F.S. (Florida Comprehensive Drug Abuse Prevention and Control Act), or any drugs as described in ch. 499, F.S. (Florida Drug and Cosmetic Act), or for the illegal keeping, selling, or delivering of such substance or drug, are a public nuisance. Any person who willfully keeps or maintains, or aids or abets another in keeping or maintaining, such public nuisance commits a third degree felony, if such public nuisance is a warehouse, structure, or building. *Id.*

⁹ Section 823.05(2)(a), F.S., defines the terms “criminal gang,” “criminal gang member,” “criminal gang associate,” and “criminal gang-related activity” by reference to the definitions of those terms in s. 874.03, F.S.

¹⁰ Section 823.05(2)(b), F.S. Section 893.138(2)(d), F.S., also provides that any place or premises that has been used by a criminal gang for the purpose of conducting criminal gang activity may be declared a public nuisance. Additionally, if the place or premises has been used on more than two occasions within a six-month period as the site of dealing in stolen property or a violation of ch. 499, F.S., such location may be declared a public nuisance. Unlike s. 823.05, F.S., a public nuisance described in s. 893.138, F.S., is abated pursuant to procedures provided in that section. Section 893.138(2)-(7), F.S. However, the public nuisance may be enjoined pursuant to s. 60.05, F.S. Section 893.138(9), F.S.

¹¹ Section 823.05(2)(c), F.S.

¹² Section 823.05(2)(d), F.S.

state, through the Department of Legal Affairs or any state attorney, or any of the state's agencies, instrumentalities, subdivisions, or municipalities having jurisdiction over conduct in violation of a provision of ch. 823, F.S., may institute civil proceedings under s. 823.05(2)(e), F.S., and, pending final determination, the circuit court may enter injunctions, prohibitions, or restraining orders or take such other actions it deems proper.¹³

Local Administrative Action to Abate Prohibited Activity Relating to Drugs, Prostitution, Stolen Property, or Criminal Street Gangs (s. 893.138, F.S.)

Section 893.138(2), F.S., provides that a place or premises may be declared a public nuisance, which may be abated if the place or premises has been used:

- On more than two occasions within 6 months, as the site of a violation of s. 796.07, F.S. (prostitution and related acts);
- On more than two occasions within 6 months, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony, and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- By a criminal gang to conduct criminal gang activity;
- On more than two occasions within 6 months, as the site of a violation of s. 812.019, F.S. (stolen property); or
- On two or more occasions within 6 months, as the site of a violation of ch. 499, F.S. (the "Florida Drug and Cosmetic Act").

A county or municipality, by ordinance, may create an administrative board to hear complaints regarding the nuisances described in s. 893.138(2), F.S. Any employee, officer, or resident of the county or municipality may bring a complaint before the board after giving not less than 3 days' written notice of such complaint to the owner of the place or premises at his or her last known address. After a hearing in which the board may consider any evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises has an opportunity to present evidence in his or her defense, the board may declare the place or premises to be a public nuisance.¹⁴

If the board declares a place or premises to be a public nuisance, it may enter an order requiring the owner of the place or premises to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance or it may enter an order immediately prohibiting:

- The maintaining of the nuisance;
- The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof; or
- The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.¹⁵

¹³ Section 823.05(2)(e), F.S.

¹⁴ Section 893.138(4), F.S.

¹⁵ Section 893.138(5), F.S. The order expires after 1 year or at such earlier time as is stated in the order. Section 893.138(6), F.S. The order may be enforced pursuant to the procedures contained in s. 120.69, F.S., which provides for enforcement of an

The board may also bring a complaint under s. 60.05, F.S., seeking temporary and permanent injunctive relief against any public nuisance described in s. 893.138(2), F.S.¹⁶ Further, nothing contained in s. 893.138, F.S., prohibits a county or municipality from proceeding against a public nuisance by any other means.¹⁷

Section 893.138, F.S., may be supplemented by a county or municipal ordinance. The ordinance may include but is not limited to, provisions that:

- Establish additional penalties for public nuisances, including fines not to exceed \$250 per day;
- Provide for the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances;
- Provide for continuing jurisdiction for 1 year over any place or premises that has been or is declared to be a public nuisance;
- Establish penalties, including fines not to exceed \$500 per day for recurring public nuisances;
- Provide for the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order;
- Provide that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and
- Provide for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure.¹⁸

Real Property and the Florida Contraband Forfeiture Act

The “Florida Contraband Forfeiture Act” (Act)¹⁹ authorizes the seizure and civil forfeiture of real property used in violation of the provisions of the Act.²⁰ The seizure may only occur if the owner of the property is arrested for a criminal offense²¹ that forms the basis for determining that the

agency action under ch. 120, F.S. (the “Administrative Procedure Act” or APA), but a municipality that creates a board under s. 893.138, F.S., or the board so created, is not subject to any other provision of the APA. Section 893.138(7), F.S.

¹⁶ Section 893.138(8), F.S. Additionally, s. 893.138, F.S., does not restrict the right of any person to proceed under s. 60.05, F.S., against any public nuisance. Section 893.138(9), F.S.

¹⁷ Section 893.138(11), F.S.

¹⁸ Total fines may not exceed \$15,000. A lien cannot be foreclosed on real property which is a homestead. Where a local government seeks to bring an administrative action, based on a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one site, conduct their own retail business, the property owner is not subject to a lien against his or her property or the prohibition of operation if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant. *Id.*

¹⁹ Sections 932.701-932.7062, F.S. *See* s. 932.701(1), F.S.

²⁰ Section 932.703(1)(a), F.S. Real property may not be seized or restrained, other than by *lis pendens*, subsequent to a violation of the Florida Contraband Forfeiture Act until the persons entitled to notice are afforded the opportunity to attend the pre-seizure adversarial preliminary hearing. Section 932.703(3)(b), F.S. “A notice of *lis pendens* is an instrument which may be filed with the clerk of the circuit court in connection with actions involving the ownership of, or interest in, property. It is intended to operate as constructive notice to persons dealing with the property that is the subject matter of litigation.” *Op. Att’y Gen. Fla. 58-135 (1958)*. Other requirements relating to seizure are specified in s. 932.703, F.S. Forfeiture proceedings are addressed in s. 932.704, F.S., and disposition of liens and forfeited property are addressed in s. 932.7055, F.S.

²¹ Section 932.703(1)(a), F.S.

property is a “contraband article” under s. 932.701, F.S.,²² or when one or more statutorily-specified exceptions to this arrest requirement apply.²³ For example, one specified exception is when the property is not owned by the person arrested for a criminal offense that forms the basis for determining that the property is a “contraband article,” but the owner of the property had actual knowledge of the criminal activity.²⁴

As previously noted, s. 823.05, F.S., in part, addresses criminal gang-related activity. Section 874.08, F.S., provides that the following are subject to seizure and forfeiture under the Florida Contraband Forfeiture Act:

- All profits, proceeds, and instrumentalities of criminal gang activity;
- All property used or intended or attempted to be used to facilitate the criminal activity of any criminal gang or any criminal gang member;
- All profits, proceeds, and instrumentalities of criminal gang recruitment; and
- All property used or intended or attempted to be used to facilitate criminal gang recruitment.

III. Effect of Proposed Changes:

Public nuisances may be enjoined under s. 60.05, F.S. The bill amends this statute to increase the notice requirements from one three-day notice to two notices (if needed) with a total of 25 days to abate the nuisance. The defendant must be given written notice (first notice) to abate the public nuisance within 10 days after issuance of the notice. The first notice must inform the defendant that an application for a temporary injunction may be filed if the nuisance is not timely abated.

If the nuisance is not timely abated, the defendant must be given a second written notice that informs the defendant that an application for a temporary injunction will be filed if the nuisance is not abated within 15 days after the end of the initial 10-day period. However, the defendant must be given a second written notice providing the defendant with an extended time period to abate the nuisance sufficient to comply with another law or this state or contract terms, if the defendant responds to the first notice in writing within the initial 10-day period, and in such response alleges and provides proof that:

- Nuisance abatement involves compliance with another law of this state and the requirements of such law make nuisance abatement within 10 days impossible; or
- The terms of an executed contract to perform services necessary to abate the nuisance require more than 10 days to complete.

Contents of the notice must also include:

- If applicable, a description of the building, booth, tent, or place that is declared an alleged nuisance;

²² The definition of “contraband article” in s. 932.701(2), F.S., includes an extensive list of tangible items. One of these items is real property used or attempted to be used as an instrumentality in the commission of, or in aiding or abetting the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Act. Section 932.701(2)(a)6., F.S. See s. 932.702, F.S. (unlawful acts involving a contraband article).

²³ Section 932.703(1)(a), F.S.

²⁴ Section 932.703(1)(a)3., F.S. Evidence that the owner received notification from a law enforcement agency and acknowledged receipt of the notification in writing, that the seized asset had been used in violation of the Act on a prior occasion by the arrested person, may be used to establish actual knowledge. *Id.*

- A statement of the activities that led to the nuisance allegations;
- A statement of the actions necessary to abate the public nuisance; and
- A statement that costs will be assessed if abatement of the public nuisance is not completed and if the court determines that the public nuisance exists.

Required notices must be sent by personal service to the owner at his or her address as it appears on the latest tax assessment roll or to the tenant of such an address. If an address is not found for the owner, notices must be sent to the location of the declared nuisance and displayed prominently and conspicuously at that location. The notice timeframe before a lien may attach when the property is owned by someone other than the person causing the public nuisance is extended from five days to the time frame provided in the second notice (as provided by the bill and previously described).

The bill also amends s. 823.05, F.S., relating to public nuisances, to:

- Delete the requirement that a criminal gang or member or associate of such gang must use a location “on two or more occasions” to engage in criminal gang-related activity for such use to qualify as a public nuisance that can be abated or enjoined;
- Provide that any place or premises that has been used on more than two occasions within 6 months as the site of dealing in stolen property (s. 812.019, F.S.), assault (s. 784.011, F.S.), aggravated assault (s. 784.021, F.S.), battery (s. 784.03, F.S.), aggravated battery (s. 784.045, F.S.), burglary (s. 810.02, F.S.),²⁵ theft (s. 812.014, F.S.), or robbery by sudden snatching (s. 812.131, F.S.), may be declared a public nuisance and may be abated or enjoined as provided in s. 60.05, F.S., or s. 60.06, F.S.; and
- Provide that a rental property that is declared a public nuisance based upon the previously-described circumstances may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the nuisance was committed by someone other than the owner of the property and the property owner commences rehabilitation of the property within 30 days after the property is declared a public nuisance and completes the rehabilitation within a reasonable time thereafter.

The bill restructures the conditions for a public nuisance, enjoyment, and abatement in s. 823.05(1), F.S. These changes are non-substantive.

The bill also amends s. 893.138, F.S., relating to public nuisances, to authorize a place or premises to be declared a public nuisance, which may be abated, if the place or premises has been used on more than two occasions within 6 months as the site of any combination of the following offenses: murder (s. 782.04, F.S.); attempted felony murder (s. 782.051, F.S.); aggravated battery with a deadly weapon (s. 784.045(1)(a)2., F.S.); or aggravated assault with deadly weapon without intent to kill (s. 784.021(1)(a), F.S.). Additionally, the bill clarifies that a rental property that is declared a nuisance may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the offense was committed by someone other than the property owner, and the owner commences rehabilitation of the property within 30 days of it being declared a nuisance.

The bill takes effect on July 1, 2020.

²⁵ Armed burglary is also included in this section. *See* s. 810.02(2)(b), F.S.

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The abatement or enjoining of a public nuisance described in the bill may result in a cost-savings or cost-avoidance to homeowners or businesses if they have sustained an economic loss (e.g., decreased home and business property values and loss of customers) as a result of the presence of the nuisance.

C. Government Sector Impact:

The abatement or enjoining of a public nuisance described in the bill may result in a cost-savings or cost-avoidance to local governments if they have sustained an economic loss (e.g., decreased local tax revenues, increased local law enforcement costs, and increased local ordinance or code enforcement costs) as a result of the presence of the nuisance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 60.05, 823.05, and 893.138.

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

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

CS by Community Affairs on February 3, 2020:

The committee substitute:

- Allows individuals receiving a written notice to abate a nuisance to respond within 10 days with proof that other provisions of law or the terms of an executed contract make it impossible to abate the nuisance within 10 days;
- Provides that the above response will receive a second written notice that must grant a time extension for nuisance abatement, and detail the time and location where an application for a temporary injunction will be filed if the nuisance is not abated;
- Removes language which allowed notice requirements to be waived if the nuisance presented a danger of immediate and irreparable injury to a person or the safety of a community.
- Clarifies that a rental property that is declared a nuisance may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the offense was committed by someone other than the property owner, and the owner commences rehabilitation of the property within 30 days of it being declared a nuisance.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 64 - 338

and insert:

initial 10-day period. However, if the defendant responds to the first notice in writing within the initial 10-day period, and in such response alleges and provides proof that:

1. Nuisance abatement involves compliance with another law of this state and the requirements of such law make nuisance abatement within 10 days impossible; or



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11 2. The terms of an executed contract to perform services
12 necessary to abate the nuisance require more than 10 days to
13 complete,

14
15 the defendant must be given a second written notice providing
16 the defendant with an extended time period to abate the nuisance
17 sufficient to comply with such other law or contract terms.

18 (b) A second notice sent under paragraph (a) must also
19 provide the location where the application will be filed and the
20 time when it will be filed. If the nuisance is not timely abated
21 as provided in the second notice, the application for the
22 temporary injunction must be filed as indicated in the notice.

23 (c) In addition to the information required under
24 paragraphs (a) and (b), each notice must:

25 1. If applicable, describe the building, booth, tent, or
26 place that is an alleged nuisance.

27 2. State the activities that led to the nuisance
28 allegations.

29 3. State the actions necessary to abate the nuisance.

30 4. State that costs will be assessed if abatement of the
31 nuisance is not completed and if the court determines that the
32 nuisance exists.

33 (d) The notices provided in this subsection must be sent by
34 personal service to the owner at his or her address as it
35 appears on the latest tax assessment roll or to the tenant of
36 such address. If an address is not found for the owner, the
37 notices must be sent to the location of the alleged nuisance and
38 displayed prominently and conspicuously at that location.

39 ~~(4)~~ Evidence of the general reputation of the alleged



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40 nuisance and place is admissible to prove the existence of the
41 nuisance. An ~~No~~ action filed by a citizen may not ~~shall~~ be
42 dismissed unless the court is satisfied that it should be
43 dismissed. Otherwise the action shall continue and the state
44 attorney notified to proceed with it. If the action is brought
45 by a citizen and the court finds that there was no reasonable
46 ground for the action, the costs shall be taxed against the
47 citizen.

48 (5)~~(4)~~ On trial if the existence of a nuisance is shown,
49 the court shall issue a permanent injunction and order the costs
50 to be paid by the persons establishing or maintaining the
51 nuisance and shall adjudge that the costs are a lien on all
52 personal property found in the place of the nuisance and on the
53 failure of the property to bring enough to pay the costs, then
54 on the real estate occupied by the nuisance. A ~~No~~ lien may not
55 ~~shall~~ attach to the real estate of any other than such ~~said~~
56 persons unless a second ~~5 days'~~ written notice has been given in
57 accordance with paragraph (3) (a) to the owner or his or her
58 agent who fails to begin to abate the nuisance within the time
59 specified therein ~~said 5 days~~. In a proceeding abating a
60 nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has
61 been convicted of an offense under chapter 893 or s. 796.07, the
62 court may order the tenant to vacate the property within 72
63 hours if the tenant and owner of the premises are parties to the
64 nuisance abatement action and the order will lead to the
65 abatement of the nuisance.

66 (6)~~(5)~~ If the action was brought by the Attorney General, a
67 state attorney, or any other officer or agency of state
68 government; if the court finds either before or after trial that



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69 there was no reasonable ground for the action; and if judgment
70 is rendered for the defendant, the costs and reasonable attorney
71 ~~attorney's~~ fees shall be taxed against the state.

72 Section 2. Section 823.05, Florida Statutes, is amended to
73 read:

74 823.05 Places and groups engaged in certain activities
75 ~~criminal gang-related activity~~ declared a nuisance; abatement
76 and enjoinder ~~massage establishments engaged in prohibited~~
77 ~~activity; may be abated and enjoined.~~

78 (1) A person who erects, establishes, continues, maintains,
79 owns, or leases any of the following is deemed to be maintaining
80 a nuisance, and the building, erection, place, tent, or booth,
81 and the furniture, fixtures, and contents of such structure, are
82 declared a nuisance, and all such places or persons shall be
83 abated or enjoined as provided in ss. 60.05 and 60.06:

84 (a) ~~A~~ Whoever shall erect, establish, continue, or
85 ~~maintain, own or lease any~~ building, booth, tent, or place that
86 ~~which~~ tends to annoy the community or injure the health of the
87 community, or becomes ~~become~~ manifestly injurious to the morals
88 or manners of the people as provided ~~described~~ in s. 823.01. ~~or~~

89 (b) A ~~any~~ house or place of prostitution, assignation, or
90 lewdness. ~~or~~

91 (c) A place or building in which persons engage in ~~where~~
92 ~~games of chance are engaged in violation of law.~~ ~~or~~

93 (d) A ~~any~~ place where any law of the state is violated,
94 ~~shall be deemed guilty of maintaining a nuisance, and the~~
95 ~~building, erection, place, tent or booth and the furniture,~~
96 ~~fixtures, and contents are declared a nuisance. All such places~~
97 ~~or persons shall be abated or enjoined as provided in ss. 60.05~~



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98 ~~and 60.06.~~

99 (2) (a) As used in this subsection, the terms "criminal
100 gang," "criminal gang member," "criminal gang associate," and
101 "criminal gang-related activity" have the same meanings as
102 provided in s. 874.03.

103 (b) A criminal gang, criminal gang member, or criminal gang
104 associate who engages in the commission of criminal gang-related
105 activity is a public nuisance. ~~Any and~~ All such persons shall be
106 abated or enjoined as provided in ss. 60.05 and 60.06.

107 (c) The use of a location ~~on two or more occasions~~ by a
108 criminal gang, criminal gang members, or criminal gang
109 associates for the purpose of engaging in criminal gang-related
110 activity is a public nuisance. Such use of a location as a
111 public nuisance shall be abated or enjoined as provided in ss.
112 60.05 and 60.06.

113 (d) ~~Nothing in~~ This subsection does not ~~shall~~ prevent a
114 local governing body from adopting and enforcing laws consistent
115 with this chapter relating to criminal gangs and gang violence.
116 Where local laws duplicate or supplement this chapter, this
117 chapter shall be construed as providing alternative remedies and
118 not as preempting the field.

119 (e) The state, through the Department of Legal Affairs or
120 any state attorney, or any of the state's agencies,
121 instrumentalities, subdivisions, or municipalities having
122 jurisdiction over conduct in violation of a provision of this
123 chapter may institute civil proceedings under this subsection.
124 In any action brought under this subsection, the circuit court
125 shall proceed as soon as practicable to the hearing and
126 determination. Pending final determination, the circuit court



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127 may at any time enter such injunctions, prohibitions, or
128 restraining orders, or take such actions, including the
129 acceptance of satisfactory performance bonds, as the court may
130 deem proper.

131 (3) A massage establishment as defined in s. 480.033(7)
132 which ~~that~~ operates in violation of s. 480.0475 or s.
133 480.0535(2) is declared a nuisance and may be abated or enjoined
134 as provided in ss. 60.05 and 60.06.

135 (4) (a) Any place or premises that has been used on more
136 than two occasions within a 6-month period as the site of any of
137 the following violations is declared a nuisance and may be
138 abated or enjoined as provided in ss. 60.05 and 60.06:

139 1. Section 812.019, relating to dealing in stolen property.

140 2. Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
141 relating to assault and battery.

142 3. Section 810.02, relating to burglary.

143 4. Section 812.014, relating to theft.

144 5. Section 812.131, relating to robbery by sudden
145 snatching.

146 (b) Notwithstanding any other law, a rental property that
147 is declared a nuisance under this subsection may not be abated
148 or subject to forfeiture under the Florida Contraband Forfeiture
149 Act if the nuisance was committed by someone other than the
150 owner of the property and the property owner commences
151 rehabilitation of the property within 30 days after the property
152 is declared a nuisance and completes the rehabilitation within a
153 reasonable time thereafter.

154 Section 3. Section 893.138, Florida Statutes, is amended to
155 read:



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156 893.138 Local administrative action to abate certain
157 activities declared ~~drug-related, prostitution-related, or~~
158 ~~stolen-property-related~~ public nuisances ~~and criminal gang~~
159 ~~activity.~~—

160 (1) It is the intent of this section to promote, protect,
161 and improve the health, safety, and welfare of the citizens of
162 the counties and municipalities of this state by authorizing the
163 creation of administrative boards with authority to impose
164 administrative fines and other noncriminal penalties in order to
165 provide an equitable, expeditious, effective, and inexpensive
166 method of enforcing ordinances in counties and municipalities
167 under circumstances when a pending or repeated violation
168 continues to exist.

169 (2) Any place or premises that has been used:

170 (a) On more than two occasions within a 6-month period, as
171 the site of a violation of s. 796.07;

172 (b) On more than two occasions within a 6-month period, as
173 the site of the unlawful sale, delivery, manufacture, or
174 cultivation of any controlled substance;

175 (c) On one occasion as the site of the unlawful possession
176 of a controlled substance, where such possession constitutes a
177 felony and that has been previously used on more than one
178 occasion as the site of the unlawful sale, delivery,
179 manufacture, or cultivation of any controlled substance;

180 (d) By a criminal gang for the purpose of conducting
181 criminal gang activity as defined by s. 874.03;

182 (e) On more than two occasions within a 6-month period, as
183 the site of a violation of s. 812.019 relating to dealing in
184 stolen property; ~~or~~



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185 (f) On two or more occasions within a 6-month period, as
186 the site of a violation of chapter 499; or
187 (g) On more than two occasions within a 6-month period, as
188 the site of a violation of any combination of the following:
189 1. Section 782.04, relating to murder;
190 2. Section 782.051, relating to attempted felony murder;
191 3. Section 784.045(1)(a)2., relating to aggravated battery
192 with a deadly weapon; or
193 4. Section 784.021(1)(a), relating to aggravated assault
194 with a deadly weapon without intent to kill,
195
196 may be declared to be a public nuisance, and such nuisance may
197 be abated pursuant to the procedures provided in this section.
198 (3) Any pain-management clinic, as described in s. 458.3265
199 or s. 459.0137, which has been used on more than two occasions
200 within a 6-month period as the site of a violation of:
201 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
202 relating to assault and battery;
203 (b) Section 810.02, relating to burglary;
204 (c) Section 812.014, relating to theft;
205 (d) Section 812.131, relating to robbery by sudden
206 snatching; or
207 (e) Section 893.13, relating to the unlawful distribution
208 of controlled substances,
209
210 may be declared to be a public nuisance, and such nuisance may
211 be abated pursuant to the procedures provided in this section.
212 (4) Any county or municipality may, by ordinance, create an
213 administrative board to hear complaints regarding the nuisances



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214 described in subsection (2). Any employee, officer, or resident
215 of the county or municipality may bring a complaint before the
216 board after giving not less than 3 days' written notice of such
217 complaint to the owner of the place or premises at his or her
218 last known address. After a hearing in which the board may
219 consider any evidence, including evidence of the general
220 reputation of the place or premises, and at which the owner of
221 the premises shall have an opportunity to present evidence in
222 his or her defense, the board may declare the place or premises
223 to be a public nuisance as described in subsection (2).

224 (5) If the board declares a place or premises to be a
225 public nuisance, it may enter an order requiring the owner of
226 such place or premises to adopt such procedure as may be
227 appropriate under the circumstances to abate any such nuisance
228 or it may enter an order immediately prohibiting:

229 (a) The maintaining of the nuisance;

230 (b) The operating or maintaining of the place or premises,
231 including the closure of the place or premises or any part
232 thereof; or

233 (c) The conduct, operation, or maintenance of any business
234 or activity on the premises which is conducive to such nuisance.

235 (6) An order entered under subsection (5) shall expire
236 after 1 year or at such earlier time as is stated in the order.

237 (7) An order entered under subsection (5) may be enforced
238 pursuant to the procedures contained in s. 120.69. This
239 subsection does not subject a municipality that creates a board
240 under this section, or the board so created, to any other
241 provision of chapter 120.

242 (8) The board may bring a complaint under s. 60.05 seeking



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243 temporary and permanent injunctive relief against any nuisance
244 described in subsection (2).

245 (9) This section does not restrict the right of any person
246 to proceed under s. 60.05 against any public nuisance.

247 (10) As used in this section, the term "controlled
248 substance" includes any substance sold in lieu of a controlled
249 substance in violation of s. 817.563 or any imitation controlled
250 substance defined in s. 817.564.

251 (11) The provisions of this section may be supplemented by
252 a county or municipal ordinance. The ordinance may include, but
253 is not limited to, provisions that establish additional
254 penalties for public nuisances, including fines not to exceed
255 \$250 per day; provide for the payment of reasonable costs,
256 including reasonable attorney fees associated with
257 investigations of and hearings on public nuisances; provide for
258 continuing jurisdiction for a period of 1 year over any place or
259 premises that has been or is declared to be a public nuisance;
260 establish penalties, including fines not to exceed \$500 per day
261 for recurring public nuisances; provide for the recording of
262 orders on public nuisances so that notice must be given to
263 subsequent purchasers, successors in interest, or assigns of the
264 real property that is the subject of the order; provide that
265 recorded orders on public nuisances may become liens against the
266 real property that is the subject of the order; and provide for
267 the foreclosure of property subject to a lien and the recovery
268 of all costs, including reasonable attorney fees, associated
269 with the recording of orders and foreclosure. No lien created
270 pursuant to the provisions of this section may be foreclosed on
271 real property which is a homestead under s. 4, Art. X of the



272 State Constitution. Where a local government seeks to bring an
273 administrative action, based on a stolen property nuisance,
274 against a property owner operating an establishment where
275 multiple tenants, on one site, conduct their own retail
276 business, the property owner shall not be subject to a lien
277 against his or her property or the prohibition of operation
278 provision if the property owner evicts the business declared to
279 be a nuisance within 90 days after notification by registered
280 mail to the property owner of a second stolen property
281 conviction of the tenant. The total fines imposed pursuant to
282 the authority of this section shall not exceed \$15,000. Nothing
283 contained within this section prohibits a county or municipality
284 from proceeding against a public nuisance by any other means.

285 (12) Notwithstanding any other law, a rental property that
286 is declared a nuisance under this section may not be abated or
287 subject to forfeiture under the Florida Contraband Forfeiture
288 Act if the nuisance was committed by someone other than the
289 owner of the property and the property owner commences
290 rehabilitation of the property within 30 days after the property
291 is declared a nuisance and completes the rehabilitation within a
292 reasonable time thereafter.

293
294 ===== T I T L E A M E N D M E N T =====

295 And the title is amended as follows:

296 Delete line 23

297 and insert:

298 specified procedures; providing a property owner an
299 opportunity to remedy a nuisance before specified
300 legal actions may be taken against the property under



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301

certain circumstances; providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1336

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Preemption of Local Occupational Licensing

DATE: February 4, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Ryon	CA	Fav/CS
2.			IT	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1336 expressly preempts the licensing of occupations to the state and supersedes any local government licensing of occupations. However, any local government licensing of occupations authorized by general law or those local occupational licenses adopted prior to October 1, 2020 are exempt from this preemption. In addition, nothing in the bill is intended to prevent or restrict a local government's ability to enact residency requirements for licenses or licensees.

The bill specifically prohibits local governments from requiring a license for a person whose job scope does not substantially correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board, within the Department of Business and Professional Regulation. It specifically precludes local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

Finally, the bill authorizes counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is the current practice by counties and municipalities. Local journeyman licensing is exempt from the preemption in the bill.

II. Present Situation:

Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors.² Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.³

Unlike counties or municipalities, independent special districts do not possess home rule power. Therefore, the powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district's charter or general law.⁴ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁵

Revenue Sources Authorized in the Florida Constitution⁶

The Florida Constitution limits the ability of local governments to raise revenue for their operations. The Florida Constitution provides:

No tax shall be levied except in pursuance of law. No state ad valorem taxes⁷ shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.⁸

Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.⁹

However, not all local government revenue sources are taxes requiring general law authorization. When a county or municipal revenue source is imposed by ordinance, the question is whether the

¹ FLA. CONST. art. VIII, s. 1(f).

² FLA. CONST. art. VIII, s. 1(g).

³ FLA. CONST. art. VIII, s. 2(b). *See also* s. 166.021(1), F.S.

⁴ *See* s. 189.031(3)(b), F.S. *See also State ex rel. City of Gainesville v. St. Johns River Water Mgmt. Dist.*, 408 So.2d 1067, 1068 (Fla. 1st DCA 1982).

⁵ State Affairs Committee and Local, Federal & Veterans Affairs Subcommittee, The Florida House of Representatives, *2018 - 2020 Local Government Formation Manual*, available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf> (last visited Jan. 18, 2020).

⁶ *See* Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf> (last visited Jan. 18, 2020).

⁷ Pursuant to s. 192.001(1), F.S., “ad valorem tax” means a tax based upon the assessed value of property.

⁸ FLA. CONST. art. VII, s. 1(a).

⁹ FLA. CONST. art. VII, s. 9(a).

charge is a valid assessment or fee. As long as the charge is not deemed a tax, the imposition of the assessment or fee by ordinance is within the constitutional and statutory home rule powers of county and municipal governments. If the charge is not a valid assessment or fee, it is deemed a revenue source requiring general law authorization.

Local Government Revenue Sources Based on Home Rule Authority¹⁰

Pursuant to home rule authority, counties and municipalities may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. Because special districts do not possess home rule powers, they may impose only those taxes, assessments, or fees authorized by special or general law.¹¹

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.¹²

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.¹³ Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.¹⁴ In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.^{15,16}

In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.¹⁷ Implied preemption is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.¹⁸ Preemption of a

¹⁰ Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, available at <http://edr.state.fl.us/Content/local-government/reports/lgfh19.pdf> (last visited Jan. 18, 2020).

¹¹ See ch. 189, F.S. See also State Affairs Committee and Local, Federal & Veterans Affairs Subcommittee, The Florida House of Representatives, *The Local Government Formation Manual 2018-2020*, 70, available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf> (last visited Jan. 18, 2020).

¹² See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009) available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Jan. 18, 2020).

¹³ See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

¹⁴ *Mulligan*, 934 So.2d at 1243.

¹⁵ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).

¹⁶ Examples of activities “expressly preempted to the state” include: operator use of commercial mobile radio services and electronic communications devices in motor vehicles, s. 316.0075, F.S.; regulation of the use of cameras for enforcing provisions of the Florida Uniform Traffic Control Law, s. 316.0076, F.S.; and, the adoption of standards and fines related to specified subject areas under the purview of the Department of Agriculture and Consumer Services, s. 570.07, F.S.

¹⁷ See, e.g., *Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

¹⁸ *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.

local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.¹⁹ Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.²⁰

Professions and Occupations

General law directs a number of state agencies and licensing boards to regulate certain professions and occupations. For example, the Department of Business and Professional Regulation (DBPR) currently regulates approximately 25 professions and occupations.²¹

General law determines whether local governments are able to regulate occupations and businesses, and to what degree.²² If state law preempts regulation for an occupation, then, generally, local governments may not regulate that occupation.²³ Florida law currently preempts local regulation with regard to the following:

- Assessing local fees associated with providing proof of licensure as a contractor, or providing, recording, or filing evidence of worker's compensation insurance coverage by a contractor;²⁴
- Assessing local fees and rules regarding low-voltage alarm system projects;²⁵
- Smoking;²⁶
- Firearms and ammunition;²⁷
- Employment benefits;²⁸
- Polystyrene products;²⁹
- Public lodging establishments and public food service establishments;³⁰ and
- Disposable plastic bags.³¹

Conversely, Florida law also specifically grants local jurisdictions the right to regulate businesses, occupations and professions in certain circumstances.³² Florida law authorizes local regulations relating to:

- Zoning and land use;³³

¹⁹ *Id.*

²⁰ *Sarasota Alliance for Fair Elections, Inc.*, 28 So.3d at 886.

²¹ Section 20.165, F.S.

²² See FLA. CONST art. VIII, s. 1(f), art. VIII, s. 2(b), and ss. 125.01(1) and 166.021(1), F.S.

²³ See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009) available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Jan. 18, 2020).

²⁴ Section 553.80(7)(d), F.S.

²⁵ Section 489.503(14), F.S.

²⁶ Section 386.209, F.S.

²⁷ Section 790.33(1), F.S.

²⁸ Section 218.077, F.S.

²⁹ Section 500.90, F.S.

³⁰ Section 509.032(7), F.S.

³¹ Section 403.7033, F.S.

³² See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009) available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Jan. 18, 2020).

³³ See part II, ch. 163, F.S.

- The levy of “reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter;”³⁴
- The levy of local business taxes;³⁵
- Building code inspection fees;³⁶
- Tattoo establishments;³⁷
- Massage practices;³⁸
- Child care facilities;³⁹
- Taxis and other vehicles for hire;⁴⁰ and
- Waste and sewage collection.⁴¹

Construction Professional Licenses

Chapter 489, F.S., relates to “contracting,” with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting.

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within DBPR.⁴² The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate.⁴³ The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.⁴⁴

“Certified contractors” are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.⁴⁵

“Certified specialty contractors” are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.⁴⁶

³⁴ Section 166.221, F.S.

³⁵ Chapter 205, F.S.

³⁶ Section 166.222, F.S.

³⁷ Section 381.00791, F.S.

³⁸ Section 480.052, F.S.

³⁹ Section 402.306, F.S.

⁴⁰ Section 125.01(1)(n), F.S.

⁴¹ Section 125.01(1)(k), F.S.

⁴² See ss. 489.105, 489.107, and 489.113, F.S.

⁴³ Section 489.107(1), F.S.

⁴⁴ Section 489.107, F.S.

⁴⁵ See ss. 489.105(6)-(8) and (11), F.S.

⁴⁶ See ss. 489.108, 489.113, 489.117, 489.131, F.S.

“Registered contractors” are individuals that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.⁴⁷

The table on the next page provides examples of CILB licenses for types of contractors.⁴⁸

Statutory Licenses	Specialty Licenses
<ul style="list-style-type: none"> • Air Conditioning- Classes A, B, and C • Building • General • Internal Pollutant Storage Tank Lining Applicator • Mechanical • Plumbing • Pollutant Storage Systems • Pool/Spa- Classes A, B, and C • Precision Tank Tester • Residential • Roofing • Sheet Metal • Solar • Underground Excavation 	<ul style="list-style-type: none"> • Drywall • Demolition • Gas Line • Glass and Glazing • Industrial Facilities • Irrigation • Marine • Residential Pool/Spa Servicing • Solar Water Heating • Structure • Swimming Pool Decking • Swimming Pool Excavation • Swimming Pool Finishes • Swimming Pool Layout • Swimming Pool Piping • Swimming Pool Structural • Swimming Pool Trim • Tower

Current law provides that local jurisdictions may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction.⁴⁹ Local jurisdictions are not barred from issuing and requiring construction licenses that are outside the scope of practice for a certified contractor or certified specialty contractor, such as painting and fence erection licenses. Local governments may only collect licensing fees that cover the cost of regulation.⁵⁰

Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license. However, persons holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or a certified specialty contractor are not required to register with DBPR.⁵¹

⁴⁷ Section 489.117, F.S.

⁴⁸ See s. 489.105(a)-(q), F.S., and Rules 61G4-15.015-040, F.A.C.

⁴⁹ Sections 489.117 and 489.131, F.S.

⁵⁰ Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf> (last visited Jan. 18, 2020).

⁵¹ Sections 489.105 and 489.117(4), F.S.

Electrical contractors, alarm system contractors, and electrical specialty contractors are certified or registered under the Electrical Contractors' Licensing Board (ECLB).⁵² Certified contractors can practice statewide and are licensed and regulated by ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may only practice within that locality.⁵³

Electrical contractors are contractors who have the ability to work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form. The scope of an electrical contractor's license includes alarm system work.⁵⁴

Alarm system contractors are contractors who are able to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems. An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency."⁵⁵

Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. The ECLB creates electrical certified specialty contractor licenses through rulemaking.⁵⁶ Certified electrical specialty contractors can practice statewide. The ECLB has created the following certified specialty contractor licenses:

- Lighting Maintenance Specialty Contractor;
- Sign Specialty Electrical Contractor;
- Residential Electrical Contractor;
- Limited Energy Systems Specialty Contractor;
- Utility line electrical contractor; and
- Two-Way Radio Communications Enhancement Systems Contractor.⁵⁷

Journeyman

A journeyman is a skilled worker in a building trade or craft. There is no state requirement for licensure as a journeyman, but the construction and electrical contractor practice acts account for the fact that counties and municipalities issue journeyman licenses. A person with a journeyman license must always work under the supervision of a licensed contractor, but the state does not regulate journeymen activities or issue journeymen licenses.⁵⁸

However, ch. 489, F.S., allows tradesman to be licensed as a journeyman in one local jurisdiction and work in multiple jurisdictions without having to take another examination or pay an additional licensing fee to qualify to work in the other jurisdictions (county or municipality). Specifically, s. 489.1455(1) of part I, F.S., specifies:

⁵² See Sections 489.505(3) and 489.507, F.S.

⁵³ See s. 489.505(16), F.S.

⁵⁴ Sections 489.505(12) and 489.537(7), F.S.

⁵⁵ Sections 489.505(1)-(2), F.S.

⁵⁶ Sections 489.507(3) and 489.511(4), F.S.

⁵⁷ Sections 489.505(19) and 489.511(4), F.S.; Rule 61G6-7.001, F.A.C.

⁵⁸ Sections 489.103, 489.1455, 489.503, and 489.5335, F.S.

An individual who holds a valid, active journeyman license in the plumbing/pipe fitting, mechanical, or HVAC trades issued by any county or municipality in this state may work as a journeyman in the trade in which he or she is licensed in any county or municipality of this state without taking an additional examination or paying an additional license fee.

The statutory criteria for licensure reciprocity between local jurisdictions for journeymen include:⁵⁹

- Scoring at least 75 percent on an approved proctored examination for that construction trade;
- Completing a registered apprenticeship program and demonstrating verifiable practical experience in the particular trade;
- Completing coursework approved by the Florida Building Commission specific to the discipline; and
- Not having a license suspended or revoked within the last 5 years.

Residency Requirements for Contracting Licenses

Some local governments have adopted policies to promote the usage of local residents for contracting activities within their jurisdictions. For example, it is the policy of Miami-Dade County that, except where federal or state laws or regulations mandate to the contrary, all contractors and subcontractors of any tier performing on a county construction contract, shall satisfy the requirements of the Miami-Dade County Residents First Training and Employment Program.⁶⁰ These requirements include that the contractor will make its best reasonable efforts to promote employment opportunities for local residents and seek to achieve a project goal of having 51 percent of all construction labor hours performed by Miami-Dade County residents.⁶¹

III. Effect of Proposed Changes:

Section 1 creates s. 163.21, F.S., to define the following terms:

- "Licensing" means any training, education, test, certification, registration, or license that is required for a person to perform an occupation along with any associated fee.
- "Local government" means a county, municipality, special district, or political subdivision of the state.
- "Occupation" means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.

This section of the bill expressly preempts occupational licensing to the state. This preemption supersedes any local government licensing requirement of occupations unless:

- The local licensing scheme for an occupation was imposed before October 1, 2020, or
- The licensing of occupations by local governments is authorized by general law.

⁵⁹ Section 489.1455, F.S. A similar reciprocity option applies to journeyman in the electrical trades. Section 489.5335, F.S.

⁶⁰ See Code of Miami Dade County Florida, Chapter 2, Article I, Section 2.11.17, available at

[https://library.municode.com/fl/miami_-](https://library.municode.com/fl/miami_-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-11.17REFITREMPR)

[dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-11.17REFITREMPR](https://library.municode.com/fl/miami_-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-11.17REFITREMPR) (last visited Feb. 4, 2020).

⁶¹ *Id.*

In addition, this section of the bill prohibits local governments that license an occupation that qualifies for the exemption until October 1, 2022, from imposing additional licensing requirements on that occupation and from modifying such licensing. Any local licensing of an occupation not authorized under the provisions of the bill or otherwise authorized by general law does not apply and may not be enforced.

Nothing in the bill is intended to prevent or restrict a local government's ability to enact residency requirements for licenses or licensees.

Section 2 amends s. 489.117, F.S., to provide that the bill's preemption applies to licensing that is outside the scope of state contractor licensing provisions. Specifically, it provides that a county or municipality may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the Construction Industry Licensing Board. The bill specifically precludes counties and municipalities from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

Sections 3 and 4 amend ss. 489.1455 and 489.5335, F.S., to authorize counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is the current practice by counties and municipalities. Therefore, local journeyman licensing is exempt from the preemption in the bill.

Section 5 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

Certain professionals will avoid paying local licensing and/or examination fees due to the preemption of occupational licensure to the state. This may have a positive impact on the number of individuals practicing certain professions. The impact on construction costs and workers' wages is indeterminate.

C. Government Sector Impact:

The bill will have indeterminate impact on local government costs and revenues linked to licensing.

VI. Technical Deficiencies:

Line 76 of the bill provides a job scope description of "canvas awning." The job scope may be better captured by "canvas awning installation."

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 489.117, 489.1455, 489.5335.

This bill creates section 163.21 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Community Affairs on February 3, 2020:**

The committee substitute:

- Removes "procedure" from the list of terms that mean licensing.
- Allows a local government that imposes a license on an occupation before October 1, 2020, to retain such licensing scheme so long as the local government does not impose additional licensing requirements or modify such licensing.
- Provides that nothing in the bill is intended to prevent or restrict a local government's ability to enact residency requirements for licenses or licensees.

B. Amendments:

None.

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



395716

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2020	.	
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The Committee on Community Affairs (Perry) recommended the following:

Senate Amendment

Delete line 29
and insert:
certification, registration, or license that is



260602

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/05/2020	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 42 - 53
and insert:
occupations before October 1, 2020.

(b) Any local government licensing of occupations
authorized by general law.

(3) EXISTING LICENSING LIMIT.—A local government that
licenses occupations and retains such licensing as set forth in
paragraph (2) (a) may not impose additional licensing



260602

11 requirements on that occupation or modify such licensing.
12 (4) LOCAL LICENSING NOT AUTHORIZED.—Local licensing of an
13 occupation that is not authorized under this section or
14 otherwise authorized by general law does not apply and may not
15 be enforced.

16
17 Nothing in this section is intended to prevent or restrict a
18 local government's ability to enact residency requirements for
19 licenses.

20
21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Delete line 10

24 and insert:

25 be enforced; providing construction; amending s.

26 489.117, F.S.; specifying



662766

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/05/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 42 - 53
and insert:
occupations before October 1, 2020.

(b) Any local government licensing of occupations
authorized by general law.

(3) EXISTING LICENSING LIMIT.—A local government that
licenses occupations and retains such licensing as set forth in
paragraph (2) (a) may not impose additional licensing



662766

11 requirements on that occupation or modify such licensing.
12 (4) LOCAL LICENSING NOT AUTHORIZED.—Local licensing of an
13 occupation that is not authorized under this section or
14 otherwise authorized by general law does not apply and may not
15 be enforced.

16
17 Nothing in this section is intended to prevent or restrict a
18 local government's ability to enact residency requirements for
19 licenses or licensees.

20
21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Delete line 10

24 and insert:

25 be enforced; providing construction; amending s.

26 489.117, F.S.; specifying



132314

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 42 - 53
and insert:
occupations before October 1, 2020.

(b) Any local government licensing of occupations
authorized by general law.

(3) EXISTING LICENSING LIMIT.—A local government that
licenses occupations and retains such licensing as set forth in
paragraph (2) (a) may not impose additional licensing



132314

11 requirements on that occupation or modify such licensing.
12 (4) LOCAL LICENSING NOT AUTHORIZED.—Local licensing of an
13 occupation that is not authorized under this section or
14 otherwise authorized by general law does not apply and may not
15 be enforced.
16
17 Nothing in this section is intended to prevent or restrict a
18 local government's ability to enact residency requirements for
19 licenses or licensees.

20
21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:
23 Delete line 10
24 and insert:
25 be enforced; providing construction; amending s.
26 489.117, F.S.; specifying



812038

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/05/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 42 - 53
and insert:
occupations before October 1, 2020. However, any such local
government licensing of occupations expires on July 1, 2022.

(b) Any local government licensing of occupations
authorized by general law.

(3) EXISTING LICENSING LIMIT.—A local government that
licenses occupations and retains such licensing as set forth in



812038

11 paragraph (2)(a) may not impose additional licensing
12 requirements on that occupation or modify such licensing.
13 (4) LOCAL LICENSING NOT AUTHORIZED.—Local licensing of an
14 occupation that is not authorized under this section or
15 otherwise authorized by general law does not apply and may not
16 be enforced.
17
18 Nothing in this section is intended to prevent or restrict a
19 local government's ability to enact state residency requirements
20 for licenses or licensees.
21
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 10
25 and insert:
26 be enforced; providing construction; amending s.
27 489.117, F.S.; specifying

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2-3-20 Bill Number (if applicable) 1336

Topic LICENSING Amendment Barcode (if applicable) _____

Name KURT SPITZER

Job Title _____

Address 693 Fonest LAIR Phone 228-6212

Street Forest LAIR City 32312 State _____ Zip _____
Email KURTSPLITZER@KSNAT.NET

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

Representing FLA. STORMWATER 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.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/20

Bill Number (if applicable) 1336

Topic Preemption of Local Occupational Licensing

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address 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 Americans for Prosperity

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2-3-2020

Bill Number (if applicable) 1326

Topic Preemption of local occupational licensing

Amendment Barcode (if applicable)

Name Cherry George

Job Title Electrician

Address Street

City _____ State _____ Zip _____

Speaking: For Against Information Waive Speaking: In Support Section 1
(The Chair will read this information into the record.) Against

Representing myself, Cherry George

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

Meeting Date 2/3/2020 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Bill Number (if applicable) 1336

Topic Preemption of local Ordinance/Leasing Amendment Barcode (if applicable) _____
Name Matthew Nelson

Job Title Electrician

Address 1172 Tracy Dr Phone _____

Street Port Orange City FL State FL Zip 32129

Email _____

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

Representing Myself

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)

2/3/20

Meeting Date

SB 1336

Bill Number (if applicable)

Topic Preemption of local Occupational Licensing

Amendment Barcode (if applicable)

Name KAYLA MILLER-KOEHLMOS

Job Title Electrician Apprentice

Address 1216 NE 17th Ave

Phone 850-261-7928

Street

Gainesville

State FL

Zip 32609

Email kayla.koehlmos@gmail.com

City

State

Zip

Speaking:

For

Against

Information

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

Representing myself

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/20

Bill Number (if applicable) SB 1330

Topic LDCA OCCUPATIONAL LICENSING

Amendment Barcode (if applicable) _____

Name GRAHAM HADLEY

Job Title ELECTRICIAN

Address 3303 WEST PRIDE AVE

Phone _____

Street TAMPA City FL State 33611 Zip

Email _____

Speaking: For Against Information

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

Representing MYSELF

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)

Meeting Date 2/3/20

Bill Number (if applicable) SR 1336

Topic Local occupational licensing

Amendment Barcode (if applicable) _____

Name Brett Farrell

Job Title Electrician

Address 504 SW Burchs Glen

Phone 352-615-4986

Street Fort White City FL State FL Zip 32038

Email _____

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

Representing Myself

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)

Meeting Date 2/3/20

Bill Number (if applicable) 1366

Topic Preemption of Local Occupational Licensing Amendment Barcode (if applicable)

Name Savannah Sparks

Job Title Electrical Apprentice

Address 1217 NW 39th Dr Phone [Redacted]

Street Gainesville State FL Zip 32605

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

Representing Myself Email _____

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2-3-20

Bill Number (if applicable) 1336

Topic Prohibition of Local Recup. Licenses

Amendment Barcode (if applicable)

Name Andy Dubois

Job Title _____

Address 22011 Breezy Back

Phone 3528745081

Street Howey in the Hills State FL Zip 34737

Email andy@libertycitizen.com

Speaking: For Against Information

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

Representing Self

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)

Meeting Date 2/3/20

Bill Number (if applicable) 1336

Topic Preemption of local occupational licensing Amendment Barcode (if applicable) _____

Name Marie Dubois

Job Title _____

Address 22011 Breezy Oak Dr

Phone 352-874-5458

Street Hervey on the Hills FJ 34737

Email Marie@dubois.com

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

**THE FLORIDA SENATE
APPEARANCE RECORD**

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

Meeting Date 2-3-20 Bill Number (if applicable) 1336

Topic PREEMPTION OF LOCAL LICENSING Amendment Barcode (if applicable) _____

Name ARUA YOUNG

Job Title LEGISLATIVE COUNSEL

Address 100 S. MADISON Phone 254-1878

Street TRC City TRC State FL Zip 32301

Email _____

Speaking: For Against Information In Support Against

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

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 02/03/2020

Meeting Date

Amendment Barcode (if applicable) _____
Bill Number (if applicable) SB 1336

Topic Reclamation or Local Occupational Licensing

Name CESAR GRASALES

Job Title COALITIONS DIRECTOR

Address 200 W. COLLEGE AVE

Phone 786 260 9283

Street TALLAHASSEE City FL State _____ Zip _____

Email grasales@bdlibre.org

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

Representing THE LIBRE INITIATIVE

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date Feb 3 2026 Bill Number (if applicable) SB 1336

Topic Occupational Licensing Amendment Barcode (if applicable) _____

Name DIEGO ECHEVERRI

Job Title Legislative Liaison

Address 200 W 8th St

City FL 14 State FL Zip _____

Speaking: For Against Information In Support Against

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

Representing Concerned Veterans for America

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/20

Bill Number (if applicable) 1336

Topic Local License

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Phone 761-3676

Street Tallahassee State FL Zip 32361

Email dcruz@fgd.com

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

Meeting Date 2-3-20 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Bill Number (if applicable) 1336

Topic _____

Name JESS MCCARTY

Amendment Barcode (if applicable) _____

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Street _____

Phone 305-979-7110

City MIAMI State FL

Zip 33128

Email JMM2@MIAMIDADE.GOV

Speaking: For Against Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 2/3/20

Bill Number (if applicable) 1336

Topic Preemptions of Local Occupational Licenses Amendment Barcode (if applicable)

Name Theresa King

Job Title President

Address PO Box 10888 Phone 850-228-8946

Street Tallahassee City FL State 32302 Zip 8bt+king@gmail Email

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

Representing Florida Building & Construction Trades

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 02-03-2020

Meeting Date

Bill Number (if applicable) SB 1336

Amendment Barcode (if applicable)

Topic Prescription of local Occupational Licensing

Name Nucleus Shelter

Job Title

Address 429 NW 8th St

Street

Miami

FL

33146

City

State

Zip

Phone (305) 215-7070

Phone

Email

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing myself

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/2020

Bill Number (if applicable) SB 1336

Topic Reentry - Local Deportation Licensing

Amendment Barcode (if applicable) _____

Name Edward S. Labrador

Job Title Legislative Counsel

Address 100 S. Andrews Ave., Main Library, 8th Fl Phone 954-826-1155

City _____ State _____ Zip _____

Email elabrador@brown.org

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

Representing Broward County

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2-3-20 Bill Number (if applicable) 1386
132314

Topic PREEMPTION OF LOCAL OCCUPATIONAL LICENSES Amendment Barcode (if applicable)

Name LAUREA YOLMANIS

Job Title LEGISLATIVE COUNSEL

Address 100 N. MURKIN ST Phone 293-1838

Street TKL State FL Zip 32301 Email _____

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

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/2010

Bill Number (if applicable) SB 1336

Topic Prescription - local Occupational Licensing

Amendment Barcode (if applicable) 132-314

Name Edward G. Labrador

Job Title Legis. Lective Counsel

Address 100 S. Andrews Ave., Main Library - 8th Floor Phone 954 - 826 - 1135

Street Fort Lauderdale State FL Zip 33381

Email elabrador@senate.fl.gov

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

Representing Broward County

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

02-03-20

Meeting Date

SB 888

Bill Number (if applicable)

Topic MUSICAWE PUBLIC

Amendment Barcode (if applicable)

Name MAT BUTLER

Job Title CAPTAIN

Address 2500 W. COLONIAL DR.

Phone 321-229-9064

Street

ORLANDO

FL

32804

Email

MAT.BUTLER@FLA.GOV

City

State

Zip

Speaking: For Against

Information

Waive Speaking: In Support

Against

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

Representing ORANGE COUNTY SHERIFFS OFFICE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1424

INTRODUCER: Senator Gruters

SUBJECT: Special Neighborhood Improvement Districts

DATE: January 25, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Ryon	CA	Favorable
2.			IT	
3.			RC	

I. Summary:

SB 1424 revises provisions relating to the board of directors of a special neighborhood improvement district including authorizing the appointment of a three-, five-, or seven-member board and requiring the board of directors to be landowners in the district. The bill requires counties or municipalities to specify the number of directors in the ordinance creating the special neighborhood improvement district.

II. Present Situation:

Safe Neighborhood Improvement Districts

Purposes and Creation

Part IV of ch. 163, F.S., is known as the “Safe Neighborhoods Act.” The intent of the Act is to:

- Guide and accomplish the coordinated, balanced, and harmonious development of safe neighborhoods;
- Promote the health, safety, and general welfare of these areas and their inhabitants, visitors, property owners, and workers;
- Establish, maintain, and preserve property values and preserve and foster the development of attractive neighborhoods and business environments;
- Prevent overcrowding and congestion;
- Improve or redirect traffic and provide pedestrian safety;
- Reduce crime rates and the opportunities for the commission of crime; and
- Provide improvements in neighborhoods so they are defensible against crime.¹

¹ See s. 163.502(3), F.S.

Section 163.503(1), F.S., defines the term “safe neighborhood improvement district” (SNID) or “neighborhood improvement district” to mean:

A district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security or defensible space techniques, or through community policing innovations.

The Safe Neighborhoods Act allows county or municipal governing bodies to create SNIDs through the adoption of a planning ordinance. Each SNID that is established is required to register within 30 days with both the Department of Economic Opportunity (DEO) and the Department of Legal Affairs (DLA) and provide the name, location, size, type of SNID, and such other information that the departments may require.² Under current law, there are four types of SNIDs:

- Local government SNIDs;
- Property owners’ association SNIDs;
- Community redevelopment SNIDs; and
- Special SNIDs, which are further classified as either residential or business.³

As of January 25, 2020, there are 27 active SNIDs in the state of Florida.⁴ Twenty-four of these are local government SNIDs; two are special residential SNIDs; and one is classified as a property owners’ association SNID.

SNID Boards and Revenue Sources

The board of directors of a local government SNID is the local governing body of the municipality or county that created the SNID; however, as an alternative, a majority of the local governing body may also appoint a different board.⁵ The board of a property owners’ association SNID is comprised of the officers of the property owners’ association.⁶

The board of a special SNID is a three-member body, appointed by the governing body of the municipality or county that created the SNID, who are residents of the area and serve staggered terms of 3 years.⁷ The board of a community redevelopment SNID is the community redevelopment board of commissioners, which is designated by the governing body of the municipality or county that created the community redevelopment agency.⁸

² Section 163.5055(1)(a), F.S.

³ See ss. 163.506-163.512, F.S.

⁴ Florida Department of Economic Opportunity, Division of Community Development, *Official List of Special Districts Online*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx> (last visited Jan. 25, 2020).

⁵ Sections 163.506(1)(e) and (3), F.S.

⁶ Section 163.508(1)(e), F.S.

⁷ Sections 163.511(1)(f), and (8), F.S.

⁸ Section 163.512(1)(d), F.S.

Local government SNIDs and special SNIDs are authorized to levy ad valorem taxes up to 2 mills annually.⁹ Local government SNIDs are authorized to levy tax without a referendum; however, special SNIDs require a referendum to levy ad valorem taxes.¹⁰ For a special *residential* SNID, taxes are approved by a majority of the electors voting in the referendum.¹¹ For a special *business* SNID, taxes are approved by freeholders representing in excess of 50 percent of the assessed value of the property within the SNID.¹²

All SNIDs are also authorized to make and collect special assessments, but all special assessments are subject to referendum approval.¹³ Special assessments are approved by a majority of registered voters residing in the SNID.¹⁴ Assessments may be collected pursuant to ss. 197.3632 and 197.3635, F.S. (the uniform method for collection of non-ad valorem assessments). Assessments may not exceed \$500 for each individual parcel of land per year.

Community redevelopment SNIDs may also utilize community redevelopment trust funds to implement district planning and programming.¹⁵

SNID Dissolutions

Local government and community redevelopment SNIDs may be dissolved by the governing body that established them.¹⁶ Property owners' association SNIDs continue in perpetuity as long as the property owners' association exists.¹⁷ Special SNIDs are dissolved at the end of the tenth fiscal year of operation.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 163.511, F.S., to revise several provisions relating to the board of directors of a special SNID. Specifically, the bill provides for the appointment of a three-, five-, or seven-member board rather than the 3-member board currently required by law. The number of appointed directors must be specified in the local planning ordinance, and the members must be elected to staggered terms of four years. Additionally, the board of directors must be landowners in the district, whereas current law only requires the board of directors to be residents of the area.

Section 2 provides the bill takes effect July 1, 2020.

⁹ Sections 163.506(1)(c), F.S., and 163.511(1)(b), F.S.

¹⁰ Section 163.511(1)(a) and (b), F.S.

¹¹ Section 163.511(3)(g), F.S. Although the word "elector" is used in s. 163.511(3)(g), F.S., it appears that the intent is that the vote be made by residents within the district that are registered voters. *See* s. 163.511(3)(b), F.S.

¹² Section 163.511(4)(g), F.S.

¹³ Section 163.514(16), F.S. This authority and any of the other SNID powers enumerated in s. 163.514, F.S., may be prohibited by the SNID's enacting ordinance.

¹⁴ *Id.* *See also* Footnote 11 regarding the term "elector."

¹⁵ Section 163.512(1)(c), F.S.

¹⁶ Sections 163.506(4) and 163.512(3), F.S.

¹⁷ Section 163.508(4), F.S.

¹⁸ Section 163.511(13), F.S. Special SNIDs may continue for subsequent 10-year periods if the continuation of the district is approved through referendum.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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 163.511 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 856

INTRODUCER: Community Affairs Committee and Senator Pizzo

SUBJECT: Affordable Housing Tax Reduction

DATE: February 4, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Ryon	CA	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 856 provides a method for the reduction of specified property taxes to incentivize certain workforce housing projects. The reduction is conditioned upon taxpayer application and is only available to projects located in a county with a population greater than 825,000 that have not received an existing property tax discount for charitable-purpose affordable housing. Additional qualifying criteria for housing projects is defined and includes the number of units that may be built and conditions related to specified proportions of resident area median income levels. The 25-year tax reduction period features a base reduction rate in operating taxes that would have otherwise been assessed for the first 16 years and recalculated assessed reduction rates during years 17-25. Provisions to limit the total number of all qualifying projects in a county are outlined.

The bill also allows a local government to waive impact fees for the construction of supportive housing developed by a not-for profit corporation under certain circumstances. The income level definition of supportive housing mirrors that as used for low income persons in the State Housing Initiatives Partnership Program. In addition, to qualify as supportive housing, a development must provide mental health, substance abuse, or domestic abuse treatment via on-premises social and community support services.

II. Present Situation:

Affordable Housing

Affordable housing is generally defined in relation to the annual area median income of the household living in the housing adjusted for family size. Section 420.9071(2), F.S., within the State Housing Initiatives Partnership (SHIP)¹ Program defines “affordable” to mean that monthly rents or monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of that amount which represents the percentage of the median annual gross income for:

- Very-low-income households, i.e., total annual gross household income does not exceed 50 percent of the median annual income for the area;²
- Low-income households, i.e., total annual gross household income does not exceed 80 percent of the median annual income for the area;³
- Moderate-income households, i.e., total annual gross household income does not exceed 120 percent of the median annual income for the area.⁴

With respect to rental units, a household’s annual income at initial occupancy may not exceed the three threshold percentages above. While occupying the unit, the household’s annual income may increase to an amount not to exceed 140 percent.⁵

State Affordable Housing Programs

Principal state funding for affordable housing, if appropriated, comes from documentary stamp tax revenues distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.⁶ Programs supported by the two trust funds include the State Apartment Incentive Loan Program (SAIL)⁷ and the State Housing Initiatives Partnership Program (SHIP)⁸ both of which are administered by the Florida Housing Finance Corporation (Florida Housing).⁹

SAIL provides gap financing to developers through non-amortizing, low-interest loans to leverage mortgage revenue bonds or federal Low Income Housing Tax Credit resources and obtain the full financing needed to construct affordable rental units for very low-income families.¹⁰ The SHIP program provides funds to all 67 counties and Florida’s larger cities on a population based formula to finance and preserve affordable housing for very low, low, and moderate income families based on locally adopted housing plans.

¹ See ss. 420.907-420.9089, F.S. Administered by Florida Housing Finance Corporation, the SHIP Program provides funds to all 67 counties and Florida’s larger cities on a population based formula to finance and preserve affordable housing for very low, low, and moderate income families based on locally adopted housing plans.

² Section 420.9071(28), F.S.

³ Section 420.9071(19), F.S.

⁴ Section 420.9071(20), F.S.

⁵ See ss. 420.9071(19), (20), and (28), F.S.

⁶ Section 201.15, F.S.

⁷ Section 420.5087, F.S.

⁸ Sections 420.907-420.9089, F.S.

⁹ As a public corporation of the state, Florida Housing Finance Corporation (Florida Housing) acts primarily as a financial institution. It utilizes federal and state resources to finance the development and preservation of affordable homeowner and rental housing and assist eligible homebuyers with financing and down payment assistance.

¹⁰ SAIL funds must be made available for specified groups such as commercial fishing workers and farmworkers, and persons who are homeless, elderly or who have special needs.

SAIL Funding Parameters: County-Size, Tenant Groups, and Loan Terms

The need and demand for SAIL funding must be determined by using the most recent statewide low-income rental housing market study conducted every 3 years.¹¹ Section 420.5087, F.S., specifies both geographic- and demographic-based allocation guidance. Based on the 2019 Rental Market Study, the geographic allocations to counties for 2019-2021 is:

County population of 825,000 or more	53.8 percent
County population of more than 100,000 but less than 825,000	36.2 percent
County population of 100,000 or less	10.0 percent ¹²

Counties that currently have a population of 825,000 or more are Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, and Pinellas.

Workforce Housing

As used in the Community Workforce Housing Innovation Pilot Program (CWHIP)¹³ provided by ch. 2006-69, L.O.F., “workforce housing” means housing affordable to natural persons or families whose total annual household income does not exceed 140 percent of AMI, adjusted for household size, or 150 percent of AMI, adjusted for household size, in areas of critical state concern designated under s. 380.05, F.S.,¹⁴ for which the Legislature has declared its intent to provide affordable housing.¹⁵

Proviso language in recent General Appropriations Acts has dedicated SAIL funding to construct workforce housing to primarily serve low-income persons as defined in s. 420.0004, F.S.¹⁶ This low-income persons definition for workforce housing stipulates that total household income does not exceed 80 percent of AMI within the state or within the county, whichever is greater.

¹¹ Section 420.5087(1), F.S. The 2019 Rental Market Study was prepared by the Shimberg Center for Housing Studies at the University of Florida and is available at https://www.floridahousing.org/docs/default-source/press/newsroom/publications/rental-housing/2019-rental-market-study.pdf?Status=Temp&sfvrsn=eadc107b_2.

¹² See Florida Housing Finance Corporation, *Board Meeting Action Items: Corrected Geographic Allocation for 2019 through 2021 SAIL Funding Cycles* (Jun. 21, 2019) available at https://www.floridahousing.org/docs/default-source/programs/action-items/17fc83c2fb0d6fb69bf3ff00004a6e0f.pdf?sfvrsn=14f1ec7b_3 (last visited Jan 29, 2020). While the 2019 Rental Market Study reflects a 3.1 percent housing need for small counties, statute requires at least 10 percent be available to each county category. Per statute, the large county category was reduced by 6.9 percent.

¹³ Designed to use regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private sources, Florida Housing administered the pilot program in 2006 and 2007.

¹⁴ Section 380.0552, F.S., designates the Florida Keys as an area of critical state concern, and includes legislative intent to provide affordable housing in close proximity to places of employment in the Florida Keys. Section 380.0555, F.S., provides a like designation and affordable housing legislative intent to the Apalachicola Bay Area.

¹⁵ Section 420.5095(1)(a), F.S. Per the subsection, the intent to provide affordable housing also applies to areas that were designated as areas of critical state concern for at least 20 consecutive years prior to removal of the designation.

¹⁶ See Proviso Specific Appropriation 2223, ch. 2016-66, Laws of Fla.; Proviso Specific Appropriation 2225, ch. 2017-70, Laws of Fla.; and Proviso Specific Appropriation 2225, ch. 2018-9, Laws of Fla.

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹⁷ The property appraiser annually determines the “just value”¹⁸ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”¹⁹ Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

The Florida Constitution prohibits the state from levying ad valorem taxes,²⁰ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.²¹

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;²² however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;²³ land used for conservation purposes;²⁴ historic properties when authorized by the county or municipality;²⁵ and certain working waterfront property.²⁶

Millage Categories and Rate Limitations

Property tax rates, or millage rates, are set by each taxing authority and vary throughout the state. Millage rates are limited by both the Florida Constitution and by general law.

Section 200.001(1)-(2), F.S., provides for county and municipal millages composed of four categories of millage rates as follows:

- General county or municipal millage, which shall be that nonvoted millage rate set by the governing body of the county or municipality.

¹⁷ Both real property and tangible personal property are 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.

¹⁸ 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).

¹⁹ *See* s. 192.001(2) and (16), F.S.

²⁰ FLA. CONST. art. VII, s. 1(a).

²¹ *See* FLA. CONST. art. VII, s. 4.

²² Section 193.011(2), F.S.

²³ FLA. CONST. art. VII, s. 4(a).

²⁴ FLA. CONST. art. VII, s. 4(b).

²⁵ FLA. CONST. art. VII, s. 4(e).

²⁶ FLA. CONST. art. VII, s. 4(j).

- County or municipal debt service millage, which shall be that millage rate necessary to raise taxes for debt service as authorized by a vote of the electors pursuant to s. 12, Art. VII of the State Constitution.
- County or municipal voted millage, which shall be that millage rate set by the governing body of the county or municipality as authorized by a vote of the electors pursuant to s. 9(b), Art. VII of the State Constitution.
- County or municipal dependent special district millage.²⁷

The Florida Constitution limits counties, municipalities, and school districts to levies of 10 mills (or one percent).²⁸ By referendum, local voters may authorize counties, municipalities, and school districts to levy additional mills above the 10-mill limitation to repay bonds to finance capital projects and for other purposes for a period of no longer than two years.²⁹ Counties providing municipal services may also levy up to an additional 10 mills above the 10-mill county limitation within those areas receiving municipal-type services.³⁰

Independent special district millage rates are limited by the law establishing the district and must be approved by the voters within the district. Dependent special district millage rates are included in the limitation applicable to the authority to which they are dependent. The Florida Constitution authorizes up to an additional 1 mill to be levied for water management purposes, except in northwest Florida where the limit is 0.05 mill.³¹

Exemption of Property Tax for Charitable Purposes and Affordable Housing

The Florida Constitution provides that portions of property used predominately for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.³²

In 1999, the Legislature authorized a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption.³³ The property must be owned entirely by a not-for-profit corporation, used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.³⁴ In order to qualify for the exemption, the property must comply with s. 196.195, F.S., for determining non-profit status of the property owner and s. 196.196, F.S., for determining exempt status of the use of the property.

²⁷ Section 200.001(5), F.S., provides that dependent special district millage rates shall be set by the board of county commissioners or the governing body of a municipality identified as to the area covered; as to the taxing authority to which the district is dependent; and as to whether authorized by a special act, authorized by a special act and approved by the electors, authorized pursuant to s. 15, Art. XII of the State Constitution, authorized by s. 125.01(1)(q), F.S., or otherwise authorized.

²⁸ FLA. CONST. art. VII, s. 9. A rate of 1 mill equates to \$1 of tax per \$1,000 of taxable value, or 0.1 percent.

²⁹ FLA. CONST. art. VII, s. 9.

³⁰ FLA. CONST. art. VII, s. 9(b); s. 125.01(1)(q), F.S.

³¹ FLA. CONST. art. VII, s. 9.

³² FLA. CONST. art. VII, s. 3.

³³ Chapter 99-378, s. 15, Laws of Fla. (creating s. 196.1978, F.S., effective July 1, 1999).

³⁴ The not-for-profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. See 26 U.S.C. § 501(c)(3) (“charitable purposes” include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).

In 2017, the Legislature created s. 196.1978(2), F.S., to provide that property used as affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount if the property:

- Provides affordable housing to natural persons or families meeting the extremely-low, very-low, or low-income limits specified in s. 420.0004, F.S.;
- Provides housing in a multifamily project in which at least 70 units are provided to the above group; and
- Is subject to an agreement with Florida Housing to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.³⁵

The discount begins on January 1 of the year following the 15th year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount terminates when the property is no longer serving extremely-low, very-low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

Local Government Impact Fees

Pursuant to home rule authority, counties and municipalities may impose proprietary fees,³⁶ regulatory fees, and special assessments³⁷ to pay the cost of providing a facility or service or regulating an activity. As one type of regulatory fee, impact fees are charges imposed by local governments against new development to provide for capital facilities' costs made necessary by such growth.³⁸ Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee. With respect to a school impact fee, the fee is imposed by the respective board of county commissioners at the request of the school board.

Chapter 2019-165, L.O.F., amended s. 163.31801, F.S., to codify the 'dual rational nexus test' for impact fees, as articulated in case law. This test requires an impact fee to be proportional and have a reasonable connection, or rational nexus, between 1) the proposed new development and the need and the impact of additional capital facilities, and 2) the expenditure of funds and the benefits accruing to the proposed new development.³⁹ Local governments are prohibited from requiring the payment of impact fees prior to issuing a property's building permit.⁴⁰

³⁵ Section 196.1978(2)(a), F.S. and ch. 2017-36, s. 6, Laws of Fla.

³⁶ Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf> (last visited Jan. 6, 2019). Examples of proprietary fees include admissions fees, franchise fees, user fees, and utility fees.

³⁷ *Id.* Special assessments are typically used to construct and maintain capital facilities or to fund certain services.

³⁸ *See supra* note 4.

³⁹ Section 163.31801(3)(f) and (g), F.S.

⁴⁰ Section 163.31801(3)(e), F.S.

Additionally, ch. 2019-165, L.O.F, established that impact fee funds must be earmarked for capital facilities that benefit new residents and may not be used to pay existing debt unless specific conditions are met.⁴¹ Provisions also authorized a local government to provide an exception or waiver for an impact fee for affordable housing. If a local government provides such an exception or waiver, it is not required to use any revenues to offset the impact.⁴² Impact fee provisions in s. 163.31801, F.S., do not apply to water and sewer connection fees.

Permanent Supportive Housing

Through a combination of affordable housing and individualized support services, permanent supportive housing is designed for people with disabilities who are unlikely to be able to maintain stable housing without service-enriched housing.⁴³

Typically, supportive housing is rental housing with a standard lease. The permanent supportive housing apartments may be scattered through the community in mainstream apartment complexes or may be project-based rental units in one or more developments. In some cases, supportive housing apartments are set aside units in larger affordable subsidized housing complexes.

Combined with the rental housing are the individualized, flexible, and accessible supportive services. These services may vary widely and often include case management, health care coordination, behavioral health coordination, job and education coaching, assistance with daily living skills, transportation assistance, and assistance accessing mainstream resources such as food assistance and disability income.⁴⁴

Florida Housing rental programs feature competitive rental resource allocations to develop permanent supportive housing. In 2019, Florida Housing provided financing to build smaller permanent supportive housing properties for persons with developmental disabilities and to persons with special needs.⁴⁵

Verification of Documents; Third Degree Felonies; Back Taxes

A verified document is a document that has been signed or executed by a person who must state under oath (or affirmation) that the facts or matters made therein are true, or other words to that effect.⁴⁶ A written declaration means the following: “Under penalties of perjury, I declare that I

⁴¹ Section 163.31801(3)(h) and (i), F.S.

⁴² Section 163.31801(8), F.S.

⁴³ See Florida Housing Coalition, *Permanent Supportive Housing Property Management Guidebook*, (Jun. 2018) available at <https://www.flhousing.org/wp-content/uploads/2019/03/PSH-Guidebook-FINAL-WEB-06.2018.pdf> (last visited Feb. 4, 2020).

⁴⁴ *Id.*

⁴⁵ See Florida Housing Finance Corporation, *Competitive Multifamily Programs: RFA 2019-117 and RFA 2019-104* available at <https://www.floridahousing.org/programs/developers-multifamily-programs/competitive/2019/> (last visited Feb. 4, 2020).

⁴⁶ Section 92.525(4)(c), F.S.

have read the foregoing [document] and that the facts stated in it are true,” followed by the signature of the person making the declaration.⁴⁷

A third degree felony is punishable by up to 5 years’ incarceration and a fine of up to \$5,000.⁴⁸

Section 193.092, F.S., provides for the assessment of property for “back taxes,” or taxes on property that has escaped taxation because such property was not accounted for on the tax roll. The statute provides a mechanism for the collection of up to three years of back taxes. The tax arrears attach to the property regardless of who currently owns the property.

III. Effect of Proposed Changes:

Section 1 amends s.16.3181, F.S., to allow a local government to waive impact fees for the development of supportive housing constructed by a not-for-profit corporation that derives 75 percent of its revenues from contracts or services provided to a state or federal agency. The local government is not required to use any revenues to offset the impact. Supportive housing is defined to mean affordable housing for low-income persons or households as delineated in the SHIP program which provides treatment for mental health, substance abuse, or domestic violence via on-premises social or community support services.

Section 2 amends 196.1978, F.S., to provide a tax reduction for specified affordable housing. A number of terms used in the section are defined, including:

- “Workforce housing project,” which means a rental housing project that provides at least four but not more than 70 dwelling units for natural persons or households, and in which:
 - At least 10 percent of the rental units are set aside for residents with a total annual gross household income greater than 60 percent and up to 80 percent of AMI adjusted for family size;
 - At least 20 percent of the rental units are set aside for residents with a total annual gross household income greater than 60 percent and up to 100 percent of AMI adjusted for family size; and
 - Rents for the rental units are set aside at the applicable income limitations established by Florida Housing for the county in which the rental housing project is located. For rental units which are not set aside as outlined above, the taxpayer may offer the units at rents it determines at its sole discretion.
- “Qualifying project,” which means a workforce housing project that:
 - Is located in a county with a population of 825,000 or more; and
 - Has not received an affordable housing property exemption pursuant to s. 196.1978(2), F.S., (i.e., affordable housing considered as a charitable purpose and qualifying for a 50 percent property tax discount).
- “Reduction term,” which means the 25-year tax reduction period beginning the year in which the qualifying project is first assessed and certified by the county property appraiser as eligible to receive a reduction in operating taxes.

⁴⁷ Section 92.525(2), F.S. When a verification on information or belief is permitted by law, the words “to the best of my knowledge and belief” may be added.

⁴⁸ Sections 775.082, 775.083, and 775.084, F.S.

- “Taxpayer,” which means the person or other legal entity in whose name property is assessed as in s. 192.001, F.S.
- “Base tax” which means the operating taxes remitted to a project taxing authority in the tax year immediately preceding the reduction term.
- “Operating taxes,” which means the nonvoted millage portion of county millage and municipal millage.
- “Project taxing authority,” which means a county or municipality, which is authorized to levy operating taxes against real property in the jurisdiction in which a qualifying project is located.

The bill provides a legislative finding that property used to provide affordable, elderly, and workforce housing to natural persons and households that meet the low-income or moderate-income limits is a charitable purpose.

Notwithstanding current statutory provisions that a property tax exemption granted for religious, literary, scientific, or charitable use of property requires the applicant to be a nonprofit, a taxpayer who builds or renovates a qualifying project after July 1, 2021, may receive a reduction in operating taxes that would otherwise be assessed, if the following criteria are met:

- The taxpayer timely files an application for the tax reduction with the property appraiser no later than March 1 of the year immediately following the year in which the qualifying project is first assessed.
- The taxpayer records a covenant running with the land which restricts the rents of units within the qualifying project.

For the first 16 years of the reduction term, a qualifying project shall be assessed operating taxes in an amount equal to the base tax for the operating project, which base tax shall be increased annually thereafter by 2.5 percent or the Consumer Price Index for the county in which the qualifying project is located, whichever is less.

Beginning in year 17 of the reduction term, the property appraiser shall determine the assessed value of the project and reduce the assessed value in accordance with the percentages set forth below:

Year of Tax Reduction	Workforce Housing Reduction Percentage
17	90 percent
18	80 percent
19	70 percent
20	60 percent
21	50 percent
22	40 percent
23	30 percent
24	20 percent
25	10 percent

If the property appraiser approves the application, the taxpayer must submit the covenant running with the land for recording. The property appraiser shall apply the authorized tax reductions beginning in the appropriate tax year. The taxpayer submitting the application is responsible for the cost of recording the covenant.

A taxpayer who receives a tax reduction is required to submit a report annually to the property appraiser confirming compliance with the rent restrictions required for the tax reduction. The report must include the written declaration set forth in s. 92.525(2), F.S. A taxpayer who falsifies the written declaration commits a felony of the third degree.

Each county with a population of 825,000 or more may, by the adoption of an ordinance and after conducting a public hearing noticed in a newspaper of general circulation, limit the total number of qualifying projects the property appraiser may approve annually. The limit is conditioned upon a finding that such a limitation is necessary to avoid a substantial impairment of the taxing authority's ability to meet its financial obligations to fund other necessary public services.

If the property appraiser determines that a qualifying project that was granted a tax reduction failed to offer rents as required in the recorded covenant, the taxpayer is liable for the payment of any back taxes, penalties, and interest.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

State mandates on local governments are generally described in the Florida Constitution as general laws requiring counties or municipalities to spend funds, limiting their ability to raise revenue, or reducing the percentage of a state-shared tax revenue. In 1991, Senate President Margolis and House Speaker Wetherell created a memo to guide the House and Senate in the review of local government mandates.⁴⁹

Article VII, Section 18(a) of the Florida Constitution, provides that counties and municipalities are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. However, the mandate requirement does not apply to laws having an

⁴⁹ Memorandum to Members of The Florida House and The Florida Senate from Gwen Margolis, President of the Senate, and T.K. Wetherell, Speaker of the House, *County and Municipal Mandates Analysis*, (March 7, 1991) (on file with the Senate Committee on Community Affairs).

insignificant impact, which for Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.^{50,51,52}

Article VII, Section 18(b) of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. As in Subsection 18(a), the mandate requirement does not apply to laws having an insignificant impact.

While qualifying taxpayer applicants for the bill's property tax reduction would reduce a local government's authority to raise revenues, the bill provides a process for the local government to limit the number of applications to avoid an impairment of a taxing authority's ability to meet its financial obligations. The process for implementing a limitation requires a noticed public hearing and the adoption of an ordinance the execution of which may require the local government to spend funds. If either of the above issues are deemed a mandate, final passage of the bill would require approval by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The Florida Constitution provides that portions of property used predominately for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.⁵³ It appears that the bill will allow the portions of specified housing projects used for such purposes as well as those not used for such purposes to receive a tax reduction.

⁵⁰ FLA. CONST. art. VII, s. 18(d).

⁵¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 7, 2020).

⁵² Based on the Florida Demographic Estimating Conference's July 8, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 7, 2020).

⁵³ FLA. CONST. art. VII, s. 3.

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

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

B. Private Sector Impact:

Developers of qualifying workforce housing projects will pay less property taxes.

C. Government Sector Impact:

Local governments will experience reduced revenues from their general nonvoted county or municipal millage. According to the Florida Department of Revenue (DOR), if the bill as originally filed passed, DOR would need to amend Form DR-504 and Rule 12D-16.002, F.A.C.⁵⁴ It is unclear if this is still the case for the committee substitute.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOR analysis of the original bill provided comments related to the definition of base tax, the compliance report a taxpayer must file with the property appraiser, and issues related to the value adjustment board.⁵⁵ It is unclear if these comments are still relevant for the committee substitute.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 163.31801 and 196.1978.

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

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

CS by Community Affairs on February 3, 2020:

The committee substitute:

- Provides that the incentivizing tax reduction only applies to specified workforce housing projects.
- Clarifies how the base reduction rate in operating taxes is assessed for the first 16 years of the reduction period and how the recalculated assessed reduction rates are established during years 17-25.
- Allows a local government to waive impact fees for the construction of supportive housing by a non-profit under certain circumstances.

⁵⁴ Florida Department of Revenue, *SB 856 Agency Analysis* (Jan. 28, 2020) (on file with the Senate Committee on Community Affairs).

⁵⁵ *Id.*

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (8) of section 163.31801, Florida
Statutes, is amended to read:

163.31801 Impact fees; short title; intent; minimum
requirements; audits; challenges.—

(8) A county, municipality, or special district may provide
an exception or waiver for an impact fee for the development or



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11 construction of housing that is affordable, as defined in s.
12 420.9071, or for the development and construction of supportive
13 housing by a not-for-profit corporation that derives at least 75
14 percent of its annual revenues from contracts or services
15 provided to a state or federal agency. If a county,
16 municipality, or special district provides such an exception or
17 waiver, it is not required to use any revenues to offset the
18 impact. For purposes of this subsection, the term "supportive
19 housing" means affordable housing for low-income persons and
20 low-income households, as those terms are defined in s.
21 420.9071(19), which provides treatment for persons who suffer
22 from mental health, substance abuse, or domestic violence, which
23 provides on-premises social and community support services,
24 including job training, life skills training, alcohol and
25 substance abuse disorder treatment, child care, and client case
26 management services.

27 Section 2. Subsection (3) is added to section 196.1978,
28 Florida Statutes, to read:

29 196.1978 Affordable housing property exemption; workforce
30 housing property reductions.—

31 (3) (a) As used in this subsection, the term:

32 1. "Base tax" means the operating taxes remitted to the
33 taxing authority in the tax year immediately preceding the
34 reduction term.

35 2. "Corporation" means the Florida Housing Finance
36 Corporation.

37 3. "Household" has the same meaning as in s. 196.075(1).

38 4. "Operating taxes" means the nonvoted millage portion of
39 the county millage and the municipal millage as identified in s.



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40 200.001(1)(a) and (2)(a), respectively.

41 5. "Project taxing authority" means a county or
42 municipality, as those terms are defined in s. 200.001(8)(a) and
43 (b), respectively, which is authorized to levy operating taxes
44 against real property in the jurisdiction in which a qualifying
45 project is located.

46 6. "Qualifying project" means a workforce housing project
47 that:

48 a. Is located in a county that has a population of 825,000
49 or more; and

50 b. Has not received a property tax discount pursuant to
51 subsection (2).

52 7. "Reduction term" means the 25-year tax reduction period
53 beginning the year in which the qualifying project is first
54 assessed under s. 192.042(1) and certified by the county
55 property appraiser as eligible to receive a tax reduction in
56 operating taxes.

57 8. "Taxpayer" has the same meaning as in s. 192.001.

58 9. "Workforce housing project" means a rental housing
59 project that provides at least 4 but not more than 70 dwelling
60 units for natural persons or families and in which:

61 a. At least 10 percent of the rental units are set aside
62 for one or more natural persons or a family with a total annual
63 gross household income greater than 60 percent but less than 80
64 percent of the median annual income adjusted for family size for
65 households within the metropolitan statistical area, the county,
66 or the nonmetropolitan median for the state, whichever is
67 greatest.

68 b. At least 20 percent of the rental units are set aside



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69 for one or more natural persons or a family with a total annual
70 gross household income greater than 60 percent but less than 100
71 percent of the median annual income adjusted for family size for
72 households within the metropolitan statistical area, the county,
73 or the nonmetropolitan median for the state, whichever is
74 greatest.

75 c. Rents for the rental units set aside pursuant to sub-
76 subparagraphs a. and b. comply with the income limitations
77 established by the corporation for the county in which the
78 rental units are located. Rents for the rental units within the
79 project that are not subject to the set-asides may be offered at
80 rents determined by the taxpayer in his or her sole discretion.

81 (b) The Legislature finds that property used to provide
82 workforce housing to natural persons and households that meet
83 the low-income or moderate-income limits is a charitable
84 purpose. Therefore, notwithstanding s. 196.195(4), a taxpayer
85 who builds or renovates a qualifying project after July 1, 2021,
86 may receive a tax reduction in operating taxes that would
87 otherwise be assessed if the following criteria are met:

88 1. The taxpayer timely files an application for the tax
89 reduction with the property appraiser no later than March 1 of
90 the year immediately following the year in which the qualifying
91 project is first assessed under s. 192.042(1).

92 2. The taxpayer records a covenant running with the land
93 that restricts the rents of rental units within the qualifying
94 project in accordance with the requirements set forth in
95 subparagraph (a)9.

96 (c) For the first 16 years of the reduction term, a
97 qualifying project shall be assessed operating taxes in an



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98 amount equal to the base tax for the qualifying project, which
99 base tax shall be increased annually thereafter by 2.5 percent
100 or the Consumer Price Index for the county in which the
101 qualifying project is located, whichever is less. Beginning in
102 Year 17 of the reduction term, the property appraiser shall
103 determine the assessed value of the qualifying project and
104 reduce the assessed value of the property in accordance with the
105 percentages set forth below:

<u>Year of Tax Reduction</u>	<u>Workforce Housing Reduction</u> <u>Percentage</u>
<u>17</u>	<u>90 percent</u>
<u>18</u>	<u>80 percent</u>
<u>19</u>	<u>70 percent</u>
<u>20</u>	<u>60 percent</u>
<u>21</u>	<u>50 percent</u>
<u>22</u>	<u>40 percent</u>
<u>23</u>	<u>30 percent</u>
<u>24</u>	<u>20 percent</u>
<u>25</u>	<u>10 percent</u>



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(d) If the property appraiser approves the application, the taxpayer must record the covenant. The property appraiser shall apply the authorized tax reductions beginning in the appropriate tax year. The taxpayer is responsible for the cost of recording the covenant.

(e) Each taxpayer who receives a tax reduction must submit a report annually to the property appraiser confirming his or her compliance with the rent restrictions required for the receipt of the reduction. The report must be executed by the taxpayer or an authorized representative of the taxpayer, and must include the written declaration set forth in s. 92.525(2). A taxpayer who falsifies the written declaration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f) Each county may limit the total number of qualifying projects that the property appraiser may approve annually if:

1. It conducts a public hearing noticed in a newspaper of general circulation.
2. It adopts a resolution that finds and is supported by competent substantial evidence that a limitation is necessary to avoid the substantial impairment of the taxing authority's ability to meet its financial obligations to fund other public services that are necessary to ensure the public safety and welfare.

(g)1. If the property appraiser determines that a qualifying project that was granted a tax reduction has failed to offer rents as required in the recorded covenant and as set



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145 forth in this subsection, the taxpayer shall be liable for the
146 payment of any back taxes, penalties, and interest, as well as
147 any other remedies authorized pursuant to s. 193.092.

148 2. If the property appraiser improperly grants a tax
149 reduction as a result of a clerical mistake or an omission, the
150 taxpayer improperly receiving the reduction shall not be
151 assessed back taxes, penalties, or interest, or be held liable
152 for any other remedies authorized under s. 193.092.

153 Section 3. This act shall take effect July 1, 2020.

154

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

156 And the title is amended as follows:

157 Delete everything before the enacting clause
158 and insert:

159 A bill to be entitled
160 An act relating to affordable housing tax reductions;
161 amending s. 163.31801, F.S.; authorizing counties,
162 municipalities, and special districts to provide an
163 exception or waiver of impact fees for certain not-
164 for-profit corporations for specified purposes;
165 defining the term "supportive housing" for certain
166 purposes; amending s. 196.1978, F.S.; defining terms;
167 providing legislative findings; providing a tax
168 reduction to certain entities that provide affordable
169 housing to identified groups; providing criteria for
170 receiving such reduction; providing a formula for
171 determining the amount of the reduction; requiring a
172 taxpayer to submit a covenant for recording that
173 provides specified information; requiring a taxpayer



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174 who receives a tax reduction to file an annual report;
175 providing specifications for such report; providing
176 penalties for falsification of reports; authorizing a
177 county to limit the number of qualifying projects that
178 may be approved under specified conditions; requiring
179 a taxpayer to pay back taxes, penalties, and interest
180 under specified circumstances; providing exceptions;
181 providing an effective date.

THE FLORIDA LEGISLATURE

OFFICE OF THE
PRESIDENT



OFFICE OF THE
SPEAKER



March 21, 1991

Members of The Florida House
and The Florida Senate
The Capitol
Tallahassee, Florida

Dear Members:

Last fall the voters approved a constitutional amendment concerning the imposition of mandates on municipalities and counties. These provisions are now contained in Article VII, Section 18 of the Florida Constitution. Staff of the House and Senate have been working together over the past few weeks to recommend a set of guidelines for interpreting the new constitutional provisions. These guidelines are attached. Please read them carefully. It is our intention that both houses follow the interpretations contained in the attached document in dealing with any issues arising with regard to Article VII, Section 18 during the current session.

Sincerely,


Gwen Margolis
President


T.K. Wetherell
Speaker

March 7, 1991

COUNTY AND MUNICIPALITY MANDATES ANALYSIS

The purpose of this document is to assist legislative staff in analyzing bills that potentially fall under Article VII, Section 18 of the Florida Constitution, the provision relating to county and municipality mandates. This constitutional provision contains three criteria which describe types of bills considered to be mandates on municipalities and counties. There are eight exemptions contained in subsection (d) which, if applicable, exempt the bill from the constitutional restrictions. In addition, under each criterion there are exceptions which, if met, also exclude the bill from the restrictions. For the second and third criteria, one of the exceptions is passage of the bill by a two-thirds vote of the membership of each house. For an exception to the first criterion, that vote must be coupled with a legislative determination of an important state interest.

In preparing a staff analysis, any bill which meets one or more of the criteria should be identified as a mandate, even if an exemption or an exception applies. The analysis should describe the issue causing the mandate and state the constitutional criterion which is met. If appropriate, a fiscal analysis of the required expenditures and/or revenue impacts should be provided. If one of the "substantive" exemptions or exceptions (other than the two-thirds vote) apply, this should be stated and explained. If the exemptions or exceptions do not apply, leaving the two-thirds vote as the only possibility for exception, this should also be stated.

OVERVIEW:

The accompanying chart provides a procedure for doing a mandates analysis. The bill should first be analyzed to determine if it or one of its provisions meet the constitutional criteria. If not, the bill is not a mandate. If one of the criteria is met, the analyst should then examine the exemptions. If one or more are applicable, the bill is exempt from the mandates requirements. If not, the exceptions under each applicable criterion should be examined. If any exception other than the two-thirds vote applies, this should be stated. If the only exception available is for the Legislature to pass the bill by a two-thirds vote, this should also be stated.

GENERAL CONSIDERATIONS:

- * In analyzing a bill or amendment to a bill for an Article VII, Section 18 impact, each issue of the bill or amendment must be analyzed individually.
- * The mandates analysis applies only to general laws and not to special laws (local bills).
- * The requirements of Article VII, Section 18 apply only to cities and counties.

CRITERIA:

The bill should first be analyzed to determine if it or any of its provisions meet one or more of the mandates criteria. These are:

- A. A law requiring cities or counties to spend funds or to take action requiring expenditure.

- B. A law that reduces the authority of cities or counties to raise revenues in the aggregate as such authority existed on 2/1/89.
 1. In analyzing this criterion, the term "in the aggregate" means that effects on cities and counties are to be considered together. It also means that decreases in the authority to raise revenues should be offset against increases in such authority.

 2. The term "authority" applies to:
 - a) the power to levy a tax;
 - b) the vote required to levy the tax, e.g., increasing the required vote from majority to majority plus one;
 - c) the tax rate which can be levied; and
 - d) the base against which the tax is levied, e.g., a bill providing a sales tax exemption should be considered a reduction in authority because counties have authority to levy local option sales taxes against the state sales tax base.

- C. A law that reduces the percentage of a state tax shared with cities and counties as an aggregate on 2/1/89.

This criterion indicates that the percentage of each shared state tax that the counties and cities receive cannot be reduced. Provisions that reduce the base of a shared tax while leaving the percentage shared with cities and counties unchanged, however, do not meet this criterion.

If it is determined, after an initial reading, that a bill falls within one of the above, the analysis outlined in the remainder of this paper should be performed. If it does not fall within one of these criteria, no further mandates analysis need be done.

EXEMPTIONS:

Determine whether the bill's provisions fall under one of the following exemptions set out in subsection (d) of Article VII, Section 18:

1. **Requires Funding of Pension Benefits Existing on January 8, 1991 --**
This applies only to additional funding that is necessary to assure the actuarial soundness of pension funds in providing only those benefits that existed on January 8, 1991. In order to qualify for exemption, the funding cannot apply to an expansion of either specific benefits or classes of people receiving the benefits.

2. **Criminal law -- This applies to any bill relating to the following:**
 - * Defining the types of behaviors for which individuals are subject to arrest and criminal sanction and the penalties associated with these behaviors.
 - * Relating to the processes of arrest and pretrial detention.
 - * Relating to defense and prosecution.
 - * Relating to adjudication, sentencing, and implementation of criminal sanctions.

3. **Election Laws -- Generally, this applies to any bill relating to the required processes and procedures of holding public elections.**

4. **The General Appropriations Act**

5. **Special Appropriations Acts**

6. **Laws Re-authorizing but not Expanding Then-existing Statutory Authority --** Look to authority existing at the time the bill would become effective. Where a bill would expand, in addition to re-authorize, only the re-authorizing provisions would be exempt. This exemption includes sunset bills, sundown bills, reviser's bills, re-adoptions of statutes, and laws extending repeal dates.

7. **Laws Having Insignificant Fiscal Impact** -- This exemption is to be determined on an aggregate basis for all cities and counties in the state. If, in aggregate, the bill would have an insignificant fiscal impact, it is exempt.

For purposes of legislative application of Article VII, Section 18, the term "insignificant" means an amount not greater than the average statewide population for the applicable fiscal year times ten cents. Thus, for fiscal year 1991-92, a bill that would have a statewide annual fiscal impact on counties and municipalities, in aggregate, of \$1.4 million or less is exempt.

Bills should also be analyzed over the long term. The appropriate length of the long-term analysis will vary with the issue being considered, but in general should be adequate to insure that no unusual long-term consequences occur. In determining fiscal significance or insignificance, the average fiscal impact, including any offsetting effects over the long term, should be considered. For instance, if a program would require recycling costs of \$5 million statewide, but would generate \$4 million statewide in revenues from the sale of scrap metal and paper, the fiscal impact would be insignificant.

8. **Laws Creating, Modifying, or Repealing Noncriminal Infractions** -- Apply the definition of "noncriminal violation" in s. 775.08, F.S.

If a bill or one of its provisions meets the definition or description of one of the exemptions above, the bill or provision is not subject to further Article VII, Section 18 analysis. However, the mandates provision and the exemption should still be discussed in the bill analysis.

EXCEPTIONS:

After determining that a bill or its provisions do not fall under one of the exemptions, the exceptions applicable to each relevant criterion should be analyzed. If one of the exceptions is applicable, this should be stated in the analysis. If no exception other than the two-thirds vote is applicable, this should also be stated.

- A. **General bills requiring cities and counties to spend funds or to take action requiring expenditure.**

It is not feasible for the Legislature to analyze the effects of possible mandates legislation on each city and county individually. Thus, for purposes of legislative analysis and determination of the offsetting

appropriations or other funding sources as described below, analysis should be made on an aggregate basis for all counties and municipalities as a whole.

Cities and counties will have to comply with a provision requiring expenditures if:

1. The Legislature Determines That It Fulfills an Important State Interest:

This determination should be made by the Legislature itself and not by staff. The most effective means of doing this would be the insertion of a provision into the bill.

2. Condition #1 must be met and any one of the following exceptions:

- a. Funds are appropriated that are estimated to be sufficient to fund such expenditure.

As stated above, the question of whether this exception is met should be analyzed on an aggregate basis including all counties and municipalities.

- b. The Legislature authorizes or has authorized a county or city to enact, by a simple majority vote of the governing board, a funding source not available on 2/1/89. The source must be estimated to fund the expenditure.

In addition to the granting of new authority to enact funding sources, this exception also includes the broadening of tax bases against which cities and counties already have the authority to levy taxes by a majority vote.

As stated above, the question of whether this exception is met should be analyzed on an aggregate basis, including all counties and municipalities.

- c. The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.

In analyzing this exception, the makeup of the group which should be considered "similarly situated" should first be determined. Once this determination has been made, the exception can be considered applicable if all members of the group are treated similarly, even though the group may only contain governmental entities or even only local governmental entities.

The determination of similarly situated should be independent of a local government's status as a local government. However, if only cities and counties are affected by the issue, this exception does not apply. If, on the other hand, by the nature of the issue in the bill being analyzed, only local governments (all local governments, not just cities and counties) could be affected and these are treated similarly, the exception is met. If there are entities in the private sector or in state government which also could be affected by the bill, but are not treated similarly because they are not local governments, or for other reasons not inherently connected to the issue being analyzed, the exception is not met.

An example of a bill in which the exception is met would be one affecting the Florida Retirement System (FRS). This system includes employees of the state government, school districts and local governments. As long as classes of employees were not deliberately manipulated to apply only to cities and counties, all in the system would be similarly situated and changes in retirement benefits would be excepted.

- d. The expenditure is required to comply with a federal requirement or federal entitlement which contemplates action by cities or counties.

If any one of the exceptions (a) through (d) is met, no further analysis is necessary with respect to Article VII, Section 18. The bill is excepted from the provisions of that section as long as the Legislature also determines that an important state interest exists.

If none of the exceptions (a) through (d) are met, the Legislature must find an important state interest and the bill must pass by a 2/3 vote to effectively bind cities and counties.

B. A law that reduces the authority of cities or counties to raise revenues in the aggregate as such authority existed on 2/1/89.

There is only one exception applicable to this criterion. A bill determined to meet this criterion may only take effect if passed by 2/3 vote of each house.

C. A law that reduces the percentage of a state tax shared with cities and counties as an aggregate on 2/1/89.

The exceptions by which this criterion does not apply are:

1. Enhancements to state taxes shared with counties and municipalities enacted after 2/1/89. For example, assume that the base of a shared tax source has been expanded since 2/1/89 (and the percentage shared not reduced) so that cities and counties receive more money. It would be permissible under this exception for the Legislature to reduce the percentage shared with cities and counties up to the point where such governments would be receiving the same amount of money they would have received if the tax base had not been expanded.
2. During a fiscal emergency; or
3. If replacement state shared revenues sufficient to replace the aggregate loss are provided.

If exceptions (1), (2) or (3) are not satisfied, the bill must pass by a 2/3 vote of each house in order to take effect.



2020 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

DL

BILL INFORMATION

BILL NUMBER:	SB 856
BILL TITLE:	Affordable Housing Tax Reductions
BILL SPONSOR:	Senator Pizzo
EFFECTIVE DATE:	July 1, 2020

COMMITTEES OF REFERENCE

1) Community Affairs
2) Finance and Tax
3) Appropriations
4)
5)

CURRENT COMMITTEE

Community Affairs

SIMILAR BILLS

BILL NUMBER:	HB 1459
SPONSOR:	Representative Silvers

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	

PREVIOUS LEGISLATION

year bill number/sponsor/last action: 2019 SB 1314/Senator Pizzo/Died in Local, Federal and Veterans Affairs Subcommittee 2019 HB 1211/Representative Fernandez/Withdrawn from further consideration

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	January 28, 2020
LEAD AGENCY ANALYST:	Debbie Longman (850) 617-8324

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.Section 1. Affordable housing property tax reduction (pp. 1-7):**PRESENT SITUATION**

Section 196.1978, Florida Statutes, provides the authorization for the affordable housing property exemption and describes the requirements for certain entities to be eligible to receive the exemption.

EFFECT OF THE BILL

This bill creates section 196.1979, F.S. to provide affordable housing property reductions as a third type of exemption for affordable housing properties.

This bill defines the following terms to be used for section 196.1979(1), F.S.:

- Affordable housing project
- Base tax
- Corporation
- Elderly housing project
- Household
- Mass transit station
- Operating taxes
- Project taxing authority
- Qualifying project
- Reduction term
- Taxpayer
- Workforce housing project

The bill describes three types of "qualifying project" at section 196.1979(1)(h), F.S.:

- "Affordable housing project" at section 196.1979(1)(a), F.S.
- "Elderly housing project" at section 196.1979(1)(d), F.S., and
- "Workforce housing project" at section 196.1979(1)(k), F.S.

The qualifying project must be in a county with a population of 825,000 or more, not be exempt under section 196.1978(2), F.S.

An affordable housing project is one that receives a four percent low-income housing tax credit from the corporation (FHFC) pursuant to section 420.5099, F.S., or receives bonds for qualifying housing developments from a housing finance authority after July 1, 2020 or both.

An elderly housing project is one that receives a nine percent low-income housing tax credit from the corporation (FHFC) pursuant to section 420.5099, F.S., and:

- a. reserves at least 80 percent of the rental unit occupancy in the project for the elderly
- b. offers all rental units to eligible persons, and
- c. implements standards and processes adopted by FHFC rules to reduce barriers to rental housing entry.

A workforce housing project is one containing four or more dwelling units, that has not received low-income housing tax credit from the corporation (FHFC) pursuant to section 420.5099, F.S., has not received a loan pursuant to section 420.5087, F.S., has not received bond proceeds pursuant to section 159.612, F.S., and that offers specified percentages of rental units to natural persons or households whose incomes meet the specified income thresholds.

Section 196.1979(2), F.S., provides Legislative findings that property used to provide affordable, elderly, and workforce housing to natural persons and households that meet the low-income or moderate-income limits is a charitable purpose. A taxpayer who builds a qualifying project after July 1, 2020, may receive a tax reduction in operating taxes that would otherwise be assessed, if:

- The taxpayer files an application with the property appraiser by March 1 after immediately following the year in which the qualifying project is first assessed, and
- The taxpayer records a covenant running with the land that restricts the rents of units within the qualifying project.

Section 196.1979(3), F.S., provides a formula for providing the reduction. For the first 16 years, a qualifying project (affordable housing, workforce housing, and elderly housing) is assessed operating taxes in an amount equal to the base tax, subject to an annual adjustment equal to 2.5 percent beginning in year 2 of the reduction term or the percentage change in the Consumer Price Index for the county in which the qualifying project is located, whichever is less.

For each year for the next 9 years, this bill provides a chart with percentages of the reduction that an affordable housing project, workforce housing project, and elderly housing project will receive.

Section 196.1979(4), F.S., provides that if the property appraiser approves the application, the taxpayer submits the covenant for recording.

Section 196.1979(5), F.S., requires the taxpayer submit an annual report to the property appraiser confirming the taxpayer is in compliance with the rent restrictions required to get the reduction.

Section 196.1979(6), F.S., requires that counties where a qualifying project may be located may, conduct a public hearing to adopt an ordinance that limits the total number of qualifying projects the property appraiser may approve annually. The ordinance can pass only if a finding supported by competent substantial evidence shows that a limitation is necessary in order to avoid a substantial impairment of the taxing authority's ability to meet its financial obligations to fund other public services that are necessary to ensure the public safety and welfare.

Section 196.1979(7), F.S., provides that if the property appraiser determines that a project has failed to offer rents required in the covenant, the taxpayer is liable for any back taxes, penalties, and interest. Also, if a property appraiser improperly grants a tax reduction as a result of a clerical mistake or an omission, the taxpayer improperly receiving the reduction shall not be assessed back taxes, penalties, or interest.

Section 2. Effective date (p. 7): This act will be effective on July 1, 2020.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES NO

If yes, explain:	Amend Form DR-504
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 12D-16.002, F.A.C.

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A

4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? YES NO

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? YES NO

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government.
Expenditures: <i>(only expenditure impacts on the Department are identified)</i>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, BUT INSIGNIFICANT <input type="checkbox"/> UNABLE TO DETERMINE See Additional Comments section below if it is determined there is a significant operational impact to the Department.
Does the legislation contain an appropriation to the Department?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? The Department of Revenue does not conduct this analysis.

9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: Section 196.1979, F.S.

11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION? YES NO

If no, go to #12. If yes:

A. Identify bill number or source.

B. Were issues/problems identified? YES NO

a. If yes, have they been resolved? YES NO If no, briefly explain.

C. Are new issues/problems created? YES NO If yes, briefly identify.

12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT? YES NO

13. OTHER:

The sponsor may want to consider including the July 1, 2020 date in the definition of workforce housing project, similarly to the definition of affordable housing project that includes the date.

The definition of base tax, should be revised to replace "remitted" with "assessed." Section 196.1979(3) of the bill provides that a qualifying project shall be assessed operating taxes.

The bill creates 196.1979(5), F.S., that provides the taxpayer must file a "report" annually to the property appraiser confirming compliance with the rent restrictions required for the receipt of the reduction. No deadline for filing the report is provided.

The bill does not specify which type of special magistrate would hear appeals at the value adjustment board pursuant to sections 194.035 and 194.034, F.S., which currently provide for appraiser magistrates to hear value petitions and attorney magistrates to hear exemption and classification and portability petitions.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/20

Bill Number (if applicable) SB 856

Topic Affordable Housing Tax Reduction Amendment Barcode (if applicable) _____

Name Scott Jenkins

Job Title Senior Real Estate Consultant

Address 215 S. Mannde St. Ste 500 Phone 856 667 0827

Street TLH City FTL State FL Zip 32501

Email sjenkins@carlham.com

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

Representing FL Home Builders 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.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1302

INTRODUCER: Judiciary Committee and Senator Flores and others

SUBJECT: Sovereign Immunity

DATE: January 30, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1302 increases the per-occurrence limit on the collectability of judgments against government entities from \$300,000 to \$500,000 and eliminates the \$200,000-per-claimant limit. These new limits will apply to lawsuits that have not been adjudicated before the effective date of the bill.

The bill further allows government entities to settle claims in any amount without the approval of a claim bill by the Legislature. In contrast, current law allows government entities to settle and pay amounts exceeding the sovereign immunity caps only to the extent of insurance coverage. Otherwise, current law requires that the payment of the portion of a claim or judgment exceeding the sovereign immunity caps be approved by the Legislature in a claim bill.

II. Present Situation:

Sovereign immunity is a principle under which a government cannot be sued without its consent.¹ Article X, s. 13 of the Florida Constitution allows the Legislature to waive this immunity. Under Article X, s. 13 of the Florida Constitution, s. 768.28(1), F.S., allows for suits in tort against the State and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28 applies only to

¹ *Sovereign immunity*, Legal Information Institute (available at https://www.law.cornell.edu/wex/sovereign_immunity).

“injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment”²

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per accident.³ “Although an ‘excess’ judgment may be entered, the statutory caps make it impossible, absent a special claim bill passed by the legislature, for a claimant to collect more than the caps provide.”⁴

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment unless the damages result from the employee’s acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard from human rights, safety, or property.⁵ A government entity is not liable for any damages resulting for actions by an employee outside the scope of his or her employment and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.⁶

The phrase “bad faith,” as used in s. 768.28(9)(a), has been “equated with the actual malice standard.”⁷ The phrase “malicious purpose,” as used in s. 768.28(9)(a), has been interpreted as meaning the conduct was committed with “ill will, hatred, spite, [or] an evil intent.”⁸ The phrase “wanton and willful disregard of human rights [or] safety,” as used in s. 768.28(9)(a), F.S. has been interpreted as “conduct much more reprehensible and unacceptable than mere intentional conduct,” and “conduct that is worse than gross negligence.”⁹ While case law describes what “wanton and willful disregard of human rights [or] safety” is “more than” or “worse than,” neither of those references, nor any other case ... have interpreted what “wanton and willful disregard of human rights [or] safety” *actually means* as used in section 768.28(9)(a).¹⁰ However, according to the Florida Standard Jury Instructions, “wanton” means “with a conscious and intentional indifference to consequences and with the knowledge that damage is likely to be done to persons or property” and “willful means” “intentionally, knowingly and purposely.”¹¹

A law enforcement agency may be liable for injury, death, or property damage by a person fleeing one of its law enforcement officers if the pursuit involves conduct by the officer so reckless as to constitute disregard for human rights, the officer did not initiate pursuit under the

² *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).

³ Section 768.28(5), F.S.

⁴ *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).

⁵ Section 768.28(9)(a), F.S.

⁶ *Id.*

⁷ *Peterson v. Pollack*, 2019 WL 6884887 (Fla. 4th DCA December 18, 2019) (quoting *Parker v. State of Fla. Bd. of Regents ex rel. Fla. State Univ.*, 724 So. 2d 163, 167 (Fla. 1st DCA 1998) (citation omitted)).

⁸ *Id.* (quoting *Eiras v. Florida*, 239 F. Supp. 3d 1331, 1343 (M.D. Fla. 2017)).

⁹ *Id.* (quoting *Richardson v. City of Pompano Beach*, 511 So. 2d 1121, 1123 (Fla. 4th DCA 1987); *Sierra v. Associated Marine Insts., Inc.*, 850 So. 2d 582, 593 (Fla. 2d DCA 2003)).

¹⁰ *Id.*

¹¹ *Id.* (citing Fla. Std. Jury Instr. (Crim.) 7.9 (Vehicular or Vessel Homicide); Fla. Std. Jury Instr. (Crim.) 28.5 (Reckless Driving); Fla. Std. Jury Instr. (Crim.) 28.19 (Reckless Operation of a Vessel)).

reasonable belief that the fleeing person had committed a forcible felony, and the pursuit was not conducted according to a written policy.¹² While s. 768.28(9)(a), F.S., grants individual state officers immunity from judgment *and* suit (“qualified immunity”) in certain cases, s. 768.28(9)(d), F.S., only grants employing agencies immunity from judgment.¹³

Damages

The caps in s. 768.28(5), F.S., apply to “all of the elements of the monetary award to a plaintiff against a sovereignly immune entity.”¹⁴ In other words, a plaintiff’s entire recovery, including damages, back pay, attorney fees, and any other costs, are limited by the caps in s. 768.28, F.S.

“Generally speaking, damages are of two kinds, compensatory and punitive.”¹⁵ “Actual damages are compensatory damages.”¹⁶ “Compensatory damages are awarded as compensation for the loss sustained to make the party whole so far as that is possible.”¹⁷ “They arise from actual and indirect pecuniary loss.”¹⁸ Section 768.28, F.S., does not allow for the recovery of punitive damages, and, as such, only allows recovery for compensatory damages.

Claim Bills

A plaintiff may recover an amount over the caps described in s. 768.28(5), F.S., by way of a claim bill. “A claim bill is not an action at law, but rather is a legislative measure that directs the Chief Financial Officer of Florida, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation.”¹⁹ Such obligations typically arise from the negligence of officers or employees of the State or a local governmental agency.²⁰ Legislative claim bills are used either after the procurement of a judgment in an action at law or as a mechanism to avoid actions at law altogether.²¹ The amount awarded is based on the Legislature’s concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.²² “Unlike civil judgments, private relief acts are not obtainable by right upon the claimant’s proof of his entitlement. Private relief acts are granted strictly as a matter of legislative grace.”²³

Once a legislative claim bill is formally introduced, a special master conducts a quasi-judicial hearing.²⁴ “This hearing may at times resemble a trial during which the claimant offers testimony as well as documentary and physical evidence necessary to establish the claim. Trial records may

¹² Section 768.28(9)(d), F.S.

¹³ *Ross v. City of Jacksonville*, 274 So. 3d 1180, 1186 (Fla. 1st DCA 2019).

¹⁴ *Gallagher v. Manatee Cty.*, 927 So. 2d 914, 918 (Fla. 2d DCA 2006).

¹⁵ Section 380.0552, F.S., designates the Florida Keys as an area of critical state concern, and includes legislative intent to provide affordable housing in close proximity to places of employment in the Florida Keys. Section 380.0555, F.S., provides a like designation and affordable housing legislative intent to the Apalachicola Bay Area.

¹⁶ *United States v. State Road Department of Florida*, 189 F.2d 591 (5th Cir.1951), *cert. denied*, 342 U.S. 903 (1952).

¹⁷ *Fisher v. City of Miami*, 172 So. 2d 455 (Fla. 1965).

¹⁸ *Margaret Ann Supermarkets, Inc. v. Dent*, 64 So.2d 291 (Fla. 1953).

¹⁹ *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007)

²⁰ *Id.*

²¹ *City of Miami v. Valdez*, 847 So. 2d 1005 (Fla. 3d DCA 2003).

²² *Wagner*, 960 So. 2d at 788 (citing Kahn, Legislative Claim Bills, Fla. B. Journal (April 1988)).

²³ *United Servs. Auto. Ass’n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).

²⁴ *Wagner*, 960 So. 2d at 788 (citing Kahn, at 26).

be substituted for witness testimony. Witnesses who testify are sworn and subject to cross examination.”²⁵ A responding agency may present a defense to contest the claim, and the special master must then prepare a report with an advisory recommendation to the Legislature.²⁶

The beneficiary of a claim bill recovers by its enactment, regardless of whether the governmental tortfeasor purchased liability insurance to pay an excess judgment.²⁷ However, where the governmental tortfeasor has liability insurance above the statutory cap, and the claimant receives compensation above that statutory cap through a claim bill, the claim bill is paid with funds of the insured, not general revenue.²⁸

A government entity may, without a claim bill, settle a claim against it for an amount above the caps in s. 768.28, F.S., if that amount is within the limits of insurance coverage.²⁹

Workers’ Compensation

When an employer is a governmental entity, a “co-employee” tortfeasor is immune from personal liability for torts under s. 768.28(9)(a), F.S. “Under this provision, any negligence claim arising under the unrelated works exception against a public employee must be brought against the governmental entity employer.”³⁰ In the case of a private employer, if the “unrelated works” exception is found to apply, the employee can make common law tort claims against the employer directly based upon the doctrine of *respondeat superior* if the tortfeasor-employee is acting within the scope of employment.³¹

Other Jurisdictions

At least twenty-seven other state legislatures have placed monetary caps on recovery from actions in tort against their state or political subdivisions:

- Colorado: \$350,000 for one person in a single occurrence and \$990,000 for two or more people in a single occurrence, limited to \$350,000 per person.³²
- Georgia: \$1 million for one person in a single occurrence and \$3 million per occurrence.³³
- Idaho: \$500,000 per occurrence, regardless of the number of people, unless the government is insured above the limit.³⁴
- Illinois: \$2,000,000.³⁵
- Indiana: \$700,000 per person and \$5 million per occurrence.³⁶

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Servs. Auto Ass'n v. Phillips*, 740 So. 2d 1205 (Fla. 2d DCA 1999).

²⁸ *Fla. Mun. Ins. Trust v. Village of Golf*, 850 So. 2d 544 (Fla. 4th DCA 2003).

²⁹ *Michigan Millers Mut. Ins. Co. v. Burke*, 607 So. 2d 418, 421-22 (Fla. 1992); Section 768.28(5), F.S.

³⁰ Section 380.0552, F.S., designates the Florida Keys as an area of critical state concern, and includes legislative intent to provide affordable housing in close proximity to places of employment in the Florida Keys. Section 380.0555, F.S., provides a like designation and affordable housing legislative intent to the Apalachicola Bay Area.

³¹ *Holmes County School Bd. v. Duffell*, 651 So. 2d 1176, 1179 (Fla.1995) (Anstead, J., concurring).

³² Colo. Rev. Stat. §24-10-114.

³³ Ga. Code §50-21-29(a)-(b)(1).

³⁴ Idaho Code §6-926.

³⁵ Ill. Ann. Stat. ch. 705, §505/8.

³⁶ Ind. Code §34-13-3-4.

- Kansas: \$500,000 per occurrence.³⁷
- Louisiana: \$500,000 per occurrence.³⁸
- Maine: \$400,000 per occurrence.³⁹
- Maryland: \$400,000 per person per occurrence.⁴⁰
- Massachusetts: \$100,000.⁴¹
- Minnesota: \$500,000 per person and \$1,500,000 per occurrence.⁴²
- Mississippi: \$500,000 per occurrence.⁴³
- Missouri: \$300,000 per person and \$2 million per occurrence.⁴⁴
- Montana: \$750,000 per claim and \$1.5 million per occurrence.⁴⁵
- New Hampshire: \$475,000 per claimant and \$3.75 million per occurrence.⁴⁶
- New Mexico: \$200,000 per claim of property damage, \$300,000 per claim of medical expenses, \$400,000 for claims other than property damages or medical expenses. All limited to \$750,000 per occurrence.⁴⁷
- North Carolina: \$1 million per occurrence.⁴⁸
- North Dakota: \$250,000 per person and \$1 million per occurrence.⁴⁹
- Oklahoma: \$125,000 per person and \$1 million per occurrence.⁵⁰
- Pennsylvania: \$250,000 per person and \$1 million per occurrence.⁵¹
- Rhode Island: \$100,000.⁵²
- South Carolina: \$300,000 per person or \$600,000 per occurrence.⁵³
- Tennessee: \$300,000 per person or \$1 million per occurrence.⁵⁴
- Texas: \$250,000 per person and \$500,000 per occurrence (\$100,000 per claim of destruction of personal property).
- Utah: \$233,600 for property damage and \$583,900 for personal injury person and \$3 million per occurrence.⁵⁵
- Vermont: \$500,000 per person a \$2 million per occurrence.⁵⁶
- Virginia: \$100,000.⁵⁷

³⁷ Kan. Stat. Ann. §75-6105.

³⁸ La. Rev. Stat. Ann. §13:5106.

³⁹ Me. Rev. Stat. Ann. tit. 14, §8105.

⁴⁰ Md. State Government Code Ann. §12-104(a)(2).

⁴¹ Mass. Gen. Laws Ann. ch. 258, §2.

⁴² Minn. Stat. Ann. §3.736(4).

⁴³ Miss. Code Ann. 11-46-15.

⁴⁴ Mo. Ann. Stat. §537.610.

⁴⁵ Mont. Code. Ann. §2-9-108

⁴⁶ N.H. Rev. Stat. Ann. §541-B:14.

⁴⁷ N.M. Stat. Ann. §41-4-19

⁴⁸ N.C. Gen. Stat. §143-299.2.

⁴⁹ N.D. Cent. Code S32-12.2-02.

⁵⁰ Okla. Stat. tit. 51, §154.

⁵¹ Pa. Cons. Stat. Ann. Tit. 42, §8528.

⁵² R.I. Gen. Laws §9-31-2.

⁵³ S.C. Code Ann. §15-78-12.

⁵⁴ Tenn. Code Ann. §9-8-307.

⁵⁵ Utah Code. Ann. §63G-7-604.

⁵⁶ Vt. Stat. Ann. tit. 12, §5601.

⁵⁷ Va. Code §8.01-195.3.

III. Effect of Proposed Changes:

The bill increases the cap on the collectability of damages against the state and its agencies and subdivisions for torts to \$500,000 per occurrence and eliminates the per-person cap.

The bill allows a government entity to settle a claim against it over the \$500,000 cap on the collectability of damages without a claim bill. Under current law, amounts exceeding the sovereign immunity caps may be paid without the approval of the Legislature only from the proceeds of an insurance policy. The bill also states that the payment of claims from a government entity's liability insurance may not be conditioned on a claim bill. This revision proscribes contractual provisions that work to bar recovery for claimants and have been implemented at least on occasion.⁵⁸

The bill states that the sovereign immunity caps in s. 768.28, F.S., shall be adjusted on July 1 of each year beginning in 2021 to "reflect changes" in the Consumer Price Index. To be clearer, the Legislature may wish to revise the language to state that the caps shall be adjusted upward or downward using the percentage change in the Consumer Price Index.⁵⁹ The caps in place at the time of the entry of a final judgment apply to a claim.

The bill takes effect on October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

⁵⁸ See *Martin v. Nation Union Fire Ins. Co. of Pittsburgh, Pa.*, 616 So. 2d 1143, 1144 (Fla. 4th DCA 1993) ("The trial court found a legislative claims bill was a condition precedent to any further recovery by the Martins, and dismissed their suit with prejudice").

⁵⁹ See *Coastal Fuels Marketing, Inc. v. Leasco Investments*, 662 So. 2d 375, 376 (Fla. 5th DCA 1995) (citing to leasing agreement containing an adjustment based on changes in the Consumer Price Index).

E. Other Constitutional Issues:

Article I, s. 10 of the Florida Constitution prohibits laws that impair the obligations of existing contracts.⁶⁰ Because the bill bars insurance conditioned on the payment of a claim bill, the Legislature should specify that this provision applies to insurance contracts entered into or renewed on or after the effective date of the bill.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may enable more individuals who have tort claims against the state or one of its agencies or subdivisions to receive larger payments without the need to pursue a claim bill. The ability to collect larger settlements or judgments against government entities may also serve as an incentive for private attorneys to represent claimants in these matters. However, the bill may reduce government services to the public in proportion to additional amounts paid to satisfy tort claims.

C. Government Sector Impact:

By increasing the sovereign immunity cap and allowing the settlement and payment of claims exceeding the cap without the necessity of a claim bill, the bill increases the possibility that the state and its agencies and subdivisions will spend more of their resources to satisfy tort claims. The provision of larger payments in satisfaction of tort claims, however, may also reduce the demand for other government services that would have otherwise been necessary for the claimants.

The bill states that the “limitations of liability in effect on the date of a final judgment is entered apply to the claim.” As a result, the increased limits on liability exposure will apply to causes of action that have accrued before the effective date of the bill. Accordingly, the Legislature may wish to provide that the increased limits of the sovereign immunity caps apply only to causes of action accruing on or after the effective date of the bill.

Though the bill may reduce the workload of the Legislature by reducing the number of claim bills filed, the bill may reduce the oversight of claims against government entities provided by the legislative process.

VI. Technical Deficiencies:

None.

⁶⁰ *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So. 3d 1181, 1190 (Fla. 2017).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 768.28, 29.0081, 39.8297, 163.01, 252.36, 260.0125, 288.9625, 316.6146, 321.24, 324.022, 381.0056, 403.0862, 456.048, 458.320, 459.0085, 589.19, 616.242, 624.461, 624.462, 627.733, 760.11, 766.1115, 766.118, 768.1315, 768.135, 944.713, 984.09, 985.037, 1002.55, 1002.88, 1004.41, 1004.43, 1004.447, 1006.261, 45.061, 110.504, 111.071, 190.043, 213.015, 284.31, 284.38, 337.19, 341.302, 373.1395, 375.251, 393.075, 403.706, 409.993, 455.221, 455.32, 456.009, 472.006, 497.167, 548.046, 556.106, 768.295, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.77, and 1002.83.

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 Judiciary on January 21, 2020:

The committee substitute differs from the underlying bill by:

- Lowering the proposed increases in the per-occurrence liability cap to \$500,000 from \$1 million.
- No longer expanding the liability of a government entity for damages resulting from the actions of a state employee acting in bad faith, with a malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights (the underlying bill stated that the state would be liable for these damages over the statutory caps).

B. Amendments:

None.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/13/25

Bill Number (if applicable) 1302

Topic SB 1302 Sen. Immunity

Amendment Barcode (if applicable)

Name Peter Hunt

Job Title Attorney

Address 5225 Hood Rd. Suite 400

Phone 561-225-3611

Street PRG City FL State FL Zip 33409

Email phunt@lobbick.com

Speaking: For Against Information

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

Representing Lobbick Law Group

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 2/13

Bill Number (if applicable) 1302

Topic _____

Amendment Barcode (if applicable) _____

Name Natalie Kato

Job Title _____

Address 35 S Gilman St. Suite 532

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 School Boards 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)

Meeting Date 2-3-2008

Bill Number (if applicable) 1302

Topic Sovereign Immunity

Amendment Barcode (if applicable) _____

Name Rebecca De la Rosa

Job Title Government Relations

Address _____ Phone _____

Street Palm Bck State FL

City _____ Zip _____ Email _____

Speaking: For Against Information

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

Representing Palm Beach County Government

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/3/2020

Bill Number (if applicable) SB 1302

Amendment Barcode (if applicable) _____

Topic Sovereign Immunity

Name Edward S. Labrador

Job Title Legislative Counsel

Address 100 S. Archer's Ave., Main Library

Street First Landerdale City FL State 33301 Zip

Phone 8th Floor 954-836-1155

Email elabrador@brownard.org

Speaking: For Against Information

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

Representing Broward County

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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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)

Meeting Date

Bill Number (if applicable)

2/3/20

1302

Topic Sovereign Immunity

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Phone 901-3676

Street Tallahassee State FL Zip 32301

Email David@fcfl.com

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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Meeting Date 2/3/20

Bill Number (if applicable) 1302

Amendment Barcode (if applicable) _____

Topic Sovereign Immunity

Name Bob Skillinger

Job Title Monroe County Attorney

Address 1111 12th Street SW #88

Street Ray West City FL State 33090 Zip

Phone 305 292 3470

Email skillinger-bob@monroecounty-fl.gov

Speaking: For Against Information

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

Representing Monroe County BOCC

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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Meeting Date 2/3/20

Bill Number (if applicable) 1302

Topic Sovereign Immunity

Amendment Barcode (if applicable)

Name Ryan Matthews

Job Title Lobbyist

Address PO Box 10930

Phone 850 294 8571

Street Tallahassee
City FL State FL Zip 32309

Email ryan@psmf1.net

Speaking: For Against Information

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

Representing FL Sheriffs Assoc. / Monroe County

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

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Meeting Date 2/13/20

Bill Number (if applicable) CS/SRB 1302

Topic CS/SRB 1302

Amendment Barcode (if applicable)

Name MARK REYAN

Job Title CITY MANAGER

Address 8055 South Parkside Dr

Phone 321 773-3181

Street Indian Harbour Beach FL 32937

Email mayor@indianharbour.org

Speaking: For Against Information

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

Representing City of Indian Harbour Beach

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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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)

Meeting Date

Bill Number (if applicable)

2-3-20

1302

Topic SOVEREIGN IMMUNITY

Amendment Barcode (if applicable)

Name LARNA YOUNG

Job Title LEGISLATIVE COUNSEL

Address 100 S. ANDREWS ST

Phone

Street

TAL

City

FL

State

32301

Zip

Email

Speaking: For Against Information

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

Representing FLORIDA ASSOCIATION OF COUNTRIES

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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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)

Meeting Date Feb 3 2020

Bill Number (if applicable) SB 1302

Topic Sovereign Immunity Bill

Amendment Barcode (if applicable) _____

Name Mark Bell

Job Title Retired

Address 19690 Cross Ln Tallahassee, FL

Phone 786-269-7904

Street Tallahassee State FL Zip 32310

Email laketab@markd@gmail.com

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

Representing _____

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2-3-2020

Bill Number (if applicable) 1302

Amendment Barcode (if applicable) _____

Topic Sovereign Immunity
Name Lynnda Bell

Job Title City Manager

Address 2020 Third Ave (Job)

Street Sneads FL
City _____ State _____ Zip _____

Phone 850-388-9967

Email Sneadsmyr@sneads
fl.com

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

Representing Town of Sneads

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)

Feb 3, 2020

1302

Meeting Date

Bill Number (if applicable)

Topic Sovereign Immunity

Amendment Barcode (if applicable)

Name Jason Unger

Job Title _____

Address 301 S. Bronough Street #600

Phone 577-9090

Street

Tallahassee

FL

32301

City

State

Zip

Email junger@gray-robinson.com

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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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)

Meeting Date 2/3/2020

Bill Number (if applicable) SR 1302

Amendment Barcode (if applicable) _____

Topic Sovereign Immunity

Name Mark Delegal

Job Title General Counsel

Address 315 S. Calhoun St. #600

Phone 850224-7000

Street 315 S. Calhoun St.
City Palmdale State CA Zip 93501

Email _____

Speaking: For Against Information

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

Representing Safety Net Hospital Alliance of Florida

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

2-3-20

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

1302

Meeting Date

Bill Number (if applicable)

Topic

SOVEREIGN IMMUNITY

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

City

State

33128

Zip

Email JMM2@MIAMIDADE.GOV

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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CourtSmart Tag Report

Room: SB 301
Caption: Senate Community Affairs

Case No.:

Type:
Judge:

Started: 2/3/2020 4:05:41 PM
Ends: 2/3/2020 5:57:59 PM Length: 01:52:19

4:05:40 PM Roll call
4:05:50 PM Quorum present
4:06:02 PM Chair opening remarks
4:06:20 PM Take up SB1424
4:07:20 PM Senator Grueter explains bill
4:07:31 PM Senator Grueters waives close
4:08:17 PM Roll call on SB 1424
4:08:28 PM SB 1424 reported favorable
4:08:41 PM SB 724 and SB 1662 borh Temporarily Postponed
4:09:11 PM Tab 3 SB 760
4:09:37 PM Senator Brandes explains the bill
4:09:57 PM Take up amendment 624798 Strike all
4:10:57 PM amendment adopted
4:11:22 PM appearance cards
4:11:34 PM Senator Brandes waives close
4:12:09 PM roll call on SB 760 reported favorably
4:12:26 PM SB 856 Tab 7 by Senator Pizzo
4:12:38 PM amendment 746852 by Senator Pizzo
4:13:10 PM Senator Pizzo explains amendment
4:13:20 PM Senator Simmons asks for Pizzo to explain differences in bill filed
4:14:04 PM Senator Pizzo explains
4:14:19 PM Amendment is adopted
4:14:35 PM Back on bill as amended
4:14:43 PM Senator Farmers debates
4:15:23 PM Senator Pizzo closes on bill as amended
4:16:22 PM roll call on SB 856 reported favorably
4:16:41 PM Senator Bronson introduces his family
4:17:15 PM take up tab 4 SB 888
4:17:23 PM Senator Perry explains bill
4:17:35 PM amendment 553860 by Senator Perry
4:17:54 PM Senator Perry explains amendment
4:18:14 PM amendment adopted
4:18:34 PM appearance cards
4:18:41 PM back on bill as amended
4:18:48 PM Senator Perry waives close
4:19:00 PM SB 888 as reported favorably
4:19:12 PM SB 1336 by Senator Perry
4:19:24 PM Senator Perry explains bill
4:19:34 PM Senator Pizzo asks question
4:20:06 PM take up amendment 132314 by Senator Farmer
4:20:58 PM Senator Farmer explains amendment
4:21:47 PM Senator Pizzo ask for further explanation

4:22:04 PM Senator Farmer explains
4:22:18 PM appearance cards
4:23:05 PM amendment adopted
4:24:04 PM amendment 812038 withdrawn
4:24:20 PM appearance cards
4:24:49 PM Senator Simmons as question of Mr. Pitzer
4:26:32 PM Mr. Pitzer answers
4:27:54 PM follow up question by Senator Simmons
4:28:55 PM Mr. Pitzer explains
4:31:57 PM Senator Pizzo asks for someone in opposition to explain why the oppose
4:32:57 PM Brett Ferrell Electricition is against the bill
4:34:37 PM Senator Pizzo ask Brett question
4:35:37 PM Senator Pizzo has a series of questions to Brett Ferrell
4:35:57 PM back to appearance cards
4:38:40 PM Senator Pizzo asks question
4:39:39 PM follow up question by Senator Pizzo
4:41:17 PM Senator Pizzo responds
4:45:51 PM Senator Simmons ask question to Association of Counties
4:46:52 PM Senator Simmons ask a series of question
4:48:36 PM back to appearance cards
4:50:36 PM Diago Echeverri, Legislative Liason speaks on support of the bill
4:51:36 PM Chair Flores ask question to Diago Echeverri
4:52:04 PM Senator Pizzo ask question to Diago Echeverri
4:53:04 PM David Crews, Florida League of Cities speaks in opposition of the bill
4:53:42 PM Teresa King, Florida Building Trades speaks to concerbs in the bill
4:54:44 PM Senator Pizzo asks question to Teresa King
4:56:30 PM Teresa King responds
4:57:45 PM Ed Labrador Legislative Counsel speaks in neutrel of the bill
4:58:45 PM Senator Pizzo debates that he'd like to work with Senator Perry further on the bill
4:59:12 PM Senator Perry closes on bill and ask people in opposition to please come speak to him
4:59:57 PM roll call on SB 1336 as amended reported favorably
5:00:53 PM SB 1302 by Senator Flores
5:01:06 PM Vice Chair Farmer take gavel
5:01:23 PM Chair Flores explains the bill
5:02:29 PM Senator Pizzo to debate bill
5:03:29 PM Chair Flores responds
5:04:16 PM Senator Pizzo debates further
5:05:14 PM Chair Flores expaines
5:06:53 PM Senator Pizzo follow up
5:07:52 PM Senator Broxson is recognized to ask question ro Chair Flores
5:08:33 PM Chair Flores responds
5:09:51 PM Senator Broxson question to Senator Simmons
5:10:52 PM Senator Simmons responds
5:12:38 PM Vice Chair Farmer responds
5:13:38 PM appearance cards
5:13:50 PM Jason Unger attorney in tallahassee
5:15:40 PM Senator Simmons ask question to Jason Unger
5:17:08 PM Jason Unger responds to Senator Simmons
5:18:54 PM Senator Pizzo asks question to Jason Unger
5:19:05 PM Jason Unger responds
5:19:13 PM Senator Pizzo follow up
5:20:00 PM Jason Unger responds

5:20:35 PM Senator Broxson asks question to Jason Unger
5:21:35 PM Jason Unger responds
5:22:00 PM Senator Broxson asks further question
5:22:42 PM Vice Chair Farmer asks question to Jason Unger
5:23:24 PM Vice Chair Farmer follow up
5:24:16 PM Linds Bell, Attorney for Town of Sneads
5:25:36 PM Linda Bell explains that premiums go up with Sovereign Immunity goes up
5:26:37 PM Senator Pizzo ask question to Linda Bell
5:27:00 PM Linda Bell responds
5:27:49 PM Senator Pizzo follow up about premiums
5:29:24 PM Senator Simmons asks question
5:30:24 PM Linda Bell responds
5:31:22 PM Vice Chair Farmer asks question
5:31:58 PM Lori Yoemans, Florida Assoc of Counties speaks on concerns on bill
5:33:36 PM Senator Pizzo asks question to Lori Yoemans
5:34:50 PM Mark Ryan, Atty for the Town of Riveria Beach
5:36:07 PM Ryan Mathews, Monroe County Florida Sheriff's Assoc
5:37:09 PM Senator Simmons asks questionto Ryan Mathews
5:38:09 PM Senator Broxson asks question to Ryan Mathews
5:40:15 PM Bill Shillinger, Monroe County Attorney
5:41:16 PM David Crews Florida League of Cities
5:43:18 PM Vice Chair Farmer ask question to David Crews
5:44:18 PM Edward Labrador, Broward County opposes bill
5:45:01 PM Senator Pizzo ask question to Edward Labrador
5:46:17 PM Vice Chair Farmer speaks
5:47:17 PM Senator Pizzo motion for time certain vote at 5:58 pm
5:47:52 PM Senator Broxson debate on the bill
5:48:05 PM Senator Pizzo debates
5:48:27 PM Senator Simmons debates
5:49:36 PM Vice Chair Farmer speaks on Soverign Immunity
5:51:54 PM Chair Flores comments and closes on bill
5:54:40 PM Roll call on SB1302 voted favorably
5:55:20 PM Senator Simmons moves to adjourn