

Tab 1	SB 44 by Stewart ; Public Restroom Requirements
Tab 2	SB 894 by Bradley ; (Identical to H 00157) Governing Body Meetings
Tab 3	SB 1004 by Torres (CO-INTRODUCERS) Pizzo ; (Similar to H 00727) Tax Exemptions for Disabled Ex-servicemembers
Tab 4	SB 1030 by Rodriguez ; (Similar to H 01001) Taxation
Tab 5	SB 1082 by Collins ; (Similar to H 01051) Housing for Agricultural Workers
Tab 6	SB 1364 by Calatayud ; (Similar to H 00723) Everglades Protection Area
Tab 7	SB 1440 by Calatayud ; (Similar to H 01299) Affordable Housing Property Tax Exemptions for Accessory Dwelling Units
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Tab 8	SB 1526 by Avila ; (Similar to H 01647) Local Regulation of Nonconforming or Unsafe Structures

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Calatayud, Chair
Senator Osgood, Vice Chair

MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: James E. "Jim" King, Jr Committee Room, 401 Senate Building

MEMBERS: Senator Calatayud, Chair; Senator Osgood, Vice Chair; Senators Baxley, Berman, Bradley, Brodeur, Martin, and Pizzo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 44 Stewart	Public Restroom Requirements; Requiring the Florida Building Commission to adopt certain requirements in the Florida Building Code for certain public restroom facilities newly constructed or renovated after a specified date, etc. CA 01/16/2024 Favorable RI RC	Favorable Yeas 8 Nays 0
2	SB 894 Bradley (Identical H 157)	Governing Body Meetings; Authorizing governing bodies of municipalities to convene meetings and conduct official business via teleconferencing or other technological means if certain conditions are met; providing limitations on such meetings; providing that the limitations placed on such meetings may be suspended upon a declared state of emergency, etc. CA 01/16/2024 Favorable GO RC	Favorable Yeas 8 Nays 0
3	SB 1004 Torres (Similar H 727)	Tax Exemptions for Disabled Ex-servicemembers; Revising the amount of a certain exemption related to disabled ex-servicemembers, etc. CA 01/16/2024 Favorable FT AP	Favorable Yeas 8 Nays 0
4	SB 1030 Rodriguez (Similar H 1001)	Taxation; Authorizing a county or school board to exclude rent or license fees from the discretionary sales surtaxes imposed, under certain circumstances; specifying the application of an exemption for sales taxes for certain purchasers of boats and aircraft; authorizing the department to consider requests to settle or compromise certain liabilities after certain time periods have expired, in certain circumstances; providing a limitation; providing that certain department decisions are not subject to review, etc. CA 01/16/2024 Favorable FT AP	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, January 16, 2024, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 1082 Collins (Similar H 1051)	Housing for Agricultural Workers; Defining the terms “agricultural worker” and “housing site”; prohibiting a governmental entity from adopting or enforcing any legislation to inhibit the construction of housing for agricultural workers on agricultural land operated as a bona fide farm; authorizing governmental entities to adopt local land use regulations that are less restrictive than certain state and federal regulations; authorizing the continued use of housing sites constructed before the effective date of the act if certain conditions are met, etc.	Favorable Yeas 8 Nays 0
		CA 01/16/2024 Favorable AG RC	
6	SB 1364 Calatayud (Similar H 723)	Everglades Protection Area; Requiring that proposed plans and plan amendments that apply to certain lands within or near the Everglades Protection Area follow the state coordinated review process; authorizing local governments to consider an application for a development permit or development order contingent upon adoption of such plans and amendments; providing duties of the Department of Environmental Protection relating to such plans and plan amendments; prohibiting the adoption of small-scale development amendments for properties located within or near the Everglades Protection Area, etc.	Favorable Yeas 8 Nays 0
		CA 01/16/2024 Favorable AG RC	
7	SB 1440 Calatayud (Similar H 1299)	Affordable Housing Property Tax Exemptions for Accessory Dwelling Units; Authorizing counties and municipalities to exempt certain accessory dwelling units from ad valorem taxation; deleting a provision requiring the expiration of certain tax exemptions, etc.	Fav/CS Yeas 8 Nays 0
		CA 01/16/2024 Fav/CS FT AP	

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, January 16, 2024, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1526 Avila (Similar H 1647)	Local Regulation of Nonconforming or Unsafe Structures; Designating the "Resiliency and Safe Structures Act"; prohibiting local governments from prohibiting, restricting, or preventing the demolition of certain structures unless necessary for public safety; authorizing local governments to review demolition permit applications only for a specified purpose; prohibiting additional local land development regulations or public hearings, etc.	Temporarily Postponed
		CA 01/16/2024 Temporarily Postponed EN RC	
9	Other Related Meeting Documents		

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 44

INTRODUCER: Senator Stewart

SUBJECT: Public Restroom Requirements

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Favorable
2.			RI	
3.			RC	

I. Summary:

SB 44 directs the Florida Building Commission to incorporate into the Florida Building Code the installation of a hook in wheelchair accessible public restroom facilities that is within the reach of an average-sized person while the person is sitting on a toilet seat. Such hook must be installed in public restroom facilities with an accessible toilet compartment or single-user toilet room that is newly constructed or renovated after July 1, 2024.

The bill takes effect on July 1, 2024.

II. Present Situation:

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida’s minimum standards were met. Local governments could choose from four separate model codes. The state’s role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida’s system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission’s recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 10, 2024).

implementation of the Building Code, and that first edition replaced all local codes on March 1, 2002.²

The Building Code is updated every three years. The current edition of the Building Code is the eighth edition, which took effect on December 31, 2023 and is referred to as the 2023 Florida Building Code.

Chapter 553, part IV, F.S., is known as the “Florida Building Codes Act” (act). The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.³

The Florida Building Commission (commission) was statutorily created to implement the Building Code. The commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The commission reviews International Codes published by the International Code Council,⁴ the National Electric Code, and other nationally adopted model codes during its triennial update of the Building Code.⁵

Local Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public’s health, safety, and welfare.⁶

Every local government must enforce the Building Code and issue building permits.⁷ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.⁸

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.⁹ Construction work may not be done beyond a certain point until it passes an inspection.

² *Id.*; DBPR, *Building Code Information System*, available at: <https://floridabuilding.org/c/default.aspx#> (last visited Jan. 10, 2024).

³ Section 553.72(1), F.S.

⁴ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 10, 2024).

⁵ Sections 553.73, and 553.74, F.S.

⁶ Section 553.72, F.S.

⁷ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

⁸ Sections 125.56(4)(a), 553.79(1), F.S.

⁹ Section 110, 2023 Florida Building Code, Building, 8th Edition.

Florida Accessibility Code for Building Construction

The 1993 Legislature created the Florida Americans with Disability Accessibility Implementation Act (Act) ¹⁰ which incorporated the architectural accessibility requirements of the Americans with Disabilities Act of 1990 and maintained existing provisions of Florida law thought to be more stringent than the ADA accessibility guidelines. ¹¹

The Act establishes the Florida Accessibility Code for Building Construction (Accessibility Code). ¹² The law was amended in 2011 and its resulting requirements were integrated into the Florida Building Code. ¹³ The Accessibility Code contains scoping and technical requirements for accessibility to sites, facilities, buildings, and elements by individuals with disabilities. The requirements are to be applied during the design, construction, additions to, and alteration of sites, facilities, buildings, and elements. ¹⁴

Chapter six of the Accessibility Code regulates wheelchair accessible toilet compartments including size, doors, approach, grab bars, and location within a restroom. ¹⁵ Chapter three of the Accessibility Code regulates reach ranges for building elements such as coat hooks, lockers, and other operable parts of a building. ¹⁶ Requirements include the height of forward reach, side reach, and obstructed reach for persons in a wheelchair. ¹⁷

III. Effect of Proposed Changes:

The bill amends s. 553.86 F.S., to direct the Florida Building Commission to require in the Florida Building Code the installation of a hook in wheelchair accessible public restroom facilities that is within the reach of an average-sized person while the person is sitting on a toilet seat. Such hook must be installed in public restroom facilities with an accessible toilet compartment or single-user toilet room which are newly constructed or renovated after July 1, 2024.

Such public restroom facilities must otherwise be in compliance with Florida Americans with Disabilities Accessibility Implementation Act and all applicable requirements set forth in the Florida Accessibility Code for Building Construction.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁰ Section 553.501 F.S.

¹¹ Preface to the 2023 Florida Building Code, Accessibility, 8th Edition.

¹² Section 553.503 F.S.

¹³ Chapter 2011-222, Laws of Fla.

¹⁴ Section 101.1, 2023 Florida Building Code, Accessibility, 8th Edition.

¹⁵ Chapter 6: Plumbing Elements and Facilities, 2023 Florida Building Code, Accessibility, 8th Edition.

¹⁶ Chapter 3: Building Blocks, 2023 Florida Building Code, Accessibility, 8th Edition.

¹⁷ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

There may be a minimal fiscal impact to construction of new restroom facilities that must comply with the provisions of the bill.

C. Government Sector Impact:

There may be a small, likely insignificant, fiscal impact on the Florida Building Commission to integrate the required changes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 553.86 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Stewart

17-00222-24

202444__

1 A bill to be entitled
2 An act relating to public restroom requirements;
3 amending s. 553.86, F.S.; requiring the Florida
4 Building Commission to adopt certain requirements in
5 the Florida Building Code for certain public restroom
6 facilities newly constructed or renovated after a
7 specified date; providing an effective date.
8

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

11 Section 1. Section 553.86, Florida Statutes, is amended to
12 read:

13 553.86 Public restroom requirements ~~restrooms; ratio of~~
14 ~~facilities for men and women; application; incorporation into~~
15 ~~the Florida Building Code.~~—The Florida Building Commission shall
16 incorporate into the Florida Building Code, to be adopted by
17 rule pursuant to s. 553.73(1):r

18 (1) A ratio of public restroom facilities for men and women
19 which must be provided in all buildings that are newly
20 constructed after September 30, 1992, and that have restrooms
21 open to the public. This subsection ~~section~~ does not apply to
22 establishments licensed under chapter 509 if the establishment
23 does not provide meeting or banquet rooms that ~~which~~ accommodate
24 more than 150 persons and the establishment has at least the
25 same number of water closets for women as the combined total of
26 water closets and urinals for men.

27 (2) For public restroom facilities with a wheelchair
28 accessible toilet compartment or a single-user toilet room which
29 are newly constructed or renovated after July 1, 2024, both of

17-00222-24

202444__

30 the following requirements:

31 (a) That a hook be installed within the reach range of an
32 average-sized person while the person is sitting on the toilet
33 seat.

34 (b) That such public restroom facilities must otherwise be
35 in compliance with ss. 553.501-553.513 and all applicable
36 requirements set forth in the Florida Accessibility Code for
37 Building Construction.

38 Section 2. This act shall take effect July 1, 2024.

APPEARANCE RECORD

44

1/16/24

Meeting Date

Bill Number or Topic

Community Affairs

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Karen Mazzola, Florida PTA

Phone 407-855-7604

Address 1747 Orlando Central Pkwy

Email vp.education@floridapta.org

Street

Orlando

FL

City

State

32809

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

FLPTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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



The Florida Senate

Committee Agenda Request

To: Senator, Chair Alexis Calatayud
Committee on Community Affairs

Subject: Committee Agenda Request

Date: November 14, 2023

I respectfully request that **Senate Bill #44**, relating to Public Restroom Requirements be placed on:

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

A handwritten signature in cursive script that reads "Linda Stewart".

Senator Linda Stewart
Florida Senate, District 17

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 894

INTRODUCER: Senator Bradley

SUBJECT: Governing Body Meetings

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 894 allows the governing body of a municipality to convene meetings and conduct official business via teleconferencing or other technological means as long as such meetings meet all the requirements of public notice, public access, and public participation two times per calendar year.

Meetings that include formal actions on ordinances or are quasi-judicial may not be conducted in such a manner.

The limitations placed on meetings conducted via teleconferencing relating to public notice, access, and participation may be suspended upon the declaration of a state of emergency issued by the Governor.

The bill takes effect July 1, 2024.

II. Present Situation:

Open Meetings Law

The Florida Constitution provides that the public has a right to access governmental meetings.¹ Each collegial body must provide reasonable notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.² This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.³

¹ FLA CONST., art. I, s. 24(b).

² *Id.*

³ *Id.* Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,” or the “Sunshine Law,” requires all meetings of any board or commission of any state agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken must be open to the public at all times.⁴ The governing board or commission must provide the public reasonable notice of such meetings.⁵

Members of the public must be given a reasonable opportunity to be heard on a proposition before a board or commission, with certain exceptions,⁶ including certain emergency situations affecting the public health, welfare, or safety of citizens and official acts that are no more than a ministerial.⁷

Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.⁸ Minutes of a public meeting must be promptly recorded and open to public inspection.⁹ Failure to abide by public meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.¹⁰ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.¹¹

Use of Electronic Media and Public Meetings

Section 120.54(5)(b)2, F.S., authorizes state agencies to conduct public meetings via communications media technology¹² provided that the board complies with uniform rules of procedure¹³ adopted by the state Administration Commission.¹⁴ These rules contain notice requirements and procedures for providing points of access to the public. While state agencies may conduct meetings, hearings, or workshops by communications media technology, there is no similar statute providing such authorization for local governments.

Over the years, the Office of the Attorney General has opined on a number of questions relating to the use of communications media technology for local government meetings. The Attorney General has concluded that where a quorum of membership is required for a local body to discuss or transact relevant public business in a property noticed public meeting, that quorum of

legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

⁴ Section 286.011(1)-(2), F.S.

⁵ *Id.*

⁶ Section 286.0114(2), F.S.

⁷ Section 286.0114(3), F.S.

⁸ Section 286.011(6), F.S.

⁹ Section 286.011(2), F.S.

¹⁰ Section 286.011(1), F.S.

¹¹ Section 286.011(3), F.S. Penalties include a fine of up to \$500 or a second degree misdemeanor.

¹² Section 120.54(5)(b)2, F.S. The term “communications media technology” means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

¹³ Rule 28-109, F.A.C.

¹⁴ *See* Op. Att’y Gen. Fla. 98-28 (1998). The Administration Commission is composed of the Governor and the Cabinet (s. 14.202, F.S.) The Cabinet is composed of the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture compose the Cabinet (s. 20.03(1), F.S.).

members must be present physically at the meeting place in order to constitute a proper quorum.¹⁵

Most recently, during the COVID-19 pandemic, the Attorney General was presented with the question whether and to what extent local governments may utilize teleconferencing or other technological means to convene meetings and conduct official business.¹⁶ The Attorney General advised that local governments may only conduct meetings by teleconferencing or other technological means if either:

- A statute permits a quorum to be present by means other than in person; or
- The in-person requirement for constituting a quorum is lawfully suspended during a state of emergency.¹⁷

However, in such case, public access must be afforded which permits the public to attend the meeting, which public access may be provided by teleconferencing or technological means.¹⁸

The Attorney General has also advised that if a quorum of a local board is physically present, “the participation of an absent member by telephone conference or other interactive electronic technology is permissible when such absence is due to extraordinary circumstances such as illness.”¹⁹

Additionally, the physical presence of a quorum has not been required where electronic media technology is used to allow public access and participation at workshop meetings where no formal action will be taken.²⁰ For example, the Attorney General advised that airport authority members may conduct information discussions and workshops over the internet, provided proper notice is given, and interactive access by members of the public is provided.²¹

Statutory Authorizations for Use of Communication Media Technology

There are instances in current law that expressly allow specified local entities to conduct public meetings via communications media technology with varying limitations. For example:

- A voting member of a regional planning council²² that covers three or more counties may participate via telephone or videoconferencing to be counted towards a quorum, provided that at least one-third of the voting members are physically present at the meeting location.

¹⁵ Op. Att’y Gen. Fla. 2020-03 (2020)

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Op. Att’y Gen. Fla 2003-41 (2003)

²⁰ Office of the Attorney General, *Government-in-the-Sunshine Manual*, 39 (2023 ed.), .), available at <https://www.myfloridalegal.com/sites/default/files/2023-05/2023GovernmentInTheSunshineManual.pdf> (last visited Jan. 11, 2024).

²¹ Op. Att’y Gen. Fla 2001-66 (2001). *See Id.*

²² Section 120.525(4), F.S. Pursuant to ch. 186, F.S., regional planning councils (RPCs) are comprehensive planning districts of the state, designated as the primary organization to address problems and plan solutions that are of greater-than-local concern or scope and recognized as Florida’s multipurpose regional entities in a position to plan for and coordinate intergovernmental solutions to growth-related problems. By statute, the state is divided into 10 RPC regions. Each county must be a member of their respective RPC and municipalities may be members at their option.

- Certain entities created by interlocal agreement whereby the member agencies are located in at least five counties, of which three are not contiguous, may conduct public meetings and workshops by means of communications media technology.²³
- The Jacksonville Transit Authority may meet via communications media technology, however a resolution, rule, or formal action is not binding unless a quorum is physically present at the noticed meeting location, and only members physically present may vote on any item.²⁴

Additionally, ch. 2017-214, Laws of Florida, authorizes the Monroe County School Board, Monroe County Commission, or any political subdivision thereof, to adopt rules and procedures for using communications media technology for meetings at which no final action is taken. Due to the length of the Florida Keys, Monroe County conducts physical meetings in three separate locations.²⁵ The highway connecting the Florida Keys spans 113 miles.²⁶

Municipal Governance

There are 411 municipalities in Florida, ranging in population from 8 to 924,900.²⁷ Just above 50 percent of Floridians live within the borders of a municipality.²⁸ The governing board of a municipality can have any number of members, whereby the smallest board has three members and the largest has 19.²⁹ Ch. 166, F.S., governs the laws regarding municipalities.³⁰

Municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.³¹ The governing body of a municipality has broad “home rule” legislative powers to enact ordinances, local laws, to perform governmental functions and exercise power to promote the health, welfare, safety, and quality of life of a local government’s residents.

Municipalities must notice intent to consider an ordinance 10 days before adoption and read the ordinance by title or in full on at least two separate days before adoption by vote.³² While law making is done through ordinances, municipalities also have public meetings for many informal actions as well. To conduct business a municipality must have a quorum physically present, and quorum is typically a majority of members of a governing board.³³

²³ Section 163.01(18), F.S.

²⁴ Section 349.04, F.S.

²⁵ See Monroe County Board of County Commissioners website, available at <https://www.monroecounty-fl.gov/1015/Board-of-County-Commissioners> (last visited Jan. 12, 2024).

²⁶ Miami Herald, *Driving down the Overseas Highway in the Florida Keys? What to know about your trip*, available at <https://www.miamiherald.com/news/local/community/florida-keys/article253285093.html> (last visited Jan. 12, 2024).

²⁷ Florida League of Cities, *Florida’s Cities*, available at https://www.floridaleagueofcities.com/docs/default-source/resources/about-florida-cities5ff9bbc41a9e6c4e8be5ff0000e8da5f.pdf?sfvrsn=ba67d7d5_0 (last visited Jan 11, 2024)

²⁸ *Id.*

²⁹ Florida League of Cities, *Florida Is Her Cities*, available at <https://floridaleagueofcities.com/docs/default-source/resources/yc-fun-facts-flyer-2019.pdf>? (last visited Jan. 11, 2024)

³⁰ Section 166.011, F.S.

³¹ FLA. CONST. art. VIII, s. 2(b). See also s. 166.021(1), F.S.

³² Section 166.041(3)(a), F.S.

³³ Op. Att’y Gen. Fla. 2010-34 (2010)

While members of a municipal governing body must participate in a public meeting in person to take action on any item, some municipalities have adopted a hybrid meeting process to allow participants from the public to participate in meetings via teleconferencing.³⁴

Section 166.0213, F.S., provides specified allowances to municipalities regarding their public meetings. Small municipalities with less than 500 residents can hold meetings within 5 miles of the exterior jurisdictional boundary of the municipality under certain circumstances.³⁵ Additionally, municipalities may hold joint meetings to receive, discuss, and act upon matters of mutual interest with the governing body of the county where the municipality is located or the governing body of another municipality.³⁶

Quasi-Judicial Hearings

Municipalities also must convene quasi-judicial meetings when citizens challenge certain land use decisions. A quasi-judicial process is a meeting of the governing body where members can only consider the competent and substantial evidence before the board, and the matters function similar to a court proceeding.³⁷ The Sunshine Law does not allow governing boards to hold closed-door hearings or deliberations purely because the board is acting in a “quasi-judicial” capacity.³⁸

States of Emergency

The State Emergency Management Act, ch. 252, F.S., was enacted to be the legal framework for this state’s emergency management activities, recognizing the state’s vulnerability to a wide range of emergencies, including natural, manmade, and technological disasters.³⁹ In order to reduce the state’s vulnerability to these circumstances and to prepare to respond to them, the act promotes the state’s emergency readiness through enhanced coordination, long-term planning, and adequate funding.⁴⁰

The act also delineates the Governor’s authority to declare a state of emergency. When a state of emergency is issued, the Governor has the power to issue executive orders, proclamations and rules that have the force and effect of law.⁴¹ In March 2020, during a state of emergency in response to the COVID-19 pandemic, the Governor issued an executive order suspending the requirement that a quorum be present in person and allowing local governments to meet via

³⁴ See Tampa City Council, *Quasi-Judicial and Legislative Virtual Meeting Information*, , available at <https://www.tampa.gov/city-council/quasi> (last visited Jan. 10, 2024) and Virtual Meetings, City of Lake Worth Beach, available at <https://lakeworthbeachfl.gov/government/virtual-meetings/> (last visited Jan 10, 2024)

³⁵ Section 166.0213(1), F.S.

³⁶ Section 166.0213(2), F.S.

³⁷ City of North Miami, *Resident’s Guide to a Quasi-Judicial Process*, available at <https://www.northmiamifl.gov/960/Residents-Guide-to-a-Quasi-Judicial-Proc> (last visited Jan. 11, 2024)

³⁸ Office of the Attorney General, *Government-in-the-Sunshine Manual*, 36 (2023 ed.), available at <https://www.myfloridalegal.com/sites/default/files/2023-05/2023GovernmentInTheSunshineManual.pdf> (last visited Jan. 11, 2024)

³⁹ Section 252.311(1), F.S.

⁴⁰ Section 252.311(2), F.S.

⁴¹ Section 252.36(1)(b), F.S.

communications media technology, such as telephonic and video conferencing, as provided in s. 120.54(5)(b)2, F.S.⁴²

III. Effect of Proposed Changes:

The bill amends s. 166.0213, F.S., to allow the governing body of a municipality to convene meetings and conduct official business via teleconferencing or other technological means as long as such meetings meet all the requirements of public notice, public access, and public participation two times per calendar year.

Meetings that include formal actions on ordinances or are quasi-judicial may not be conducted in via teleconferencing or other technological means.

The limitations placed on meetings conducted via teleconferencing relating to public notice, access, and participation may be suspended upon the declaration of a state of emergency issued by the Governor pursuant to ch. 252 of F.S.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁴² Office of the Governor Executive Order 20-69, available at https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-69.pdf (last visited Jan. 10, 2024).

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 166.0213 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Bradley

6-01133-24

2024894__

1 A bill to be entitled
2 An act relating to governing body meetings; amending
3 s. 166.0213, F.S.; authorizing governing bodies of
4 municipalities to convene meetings and conduct
5 official business via teleconferencing or other
6 technological means if certain conditions are met;
7 providing limitations on such meetings; providing that
8 the limitations placed on such meetings may be
9 suspended upon a declared state of emergency;
10 providing an effective date.

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

13
14 Section 1. Subsection (3) is added to section 166.0213,
15 Florida Statutes, to read:

16 166.0213 Governing body meetings.—

17 (3) (a) The governing body of a municipality may convene
18 meetings and conduct official business via teleconferencing or
19 other technological means as long as such meetings meet all of
20 the requirements for public notice, public access, and public
21 participation. A governing body may not convene meetings via
22 teleconferencing or other technological means more than two
23 times per calendar year. Meetings that include formal action on
24 ordinances or are quasi-judicial hearings may not be conducted
25 via teleconferencing or other technological means.

26 (b) The limitations placed on meetings conducted via
27 teleconferencing or other technological means under paragraph
28 (a) may be suspended upon the declaration of a state of
29 emergency issued by the Governor pursuant to chapter 252.

6-01133-24

2024894__

30

Section 2. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

894 Governing Body Meetings

January 16, 2023

Meeting Date

Community Affairs

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name Mat Forrest

Phone 850-577-0444

Address 201 E. Park Ave.

Email Mat@ballardpartners.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

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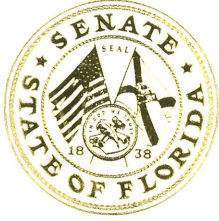
Town of Palm Beach

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

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Committee on Criminal
and Civil Justice, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries

SELECT COMMITTEE:

Select Committee on Resiliency

SENATOR JENNIFER BRADLEY

6th District

January 8, 2024

Senator Alexis Calatayud, Chair
Senate Committee on Community Affairs
302 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Calatayud:

I respectfully request that Senate Bill 894 be placed on the committee's agenda at your earliest convenience. This bill relates to governing body meetings.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

cc: Elizabeth Ryon, Staff Director
Tatiana Warden, Administrative Assistant

REPLY TO:

- 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- 124 Northwest Madison Street, Lake City, Florida 32055 (386) 719-2708
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1004

INTRODUCER: Senator Torres

SUBJECT: Tax Exemptions for Disabled Ex-servicemembers

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Favorable
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1004 increases the value of the ad valorem tax exemption for disabled ex-servicemembers from \$5,000 to \$10,000. This increase first applies to the 2025 tax roll.

The bill takes effect July 1, 2024.

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 property as of January 1 of each year.¹ The property appraiser annually determines the assessed or “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 Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

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); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ See s. 192.001(2) and (16), F.S.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

Ad Valorem Tax Exemption for Disabled Ex-Servicemembers

Article VII, s. 3(b) of the State Constitution, requires that general law establish an exemption of property tax for widows and widowers, and persons who are blind or totally and permanently disabled. The value of these exemptions may be provided by general law, with a constitutional minimum of \$500.⁶ Subsections (1) and (2) of s. 196.101, F.S., exempt the total value of a homestead used and owned by a person who is totally and permanently disabled.

Section 196.24, F.S., provides a \$5,000 property tax exemption to any resident ex-servicemember⁷ who was honorably discharged and has been disabled to a degree of 10 percent or more by misfortune or while serving during a period of wartime service.⁸ This exemption is extended to an unmarried surviving spouse of a disabled ex-servicemember.⁹

III. Effect of Proposed Changes:

The bill amends s. 196.24, F.S., to increase the value of the ad valorem tax exemption for disabled ex-servicemembers from \$5,000 to \$10,000. This increase first applies to the 2025 tax roll.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 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. The mandate requirement does not apply to laws having an insignificant impact, which for Fiscal Year 2024-2025 is forecast at approximately \$2.3 million.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ FLA. CONST. art. VII, s. 3(b).

⁷ Section 196.012(19), F.S., defines "ex-servicemember" as any person who has served as a member of the United States Armed Forces on active duty or state active duty, a member of the Florida National Guard, or a member of the United States Reserve Forces.

⁸ The U.S. Department of Veterans Affairs determines the severity of a veteran's disability based on evidence submitted by the veteran or present in the veteran's military records. This results in a disability rating from 0% to 100% in 10% increments. U.S. Department of Veterans Affairs, *Compensation*, available at <https://www.benefits.va.gov/compensation/rates-index.asp> (last visited Jan. 11, 2024).

⁹ Section 196.24(1), F.S.

The Revenue Estimating Conference has not reviewed the bill, however the State Tax Handbook estimates the 2024-25 fiscal year impact of the current \$5,000 exemption at \$13.6 million.¹⁰ Therefore, the mandates provision may apply.

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 reviewed the bill at this time.

B. Private Sector Impact:

Citizens receiving the tax exemption will benefit from its increased value.

C. Government Sector Impact:

Local governments will see negative fiscal impact from increasing tax exemptions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.24 of the Florida Statutes.

¹⁰ Florida Revenue Estimating Conference, *2023 Florida Tax Handbook*, Page 220, Oct. 2023, available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Jan. 9, 2024).

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Torres

25-01489-24

20241004__

1 A bill to be entitled
2 An act relating to tax exemptions for disabled ex-
3 servicemembers; amending s. 196.24, F.S.; revising the
4 amount of a certain exemption related to disabled ex-
5 servicemembers; providing applicability; providing an
6 effective date.

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

9
10 Section 1. Subsection (1) of section 196.24, Florida
11 Statutes, is amended to read:

12 196.24 Exemption for disabled ex-servicemember or surviving
13 spouse; evidence of disability.—

14 (1) Any ex-servicemember, as defined in s. 196.012, who is
15 a bona fide resident of the state, who was discharged under
16 honorable conditions, and who has been disabled to a degree of
17 10 percent or more by misfortune or while serving during a
18 period of wartime service as defined in s. 1.01(14) is entitled
19 to the exemption from taxation provided for in s. 3(b), Art. VII
20 of the State Constitution as provided in this section. Property
21 to the value of \$10,000 ~~\$5,000~~ of such a person is exempt from
22 taxation. The production by him or her of a certificate of
23 disability from the United States Government or the United
24 States Department of Veterans Affairs or its predecessor before
25 the property appraiser of the county wherein the ex-
26 servicemember's property lies is prima facie evidence of the
27 fact that he or she is entitled to the exemption. The
28 unremarried surviving spouse of such a disabled ex-servicemember
29 is also entitled to the exemption.

25-01489-24

20241004__

30 Section 2. The amendment made by this act first applies to
31 the 2025 ad valorem tax roll.

32 Section 3. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1004

Bill Number or Topic

11/16/2024
Meeting Date

COMMUNITY AFFAIRS
Committee

Name BOB ASZTALOS

Amendment Barcode (if applicable)
Phone (850) 782-4301

Address 2601 S. BLAIR STONE

Email Bob.ASZTALOS@FDVA.~~FL~~.GOV

TALLAHASSEE FL 32309
City State Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

To: Senator Alexis Calatayud, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: January 5, 2024

I respectfully request that **Senate Bill #1004**, relating to Tax Exemptions for Disabled Ex-service members, be placed on the:

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

A handwritten signature in black ink, appearing to read "Victor M. Torres, Jr.", written in a cursive style.

Senator Victor M. Torres, Jr.
Florida Senate, District 25

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 1030

INTRODUCER: Senator Rodriguez

SUBJECT: Taxation

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 1030 makes various changes to statutes relating to the Department of Revenue (Department).
The bill:

- Deletes obsolete language referring to pollutants tax registration fees;
- Revises administration of certain taxes related to the purchase of boats, trailers, and aircrafts;
- Allows the Department to reopen a final assessment for the purpose of adjusting liability under certain circumstances;
- Allows the Department to include all taxes, penalties, interest, costs, and fees authorized by law in a garnishment or levy;
- Increases the threshold for underpayment penalties on corporate income tax; and
- Provides rulemaking and emergency rulemaking authority.

The bill also permits counties and school boards to forego imposing local discretionary sales surtaxes on commercial rent.

The bill takes effect July 1, 2024.

II. Present Situation:

The present situation for each issue is described below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Pollutants Tax Registration Fees

Current Situation: Any entity intending to produce or import pollutants, liquid commodities made from petroleum products, pesticides, ammonia, chlorine, perchloroethylene, or solvents,¹ must register and become licensed to do so.² Statute provides that an entity must pay a \$30 registration fee when requesting a pollutants tax license.³ However, these registration fees were previously repealed.⁴

Proposed Changes: **Section 1** amends s. 206.9931, F.S., to remove obsolete language related to pollutants tax registration fees.

Local Discretionary Sales Surtax on Commercial Rentals

Present Situation: In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties and school boards to impose nine local discretionary sales surtaxes.⁵ A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202”⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered.

Sales Tax on Commercial Rent

Since 1969, Florida has imposed a sales tax on the total rent charged for the rental, lease, or license to use commercial real property.⁷ Sales tax is due at the rate of 4.5 percent of the total rent paid⁸ and local discretionary sales surtaxes may apply.⁹ If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.¹⁰

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It also includes the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are several commercial rentals that are not subject to tax, including:

- Rentals of real property assessed as agricultural.

¹ Florida Dept. of Revenue, Pollutants Tax, available at <https://floridarevenue.com/taxes/taxesfees/Pages/pollutants.aspx> (last visited Jan. 10, 2024).

² Section 206.9931, F.S.

³ *Id.*

⁴ Chapter 2017-36 s.17, L.O.F.

⁵ These include the Charter County and Regional Transportation System Surtax, the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, the County Public Hospital Surtax, the School Capital Outlay Surtax, the Voter-Approved Indigent Care Surtax, the Emergency Rescue Services and Facilities Surtax, and the Pension Liability Surtax. *See* section 212.055, F.S.

⁶ Section 212.054, F.S.

⁷ Chapter 1969-222, Laws of Fla.

⁸ Section 212.031, F.S. *See* Reviser’s note.

⁹ Section 212.055, F.S.

¹⁰ Rule 12A-1.070, F.A.C.

- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption.
- Rentals to federal, state, county, or city government agencies.
- Properties used exclusively as dwelling units.
- Public streets or roads used for transportation purposes.¹¹

Proposed Changes: **Section 2** amends s. 212.031, F.S., to provide that a county or school board imposing a discretionary sales surtax may exclude rent or license fees on commercial real property from discretionary sales surtaxes. The exclusion must be approved by majority vote of the members of the board of county commissioners or school board, and does not require referendum approval. The exemption must be initiated on the January 1 following such approval.

Affidavit for Non-Resident Purchasers of Boats and Aircrafts

Current Situation: Nonresident purchasers of boats and aircraft are exempt from paying state sales taxes. Among other requirements relating to the purchase and subsequent removal from the state of the boat or aircraft, such purchasers are required to sign an affidavit attesting that they have read the provisions of s. 212.05, F.S., in its entirety, in order to claim the exemption. Section 212.05, F.S., is lengthy and includes many provisions that are not applicable to the purchaser of a boat or aircraft.

Proposed Changes: **Section 3** amends s. 212.05(1)(a)2.d., F.S., by removing the requirement that a purchaser attests to having read statutory provisions and replacing that language with the requirement that the nonresident purchaser complete an affidavit that affirms that the nonresident purchaser qualifies for exemption from sales tax pursuant to s. 212.05(1)(a)2., F.S., and attesting that the nonresident purchaser will provide the documentation required to substantiate the exemption claimed under s. 212.05(1)(a)2., F.S.

Imposition of Surtax Limitation on the Purchase of Boats and Trailers

Present Situation: Local discretionary sales surtaxes may only be charged on the first \$5,000 of the sales amount of any item of tangible personal property.¹² If two or more taxable items are sold to the same purchaser at the same time and would generally be sold in bulk or compromise pieces of a unit, such items must be considered a single item.¹³

Proposed Changes: **Section 4** amends s. 212.054, F.S., to clarify that the sale of a boat and corresponding boat trailer must be taxed as a single item when sold to the same purchaser, at the same time, and in the same invoice.

¹¹ See s. 212.031(1)(a)1.-13., F.S.

¹² Section 212.054(2)(b)1., F.S.

¹³ *Id.*

Event Impacting Timely Audit Challenges

Current Situation: After a state audit¹⁴ reaches its conclusion, a taxpayer may contest the legality of any assessment or denial of refund of taxes and fees.¹⁵ Such contest may be filed by circuit court action or by petition under administrative law.¹⁶ No action may be brought more than 60 days after the date the assessment becomes final.¹⁷ Current law does not provide the Department with the authority to reopen a final assessment for purposes of adjusting or compromising the liability, other than to resolve the outstanding liability for collectability.¹⁸

Proposed Changes: **Section 5** creates s. 213.21(11), F.S., to provide that, following the expiration of time for a taxpayer to challenge an assessment or a denial of a refund issued by the Department, the Department may consider a request to settle or compromise any tax, interest, penalty, or other liability under s. 213.21, F.S., if the taxpayer demonstrates that the failure to initiate a timely challenge was due to:

- The death or life-threatening injury or illness of the taxpayer or an immediate family member of the taxpayer;
- The death or life-threatening injury or illness of the responsible party that controlled, managed, or directed the affected business entity;
- Acts of war or terrorism; or
- Natural disasters, fire, or other catastrophic loss.

The Department may not consider a request received more than 180 days after the expiration of time allowed under s. 72.011, F.S. Any decision by the Department regarding a taxpayer's request to compromise or settle a liability under this subsection is not a final order subject to review under ch. 120, F.S.

Garnishment

Present Situation: The Department has the authority to issue a levy upon credits, other personal property, or debts belonging to a delinquent taxpayer.¹⁹ The Department may levy for any taxes, penalties, and interest; however, the Department does not have the authority to levy for fees (e.g., administrative collection processing fee, warrant filing fees, or any other fee or cost that might be enacted into the Florida Statutes), additional daily accrued interest, or the authority to issue notices to levy (garnishments) by electronic means.²⁰ As a result, the Department typically continues with collection efforts for these additional fees after the initial levy is complete.

Proposed Changes: **Section 6** amends s. 213.67, F.S., to authorize the Department to include all taxes, penalties, interest, costs, and fees authorized by law to be included in a garnishment or levy, which has the effect of avoiding multiple collection efforts for additional amounts. The bill allows the executive director of the Department, or his or her designee, to give notice of the

¹⁴ Section 72.011(1), F.S., refers and applies to many types of audits which the state may conduct.

¹⁵ Section 72.011, F.S.

¹⁶ *Id.*

¹⁷ Section 72.011(2)(a), F.S.

¹⁸ Section 213.21, F.S.

¹⁹ Section 213.67, F.S.

²⁰ *Id.*

amount of such delinquency by certified mail. The bill also allows the Department to deliver its notices of levy by certified mail, personal service, or electronic means.

Corporate Income Tax Extension Threshold

Present Situation: Florida levies a 5.5 percent tax on certain income of corporations and financial institutions doing business in Florida.²¹ Taxpayers may be granted up to 6 months of extensions of time within which to file corporate tax returns, provided they have filed a tentative tax return and paid the amount estimated to be the proper tax balance.²² If the payment of tentative tax underpays the actual balance due by more than the greater of \$2,000 or 30 percent of the total tax due, such extensions are invalidated, and the taxpayer may be liable for penalties due to late payment.²³

Proposed Changes: **Section 7** raises the dollar threshold for underpayment following extension of time to file from \$2,000 to \$6,000.

Section 8 provides that the Department shall have emergency rulemaking authority to implement this act.

Section 9 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 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. The section of the bill regarding the combined sale of boats and trailers may have the effect in certain jurisdictions, depending on current administration of these provisions, of collapsing two sales into one, thus reducing discretionary sales surtax collections. The mandate requirement does not apply to laws having an insignificant impact,²⁴ which for Fiscal Year 2024-2025 is forecast at approximately \$2.3 million.²⁵

The Revenue Estimating Conference has not reviewed the bill at this time.

B. Public Records/Open Meetings Issues:

None.

²¹ Section 220.11(2), F.S.

²² Sections 220.222(2) and 220.32, F.S.

²³ Section 220.222(2)(c), F.S.

²⁴ FLA. CONST. art. VII, s. 18(d).

²⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See FLA. SENATE COMM. ON CMTY. AFFAIRS, *Interim Report 2012-115: Insignificant Impact* (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf>.

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 bill provides that the sale of a boat and trailer together will be treated as a single purchase, which may benefit taxpayers to the extent it changes administration of those taxes.

The bill allows the Department to reopen audits under certain circumstances to consider settlement, and raises the threshold before corporate taxpayers may face certain penalties. These provisions may benefit taxpayers.

C. Government Sector Impact:

The provision related to the sale of a boat and trailer may reduce discretionary surtax revenues to the extent it changes administration of those taxes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends sections 206.9931, 212.031, 212.05, 212.054, 213.21, 213.67, and 220.222 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Rodriguez

40-00867B-24

20241030__

1 A bill to be entitled
2 An act relating to taxation; amending s. 206.9931,
3 F.S.; deleting a registration fee for certain parties;
4 amending s. 212.031, F.S.; authorizing a county or
5 school board to exclude rent or license fees from the
6 discretionary sales surtaxes imposed, under certain
7 circumstances; requiring that the exclusion be
8 approved by a majority vote of the board of county
9 commissioners or the school board; providing that the
10 exclusion is not required to be approved by
11 referendum; requiring that the exclusion be initiated
12 on a specified date; requiring the county or school
13 board to notify the Department of Revenue by a
14 specified date for the exclusion to take effect;
15 amending s. 212.05, F.S.; making technical changes;
16 specifying the application of an exemption for sales
17 taxes for certain purchasers of boats and aircraft;
18 amending s. 212.054, F.S.; specifying that certain
19 purchases are considered a single item for purposes of
20 discretionary sales surtax; specifying that certain
21 property sales are deemed to occur in the county where
22 the purchaser resides, as identified on specified
23 documents; amending s. 213.21, F.S.; authorizing the
24 department to consider requests to settle or
25 compromise certain liabilities after certain time
26 periods have expired, in certain circumstances;
27 providing a limitation; providing that certain
28 department decisions are not subject to review;
29 amending s. 213.67, F.S.; authorizing certain parties

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30 to include additional specified amounts in a
31 garnishment levy notice; revising methods for delivery
32 of levy notices; amending s. 220.222, F.S.; revising
33 the payment amount for purposes of determining a
34 taxpayer's compliance with a provision regarding
35 underpayment of taxes owed; authorizing the department
36 to adopt emergency rules; providing an effective date.
37

38 Be It Enacted by the Legislature of the State of Florida:
39

40 Section 1. Subsection (1) of section 206.9931, Florida
41 Statutes, is amended to read:

42 206.9931 Administrative provisions.—

43 (1) Any person producing in, importing into, or causing to
44 be imported into this state taxable pollutants for sale, use, or
45 otherwise and who is not registered or licensed pursuant to
46 other parts of this chapter is hereby required to register and
47 become licensed for the purposes of this part. Such person shall
48 register as either a producer or importer of pollutants and
49 shall be subject to all applicable registration and licensing
50 provisions of this chapter, as if fully set out in this part and
51 made expressly applicable to the taxes imposed herein,
52 including, but not limited to, ss. 206.02-206.025, 206.03,
53 206.04, and 206.05. For the purposes of this section,
54 registrations required exclusively for this part shall be made
55 within 90 days of July 1, 1986, for existing businesses, or
56 before ~~prior to~~ the first production or importation of
57 pollutants for businesses created after July 1, 1986. ~~The fee~~
58 ~~for registration shall be \$30.~~ Failure to timely register is a

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59 misdemeanor of the first degree, punishable as provided in s.
60 775.082 or s. 775.083.

61 Section 2. Subsection (10) is added to section 212.031,
62 Florida Statutes, to read:

63 212.031 Tax on rental or license fee for use of real
64 property.—

65 (10) Notwithstanding s. 212.054, a county or school board
66 imposing a discretionary sales surtax under s. 212.055 may
67 exclude the total rent or license fee charged under this section
68 from any discretionary sales surtax levied by such county or
69 school board.

70 (a) The exclusion must be approved by a majority vote of
71 the members of the board of county commissioners or school board
72 currently imposing the discretionary sales surtax. The exclusion
73 is not required to be approved by referendum.

74 (b) The exclusion must be initiated on January 1 of the
75 year following approval. The county or school board must notify
76 the department by September 1 for the exclusion to take effect
77 on the following January 1.

78 Section 3. Paragraph (a) of subsection (1) of section
79 212.05, Florida Statutes, is amended to read:

80 212.05 Sales, storage, use tax.—It is hereby declared to be
81 the legislative intent that every person is exercising a taxable
82 privilege who engages in the business of selling tangible
83 personal property at retail in this state, including the
84 business of making or facilitating remote sales; who rents or
85 furnishes any of the things or services taxable under this
86 chapter; or who stores for use or consumption in this state any
87 item or article of tangible personal property as defined herein

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88 and who leases or rents such property within the state.

89 (1) For the exercise of such privilege, a tax is levied on
90 each taxable transaction or incident, which tax is due and
91 payable as follows:

92 (a)1.a. At the rate of 6 percent of the sales price of each
93 item or article of tangible personal property when sold at
94 retail in this state, computed on each taxable sale for the
95 purpose of remitting the amount of tax due the state, and
96 including each and every retail sale.

97 b. Each occasional or isolated sale of an aircraft, boat,
98 mobile home, or motor vehicle of a class or type which is
99 required to be registered, licensed, titled, or documented in
100 this state or by the United States Government shall be subject
101 to tax at the rate provided in this paragraph. The department
102 shall by rule adopt any nationally recognized publication for
103 valuation of used motor vehicles as the reference price list for
104 any used motor vehicle which is required to be licensed pursuant
105 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
106 party to an occasional or isolated sale of such a vehicle
107 reports to the tax collector a sales price which is less than 80
108 percent of the average loan price for the specified model and
109 year of such vehicle as listed in the most recent reference
110 price list, the tax levied under this paragraph shall be
111 computed by the department on such average loan price unless the
112 parties to the sale have provided to the tax collector an
113 affidavit signed by each party, or other substantial proof,
114 stating the actual sales price. Any party to such sale who
115 reports a sales price less than the actual sales price is guilty
116 of a misdemeanor of the first degree, punishable as provided in

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117 s. 775.082 or s. 775.083. The department shall collect or
118 attempt to collect from such party any delinquent sales taxes.
119 In addition, such party shall pay any tax due and any penalty
120 and interest assessed plus a penalty equal to twice the amount
121 of the additional tax owed. Notwithstanding any other provision
122 of law, the Department of Revenue may waive or compromise any
123 penalty imposed pursuant to this subparagraph.

124 2. This paragraph does not apply to the sale of a boat or
125 aircraft by or through a registered dealer under this chapter to
126 a purchaser who, at the time of taking delivery, is a
127 nonresident of this state, does not make his or her permanent
128 place of abode in this state, and is not engaged in carrying on
129 in this state any employment, trade, business, or profession in
130 which the boat or aircraft will be used in this state, or is a
131 corporation none of the officers or directors of which is a
132 resident of, or makes his or her permanent place of abode in,
133 this state, or is a noncorporate entity that has no individual
134 vested with authority to participate in the management,
135 direction, or control of the entity's affairs who is a resident
136 of, or makes his or her permanent abode in, this state. For
137 purposes of this exemption, either a registered dealer acting on
138 his or her own behalf as seller, a registered dealer acting as
139 broker on behalf of a seller, or a registered dealer acting as
140 broker on behalf of the nonresident purchaser may be deemed to
141 be the selling dealer. This exemption is ~~shall~~ not be allowed
142 unless:

143 a. The nonresident purchaser removes a qualifying boat, as
144 described in sub-subparagraph f., from this ~~the~~ state within 90
145 days after the date of purchase or extension, or the nonresident

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146 purchaser removes a nonqualifying boat or an aircraft from this
147 state within 10 days after the date of purchase or, when the
148 boat or aircraft is repaired or altered, within 20 days after
149 completion of the repairs or alterations; or if the aircraft
150 will be registered in a foreign jurisdiction and:

151 (I) Application for the aircraft's registration is properly
152 filed with a civil airworthiness authority of a foreign
153 jurisdiction within 10 days after the date of purchase;

154 (II) The nonresident purchaser removes the aircraft from
155 this ~~the~~ state to a foreign jurisdiction within 10 days after
156 the date the aircraft is registered by the applicable foreign
157 airworthiness authority; and

158 (III) The aircraft is operated in this ~~the~~ state solely to
159 remove it from this ~~the~~ state to a foreign jurisdiction.

160
161 For purposes of this sub-subparagraph, the term "foreign
162 jurisdiction" means any jurisdiction outside of the United
163 States or any of its territories;

164 b. The nonresident purchaser, within 90 days after ~~from~~ the
165 date of departure, provides the department with written proof
166 that the nonresident purchaser licensed, registered, titled, or
167 documented the boat or aircraft outside this ~~the~~ state. If such
168 written proof is unavailable, within 90 days the nonresident
169 purchaser must ~~shall~~ provide proof that the nonresident
170 purchaser applied for such license, title, registration, or
171 documentation. The nonresident purchaser shall forward to the
172 department proof of title, license, registration, or
173 documentation upon receipt;

174 c. The nonresident purchaser, within 30 days after removing

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175 the boat or aircraft from this state ~~Florida~~, furnishes the
176 department with proof of removal in the form of receipts for
177 fuel, dockage, slippage, tie-down, or hangaring from outside of
178 Florida. The information so provided must clearly and
179 specifically identify the boat or aircraft;

180 d. The selling dealer, within 30 days after the date of
181 sale, provides to the department a copy of the sales invoice,
182 closing statement, bills of sale, and the original affidavit
183 signed by the nonresident purchaser affirming ~~attesting~~ that the
184 nonresident purchaser qualifies for exemption from sales tax
185 pursuant to this subparagraph and attesting that the nonresident
186 purchaser will provide the documentation required to
187 substantiate the exemption claimed under ~~he or she has read the~~
188 ~~provisions of this~~ subparagraph ~~section~~;

189 e. The seller makes a copy of the affidavit a part of his
190 or her record for as long as required by s. 213.35; and

191 f. Unless the nonresident purchaser of a boat of 5 net tons
192 of admeasurement or larger intends to remove the boat from this
193 state within 10 days after the date of purchase or when the boat
194 is repaired or altered, within 20 days after completion of the
195 repairs or alterations, the nonresident purchaser applies to the
196 selling dealer for a decal which authorizes 90 days after the
197 date of purchase for removal of the boat. The nonresident
198 purchaser of a qualifying boat may apply to the selling dealer
199 within 60 days after the date of purchase for an extension decal
200 that authorizes the boat to remain in this state for an
201 additional 90 days, but not more than a total of 180 days,
202 before the nonresident purchaser is required to pay the tax
203 imposed by this chapter. The department is authorized to issue

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204 decals in advance to dealers. The number of decals issued in
205 advance to a dealer shall be consistent with the volume of the
206 dealer's past sales of boats which qualify under this sub-
207 subparagraph. The selling dealer or his or her agent shall mark
208 and affix the decals to qualifying boats in the manner
209 prescribed by the department, before delivery of the boat.

210 (I) The department is hereby authorized to charge dealers a
211 fee sufficient to recover the costs of decals issued, except the
212 extension decal shall cost \$425.

213 (II) The proceeds from the sale of decals will be deposited
214 into the administrative trust fund.

215 (III) Decals shall display information to identify the boat
216 as a qualifying boat under this sub-subparagraph, including, but
217 not limited to, the decal's date of expiration.

218 (IV) The department is authorized to require dealers who
219 purchase decals to file reports with the department and may
220 prescribe all necessary records by rule. All such records are
221 subject to inspection by the department.

222 (V) Any dealer or his or her agent who issues a decal
223 falsely, fails to affix a decal, mismarks the expiration date of
224 a decal, or fails to properly account for decals will be
225 considered prima facie to have committed a fraudulent act to
226 evade the tax and will be liable for payment of the tax plus a
227 mandatory penalty of 200 percent of the tax, and shall be liable
228 for fine and punishment as provided by law for a conviction of a
229 misdemeanor of the first degree, as provided in s. 775.082 or s.
230 775.083.

231 (VI) Any nonresident purchaser of a boat who removes a
232 decal before permanently removing the boat from this ~~the~~ state,

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233 or defaces, changes, modifies, or alters a decal in a manner
234 affecting its expiration date before its expiration, or who
235 causes or allows the same to be done by another, will be
236 considered prima facie to have committed a fraudulent act to
237 evade the tax and will be liable for payment of the tax plus a
238 mandatory penalty of 200 percent of the tax, and shall be liable
239 for fine and punishment as provided by law for a conviction of a
240 misdemeanor of the first degree, as provided in s. 775.082 or s.
241 775.083.

242 (VII) The department is authorized to adopt rules necessary
243 to administer and enforce this subparagraph and to publish the
244 necessary forms and instructions.

245 (VIII) The department is hereby authorized to adopt
246 emergency rules pursuant to s. 120.54(4) to administer and
247 enforce the provisions of this subparagraph.

248
249 If the nonresident purchaser fails to remove the qualifying boat
250 from this state within the maximum 180 days after purchase or a
251 nonqualifying boat or an aircraft from this state within 10 days
252 after purchase or, when the boat or aircraft is repaired or
253 altered, within 20 days after completion of such repairs or
254 alterations, or permits the boat or aircraft to return to this
255 state within 6 months after ~~from~~ the date of departure, except
256 as provided in s. 212.08(7)(fff), or if the nonresident
257 purchaser fails to furnish the department with any of the
258 documentation required by this subparagraph within the
259 prescribed time period, the nonresident purchaser is ~~shall be~~
260 liable for use tax on the cost price of the boat or aircraft
261 and, in addition thereto, payment of a penalty to the Department

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262 of Revenue equal to the tax payable. This penalty is ~~shall be~~ in
263 lieu of the penalty imposed by s. 212.12(2). The maximum 180-day
264 period following the sale of a qualifying boat tax-exempt to a
265 nonresident may not be tolled for any reason.

266 Section 4. Paragraph (b) of subsection (2) and paragraph
267 (a) of subsection (3) of section 212.054, Florida Statutes, are
268 amended to read:

269 212.054 Discretionary sales surtax; limitations,
270 administration, and collection.—

271 (2)

272 (b) However:

273 1. The sales amount above \$5,000 on any item of tangible
274 personal property shall not be subject to the surtax. However,
275 charges for prepaid calling arrangements, as defined in s.
276 212.05(1)(e)1.a., shall be subject to the surtax. For purposes
277 of administering the \$5,000 limitation on an item of tangible
278 personal property:7

279 a. If two or more taxable items of tangible personal
280 property are sold to the same purchaser at the same time and,
281 under generally accepted business practice or industry standards
282 or usage, are normally sold in bulk or are items that, when
283 assembled, comprise a working unit or part of a working unit,
284 such items must be considered a single item for purposes of the
285 \$5,000 limitation when supported by a charge ticket, sales slip,
286 invoice, or other tangible evidence of a single sale or rental.

287 b. The sale of a boat and the corresponding boat trailer,
288 which trailer is identified as a motor vehicle as defined in s.
289 320.01(1), must be taxed as a single item when sold to the same
290 purchaser, at the same time, and included in the same invoice.

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291 2. In the case of utility services billed on or after the
292 effective date of any such surtax, the entire amount of the
293 charge for utility services shall be subject to the surtax. In
294 the case of utility services billed after the last day the
295 surtax is in effect, the entire amount of the charge on said
296 items shall not be subject to the surtax. "Utility service," as
297 used in this section, does not include any communications
298 services as defined in chapter 202.

299 3. In the case of written contracts which are signed prior
300 to the effective date of any such surtax for the construction of
301 improvements to real property or for remodeling of existing
302 structures, the surtax shall be paid by the contractor
303 responsible for the performance of the contract. However, the
304 contractor may apply for one refund of any such surtax paid on
305 materials necessary for the completion of the contract. Any
306 application for refund shall be made no later than 15 months
307 following initial imposition of the surtax in that county. The
308 application for refund shall be in the manner prescribed by the
309 department by rule. A complete application shall include proof
310 of the written contract and of payment of the surtax. The
311 application shall contain a sworn statement, signed by the
312 applicant or its representative, attesting to the validity of
313 the application. The department shall, within 30 days after
314 approval of a complete application, certify to the county
315 information necessary for issuance of a refund to the applicant.
316 Counties are hereby authorized to issue refunds for this purpose
317 and shall set aside from the proceeds of the surtax a sum
318 sufficient to pay any refund lawfully due. Any person who
319 fraudulently obtains or attempts to obtain a refund pursuant to

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320 this subparagraph, in addition to being liable for repayment of
321 any refund fraudulently obtained plus a mandatory penalty of 100
322 percent of the refund, is guilty of a felony of the third
323 degree, punishable as provided in s. 775.082, s. 775.083, or s.
324 775.084.

325 4. In the case of any vessel, railroad, or motor vehicle
326 common carrier entitled to partial exemption from tax imposed
327 under this chapter pursuant to s. 212.08(4), (8), or (9), the
328 basis for imposition of surtax shall be the same as provided in
329 s. 212.08 and the ratio shall be applied each month to total
330 purchases in this state of property qualified for proration
331 which is delivered or sold in the taxing county to establish the
332 portion used and consumed in intracounty movement and subject to
333 surtax.

334 (3) For the purpose of this section, a transaction shall be
335 deemed to have occurred in a county imposing the surtax when:

336 (a)1. The sale includes an item of tangible personal
337 property, a service, or tangible personal property representing
338 a service, and the item of tangible personal property, the
339 service, or the tangible personal property representing the
340 service is delivered within the county. If there is no
341 reasonable evidence of delivery of a service, the sale of a
342 service is deemed to occur in the county in which the purchaser
343 accepts the bill of sale.

344 2. The sale of any motor vehicle or mobile home of a class
345 or type which is required to be registered in this state or in
346 any other state shall be deemed to have occurred only in the
347 county identified as the residence address of the purchaser on
348 the registration or title document for such property.

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349 3. The sale of property under sub-subparagraph (2)(b)1.b.
350 is deemed to occur in the county where the purchaser resides, as
351 identified on the registration or title documents for such
352 property.

353 Section 5. Subsection (11) is added to section 213.21,
354 Florida Statutes, to read:

355 213.21 Informal conferences; compromises.—

356 (11) (a) The department may consider a request to settle or
357 compromise any tax, interest, penalty, or other liability under
358 this section after the time to challenge an assessment or a
359 denial of a refund under s. 72.011 has expired if the taxpayer
360 demonstrates that the failure to initiate a timely challenge was
361 due to any of the following:

362 1. The death or life-threatening injury or illness of:

363 a. The taxpayer;

364 b. An immediate family member of the taxpayer; or

365 c. The responsible party that controlled, managed, or
366 directed the affected business entity.

367 2. An act of war or terrorism.

368 3. A natural disaster, fire, or other catastrophic loss.

369 (b) The department may not consider a request received more
370 than 180 days after the time has expired for contesting it under
371 s. 72.011.

372 (c) Any decision by the department regarding a taxpayer's
373 request to compromise or settle a liability under this
374 subsection is not subject to review under chapter 120.

375 Section 6. Subsections (1), (3), and (6) of section 213.67,
376 Florida Statutes, are amended to read:

377 213.67 Garnishment.—

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378 (1) If a person is delinquent in the payment of any taxes,
379 penalties, ~~and~~ interest, costs, surcharges, and fees owed to the
380 department, the executive director or his or her designee may
381 give notice of the amount of such delinquency by regular,
382 certified, or registered mail, by personal service, or by
383 electronic means, including, but not limited to, facsimile
384 transmissions, electronic data interchange, or use of the
385 Internet, to all persons having in their possession or under
386 their control any credits or personal property, exclusive of
387 wages, belonging to the delinquent taxpayer, or owing any debts
388 to such delinquent taxpayer at the time of receipt by them of
389 such notice. Thereafter, any person ~~who has been~~ notified may
390 not transfer or make any other disposition of such credits,
391 other personal property, or debts until the executive director
392 or his or her designee consents to a transfer or disposition or
393 until 60 days after the receipt of such notice. However, the
394 credits, other personal property, or debts that exceed the
395 delinquent amount stipulated in the notice are not subject to
396 this section, wherever held, if the taxpayer does not have a
397 prior history of tax delinquencies. If during the effective
398 period of the notice to withhold, any person so notified makes
399 any transfer or disposition of the property or debts required to
400 be withheld under this section, he or she is liable to the state
401 for any indebtedness owed to the department by the person with
402 respect to whose obligation the notice was given to the extent
403 of the value of the property or the amount of the debts thus
404 transferred or paid if, solely by reason of such transfer or
405 disposition, the state is unable to recover the indebtedness of
406 the person with respect to whose obligation the notice was

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407 given. If the delinquent taxpayer contests the intended levy in
408 circuit court or under chapter 120, the notice under this
409 section remains effective until that final resolution of the
410 contest. Any financial institution receiving such notice
411 maintains ~~will maintain~~ a right of setoff for any transaction
412 involving a debit card occurring on or before the date of
413 receipt of such notice.

414 (3) During the last 30 days of the 60-day period set forth
415 in subsection (1), the executive director or his or her designee
416 may levy upon such credits, other personal property, or debts.
417 The levy must be accomplished by delivery of a notice of levy by
418 certified or registered mail, by personal service, or by
419 electronic means, including, but not limited to, facsimile
420 transmission or an electronic data exchange process using a web
421 interface. Upon receipt of the notice of levy, ~~which~~ the person
422 possessing the credits, other personal property, or debts must
423 ~~shall~~ transfer them to the department or pay to the department
424 the amount owed to the delinquent taxpayer.

425 (6) (a) Levy may be made under subsection (3) upon credits,
426 other personal property, or debt of any person with respect to
427 any unpaid tax, penalties, ~~and~~ interest, costs, surcharges, and
428 fees authorized by law only after the executive director or his
429 or her designee has notified such person in writing of the
430 intention to make such levy.

431 (b) No less than 30 days before the day of the levy, the
432 notice of intent to levy required under paragraph (a) must ~~shall~~
433 be given in person or sent by certified or registered mail to
434 the person's last known address.

435 (c) The notice required in paragraph (a) must include a

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436 brief statement that sets forth in simple and nontechnical
437 terms:

438 1. The provisions of this section relating to levy and sale
439 of property;

440 2. The procedures applicable to the levy under this
441 section;

442 3. The administrative and judicial appeals available to the
443 taxpayer with respect to such levy and sale, and the procedures
444 relating to such appeals; and

445 4. Any ~~The alternatives, if any,~~ available to taxpayers
446 which could prevent levy on the property.

447 Section 7. Paragraph (c) of subsection (2) of section
448 220.222, Florida Statutes, is amended to read:

449 220.222 Returns; time and place for filing.-

450 (2) (c) 1. For purposes of this subsection, a taxpayer is not
451 in compliance with s. 220.32 if the taxpayer underpays the
452 required payment by more than the greater of \$6,000 ~~\$2,000~~ or 30
453 percent of the tax shown on the return when filed.

454 2. For the purpose of determining compliance with s. 220.32
455 as referenced in subparagraph 1., the tax shown on the return
456 when filed must include the amount of the allowable credits
457 taken on the return pursuant to s. 220.1875, s. 220.1876, s.
458 220.1877, or s. 220.1878.

459 Section 8. The Department of Revenue is authorized, and all
460 conditions are deemed met, to adopt emergency rules pursuant to
461 s. 120.54(4), Florida Statutes, for the purpose of implementing
462 this act. Notwithstanding any other law, emergency rules adopted
463 pursuant to this section are effective for 6 months after
464 adoption and may be renewed during the pendency of procedures to

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465 adopt permanent rules addressing the subject of the emergency
466 rules. This section shall expire July 1, 2025.

467 Section 9. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16

Meeting Date

1030

Bill Number or Topic

COMM AFFAIRS

Committee

Amendment Barcode (if applicable)

Name PARKER POWELL

Phone 850 413 2894

Address 200 E GAINES

Email parker.powell@myfloridafco.com

Street

TALL

City

FL

State

32399

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

CFO JIMMY PATRONIS

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1: [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

01-10-24

Meeting Date

SB 1030

Bill Number or Topic

Comm. AF Affairs

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Alec Yarger

Phone 850-717-6153

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Street

Tallah

City

FL

State

32311

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: FL Dept. of Revenue

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

S-001 (08/10/2021)

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 1082

INTRODUCER: Senator Collins

SUBJECT: Housing for Agricultural Workers

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Favorable
2.	_____	_____	AG	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1082 preempts a local government from inhibiting the construction or installation of housing for certain agricultural workers on land classified as agricultural if the housing meets certain criteria related to location and construction. The bill also provides for circumstances requiring the removal or disuse of such housing, and recordkeeping requirements for property owners related to such housing sites.

The bill takes effect July 1, 2024.

II. Present Situation:

Comprehensive Plans and Land Use Regulation

The Community Planning Act¹ requires every city and county to create and implement a comprehensive plan to guide future development. A local government’s comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.

The land use element of the plan designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.²

The housing element of the plan sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the

¹ Part II, Ch. 163, F.S.

² Section 163.3177(6)(a), F.S.

jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.³

Local governments regulate aspects of land development by enacting ordinances that address local zoning, rezoning, subdivision, building construction, landscaping, tree protection, or sign regulations or any other regulations controlling the development of land.⁴

Zoning

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within each land use designation.⁵ Common regulations on buildings within the zoning map districts include density,⁶ height and bulk of buildings, setbacks, and parking requirements.⁷ Zoning regulations also include acceptable uses of property for other categories of land, such as agricultural or industrial.

If a landowner believes that a proposed development may have merit but it does not meet the requirements of a zoning map in a jurisdiction, the landowner can seek a rezoning through a rezoning application which is reviewed by the local government and voted on by the governing body.⁸ If a property has unique circumstances or small nonconformities but otherwise meets zoning regulations, local governments may ease restrictions on certain regulations such as building size or setback through an application for a variance.⁹ However, any action to rezone or grant a variance must be consistent with the local government's comprehensive plan.

Agricultural Lands

Agricultural land is one example of property that is assessed based on its current use rather than its highest and best use.¹⁰ A property appraiser is required to annually classify all land as either agricultural or nonagricultural.¹¹ Agricultural lands are those used primarily for bona fide agricultural purposes such as horticulture, viticulture, forestry, and farming.¹²

³ Section 163.3177(6)(f), F.S.

⁴ See ss. 163.3164 and 163.3213, F.S. Pursuant to s. 163.3213, F.S., substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.

⁵ INDIAN RIVER CNTY., *General Zoning Questions*,

<https://www.ircgov.com/communitydevelopment/planning/FAQ.htm#zoning1> (last visited Jan. 10, 2024).

⁶ "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. Section 163.3164(12), F.S.

⁷ INDIAN RIVER CNTY., *supra* note 5.

⁸ See, e.g., CITY OF TALLAHASSEE, *Application For Rezoning Review*, available at:

<https://www.talgov.com/Uploads/Public/Documents/place/zoning/cityrezinfsh.pdf> (last visited Jan. 10, 2024).

⁹ See, e.g., CITY OF TALLAHASSEE, *Variance and Appeals*, available at:

https://www.talgov.com/Uploads/Public/Documents/growth/forms/boaa_variance.pdf (last visited Jan. 10, 2024) and SEMINOLE CNTY., *Variance Process & Requirements*, <https://www.seminolecountyfl.gov/departments-services/development-services/planning-development/boards/board-of-adjustment/variance-process-requirements.stml> (last visited Jan. 10, 2024).

¹⁰ FLA. CONST. art. VII, s. 4(a).

¹¹ Section 193.461(1), F.S.

¹² Section 193.461, F.S.

Migrant and Seasonal Farmworkers

Migrant farmworkers are defined as people who are or have been employed in hand labor operations in planting, cultivating, or harvesting agricultural crops within the last 12 months and who have changed residence for purposes of employment in agriculture within the last 12 months.¹³ Outreach, employment, and other services targeted to migrant farmworkers are regulated by federal law and administered by various state and local agencies, including the Department of Economic Opportunity's Migrant and Seasonal Farmworker Services program.¹⁴

Migrant farmworker housing is regulated by the Florida Department of Health in coordination with local health departments and federal law.¹⁵ Migrant farmworker housing may include residential property, including mobile homes or a migrant labor camp consisting of dormitories constructed and operated as living quarters for migrant farmworkers.¹⁶ Establishment of such housing requires advance notice, inspections, and permitting based on standards of construction, sanitation, equipment, and operation, as well as compliance with inspections during use.¹⁷

Employment Verification

Under the Immigration Reform and Control Act of 1986 (IRCA),¹⁸ it is illegal for any United States employer to knowingly:

- Hire, recruit, or refer for a fee an alien knowing he or she is unauthorized to work;
- Continue to employ an alien knowing he or she has become unauthorized; or
- Hire, recruit or refer for a fee, any person (citizen or alien) without following the record keeping requirements of the IRCA.¹⁹

Under Florida law, public employers and their contractors, and subcontractors thereof, are required to register and use E-Verify to verify the work authorization status of all newly hired employees.²⁰ A private employer that transacts business in Florida, has a license issued by an agency, and employs workers in Florida is required to use the I-9 Form or E-Verify or a substantially equivalent system to verify that new hires or retained contract employees are authorized to work in the United States.²¹

¹³ Section 381.008(4), F.S.

¹⁴ FLA. DEP'T OF ECON. OPPORTUNITY, *Migrant and Seasonal Farmworker Services*, <https://floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/migrant-and-seasonal-farmworker-services> (last visited Jan. 10, 2024).

¹⁵ Sections 381.008-381.00897, F.S.

¹⁶ Section 381.008(5) and (8), F.S.

¹⁷ Section 381.0083, F.S.

¹⁸ Pub. L. No. 99-603, 100 Stat. 3359.

¹⁹ 8 U.S.C. s. 1324a.

²⁰ Section 448.095(2), F.S.

²¹ Section 448.095(3), F.S.

H-2A Visa Program²²

The H-2A Temporary Agricultural Workers program is a federal program which allows U.S. employers meeting specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. The program includes work, housing, visa, and recordkeeping requirements, and is a joint program of the Federal Departments of Labor, State, and Homeland Security. Prospective nonimmigrant agricultural workers must receive a temporary labor certification from the U.S. Department of Labor.

Florida Keys Area of Critical State Concern

The Florida Keys Area Protection Act²³ provides, in part, that comprehensive plan amendments within the covered area, which includes the majority of Monroe County, must comply with “goals, objectives and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours.”²⁴ Monroe County, applicable municipalities, and the DEO have agreed to use a multi-phase evacuation model and limit residential building permits going forward in order to comply with these standards.²⁵

III. Effect of Proposed Changes:

The bill amends s. 163.3162, F.S., to define “agricultural worker” as a person who:

- Is seasonally or annually employed in agricultural production;
- Is lawfully present in the United States;
- Is authorized, and remains allowed, to work; and
- Has been verified according to the state’s employment eligibility verification requirements.

This term includes a migrant farmworker as defined in s. 381.008, F.S., and a worker with an H-2A visa.

The bill defines “housing site” as the totality of development supporting authorized housing, including buildings, mobile homes, barracks, dormitories, parking areas, common areas, storage structures, and related structures.

The bill provides that a governmental entity may not adopt or enforce any legislation which inhibits the construction or installation of housing for agricultural employees on land zoned for agricultural use and operated as a bona fide farm, except as provided by law. The bill provides that local governments may require that a housing site authorized under this section:

- Must meet all local and state building standards, including migrant farmworker housing standards regulated by the Department of Health and federal standards for H-2A visa housing;

²² See generally, Department of Homeland Security Office of U.S. Citizenship and Immigration Services, *H-2A Temporary Agricultural Workers*, available at <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2a-temporary-agricultural-workers> (last visited Jan. 7, 2024).

²³ Section 380.0552, F.S.

²⁴ *Id.* at (9)(e)2.

²⁵ See *Mattino v. City of Marathon*, 345 So.3d 939 (Fla. 3d DCA 2022), for detailed background on this section.

- Must be maintained in a neat, orderly, and safe manner;
- Must have structures placed a minimum of 10 feet apart;
- May not exceed square footage of 1.5 percent of the property's area or 35,000 square feet, whichever is less;
- Must provide 50 foot setbacks on all sides;
- May not be located less than 250 feet from a property line adjacent to property zoned for residential use;
- If within 500 feet of a property line adjacent to property zoned for residential use, must contain screening consisting of tree, wall, berm or fence coverage at least six feet in height; and
- Must cover access drives with dust-free material such as packed shell or gravel.

The bill provides that a local ordinance adopted pursuant to this section must comply with state and federal regulations for migrant farmworker housing, and that a local government may validly adopt less restrictive land use regulations.

The bill further provides that, beginning July 1, 2024, a property owner must maintain records of all permits for such housing for three years, and make the records available for inspection within 14 days after receipt of a request by a governmental entity.

The bill further provides that if agricultural operations are discontinued on the property for at least 365 days, structures used as living quarters must be removed within 180 days after notice from the local government unless the property owner demonstrates that its intended use will resume within 90 days. If the property ceases to be classified as agricultural, housing established under this section is no longer eligible for residential use without further approval under the local jurisdiction's zoning and land use regulations. Additionally, if Department of Health permits for agricultural housing uses are revoked, structures used as living quarters must be removed within 180 days of notice from the local government unless the permit is reinstated.

The bill provides that, notwithstanding the provisions herein, the construction or installation of housing for seasonal agricultural employees in the Florida Keys and City of Key West Areas of Critical State Concern is subject to the permit allocation system.

The bill finally provides that a housing site constructed and in use before July 1, 2024, may continue to be used, and the property owner may not be required to make changes to meet the requirements of this section, unless the housing site will be enlarged, remodeled, renovated, or rehabilitated.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

Businesses employing and housing migrant farmworkers will benefit from the creation of certain property rights.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.3162 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Collins

14-00506A-24

20241082__

1 A bill to be entitled
2 An act relating to housing for agricultural workers;
3 amending s. 163.3162, F.S.; defining the terms
4 "agricultural worker" and "housing site"; prohibiting
5 a governmental entity from adopting or enforcing any
6 legislation to inhibit the construction of housing for
7 agricultural workers on agricultural land operated as
8 a bona fide farm; requiring that the construction or
9 installation of such housing units on agricultural
10 lands satisfy certain criteria; requiring that local
11 ordinances comply with certain regulations;
12 authorizing governmental entities to adopt local land
13 use regulations that are less restrictive than certain
14 state and federal regulations; requiring property
15 owners to maintain certain records for a specified
16 timeframe; requiring the suspension of use of certain
17 housing units and authorizing their removal under
18 certain circumstances; specifying applicability of
19 permit allocation systems in certain areas of critical
20 state concern; authorizing the continued use of
21 housing sites constructed before the effective date of
22 the act if certain conditions are met; providing an
23 effective date.

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

26
27 Section 1. Present paragraphs (a) through (d) of subsection
28 (2) of section 163.3162, Florida Statutes, are redesignated as
29 paragraphs (b) through (e), respectively, new paragraphs (a) and

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30 (f) are added to that subsection, and subsection (5) is added to
31 that section, to read:

32 163.3162 Agricultural Lands and Practices.—

33 (2) DEFINITIONS.—As used in this section, the term:

34 (a) "Agricultural worker" means a person who is seasonally
35 or annually employed in bona fide agricultural production; is
36 lawfully present in the United States; is authorized to work at
37 the time of employment and remains so throughout the duration of
38 that employment; and has been verified through the process
39 provided in s. 448.095. The term includes a migrant farmworker
40 as defined in s. 381.008 and a worker with an H-2A visa.

41 (f) "Housing site" means the totality of development
42 supporting authorized housing, including buildings, mobile
43 homes, barracks, dormitories used as living quarters, parking
44 areas, common areas such as athletic fields or playgrounds,
45 storage structures, and other related structures.

46 (5) HOUSING FOR AGRICULTURAL WORKERS.—

47 (a) A governmental entity may not adopt or enforce any
48 legislation to inhibit the construction or installation of
49 housing for agricultural workers on land classified as
50 agricultural land pursuant to s. 193.461 which is operated as a
51 bona fide farm except as provided in this subsection.

52 1. Construction or installation of housing units for
53 agricultural workers on parcels of land classified as
54 agricultural land under s. 193.461 must satisfy all of the
55 following criteria:

56 a. The dwelling units must meet federal, state, and local
57 building standards, including migrant farmworker housing
58 standards regulated by the Department of Health and federal

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59 standards for H-2A visa housing. If written notice of intent is
60 required to be submitted to the Department of Health pursuant to
61 s. 381.0083, the appropriate governmental entity with
62 jurisdiction over the agricultural lands may also require
63 submittal of a copy of the written notice.

64 b. The housing site must be maintained in a neat, orderly,
65 and safe manner.

66 c. All structures containing dwelling units must be located
67 a minimum of 10 feet apart.

68 d. The square footage of the housing site's climate-
69 controlled facilities may not exceed 1.5 percent of the
70 property's area or 35,000 square feet, whichever is less.

71 e. A housing site must provide front, side, and rear yard
72 setbacks of at least 50 feet. However, an internal project
73 driveway may be located in the required yard space if the yard
74 is adjacent to a public roadway or to property that is under
75 common ownership with the housing site.

76 f. A housing site may not be located less than 250 feet
77 from a property line adjacent to property zoned for residential
78 use. If the housing site is located less than 500 feet from any
79 property line, screening must be provided between the housing
80 site and any residentially developed adjacent parcels that are
81 under different ownership. The screening may be designed in any
82 of the following ways:

83 (I) Evergreen plants that, at the time of planting, are at
84 least 6 feet in height and provide an overall screening opacity
85 of 75 percent;

86 (II) A masonry wall at least 6 feet in height and finished
87 on all sides with brick, stone, or painted or pigmented stucco;

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88 (III) A solid wood or PVC fence at least 6 feet in height
89 with the finished side of the fence facing out;

90 (IV) A row of evergreen shade trees that, at the time of
91 planting, are at least 10 feet in height, a minimum of 2-inch
92 caliper, and spaced no more than 20 feet apart; or

93 (V) A berm made with a combination of the materials listed
94 in sub-sub-subparagraphs (I)-(IV), which is at least 6 feet in
95 height and provides an overall screening capacity of 75 percent
96 at the time of installation.

97 g. All access drives that serve the housing site must be
98 made of packed shell, gravel, or a similar material that will
99 provide a relatively dust-free surface.

100 (b) Any local ordinance adopted pursuant to this subsection
101 must comply with all state and federal regulations for migrant
102 farmworker housing, as applicable, including rules adopted by
103 the Department of Health pursuant to ss. 381.008-381.00897 and
104 federal regulations under the Migrant and Seasonal Agricultural
105 Worker Protection Act or the H-2A visa program. A governmental
106 entity may adopt local government land use regulations that are
107 less restrictive than the regulations established by the
108 Department of Health pursuant to ss. 381.008-381.00897 and
109 federal regulations under the Migrant and Seasonal Agricultural
110 Worker Protection Act or the H-2A visa program for the
111 construction or installation of housing for temporary migrant
112 farmworkers.

113 (c) Beginning July 1, 2024, a property owner must maintain
114 records of all approved permits, including successor permits,
115 for migrant labor camps or residential migrant housing as
116 required under s. 381.0081. A property owner must maintain such

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117 records for at least 3 years and make the records available for
118 inspection within 14 days after receipt of a request for records
119 by a governmental entity.

120 (d) A housing site may not continue to be used and may be
121 required to be removed under the following circumstances:

122 1. If, for any reason, a housing site is not being used for
123 agricultural workers for longer than 365 days, any structures,
124 used as living quarters must be removed from the housing site
125 within 180 days after receipt of written notification from the
126 county unless the property owner can demonstrate that use of the
127 site for housing agricultural workers will occur within 90 days
128 after the written notification.

129 2. If the property on which the housing site is located
130 ceases to be classified as agricultural land, housing authorized
131 under this section ceases to be eligible for residential uses
132 unless and until it is approved under the zoning and land use
133 regulations of the governmental entity.

134 3. If the permit authorized by the Department of Health for
135 the housing site is revoked, any structures must be removed from
136 the housing site within 180 days after receipt of written
137 notification from the county unless the permit is reinstated by
138 the Department of Health.

139 (e) Notwithstanding this subsection, the construction or
140 installation of housing for seasonal agricultural employees in
141 the Florida Keys Area of Critical State Concern and the City of
142 Key West Area of Critical State Concern is subject to the permit
143 allocation systems of the Florida Keys Area of Critical State
144 Concern and City of Key West Area of Critical State Concern,
145 respectively.

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146 (f) A housing site that was constructed and in use before
147 July 1, 2024, may continue to be used, and the property owner
148 may not be required by a governmental entity to make changes to
149 meet the requirements of this subsection, unless the housing
150 site will be enlarged, remodeled, renovated, or rehabilitated.
151 The property owner of a housing site that is permitted under
152 this paragraph must provide regular maintenance and repair,
153 including compliance with health and safety regulations and
154 maintenance standards, for such housing site to ensure the
155 health, safety, and habitability of the housing site.

156 Section 2. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/16/24

Meeting Date

1082

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Olivia Vairo

Phone 954-383-6608

Address

Email

Street

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: Florida Farm Bureau

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

01/16/2024

Meeting Date

The Florida Senate APPEARANCE RECORD

HOUSING
SB 1082

Bill Number or Topic

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COMMUNITY AFFAIR

Committee

Amendment Barcode (if applicable)

Name HOWARD E. "GENE" ADAMS

Phone 850-222-3533

Address 215 SOUTH MONROE ST., FLOOR 2 -

Email GENE@PENNINGTONLAW.COM

Street

TALLAHASSEE FLA 32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
FLORIDA FEED ASSOCIATION

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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1/16/24

Meeting Date

1082

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Tripp Hunter

Phone

850-408-6092

Address

119 S Manroe St.,

Email

Tripp.Hunter@FFVA.com

Street

Tallahassee

FL

32303

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Fruit & Vegetable Assn.

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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Meeting Date

1082

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Emily Ouda Buckley

Phone 407-405-3302

Address 119 S Monroe

Email Emily.Buckley@Ouda.Com

Street

Tallahassee

FL

32303

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

A. Ouda & Sons

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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1/16/24

Meeting Date

1082

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name

Adam Basford

Phone

352-538-4299

Address

516 N. Adams St

Email

abasford@a.s.com

Street

Tallahassee FL 32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:



In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Associated Industries of FL

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flisenate.gov\)](#)

The Florida Senate

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1/16/24

Meeting Date

1082

Bill Number or Topic

Comm. Affairs

Committee

Amendment Barcode (if applicable)

Name Jim Spratt

Phone 950-228-1296

Address 119 S Monroe St

Email Jim@magnoliastrategiesllc.com

Street

TLH

FL

32302

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

FLORIDA Nursery, Growers & Landscape Association

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

To: Senator Alexis Calatayud, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: January 10, 2024

I respectfully request that **Senate Bill #1082**, relating to Housing for Agricultural Workers, be placed on the:

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

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

Senator Jay Collins
Florida Senate, District 14

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 1364

INTRODUCER: Senator Calatayud

SUBJECT: Everglades Protection Area

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Favorable
2.	_____	_____	AG	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1364 requires any proposed comprehensive plan or plan amendment by a county as defined in s. 125.011(1), F.S., or any municipality located therein, applying to land within, or within 2 miles of, the Everglades Protection Area such as lands within Miami-Dade, Broward, or Monroe County to be reviewed pursuant to the State Coordinated Review Process.

The Department of Environmental Protection (DEP) is tasked with determining whether the plan or plan amendment will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives in state law. It has 30 days after receipt of the plan or plan amendment to issue a written determination identifying any adverse impacts.

Before adoption, DEP must coordinate with the Department of Commerce, the local government, to identify any planning strategies or measures that the local government could include in the proposed plan or plan amendment to eliminate or mitigate any adverse impacts. If any portion of the proposed plan or plan amendment will result in adverse impacts, then the local government must either include planning strategies or measures to eliminate or mitigate the adverse impacts, or not adopt that portion of the proposed plan or plan amendment.

The bill provides that the act may not be construed to limit the Right to Farm Act.

The bill takes effect July 1, 2024.

II. Present Situation:

The Everglades/Florida Bay Ecosystem

The Everglades/Florida Bay system covers approximately two million acres in South Florida and contains the largest subtropical wetland in the United States.¹ The area is generally described as a vast sawgrass marsh dotted with tree islands and interspersed with wet prairies and aquatic sloughs.²

Historically, the Everglades covered over seven million acres of South Florida, and water flowed down the Kissimmee River into Lake Okeechobee, then south through the vast Everglades to Florida Bay.³ The present Everglades system has been subdivided by the construction of canals, levees, roads, and other facilities as part of efforts to drain the system for agriculture, development, and flood control. As a result, the Everglades is less than half the size it was a century ago, and connections between the central Everglades and adjacent transitional wetlands have been lost. This separation and isolation can impair the Everglades' wildlife communities and the sustainability of the ecosystem.⁴ Over time, the construction of canals and water control structures along with urban and agricultural expansion contributed to unintended consequences.⁵

In 1994, to address these issues, the Legislature passed the Everglades Forever Act (Act).⁶ The Act established numerous long-term goals and environmental standards to restore and protect the Everglades ecosystem, addressing issues including water quantity, water quality, and excessive levels of phosphorus. The Act contains measures for constructing stormwater treatment areas for water entering the Everglades, sets standards for best management practices to address phosphorous pollution loading, and establishes numeric criteria for water quality in the Everglades.⁷ Generally, the Act outlines Florida's commitment to restoring the Everglades ecosystem, and it authorizes programs for achieving this restoration.⁸ These programs work in cooperation with the multi-billion-dollar, multi-decade Comprehensive Everglades Restoration Plan that is a 50-50 partnership between the state and federal government.⁹

¹ South Florida Water Management District (SFWMD), *Everglades*, <https://www.sfwmd.gov/our-work/everglades> (last visited Jan. 11, 2024).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ SFWMD, *Everglades Restoration Progress*, 1 (2017), available at https://www.sfwmd.gov/sites/default/files/documents/spl_everglades_progress.pdf (last visited Jan. 11, 2024).

⁶ Chapter 94-115, ss. 1-2, Laws of Fla.; Section 373.4592, F.S.

⁷ Section 373.4592, F.S.; University of Florida, Institute of Food and Agricultural Sciences (UF-IFAS), Michael T. Olexa et. al., *2021 Handbook of Florida Water Regulation: Florida Everglades Forever Act*, 1-2 (2021), available at <https://edis.ifas.ufl.edu/pdf/files/FE/FE60900.pdf> (last visited Jan. 11, 2024).

⁸ See SFWMD, *Long-Term Plan for Achieving Water Quality Goals*, <https://www.sfwmd.gov/our-work/wq-stas/long-term-plan> (last visited Mar. 1, 2023); see SFWMD, *Restoration Strategies for Clean Water for the Everglades*, <https://www.sfwmd.gov/our-work/restoration-strategies> (last visited Jan. 11, 2024).

⁹ (UF-IFAS), Michael T. Olexa et. al., *2021 Handbook of Florida Water Regulation: Florida Everglades Forever Act*, 1 (2021), available at <https://edis.ifas.ufl.edu/pdf/files/FE/FE60900.pdf> (last visited Jan. 11, 2024); The Water Resources Development Act of 2000 (P.L. 106-541, Dec. 11, 2000); SFWMD, *CERP Project Planning*, <https://www.sfwmd.gov/our-work/cerp-project-planning> (last visited Jan. 11, 2024); DEP, *Comprehensive Everglades Restoration Plan (CERP)*, <https://floridadep.gov/eco-pro/eco-pro/content/comprehensive-everglades-restoration-plan-cerp> (last visited Jan. 11, 2024).



The Act establishes monitoring and protection for the “Everglades Protection Area,” defined as “Water Conservation Areas (WCAs) 1, 2A, 2B, 3A, and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and the Everglades National Park.”¹⁰ WCA 1 is the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and it is managed by the U.S. Fish and Wildlife Service.¹¹ Water Conservation Areas 2 and 3 are managed by the Florida Fish and Wildlife Conservation Commission.¹² Everglades National Park is managed by the National Park Service.¹³

The WCAs are mainly large expanses of Everglades marsh habitat, which are closed off with control levees and canals.¹⁴ As part of the Central & Southern Florida Project first authorized by Congress in 1948, central portions of the Everglades were diked to create the WCAs.¹⁵ The WCAs have provided numerous benefits for the Everglades and south Florida, including: providing a detention reservoir for excess water from

the agricultural area and parts of the lower east coast region, and for flood discharge from Lake Okeechobee; providing levees to prevent Everglades floodwaters from inundating the lower east coast and provide water for agriculture and Everglades National Park; recharging the Biscayne

¹⁰ Section 373.4592(2)(i), F.S.; *see also* FLA. CON. art. II, s. 7(b). Those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area are primarily responsible for the abatement costs. *Id.*

¹¹ SFWMD, *Water Conservation Area 1 (Arthur R. Marshall Loxahatchee National Wildlife Refuge)*, <https://www.sfwmd.gov/recreation-site/water-conservation-area-1-arthur-r-marshall-loxahatchee-national-wildlife-refuge> (last visited Jan. 11, 2024).

¹² Florida Fish and Wildlife Conservation Commission, *Everglades Water Conservation Areas*, <https://myfwc.com/fishing/freshwater/sites-forecasts/s/everglades-water-conservation-areas/> (last visited Jan. 11, 2024).

¹³ National Park Service, *Everglades National Park*, <https://www.nps.gov/ever/index.htm> (last visited Jan. 11, 2024); SFWMD, *2016 South Florida Environmental Report*, 3 (2016), available at https://issuu.com/southfloridawatermanagement/docs/2016_sfer_highlights_final?e=4207603/33817547 (last visited Jan. 11, 2024). This document contains the map found on this page.

¹⁴ SFWMD, *Water Conservation Areas 2 and 3 (Everglades & Francis S. Taylor Wildlife Management Area)*, <https://www.sfwmd.gov/recreation-site/water-conservation-areas-2-and-3-everglades-francis-s-taylor-wildlife-management-0> (last visited Jan. 11, 2024).

¹⁵ United States Army Corps of Engineers and SFWMD, *Central and Southern Florida Project Comprehensive Review Study, Final Feasibility Report and Programmatic Environmental Impact Statement*, 1-1 (Apr. 1999), available at https://www.sfwmd.gov/sites/default/files/documents/CENTRAL_AND_SOUTHERN_FLORIDA_PROJECT_COMPREHENSIVE_REVIEW_STUDY.pdf (last visited Jan. 11, 2024).

Aquifer for east coast communities; retarding salt water intrusion in coastal well fields; and benefitting fish and wildlife in the Everglades.¹⁶

The long-term water quality objective for the Everglades is to implement the optimal combination of source controls, stormwater treatment areas, advanced treatment technologies, and regulatory programs to ensure that all waters discharged to the Everglades Protection Area achieve water quality standards consistent with the Act.¹⁷ DEP implements a range of responsibilities under the Act, including coordinating programs on research, monitoring, and permitting activities.¹⁸ The Act requires the state of Florida to pursue certain objectives, including all of the following:

- Restore and protect the Everglades ecological system.
- Authorize the South Florida Water Management District to proceed expeditiously with implementation of the Everglades program.¹⁹
- Reduce excessive levels of phosphorus.
- Pursue comprehensive and innovative solutions to the issues of water quality, water quantity, hydroperiod, and invasions of non-native species that affect the Everglades ecosystem.
- Expedite plans and programs for improving water quantity reaching the Everglades.
- Pursue the Everglades Construction Project, while maximizing its benefits and using superior technology when available.
- Achieve the water quality goals of the Everglades program through implementation of stormwater treatment areas and best management practices.²⁰

Comprehensive Plans and Plan Amendments

In 1985, the Legislature passed the Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development.²¹ A local government's comprehensive plan outlines the needs and locations for future public facilities, including roads, water and wastewater infrastructure, residential neighborhoods, parks, schools, and commercial and industrial developments.²²

All development, both public and private, and all development orders²³ approved by local governments must be consistent with the local government's comprehensive plan.²⁴ Among the many components of a comprehensive plan is a land use element designating proposed future

¹⁶ *Id.* at 1-15.

¹⁷ DEP, *Everglades Forever Act (EFA)*, <https://floridadep.gov/eco-pro/eco-pro/content/everglades-forever-act-efa> (last visited Jan. 11, 2024).

¹⁸ *Id.*

¹⁹ Section 373.4592(2)(h), F.S. The "Everglades Program" is defined as the program of projects, regulations, and research provided by the Act. *Id.*

²⁰ *Id.*

²¹ Chapter 85-55, Laws of Fla.

²² Section 163.3177, F.S.

²³ "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. See s. 163.3164(16), F.S.

²⁴ Section 163.3194(3), F.S.

general distribution, location, and extent of the uses of land.²⁵ Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.²⁶

In 2011, the Legislature bifurcated the process for approving comprehensive plan amendments.²⁷ Plan amendments are now placed into either the “Expedited State Review Process” or the “State Coordinated Review Process.”²⁸ The two processes operate in much the same way; however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the Department of Commerce (Commerce), rather than communicated directly to the permitting local government by each individual reviewing agency. Most plan amendments are required to follow the expedited process. Plan amendments in any of the following categories are required to follow the state coordinated process:

- Located in an area of critical state concern, which contains or has a significant impact on certain resources of regional or statewide importance;²⁹
- Propose a rural land stewardship area, which is designed to establish a long-term incentive-based strategy to balance and guide the allocation of land to accommodate future uses for environmental and economic purposes;³⁰
- Propose a sector plan or an amendment to an adopted sector plan, which emphasizes urban form and protection of regionally significant resources and public facilities;³¹
- Updates to comprehensive plans based on periodic evaluations of compliance with current state requirements;³²
- Propose a development of regional impact, which would have a substantial effect upon the health, safety, or welfare of citizens of more than one county;³³ or
- New plans for newly incorporated municipalities.³⁴

Under both processes, a proposed comprehensive plan or plan amendment must receive a public hearing by the local governing body before it may be transmitted to the state for review. First, the local planning board must hold a public hearing at which it makes a recommendation to the local governing body on adoption of the plan or plan amendment.³⁵ Then, the local governing body must hold a public hearing to consider transmittal of the proposed plan or plan amendment.³⁶ If a majority of the local governing body members present at the hearing approve such transmittal, the plan or amendment must be transmitted within 10 working days to the following state and local governmental entities, known as “reviewing agencies”:

- The Department of Commerce, designated as the “state land planning agency”;³⁷
- The appropriate regional planning council;

²⁵ Section 163.3177(6)(a), F.S.

²⁶ *Id.*

²⁷ Chapter 2011-139, s. 17, Laws of Fla.

²⁸ Section 163.3184(3) and (4), F.S.

²⁹ *See* s. 380.05, F.S.

³⁰ *See* s. 163.3248, F.S.

³¹ *See* s. 163.3245, F.S.

³² *See* s. 163.3191, F.S.

³³ *See* s. 380.06, F.S.

³⁴ Section 163.3184(2)(c), F.S.; *see* s. 163.3167, F.S.

³⁵ Sections 163.3174(4)(a), F.S.

³⁶ Sections 163.3184(11), F.S.

³⁷ Section 163.3164(44), F.S.

- The appropriate water management district;
- DEP;
- The Department of State;
- The Department of Transportation;
- The Department of Education, if plan amendments relate to public schools;
- The commanding officer of an affected military installation;
- The Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, in the case of county plans and plan amendments; and
- The county in which the municipality is located, in the case of municipal plans and plan amendments.³⁸

The reviewing agencies and certain other government entities may provide comments to the local government regarding a plan or plan amendment. State agencies may only comment on important state resources and facilities that will be adversely impacted by a plan amendment, if adopted.³⁹ Comments provided by state agencies must state with specificity how a plan amendment will adversely impact an important state resource or facility and must identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts.⁴⁰ Under the expedited process, these comments must be provided directly to the local government not later than 30 days after receipt of the plan amendment.⁴¹ Alternatively, the State Coordinated Review requires agencies to provide comments to the Department of Commerce.⁴² Commerce then has a total of 60 days from receipt to provide the local government with a report containing the state's objections, recommendations, and comments.⁴³

In both processes, comments from each governmental entity must be limited to their statutory purview.⁴⁴ For example, DEP must limit its comments to the subjects of air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, and conservation easements; solid waste; water and wastewater treatment; and the Everglades ecosystem restoration.⁴⁵

After the local government receives the comments made by the reviewing agencies, whether directly from the agencies or through the report issued by the Department of Commerce, the local governing body must hold a second public hearing to approve or deny the plan or plan amendment.⁴⁶ The second public hearing must be conducted within 180 days after the agency

³⁸ Section 163.3184(1)(c) and (3)(b)1., F.S.

³⁹ Section 163.3184(3)(b)2. and (4)(c), F.S. Department of Commerce has special requirements for providing comments on plans or plan amendments following the State Coordinated Review Process.

⁴⁰ *Id.*

⁴¹ Section 163.3184(3)(b)2.

⁴² Section 163.3184(4)(c)-(d), F.S.

⁴³ Section 163.3184(4)(d), F.S.; see Department of Commerce, *State Coordinated Review Amendment Process*, http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/statecoordinatedreviewprocessflowchart.pdf?sfvrsn=d6a766b0_2 (last visited Jan. 11, 2024).

⁴⁴ Section 163.3184(3)(b)3-4 and (4)(c), F.S.

⁴⁵ Section 163.3184(3)(b)4.a., F.S.

⁴⁶ Section 163.3184(11), F.S.

comments are received. Generally, if a local government fails to hold the second public hearing within 180 days after receipt of agency comments, the plan amendment is deemed withdrawn.⁴⁷

Following adoption, the local government must transmit the plan or plan amendment to the Department of Commerce within 10 days of the second public hearing, and Commerce must notify the local government of any deficiencies with the plan amendment within five working days.⁴⁸ Commerce must determine that a plan or plan amendment is complete before it can go into effect. A plan or plan amendment must be deemed complete if it contains:

- A full, executed copy of the adoption ordinance or ordinances;
- In the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined and words deleted stricken with hyphens;
- In the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and
- A copy of any data and analyses the local government deems appropriate.⁴⁹

Under the State Coordinated Review Process, following the determination of completeness, the Department of Commerce has 45 days to determine whether the plan or plan amendment is in compliance with applicable law.⁵⁰ Commerce must issue a notice of intent to find that the plan or plan amendment is either in compliance or not in compliance, and the notice must be published on Commerce’s website. A plan or plan amendment adopted under the State Coordinated Review Process goes into effect pursuant to Commerce’s notice of intent.⁵¹ Under the Expedited State Review Process, a plan amendment goes into effect 31 days after Commerce notifies the local government that the plan amendment package is complete.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 163.3184, F.S., to require any proposed plan or plan amendment by a county as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County)⁵² or any municipality located therein, applying to land within, or within 2 miles of, the Everglades Protection Area as defined in state law, such as lands within Miami-Dade, Broward, or Monroe County to be reviewed pursuant to the State Coordinated Review Process.

Under the bill, DEP must determine whether the proposed plan or plan amendment, or any portion thereof, will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, F.S. DEP must issue a written

⁴⁷ Section 163.3184(3)(c)1. and (4)(e)1., F.S. This 180-day timeframe may be extended by agreement as long as notice is provided to Department of Commerce and any affected person that provided comments on the plan amendment. Also, an exception exists for developments of regional impact.

⁴⁸ Section 163.3184(3)(c) and (4)(e), F.S.

⁴⁹ *Id.*

⁵⁰ Section 163.3184(4)(e)4., F.S.

⁵¹ Section 163.3184(4)(e)4.-5., F.S.

⁵² Section 125.011(1), F.S., defines county as “any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VII of the Constitution of 1885, as preserved by Art. VIII, s. (6)(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred.” Counties authorized to operate under a home rule charter pursuant to the constitutional provisions are Monroe County, Miami-Dade and Hillsborough Counties. Of these, only Miami-Dade County currently operates under a home-rule charter and meets the definition of “county” in s. 125.011(1), F.S.

determination to the Department of Commerce, and the local government, within 30 days after receipt of the proposed plan or plan amendment. The determination must identify any adverse impacts and may be provided as part of DEP's reviewing comments.

Additionally, before adoption of the proposed plan or plan amendment, DEP must coordinate with the Department of Commerce and the local government to identify any planning strategies or measures that the local government could include in the proposed plan or plan amendment to eliminate or mitigate any adverse impacts to the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, F.S.

If DEP determines that any portion of the proposed plan or plan amendment will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, F.S., the local government must modify that portion of the proposed plan or plan amendment to include planning strategies or measures to eliminate or mitigate such adverse impacts before adopting the proposed plan or plan amendment, or that portion of the proposed plan or plan amendment may not be adopted.

The bill provides that comprehensive plan amendments that apply to any land within, or within 2 miles of, the Everglades Protection Area such as lands within Miami-Dade, Broward, or Monroe County must be transmitted within 10 working days after the second public hearing to DEP.

The section provides that the act may not be construed to limit the Right to Farm Act.⁵³

Section 2 of the bill amends s. 163.3187, F.S., to:

- Clarify that site-specific text changes relating directly to, and adopted simultaneously with, a small scale future land use map amendment are permissible under that section.
- Provides that a small scale comprehensive plan amendment is not permitted for property that is located in Miami-Dade, Broward, or Monroe County which is the subject of a proposed amendment by a county as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County) or any municipality within, or within 2 miles of, the Everglades Protection Area as defined under state law.
- Provide that within 10 days after the adoption of a small scale development amendment, a county whose boundaries include any portion of the Everglades Protection Area as defined under state law, and the municipalities within the county, must transmit a copy of the amendment to the Department of Commerce for recordkeeping purposes.
- The section provides that the act may not be construed to limit the Right to Farm Act.

Section 3 of the bill amends s. 420.615(5), F.S., to implement a conforming change.

Section 4 of the bill provides an effective date of July 1, 2024.

⁵³ The Florida Right to Farm Act was enacted in 1979 to protect agricultural production against some nuisance lawsuits. The laws do not grant absolute immunity but generally provide protections for defendants based upon a "coming to the nuisance" defense theory. These laws provide a liability shield for pre-existing agricultural operations when changes are made to the use of nearby parcels. See Section 823.14 F.S.

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:

Article III, section 10 of the Florida Constitution provides that no special law shall be passed unless notice of intention to seek enactment thereof has been published, or the law takes effect subject to referendum. The bill may raise an issue related to its nature as a special law, or a bill filed as a general law which applies to less than the entire state based on an invalid classification. A general law which applies evenly across the state or to a valid class of people or localities is valid, while a law applying only to a select group requires the treatment of a local bill.

The measure of a valid classification used in a general law is whether there is a reasonable possibility that others in the future may meet the criteria of the classification.⁵⁴ “Ultimately, the criterion that determines if a reasonable relationship exists between the classification adopted and the purpose of the statute is whether the classification is potentially open to additional parties.”⁵⁵

The bill applies a set of procedures to lands within or within 2 miles of the Everglades Protection Area, which may be a valid class based on more heavily protecting the unique environment of the Florida Everglades. However, if the effect of the clause “such as lands within Miami-Dade, Broward, or Monroe County” is to capture those counties to the exclusion of lands in Palm Beach, Lee, and Collier Counties within or within 2 miles of the Everglades Protection Area, the special laws provision of the Florida Constitution may apply.

⁵⁴ *Fla. Dep’t of Bus. & Prof’l Regulation v. Gulfstream Park Racing Ass’n, Inc.*, 967 So. 2d 802, 808–09 (Fla.2007).

⁵⁵ *License Acquisitions, LLC*, *supra* at 1142-1143, citing *Dept. of Business Regulation v. Classic Mile, Inc.*, 541 So. 2d 1155, 1158-1159 (Fla. 1989) (quoting *Dep’t of Legal Affairs v. Sanford–Orlando Kennel Club, Inc.*, 434 So. 2d 879, 882 (Fla.1983)), *Ocala Breeders’ Sales Co., Inc. v. Fla. Gaming Ctrs., Inc.*, 731 So. 2d 21, 25 (Fla. 1st DCA 1999).

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

None.

B. Private Sector Impact:

Landowners and private interests seeking to develop land within two miles of the Everglades Protection Area may see an increase in the time to approve such developments.

C. Government Sector Impact:

The Department of Environmental Protection and to a lesser degree local governments, reviewing agencies, and the Department of Commerce may incur an indeterminate increase in costs associated with reviewing plans and plan amendments for potential impacts to the Everglades Protection Area.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill applies to a “comprehensive plan or plan amendment by a county as defined in s. 125.011(1), F.S., or any municipality located therein, applying to land within, or within 2 miles of, the Everglades Protection Area, such as lands within Miami-Dade, Broward, or Monroe County.”

The intent of the clause “such as lands within Miami-Dade, Broward, or Monroe County” is unclear. A comprehensive plan guides and controls future development within the county or city’s own jurisdiction and does not apply to land in other jurisdictions. Clarification may be needed to specify the area and actions effected by the bill in order to meet its legislative intent.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3184, 163.3187, and 420.615

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

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

None.

B. Amendments:

None.

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

By Senator Calatayud

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1 A bill to be entitled
2 An act relating to the Everglades Protection Area;
3 amending s. 163.3184, F.S.; requiring that proposed
4 plans and plan amendments that apply to certain lands
5 within or near the Everglades Protection Area follow
6 the state coordinated review process; conforming
7 provisions to changes made by the act; authorizing
8 local governments to consider an application for a
9 development permit or development order contingent
10 upon adoption of such plans and amendments; providing
11 duties of the Department of Environmental Protection
12 relating to such plans and plan amendments; providing
13 a condition for the adoption of such plans and plan
14 amendments upon a certain determination by the
15 department; specifying a requirement for the
16 transmittal of certain comprehensive plan amendments
17 to the department; making technical changes; providing
18 construction; amending s. 163.3187, F.S.; authorizing
19 site-specific text changes for small-scale future land
20 use map amendments; prohibiting the adoption of small-
21 scale development amendments for properties located
22 within or near the Everglades Protection Area;
23 requiring local governments whose boundaries include
24 any portion of the Everglades Protection Area to
25 transmit copies of adopted small-scale development
26 amendments to the state land planning agency within a
27 specified timeframe; making technical changes;
28 providing construction; amending s. 420.615, F.S.;
29 conforming a cross-reference; providing an effective

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30 date.

31

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

33

34 Section 1. Paragraph (a) of subsection (2), paragraph (a)
 35 of subsection (3), subsection (4), paragraph (b) of subsection
 36 (5), and paragraph (a) of subsection (11) of section 163.3184,
 37 Florida Statutes, are amended, and paragraph (d) is added to
 38 subsection (2) and subsection (14) is added to that section, to
 39 read:

40 163.3184 Process for adoption of comprehensive plan or plan
 41 amendment.—

42 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

43 (a) Plan amendments adopted by local governments must ~~shall~~
 44 follow the expedited state review process in subsection (3),
 45 except as set forth in paragraphs (b), ~~and~~ (c), and (d).

46 (d) Proposed plans and plan amendments by a county as
 47 defined in s. 125.011(1) or any municipality located therein
 48 which apply to land within, or within 2 miles of, the Everglades
 49 Protection Area as defined in s. 373.4592(2), such as lands
 50 within Miami-Dade, Broward, or Monroe County, must follow the
 51 state coordinated review process as provided in subsection (4).

52 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF
 53 COMPREHENSIVE PLAN AMENDMENTS.—

54 (a) The process for amending a comprehensive plan described
 55 in this subsection applies ~~shall apply~~ to all amendments except
 56 as provided in paragraphs (2) (b), ~~and~~ (c), and (d) and is ~~shall~~
 57 ~~be~~ applicable statewide.

58 (4) STATE COORDINATED REVIEW PROCESS.—

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59 (a) *Coordination.*—The state land planning agency shall only
60 use the state coordinated review process described in this
61 subsection for review of comprehensive plans and plan amendments
62 described in paragraphs (2) (c) and (d) ~~paragraph (2) (e)~~. Each
63 comprehensive plan or plan amendment proposed to be adopted
64 pursuant to this subsection must ~~shall~~ be transmitted, adopted,
65 and reviewed in the manner prescribed in this subsection. The
66 state land planning agency shall have responsibility for plan
67 review, coordination, and the preparation and transmission of
68 comments, pursuant to this subsection, to the local governing
69 body responsible for the comprehensive plan or plan amendment.

70 (b) *Local government transmittal of proposed plan or*
71 *amendment.*—Each local governing body proposing a plan or plan
72 amendment specified in paragraph (2) (c) or paragraph (2) (d)
73 shall transmit the complete proposed comprehensive plan or plan
74 amendment to the reviewing agencies within 10 working days after
75 the first public hearing pursuant to subsection (11). The
76 transmitted document must ~~shall~~ clearly indicate on the cover
77 sheet that this plan amendment is subject to the state
78 coordinated review process of this subsection. The local
79 governing body shall also transmit a copy of the complete
80 proposed comprehensive plan or plan amendment to any other unit
81 of local government or government agency in the state that has
82 filed a written request with the governing body for the plan or
83 plan amendment.

84 (c) *Reviewing agency comments.*—The agencies specified in
85 paragraph (b) may provide comments regarding the plan or plan
86 amendments in accordance with subparagraphs (3) (b) 2.-4. However,
87 comments on plans or plan amendments required to be reviewed

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88 under the state coordinated review process must ~~shall~~ be sent to
89 the state land planning agency within 30 days after receipt by
90 the state land planning agency of the complete proposed plan or
91 plan amendment from the local government. If the state land
92 planning agency comments on a plan or plan amendment adopted
93 under the state coordinated review process, it must ~~shall~~
94 provide comments according to paragraph (e) ~~(d)~~. Any other unit
95 of local government or government agency specified in paragraph
96 (b) may provide comments to the state land planning agency in
97 accordance with subparagraphs (3)(b)2.-4. within 30 days after
98 receipt by the state land planning agency of the complete
99 proposed plan or plan amendment. Written comments submitted by
100 the public must ~~shall~~ be sent directly to the local government.

101 (d) Everglades Protection Area determinations.—A proposed
102 plan or plan amendment that applies to any land within, or
103 within 2 miles of, the Everglades Protection Area as defined in
104 s. 373.4592(2) must be reviewed pursuant to this paragraph by
105 the Department of Environmental Protection. The department shall
106 determine whether the proposed plan or plan amendment, or any
107 portion thereof, adversely impacts the Everglades Protection
108 Area or the Everglades restoration and protection objectives
109 identified in s. 373.4592. The department shall issue a written
110 determination to the state land planning agency and the local
111 government within 30 days after receipt of the proposed plan or
112 plan amendment. The determination must identify any adverse
113 impacts and may be provided as part of the agency's comments
114 pursuant to paragraph (c). Before the adoption of the proposed
115 plan or plan amendment, the department shall work in
116 coordination with the state land planning agency and the local

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117 government to identify any planning strategies or measures that
118 the local government could include in the proposed plan or plan
119 amendment to eliminate or mitigate any adverse impacts to the
120 Everglades Protection Area or the Everglades restoration and
121 protection objectives identified in s. 373.4592. If the
122 department determines that any portion of the proposed plan or
123 plan amendment will adversely impact the Everglades Protection
124 Area or the Everglades restoration and protection objectives
125 identified in s. 373.4592, the local government must modify that
126 portion of the proposed plan or plan amendment to include
127 planning strategies or measures to eliminate or mitigate such
128 adverse impacts before adopting the proposed plan or plan
129 amendment or that portion of the proposed plan or plan amendment
130 may not be adopted.

131 (e) State land planning agency review.-

132 1. If the state land planning agency elects to review a
133 plan or plan amendment specified in paragraph (2)(c), the agency
134 shall issue a report giving its objections, recommendations, and
135 comments regarding the proposed plan or plan amendment within 60
136 days after receipt of the proposed plan or plan amendment.
137 Notwithstanding the limitation on comments in sub-subparagraph
138 (3)(b)4.g., the state land planning agency may make objections,
139 recommendations, and comments in its report regarding whether
140 the plan or plan amendment is in compliance and whether the plan
141 or plan amendment will adversely impact important state
142 resources and facilities. Any objection regarding an important
143 state resource or facility that will be adversely impacted by
144 the adopted plan or plan amendment shall also state with
145 specificity how the plan or plan amendment will adversely impact

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146 the important state resource or facility and shall identify
147 measures the local government may take to eliminate, reduce, or
148 mitigate the adverse impacts. When a federal, state, or regional
149 agency has implemented a permitting program, a local government
150 is not required to duplicate or exceed that permitting program
151 in its comprehensive plan or to implement such a permitting
152 program in its land development regulations. This subparagraph
153 does not prohibit the state land planning agency in conducting
154 its review of local plans or plan amendments from making
155 objections, recommendations, and comments regarding densities
156 and intensities consistent with this part. In preparing its
157 comments, the state land planning agency shall only base its
158 considerations on written, and not oral, comments.

159 2. The state land planning agency review shall identify all
160 written communications with the agency regarding the proposed
161 plan amendment. The written identification must include a list
162 of all documents received or generated by the agency, which list
163 must be of sufficient specificity to enable the documents to be
164 identified and copies requested, if desired, and the name of the
165 person to be contacted to request copies of any identified
166 document.

167 (f)~~(e)~~ *Local government review of comments; adoption of*
168 *plan or amendments and transmittal.*—

169 1. The local government shall review the report submitted
170 to it by the state land planning agency, if any, and written
171 comments submitted to it by any other person, agency, or
172 government. The local government, upon receipt of the report
173 from the state land planning agency, shall hold a ~~its~~ second
174 public hearing, ~~which shall be a hearing~~ to determine whether to

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175 adopt the comprehensive plan or one or more comprehensive plan
176 amendments pursuant to subsection (11). If the local government
177 fails to hold the second hearing within 180 days after receipt
178 of the state land planning agency's report, the amendments are
179 ~~shall be~~ deemed withdrawn unless extended by agreement with
180 notice to the state land planning agency and any affected person
181 who that provided comments on the amendment. The 180-day
182 limitation does not apply to amendments processed pursuant to s.
183 380.06.

184 2. All comprehensive plan amendments adopted by the
185 governing body, along with the supporting data and analysis,
186 must shall be transmitted within 10 working days after the
187 second public hearing to the state land planning agency and any
188 other agency or local government that provided timely comments
189 under paragraph (c). Comprehensive plan amendments by a county
190 as defined in s. 125.011(1) or any municipality located therein
191 which apply to land within, or within 2 miles of, the Everglades
192 Protection Area as defined in s. 373.4592(2), such as lands
193 within Miami-Dade, Broward, or Monroe County, must also be
194 transmitted within 10 working days after the second public
195 hearing to the Department of Environmental Protection.

196 3. The state land planning agency shall notify the local
197 government of any deficiencies within 5 working days after
198 receipt of a plan or plan amendment package. For purposes of
199 completeness, a plan or plan amendment is ~~shall be~~ deemed
200 complete if it contains a full, executed copy of the adoption
201 ordinance or ordinances; in the case of a text amendment, a full
202 copy of the amended language in legislative format with new
203 words inserted in the text underlined, and words deleted

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204 stricken with hyphens; in the case of a future land use map
205 amendment, a copy of the future land use map clearly depicting
206 the parcel, its existing future land use designation, and its
207 adopted designation; and a copy of any data and analyses the
208 local government deems appropriate.

209 4. After the state land planning agency makes a
210 determination of completeness regarding the adopted plan or plan
211 amendment, the state land planning agency has ~~shall have~~ 45 days
212 to determine if the plan or plan amendment is in compliance with
213 this act. Unless the plan or plan amendment is substantially
214 changed from the one commented on, the state land planning
215 agency's compliance determination is ~~shall be~~ limited to
216 objections raised in the objections, recommendations, and
217 comments report. During the period provided for in this
218 subparagraph, the state land planning agency shall issue,
219 through a senior administrator or the secretary, a notice of
220 intent to find that the plan or plan amendment is in compliance
221 or not in compliance. The state land planning agency shall post
222 a copy of the notice of intent on the agency's ~~Internet~~ website.
223 Publication by the state land planning agency of the notice of
224 intent on the state land planning agency's website is ~~Internet~~
225 ~~site shall be~~ prima facie evidence of compliance with the
226 publication requirements of this subparagraph.

227 5. A plan or plan amendment adopted under the state
228 coordinated review process must ~~shall~~ go into effect pursuant to
229 the state land planning agency's notice of intent. If timely
230 challenged, an amendment does not become effective until the
231 state land planning agency or the Administration Commission
232 enters a final order determining the adopted amendment to be in

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233 compliance.

234 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN
235 AMENDMENTS.—

236 (b) The state land planning agency may file a petition with
237 the Division of Administrative Hearings pursuant to ss. 120.569
238 and 120.57, with a copy served on the affected local government,
239 to request a formal hearing to challenge whether the plan or
240 plan amendment is in compliance as defined in paragraph (1)(b).
241 The state land planning agency's petition must clearly state the
242 reasons for the challenge. Under the expedited state review
243 process, this petition must be filed with the division within 30
244 days after the state land planning agency notifies the local
245 government that the plan amendment package is complete according
246 to subparagraph (3)(c)3. Under the state coordinated review
247 process, this petition must be filed with the division within 45
248 days after the state land planning agency notifies the local
249 government that the plan amendment package is complete according
250 to subparagraph (4)(f)3. ~~(4)(e)3.~~

251 1. The state land planning agency's challenge to plan
252 amendments adopted under the expedited state review process is
253 ~~shall be~~ limited to the comments provided by the reviewing
254 agencies pursuant to subparagraphs (3)(b)2.-4., upon a
255 determination by the state land planning agency that an
256 important state resource or facility will be adversely impacted
257 by the adopted plan amendment. The state land planning agency's
258 petition must ~~shall~~ state with specificity how the plan
259 amendment will adversely impact the important state resource or
260 facility. The state land planning agency may challenge a plan
261 amendment that has substantially changed from the version on

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262 which the agencies provided comments but only upon a
263 determination by the state land planning agency that an
264 important state resource or facility will be adversely impacted.

265 2. If the state land planning agency issues a notice of
266 intent to find the comprehensive plan or plan amendment not in
267 compliance with this act, the notice of intent must ~~shall~~ be
268 forwarded to the Division of Administrative Hearings of the
269 Department of Management Services, which shall conduct a
270 proceeding under ss. 120.569 and 120.57 in the county of and
271 convenient to the affected local jurisdiction. The parties to
272 the proceeding must ~~shall~~ be the state land planning agency, the
273 affected local government, and any affected person who
274 intervenes. A ~~No~~ new issue may not be alleged as a reason to
275 find a plan or plan amendment not in compliance in an
276 administrative pleading filed more than 21 days after
277 publication of notice unless the party seeking that issue
278 establishes good cause for not alleging the issue within that
279 time period. Good cause does not include excusable neglect.

280 (11) PUBLIC HEARINGS.—

281 (a) The procedure for transmittal of a complete proposed
282 comprehensive plan or plan amendment pursuant to subparagraph
283 (3) (b)1. and paragraph (4) (b) and for adoption of a
284 comprehensive plan or plan amendment pursuant to subparagraphs
285 (3) (c)1. and (4) (e)1. is ~~shall be~~ by affirmative vote of not
286 less than a majority of the members of the governing body
287 present at the hearing. The adoption of a comprehensive plan or
288 plan amendment is ~~shall be~~ by ordinance. For the purposes of
289 transmitting or adopting a comprehensive plan or plan amendment,
290 the notice requirements in chapters 125 and 166 are superseded

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291 by this subsection, except as provided in this part.

292 (14) This act may not be construed to limit the rights and
 293 protections granted by s. 823.14.

294 Section 2. Subsections (1), (2), (3), and (5) of section
 295 163.3187, Florida Statutes, are amended, and subsection (6) is
 296 added to that section, to read:

297 163.3187 Process for adoption of small-scale ~~small-scale~~
 298 comprehensive plan amendment.—

299 (1) A small-scale ~~small-scale~~ development amendment may be
 300 adopted if all of ~~under~~ the following conditions are met:

301 (a) The proposed amendment involves a use of 50 acres or
 302 fewer. ~~and:~~

303 (b) The proposed amendment does not involve a text change
 304 to the goals, policies, and objectives of the local government's
 305 comprehensive plan, but only proposes a land use change to the
 306 future land use map for a site-specific small-scale ~~small-scale~~
 307 development activity. However, site-specific text changes that
 308 relate directly to, and are adopted simultaneously with, the
 309 small-scale ~~small-scale~~ future land use map amendment are ~~shall~~
 310 ~~be~~ permissible under this section.

311 (c) The property that is the subject of the proposed
 312 amendment is not located within an area of critical state
 313 concern, unless the project subject to the proposed amendment
 314 involves the construction of affordable housing units meeting
 315 the criteria of s. 420.0004(3), and is located within an area of
 316 critical state concern designated by s. 380.0552 or by the
 317 Administration Commission pursuant to s. 380.05(1).

318 (d) The property located in Miami-Dade, Broward, or Monroe
 319 County which is the subject of the proposed amendment by a

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320 county as defined in s. 125.011(1) or any municipality located
321 therein is not located in whole or in part within, or within 2
322 miles of, the Everglades Protection Area as defined in s.
323 373.4592(2).

324 (2) Small-scale ~~Small-scale~~ development amendments adopted
325 pursuant to this section require only one public hearing before
326 the governing board, which must ~~shall~~ be an adoption hearing as
327 described in s. 163.3184(11). Within 10 days after the adoption
328 of a small-scale development amendment by a county whose
329 boundaries include any portion of the Everglades Protection Area
330 as defined in s. 373.4592(2), a county and the municipalities
331 within that county shall transmit a copy of the amendment to the
332 state land planning agency for recordkeeping purposes.

333 (3) If the small-scale ~~small-scale~~ development amendment
334 involves a site within a rural area of opportunity as defined
335 under s. 288.0656(2)(d) for the duration of such designation,
336 the acreage limit listed in subsection (1) shall be increased by
337 100 percent. The local government approving the small-scale
338 ~~small-scale~~ plan amendment shall certify to the state land
339 planning agency that the plan amendment furthers the economic
340 objectives set forth in the executive order issued under s.
341 288.0656(7), and the property subject to the plan amendment
342 shall undergo public review to ensure that all concurrency
343 requirements and federal, state, and local environmental permit
344 requirements are met.

345 (5) (a) Any affected person may file a petition with the
346 Division of Administrative Hearings pursuant to ss. 120.569 and
347 120.57 to request a hearing to challenge the compliance of a
348 small-scale ~~small-scale~~ development amendment with this act

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349 within 30 days following the local government's adoption of the
350 amendment and shall serve a copy of the petition on the local
351 government. An administrative law judge shall hold a hearing in
352 the affected jurisdiction not less than 30 days nor more than 60
353 days following the filing of a petition and the assignment of an
354 administrative law judge. The parties to a hearing held pursuant
355 to this subsection shall be the petitioner, the local
356 government, and any intervenor. In the proceeding, the plan
357 amendment shall be determined to be in compliance if the local
358 government's determination that the small-scale ~~small-scale~~
359 development amendment is in compliance is fairly debatable. The
360 state land planning agency may not intervene in any proceeding
361 initiated pursuant to this section. The prevailing party in a
362 challenge filed under this paragraph is entitled to recover
363 attorney fees and costs in challenging or defending the order,
364 including reasonable appellate attorney fees and costs.

365 (b)1. If the administrative law judge recommends that the
366 small-scale ~~small-scale~~ development amendment be found not in
367 compliance, the administrative law judge shall submit the
368 recommended order to the Administration Commission for final
369 agency action. If the administrative law judge recommends that
370 the small-scale ~~small-scale~~ development amendment be found in
371 compliance, the administrative law judge shall submit the
372 recommended order to the state land planning agency.

373 2. If the state land planning agency determines that the
374 plan amendment is not in compliance, the agency shall submit,
375 within 30 days following its receipt, the recommended order to
376 the Administration Commission for final agency action. If the
377 state land planning agency determines that the plan amendment is

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378 in compliance, the agency shall enter a final order within 30
379 days following its receipt of the recommended order.

380 (c) Small-scale ~~small-scale~~ development amendments may not
381 become effective until 31 days after adoption. If challenged
382 within 30 days after adoption, small-scale ~~small-scale~~
383 development amendments may not become effective until the state
384 land planning agency or the Administration Commission,
385 respectively, issues a final order determining that the adopted
386 small-scale ~~small-scale~~ development amendment is in compliance.

387 (d) In all challenges under this subsection, when a
388 determination of compliance as defined in s. 163.3184(1)(b) is
389 made, consideration shall be given to the plan amendment as a
390 whole and whether the plan amendment furthers the intent of this
391 part.

392 (6) This section may not be construed to limit the rights
393 and protections granted by s. 823.14.

394 Section 3. Subsection (5) of section 420.615, Florida
395 Statutes, is amended to read:

396 420.615 Affordable housing land donation density bonus
397 incentives.—

398 (5) The local government, as part of the approval process,
399 shall adopt a comprehensive plan amendment, pursuant to part II
400 of chapter 163, for the receiving land that incorporates the
401 density bonus. Such amendment shall be adopted in the manner as
402 required for small-scale amendments pursuant to s. 163.3187 and
403 is not subject to the requirements of s. 163.3184(4)(b), (c), or
404 (e) s. 163.3184(4)(b)–(d).

405 Section 4. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

1/16/24

Meeting Date

1364

Bill Number or Topic

CA

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name **DAVID CULLEN**

Phone **941-323-2404**

Address **816 W THARPE ST**

Email **CULLENASEA@GMAIL.COM**

Street

TALLAHASSEE

FL

32303

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SIERRA CLUB FLORIDA

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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1/16/24

Meeting Date

1364

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Kim Dinkins

Phone 850 352-273-5655

Address 308 N Monroe St

Street

Email kdinkins@1000fof.org

Tallahassee

City

FL

State

32301

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: 1000 Friends of Florida

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

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1/16/2024

Meeting Date

1364

Bill Number or Topic

COMMUNITY AFFAIRS

Committee

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Amendment Barcode (if applicable)

Name ELIZABETH ALVI

Phone 850-222-1098

Address 308 N. Monroe Street

Email Beth.Alvi@Audubon.org

City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

[] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

AUDUBON FLORIDA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

5-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/16/24

Meeting Date

SB 1364

Bill Number or Topic

Community Affairs
Committee

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Amendment Barcode (if applicable)

Name Anna Upton, Everglades Trust Phone 850-228-6360

Address 960 Live Oak Plantation Rd. Email anna@evergladestrust.org
Street

Tallahassee FL 32312
City State Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
Everglades Trust

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1440

INTRODUCER: Community Affairs Committee and Senator Calatayud

SUBJECT: Affordable Housing Property Tax Exemptions for Accessory Dwelling Units

DATE: January 16, 2024

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1440 amends the local option tax exemption for affordable housing, enacted in 2023, to provide that, in addition to existing options for what properties may receive the exemption, a county or municipality may exempt up to 100% of the assessed value of an accessory dwelling unit meeting certain affordable housing requirements.

The changes made by the bill first apply to the 2025 ad valorem tax roll, and the bill takes effect July 1, 2024.

II. Present Situation:

Affordable Housing

One major goal at all levels of government is to ensure that citizens have access to affordable housing. Housing is considered affordable when it costs less than 30 percent of a family's gross income. A family paying more than 30 percent of its income for housing is considered "cost burdened," while those paying more than 50 percent are considered "extremely cost burdened." Severely cost burdened households are more likely to sacrifice other necessities such as healthy food and healthcare to pay for housing, and to experience unstable housing situations such as eviction.

Affordable housing is defined in terms of household income. Resident eligibility for Florida’s state and federally funded housing programs is typically governed by area median income (AMI) levels. These levels are published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area. The following are standard household income level definitions and their relationship to the 2023 Florida state AMI of \$85,500 for a family of four (as family size increases or decreases, the income range also increases or decreases):¹

- Extremely low income – earning up to 30% AMI (at or below \$ 24,850);²
- Very low income – earning from 30.01 to 50% AMI (\$24,851 to \$41,450);³
- Low income – earning from 50.01 to 80% AMI (\$41,451 to \$66,350);⁴ and
- Moderate income – earning from 80.01 to 120% of AMI (\$66,351 to \$102,600).⁵

Ad Valorem 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.⁶ The property appraiser annually determines the “just value”⁷ of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”⁸ 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,⁹ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.¹⁰

Ad Valorem Exemption for Literary, Scientific, Religious, or Charitable Organizations

The Florida Constitution allows the Legislature to exempt from ad valorem taxation portions of property that are used predominantly for educational, literary, scientific, religious or charitable

¹ U.S. Department of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas – Click Here for FY 2023 IL Documentation*, available at <https://www.huduser.gov/portal/datasets/il.html#2023> (last visited Jan. 10, 2024). Note that income limits may not equal exactly 30, 50, or 80 percent of the statewide Median Family Income due to the application of ceilings and floors.

² Section 420.0004(9), F.S.

³ Section 420.0004(17), F.S.

⁴ Section 420.0004(11), F.S.

⁵ Section 420.0004(12), F.S.

⁶ 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.

⁷ 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).

⁸ *See* s. 192.001(2) and (16), F.S.

⁹ FLA. CONST. art. VII, s. 1(a).

¹⁰ *See* FLA. CONST. art. VII, s. 4.

purposes.¹¹ The Legislature has implemented these exemptions and set forth criteria to determine whether property is entitled to an exemption.¹²

To determine whether a property's use qualifies for an education, literary, scientific, religious, or charitable exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities or other uses of the property.¹³

Local Option Ad Valorem Exemption for Affordable Housing

In 2023, the Live Local Act¹⁴ created an optional ad valorem tax exemption for affordable housing which may be adopted via ordinance by a county or municipality.¹⁵

Portions of property eligible for such an exemption must be utilized to house persons or families meeting the extremely-low or very-low-income limits specified in s. 420.0004, F.S, be contained in a multifamily project of at least 50 units where at least 20 percent are reserved for affordable housing, and have rent set such that it provides affordable housing to people in the target income bracket or no higher than 90 percent of the fair market rent value as determined by a rental market study, whichever is less. Additionally, the property must not have been cited for three code violations in the preceding 24 months and must not have outstanding code violations or related fines.

In adopting this exemption, a local government may choose to offer either or both an exemption for two income groups: those earning up to 30 percent AMI and those earning between 30 to 60 percent AMI. The value of the exemption is up to 75 percent of the assessed value of each unit if less than 100 percent of the multifamily project's units are used to provide affordable housing, or up to 100 percent of the assessed value if 100 percent of the project's units are used to provide affordable housing.

An ordinance enacting such an exemption must:

- Be adopted under normal non-emergency procedures;
- Designate the local entity under the supervision of the governing body which must develop, receive, and review applications for certification and develop notices of determination of eligibility;
- Require the property owner to apply for certification on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding three years; a list of units for which the exemption is sought; and the rent amount received for each unit;
- Require the designated entity to verify and certify property as having met the requirements for the exemption, and to notify unsuccessful applicants with the reasons for denial;
- Set out the requirements for each unit discussed above;

¹¹ FLA. CONST. art. VII, s. 3(a).

¹² Section 196.196, F.S.

¹³ Section 196.196(1), F.S.

¹⁴ The "Live Local Act", Ch. 2023-17, Laws of Fla., made various changes to affordable housing related programs and policies at the state and local levels, including zoning and land use preemptions favoring affordable housing, funding for state affordable housing programs, and tax provisions intended to incentivize affordable housing development.

¹⁵ Section 196.1979, F.S.

- Require the property owner to submit an application for exemption accompanied by certification to the property appraiser by March 1;
- Specify that such exemption only applies to taxes levied by the unit of government granting the exemption;
- Specify that the property may not receive such an exemption after the expiration of the ordinance granting the exemption;
- Identify the percentage of assessed value to be exempted, and whether such exemption applies to very-low-income, extremely-low-income, or both; and
- Require that the deadline to submit an application and a list of certified properties be published on the government's website.

Such an ordinance must expire before the fourth January 1 after adoption, however the governing body may adopt a new ordinance renewing the exemption.

Accessory Dwelling Units

An accessory dwelling unit (ADU) is an ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area existing either within the same structure, or on the same lot, as the primary dwelling unit.¹⁶ A local government may adopt an ordinance allowing ADUs in any area zoned for single-family residential use.¹⁷ Each ADU allowed by such an ordinance counts towards the affordable housing component of the housing element in the local government's comprehensive plan.¹⁸

An application for a building permit to construct such ADUs must include an affidavit which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.¹⁹

III. Effect of Proposed Changes:

The bill amends s. 196.1979, F.S., to provide that, in addition to existing options for the local option tax exemption for affordable housing, a county or municipality may exempt up to 100 percent of the assessed value of an accessory dwelling unit meeting the same affordable housing requirements of the existing exemptions.

The changes made by the bill first apply to the 2025 ad valorem tax roll, and the bill takes effect July 1, 2024.

¹⁶ Section 163.31771(2)(a), F.S. ADUs are sometimes referred to as "granny flats" to denote their use in accommodating the housing needs of aging parents. ADUs have the potential to make the primary home more affordable by creating rental income for the homeowner, while also providing affordable rental housing.

¹⁷ Section 163.31771(3), F.S.

¹⁸ Section 163.31771(5), F.S.

¹⁹ Section 163.31771(4), F.S. The parameters defining the various income designations are specified in s 420.0004, F.S.

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

Article VII, s. 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. The bill speaks to a tax exemption which a local government may choose to adopt, but may forego; therefore the mandates restrictions likely do not apply.

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 reviewed the bill at this time.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments may see reduced revenues at their own discretion should they participate in the new local option tax exemption provided by the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.1979 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on January 16, 2024:

The CS deletes a provision of the bill removing the requirement that ordinances adopting the local option tax exemption for affordable housing expire before the fourth January 1 after adoption.

- B. **Amendments:**

None.



907494

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/16/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 12 - 86
and insert:

Section 1. Paragraphs (a) and (b) of subsection (1) of section 196.1979, Florida Statutes, are amended to read:

196.1979 County and municipal affordable housing property exemption.—

(1) (a) Notwithstanding ss. 196.195 and 196.196, the board



11 of county commissioners of a county or the governing body of a
12 municipality may adopt an ordinance to exempt those portions of
13 property used to provide affordable housing meeting the
14 requirements of this section. Such property is considered
15 property used for a charitable purpose. To be eligible for the
16 exemption, the portions of property:

17 1. Must be used to house natural persons or families whose
18 annual household income:

19 a. Is greater than 30 percent but not more than 60 percent
20 of the median annual adjusted gross income for households within
21 the metropolitan statistical area or, if not within a
22 metropolitan statistical area, within the county in which the
23 person or family resides; or

24 b. Does not exceed 30 percent of the median annual adjusted
25 gross income for households within the metropolitan statistical
26 area or, if not within a metropolitan statistical area, within
27 the county in which the person or family resides;

28 2.a. Must be within a multifamily project containing 50 or
29 more residential units, at least 20 percent of which are used to
30 provide affordable housing that meets the requirements of this
31 section; or

32 b. Must be an accessory dwelling unit as defined in s.
33 163.31771(2)(a);

34 3. Must be rented for an amount no greater than the amount
35 as specified by the most recent multifamily rental programs
36 income and rent limit chart posted by the corporation and
37 derived from the Multifamily Tax Subsidy Projects Income Limits
38 published by the United States Department of Housing and Urban
39 Development or 90 percent of the fair market value rent as



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40 determined by a rental market study meeting the requirements of
41 subsection (4), whichever is less;

42 4. May not have been cited for code violations on three or
43 more occasions in the 24 months before the submission of a tax
44 exemption application;

45 5. May not have any cited code violations that have not
46 been properly remedied by the property owner before the
47 submission of a tax exemption application; and

48 6. May not have any unpaid fines or charges relating to the
49 cited code violations. Payment of unpaid fines or charges before
50 a final determination on a property's qualification for an
51 exemption under this section will not exclude such property from
52 eligibility if the property otherwise complies with all other
53 requirements for the exemption.

54 (b) Qualified property may receive an ad valorem property
55 tax exemption of:

56 1. Up to 75 percent of the assessed value of each
57 residential unit used to provide affordable housing if fewer
58 than 100 percent of the multifamily project's residential units
59 are used to provide affordable housing meeting the requirements
60 of this section.

61 2. Up to 100 percent of the assessed value if 100 percent
62 of the multifamily project's residential units are used to
63 provide affordable housing meeting the requirements of this
64 section.

65 3. Up to 100 percent of the assessed value of the accessory
66 dwelling unit if the unit is used to provide affordable housing
67 meeting the requirements of this section.

68



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69

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

71 And the title is amended as follows:

72 Delete lines 6 - 7

73 and insert:

74 units from ad valorem taxation;

By Senator Calatayud

38-00602A-24

20241440__

1 A bill to be entitled
2 An act relating to affordable housing property tax
3 exemptions for accessory dwelling units; amending s.
4 196.1979, F.S.; authorizing counties and
5 municipalities to exempt certain accessory dwelling
6 units from ad valorem taxation; deleting a provision
7 requiring the expiration of certain tax exemptions;
8 providing applicability; providing an effective date.

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

11
12 Section 1. Paragraphs (a) and (b) of subsection (1) and
13 subsection (5) of section 196.1979, Florida Statutes, are
14 amended to read:

15 196.1979 County and municipal affordable housing property
16 exemption.—

17 (1) (a) Notwithstanding ss. 196.195 and 196.196, the board
18 of county commissioners of a county or the governing body of a
19 municipality may adopt an ordinance to exempt those portions of
20 property used to provide affordable housing meeting the
21 requirements of this section. Such property is considered
22 property used for a charitable purpose. To be eligible for the
23 exemption, the portions of property:

24 1. Must be used to house natural persons or families whose
25 annual household income:

26 a. Is greater than 30 percent but not more than 60 percent
27 of the median annual adjusted gross income for households within
28 the metropolitan statistical area or, if not within a
29 metropolitan statistical area, within the county in which the

38-00602A-24

20241440__

30 person or family resides; or

31 b. Does not exceed 30 percent of the median annual adjusted
32 gross income for households within the metropolitan statistical
33 area or, if not within a metropolitan statistical area, within
34 the county in which the person or family resides;

35 2.a. Must be within a multifamily project containing 50 or
36 more residential units, at least 20 percent of which are used to
37 provide affordable housing that meets the requirements of this
38 section; or

39 b. Must be an accessory dwelling unit as defined in s.
40 163.31771(2)(a);

41 3. Must be rented for an amount no greater than the amount
42 as specified by the most recent multifamily rental programs
43 income and rent limit chart posted by the corporation and
44 derived from the Multifamily Tax Subsidy Projects Income Limits
45 published by the United States Department of Housing and Urban
46 Development or 90 percent of the fair market value rent as
47 determined by a rental market study meeting the requirements of
48 subsection (4), whichever is less;

49 4. May not have been cited for code violations on three or
50 more occasions in the 24 months before the submission of a tax
51 exemption application;

52 5. May not have any cited code violations that have not
53 been properly remedied by the property owner before the
54 submission of a tax exemption application; and

55 6. May not have any unpaid fines or charges relating to the
56 cited code violations. Payment of unpaid fines or charges before
57 a final determination on a property's qualification for an
58 exemption under this section will not exclude such property from

38-00602A-24

20241440__

59 eligibility if the property otherwise complies with all other
60 requirements for the exemption.

61 (b) Qualified property may receive an ad valorem property
62 tax exemption of:

63 1. Up to 75 percent of the assessed value of each
64 residential unit used to provide affordable housing if fewer
65 than 100 percent of the multifamily project's residential units
66 are used to provide affordable housing meeting the requirements
67 of this section.

68 2. Up to 100 percent of the assessed value if 100 percent
69 of the multifamily project's residential units are used to
70 provide affordable housing meeting the requirements of this
71 section.

72 3. Up to 100 percent of the assessed value of the accessory
73 dwelling unit if the unit is used to provide affordable housing
74 meeting the requirements of this section.

75 ~~(5) An ordinance adopted under this section must expire~~
76 ~~before the fourth January 1 after adoption; however, the board~~
77 ~~of county commissioners or the governing body of the~~
78 ~~municipality may adopt a new ordinance to renew the exemption.~~
79 The board of county commissioners or the governing body of the
80 municipality shall deliver a copy of an ordinance adopted under
81 this section to the department and the property appraiser within
82 10 days after its adoption. If the ordinance expires or is
83 repealed, the board of county commissioners or the governing
84 body of the municipality must notify the department and the
85 property appraiser within 10 days after its expiration or
86 repeal.

87 Section 2. The amendments made by this act to s. 196.1979,

38-00602A-24

20241440__

88 Florida Statutes, first apply to the 2025 ad valorem tax roll.

89 Section 3. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

SB 1440

1/16/2024

Meeting Date

Community Affairs

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name **French Brown**

Phone **850-459-0992**

Address **106 E. College Ave, Suite 1200**

Email **fbrown@joneswalker.com**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Realtors

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

1/16/2024

Meeting Date

The Florida Senate
APPEARANCE RECORD

1440

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name **Zayne Smith**

Phone **(850) 228-4243**

Address **215 S. Monroe St.**

Email **zsmith@aarp.org**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AARP

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1526

INTRODUCER: Senator Avila

SUBJECT: Local Regulation of Nonconforming or Unsafe Structures

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Pre-meeting
2.			EN	
3.			RC	

I. Summary:

SB 1526 creates the Resiliency and Safe Structures Act (Act), providing that a local government may not prohibit, restrict, or prevent the demolition of the following structures for any reason other than public safety:

- Nonconforming structures located within one-half mile of the coastline which are also within zones V, VE, AO, or AE, as identified in the Flood Insurance Rate Map issued by the Federal Emergency Management Agency;
- Any structure determined to be unsafe by a local building official; and
- Any structure ordered to be demolished by a local government that has proper jurisdiction.

The bill provides that a local government must authorize replacement structures to be developed to the maximum height and overall building size authorized by local development regulations. The bill prohibits a local government from imposing certain restrictions and limitations on a replacement structure to be built on the property where a structure was demolished. The bill provides that a local government may review an application for a demolition permit only administratively for compliance with applicable building and safety codes.

The provisions of the bill do not apply to single-family homes or structures individually listed in the National Register of Historic Places.

The bill takes effect upon becoming a law.

II. Present Situation:

The Florida Building Code

In 1974, Florida passed legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met.¹ Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they saw fit.²

In 1992, Hurricane Andrew destroyed many structures that were built according to code, demonstrating that Florida's system of local codes was flawed.³ The Governor appointed a study commission to review the system of local codes and make recommendations for its modernization. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Building Code, and that first edition replaced all local codes on March 1, 2002.⁴

The Building Code is updated every three years.⁵ The current edition of the Building Code is the 8th edition, which is referred to as the 2023 Florida Building Code. Among other things, the Building Code sets limitations on building height and size.⁶ Height restrictions are determined based on the type of construction, occupancy classification, and whether there is an automatic sprinkler system installed throughout the building.⁷

The Florida Building Commission (commission) was statutorily created to implement the Building Code.⁸ The commission, which is housed within the Department of Business and Professional Regulation, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code.⁹ The commission reviews International Codes published by the International Code Council,¹⁰ the National Electric Code, and other nationally adopted model codes during its triennial update of the Building Code.¹¹

¹ Dep't of Community Affairs, *The Florida Building Commission Report to the 2006 Legislature*, 4 (2006), available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 10, 2024).

² *Id.*

³ *Id.*

⁴ *Id.*; Dep't of Business and Professional Regulation, *Building Code Information System*, <https://floridabuilding.org/c/default.aspx> (last visited Jan 10, 2024).

⁵ See Fla. Bldg. Commission, *Florida Building Codes and Effective Dates*, available at https://www.floridabuilding.org/fbc/Publications/2023_Effective_Dates.pdf. (last visited Jan 10, 2024)

⁶ Int'l Code Council, *2023 Florida Building Code, Building: 8th Edition*, s. 503, available at https://codes.iccsafe.org/content/FLBC2020P1/chapter-5-general-building-heights-and-areas#FLBC2020P1_Ch05_Sec502. (last visited Jan 10, 2024)

⁷ *Id.* at s. 504.1.

⁸ See section 553.74(1), F.S.

⁹ *Id.*

¹⁰ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to construct safe, sustainable, affordable and resilient structures. ICC, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 10, 2024).

¹¹ Section 553.73(3), F.S.

Local governments may adopt amendments to the technical provisions of the Building Code that apply solely within the jurisdiction of such government and that provide for more stringent requirements than those specified in the Building Code.¹² A local government must determine there is a need to strengthen the requirements of the Building Code based on a review of local conditions.¹³ Such amendments may not introduce a new subject not addressed in the Building Code.¹⁴ Most technical amendments sunset upon adoption of the newest edition of the Building Code, unless adopted into the Building Code.¹⁵

Local Enforcement of the Florida Building Code

Local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.¹⁶ Every local government must enforce the Building Code and issue building permits.¹⁷ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit.¹⁸ Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code, including certain building, electrical, plumbing, mechanical, and gas inspections.¹⁹ Construction work may not be done beyond a certain point until it passes an inspection.²⁰

Demolition Permits

Under state law, a permit is required to demolish a building.²¹ The enforcing agency may revoke any such permit if the demolition is in violation of, or not in conformity with, the provisions of the Florida Building Code.²² However, an application for a demolition permit may only be reviewed administratively for compliance with the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code (or local amendments thereto), and any regulations applicable to a similarly situated parcel.²³ A local government may not subject applications to any additional local land development regulations or public hearings or penalize a private property owner for a demolition that is in compliance with the demolition permit.²⁴ However, a local law, ordinance, or regulation may restrict demolition permits for certain designated historic structures:²⁵

¹² Section 553.73(4)(b), F.S.

¹³ Section 553.73(4)(b)1., F.S.

¹⁴ Section 553.73(4)(b)3., F.S.

¹⁵ Section 553.73(4)(e), F.S.

¹⁶ Section 553.72(2), F.S.

¹⁷ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

¹⁸ Sections 125.56(4)(a) and 553.79(1), F.S.

¹⁹ Int'l Code Council, *2020 Florida Building Code: 7th Edition*, section 110, available at

https://codes.iccsafe.org/content/FLBC2020P1/chapter-1-scope-and-administration#FLBC2020P1_Ch01_SubCh02. (last visited Jan. 10, 2023)

²⁰ *Id.*

²¹ Section 553.79(1)(a), F.S.

²² *Id.*

²³ Section 553.79(25)(b), F.S.

²⁴ *Id.*

²⁵ Section 553.79(25)(d), F.S.

- Structure designated on the National Register of Historic Places;²⁶
- Privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022; or
- Privately owned single-family residential structure designated historic after January 1, 2022, by a local, state, or federal governmental agency with the consent of its owner.

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968.²⁷ The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides homeowners, business owners, and renters in flood-prone areas the ability to purchase flood insurance protection from the federal government.²⁸ The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk and to reduce flood risk through the adoption of floodplain management standards. Participation in the NFIP is voluntary.²⁹ Within participating communities, the federal government makes flood insurance available throughout the community.³⁰ To join, a community must:

- Complete an application;
- Adopt a resolution of intent to participate and cooperate with FEMA; and
- Adopt and submit a floodplain management ordinance that meets or exceeds the minimum NFIP criteria.³¹

In coordination with participating communities, FEMA develops flood maps called Flood Insurance Rate Maps (FIRMs) that depict the community's flood risk and floodplain.³² While FEMA is largely responsible for the creation of the FIRM, the community itself must pass the map into its local regulations in order for the map to be effective.³³ An area of specific focus on the FIRM is the Special Flood Hazard Area (SFHA).³⁴ The SFHA is intended to distinguish the flood risk zones that have a chance of flooding during a 1-in-100 year flood or greater frequency. This means that properties in the SFHA have a risk of 1 percent or greater risk of flooding every

²⁶ The National Register of Historic Places is the federal government's official list of historic places in the United States. The National Historic Preservation Act of 1966 authorized the register, which is administered by the National Park Service. In order to be listed on the register the owner of the property must not object. National Park Service, What is the National Register of Historic Places, <https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm> (last visited Jan. 10, 2024).

²⁷ FEMA, *50 Years of the NFIP*, available at https://www.fema.gov/sites/default/files/2020-05/NFIP_50th_Final_8.5x11_Regional_Printable.pdf. (last visited Jan. 10, 2024)

²⁸ Benefits.gov, National Flood Insurance Program (NFIP), available at <https://www.benefits.gov/benefit/435> (last visited Apr. 20, 2024)

²⁹ FEMA, *Participation in the NFIP*, <https://www.fema.gov/glossary/participation-nfip#:~:text=Participation%20in%20the%20National%20Flood%20Insurance%20Program%20%28NFIP%29,of%20intent%20to%20participate%20and%20cooperate%20with%20FEMA%3B> (last visited Jan. 10, 2024).

³⁰ *Id.*

³¹ *Id.*

³² See Congressional Research Service, *Introduction to the National Flood Insurance Program*, 3 (2023), available at <https://crsreports.congress.gov/product/pdf/R/R44593>. (last visited Jan. 10, 2024)

³³ *Id.*

³⁴ *Id.*

year³⁵ (and at least a 26 percent chance of flooding over the course of a 30-year mortgage).³⁶ Flood maps along the coasts show areas at high risk of flooding within the coastal SFHA.³⁷ The coastal SFHA includes several flood hazard zones:

- Zone V are those areas closest to the shoreline and subject to wave action, high-velocity flow, and erosion during the 100-year flood;³⁸
- Zone VE, also known as the coastal high hazard area, is where wave action and fast-moving water can cause extensive damage during a base flood event;³⁹
- Zone AE indicates areas that have at least a 1 percent-annual-chance of being flooded, but where wave heights are less than 3 feet;⁴⁰
- Zone AO is used to map areas at risk of shallow flooding during a base (1 percent-annual-chance) flood, where water with average depths of one to three feet flows over sloping ground. On flood maps in coastal communities, Zone AO usually marks areas at risk of flooding from wave overtopping, where waves are expected to wash over the crest of a dune or bluff and flow into the area beyond.⁴¹

In a community that participates in the NFIP, owners of properties in the mapped SFHA are required to purchase flood insurance as a condition of receiving a federally backed mortgage.⁴²

Key conditions of the NFIP minimum floodplain management standards include, among things, that communities:

- Require permits for development in the SFHA;
- Require elevation of the lowest floor of all new residential buildings in the SFHA to or above the base flood elevation;
- Restrict development in floodways to prevent increasing the risk of flooding; and
- Require certain construction materials and methods that minimize future flood damage.⁴³

³⁵ *Id.*

³⁶ FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, available at https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf (last visited Jan. 10, 2024)

³⁷ FEMA, *Features of Flood Insurance Rate Maps in Coastal Areas*, <https://www.fema.gov/flood-maps/coastal/insurance-rate-maps> (last visited Jan. 10, 2024).

³⁸ FEMA, *Using a Flood Insurance Rate Map (FIRM)*, 1, available at https://www.flash.org/resources/files/HGCC_Fact03.pdf. (last visited Jan 10, 2024)

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Congressional Research Service, *Introduction to the National Flood Insurance Program* at 10. Such lenders include federal agency lenders, such as the Department of Veterans Affairs, government-sponsored enterprises Fannie Mae, Freddie Mac, and federally regulated lending institutions, such as banks covered by the Federal Deposit Insurance Corporation (FDIC) or the Office of the Comptroller of the Currency.

⁴³ Congressional Research Service, *Introduction to the National Flood Insurance Program*, 6 (2023), available at <https://crsreports.congress.gov/product/pdf/R/R44593>. (last visited Jan 10, 2023)

New Construction Requirements in Coastal Flood Hazard Zones

For communities participating in the NFIP, FEMA places requirements on any new construction built in flood hazard areas.⁴⁴ Generally, new construction in flood-prone areas must be:⁴⁵

- Designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- Constructed with materials resistant to flood damage;
- Constructed by methods and practices that minimize flood damages; and
- Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding.⁴⁶

Specific conditions for new construction in coastal flood hazard zones include requiring all new construction to:⁴⁷

- Be located landward of the reach of mean high tide;
- Be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;
- Be elevated on pilings and columns so that the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and
- Have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Such space may be used only for parking of vehicles, building access, or storage.⁴⁸

III. Effect of Proposed Changes:

The bill contains several whereas clauses providing the following:

- It is of paramount importance to replace older, unsafe, or nonconforming structures that are a threat to life and safety with new, resilient buildings built to contemporary building codes and standards;
- Nonconforming structures that are within one half-mile of the coast and that are also within a coastal special flood hazard area and structures that are ordered to be demolished or that are deemed unsafe by local building officials pose an increased risk of collapse, may affect the integrity or stability of neighboring buildings or structures, and may cause injury to persons or property;

⁴⁴ See 44 C.F.R. § 60.3.

⁴⁵ 44 C.F.R. § 60.3(a)(3).

⁴⁶ *Id.*

⁴⁷ 44 C.F.R. § 60.3(e)(3)-(5).

⁴⁸ *Id.*

- Local governmental laws, procedures, and policies that prohibit or limit the demolition of nonconforming or unsafe structures or limit the construction of new resilient structures pose a threat to life and public safety;
- Nonconforming structures that are within one half-mile of the coast and that are also within a coastal special flood hazard area, regardless of whether the structures are deemed unsafe by a local building official or are subject to a demolition order, must be permitted to be demolished and to have replacement structures authorized, allowing owners or developers to enjoy all land use and development rights that would apply to the property without regard to any local restrictions that may restrict future development as a result of the demolition ; and
- To make the application and enforcement of this act uniform throughout this state, the Legislature intends to preempt the regulation of the demolition of certain structures and buildings to the state.

Section 1 creates s. 553.8991, F.S., which establishes the Resiliency and Safe Structures Act. The bill applies to all of the following structures, unless the structure is individually listed in the National Register of Historic Places or is a single-family home:

- “Nonconforming structures” located within one-half mile of the coastline which are also within zones V, VE, AO, or AE, as identified in the Flood Insurance Rate Map issued by the Federal Emergency Management Agency.
- Any structure determined to be unsafe by a local building official.
- Any structure ordered to be demolished by a local government that has proper jurisdiction.

The bill defines “nonconforming structure” as a structure that does not conform to the requirements for new construction issued by the National Flood Insurance Program.

The bill provides that a “local government”—defined to include any municipality, county, special district, or any other political subdivision of the state—may not prohibit, restrict, or prevent the demolition of any structure identified in this section for any reason other than public safety. A local government may review an application for a demolition permit only administratively for compliance with the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulation applicable to a similarly situated parcel. The local government may not subject an application to additional local land development regulations or public hearings.

In addition, the bill provides that local governments must authorize “replacement structures” to be developed to the maximum height and overall building size authorized by local development regulations. The bill defines “replacement structure” as a new structure built on a property where a structure was demolished or will be demolished in accordance with this section. A local government may not:

- Limit, for any reason, the development potential of replacement structures below the maximum allowed by local development regulations.
- Require replication of a demolished structure.
- Require the preservation of any element of a demolished structure.
- Impose additional regulatory or building requirements on a replacement structure which would not otherwise be applicable to a similarly situated vacant parcel.

The bill applies prospectively and retroactively to any “law”—defined to include any statute, ordinance, rule, regulation, policy, resolution, code enforcement order, agreement, or other governmental act—that is contrary to the bill or its intent; however, the bill does not apply to s. 553.79(25), F.S., regarding the demolition of single-family residential structures located in certain high-hazard areas and flood zones. The bill must be liberally construed to effectuate its intent.

The bill also includes a preemption provision that prohibits a local government from adopting or enforcing a law that in any way limits the demolition of a qualifying structure or that limits the development of a replacement structure. A local government may not penalize an owner or developer of a replacement structure or otherwise enact laws that defeat the intent of the bill. Any local government law contrary to this section is void.

Section 2 provides that the act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may allow more structures to be demolished and new structures to be built in their places, which would increase construction and development.

C. Government Sector Impact:

Local governments may have to expend funds to process a possible increase in demolition permits. However, local governments may collect fees to cover the cost of their expenses to enforce the Building Code, which includes reviewing building permit applications

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 553.8991 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Avila

39-01119A-24

20241526__

1 A bill to be entitled
2 An act relating to local regulation of nonconforming
3 or unsafe structures; creating s. 553.8991, F.S.;
4 providing a short title; defining terms; providing
5 applicability; prohibiting local governments from
6 prohibiting, restricting, or preventing the demolition
7 of certain structures unless necessary for public
8 safety; authorizing local governments to review
9 demolition permit applications only for a specified
10 purpose; prohibiting additional local land development
11 regulations or public hearings; requiring that
12 replacement structures be permitted to be developed in
13 accordance with applicable development regulations;
14 prohibiting local governments from taking certain
15 actions regarding replacement structures; providing
16 for retroactive application; providing applicability
17 and construction; preempting regulation of the
18 demolition or replacement of certain structures to the
19 state under certain circumstances; providing an
20 effective date.

21
22 WHEREAS, it is of paramount importance to replace older,
23 unsafe, or nonconforming structures that are a threat to life
24 and safety with new, resilient buildings built to contemporary
25 building codes and standards, and

26 WHEREAS, nonconforming structures that are within one-half
27 mile of the coast and that are also within a coastal special
28 flood hazard area, in addition to any structures that are
29 ordered to be demolished or that are deemed unsafe by local

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30 building officials, pose an increased risk of collapse, may
31 affect the integrity or stability of neighboring buildings or
32 structures, and may cause injury to persons or property, and

33 WHEREAS, local governmental laws, procedures, and policies
34 that prohibit or limit the demolition of nonconforming or unsafe
35 structures or limit the construction of new, resilient
36 structures pose a threat to life and public safety, and

37 WHEREAS, nonconforming structures that are within one-half
38 mile of the coast and that are also within a coastal special
39 flood hazard area, regardless of whether the structures are
40 deemed unsafe by a local building official or are subject to a
41 demolition order, must be permitted to be demolished and to have
42 replacement structures authorized, allowing owners or developers
43 to enjoy all land use and development rights that would apply to
44 the property without regard to any local restrictions that may
45 restrict future development as a result of the demolition, and

46 WHEREAS, to make the application and enforcement of this
47 act uniform throughout this state, the Legislature intends to
48 preempt the regulation of the demolition of certain structures
49 and buildings to the state, NOW, THEREFORE,

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Section 553.8991, Florida Statutes, is created
54 to read:

55 553.8991 Resiliency and Safe Structures Act.—

56 (1) SHORT TITLE.—This section may be cited as the
57 “Resiliency and Safe Structures Act.”

58 (2) DEFINITIONS.—As used in this section, the term:

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59 (a) "Law" means any statute, ordinance, rule, regulation,
60 policy, resolution, code enforcement order, agreement, or other
61 governmental act.

62 (b) "Local government" means a municipality, county,
63 special district, or any other political subdivision of the
64 state.

65 (c) "Nonconforming structure" means a structure that does
66 not conform to the requirements for new construction issued by
67 the National Flood Insurance Program.

68 (d) "Replacement structure" means a new structure built on
69 a property where a structure was demolished or will be
70 demolished in accordance with this section.

71 (3) QUALIFYING STRUCTURES AND BUILDINGS.—This section
72 applies to all of the following structures, unless the structure
73 is individually listed in the National Register of Historic
74 Places or is a single-family home:

75 (a) Nonconforming structures located within one-half mile
76 of the coastline which are also within zones V, VE, AO, or AE,
77 as identified on the Flood Insurance Rate Map issued by the
78 Federal Emergency Management Agency.

79 (b) Any structure determined to be unsafe by a local
80 building official.

81 (c) Any structure ordered to be demolished by a local
82 government that has proper jurisdiction.

83 (4) RESTRICTIONS ON DEMOLITION PROHIBITED.—A local
84 government may not prohibit, restrict, or prevent the demolition
85 of any structure identified in subsection (3) for any reason
86 other than public safety. A local government may review an
87 application for a demolition permit sought pursuant to this

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88 section only administratively for compliance with the Florida
89 Building Code, the Florida Fire Prevention Code, and the Life
90 Safety Code, or local amendments thereto, and any regulation
91 applicable to a similarly situated parcel. The local government
92 may not subject an application to additional local land
93 development regulations or public hearings.

94 (5) RESTRICTIONS ON REDEVELOPMENT PROHIBITED.—A local
95 government shall authorize replacement structures to be
96 developed to the maximum height and overall building size
97 authorized by local development regulations. A local government
98 may not do any of the following:

99 (a) Limit, for any reason, the development potential of
100 replacement structures below the maximum allowed by local
101 development regulations.

102 (b) Require replication of a demolished structure.

103 (c) Require the preservation of any element of a demolished
104 structure.

105 (d) Impose additional regulatory or building requirements
106 on a replacement structure which would not otherwise be
107 applicable to a similarly situated vacant parcel.

108 (6) APPLICATION AND CONSTRUCTION.—This section applies
109 prospectively and retroactively to any law adopted contrary to
110 this section or its intent and must be liberally construed to
111 effectuate its intent. This section does not apply to or affect
112 s. 553.79(25).

113 (7) PREEMPTION.—A local government may not adopt or enforce
114 a law that in any way limits the demolition of a structure
115 identified in subsection (3) or that limits the development of a
116 replacement structure in violation of subsection (5). A local

39-01119A-24

20241526__

117 government may not penalize an owner or a developer of a
118 replacement structure for a demolition pursuant to this section
119 or otherwise enact laws that defeat the intent of this section.
120 Any local government law contrary to this section is void.

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

The Florida Senate

APPEARANCE RECORD

SB 1526

Jan 16, 2024

Meeting Date

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Community Affairs

Committee

Amendment Barcode (if applicable)

Name Alex Fernandez

Phone 786-999-5662

Address 1700 Convention Center Dr.

Email

Street

Miami Beach FL

State

33139

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

January 16, 2023

Meeting Date

Community Affairs

Committee

1526 ...nonconforming Structures

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Mat Forrest**

Phone **850-577-0444**

Address **201 E. Park Ave.**
Street

Email **Mat@ballardpartners.com**

Tallahassee
City

FL
State

32301
Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Town of Palm Beach

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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11/16/24

Meeting Date

1526

Bill Number or Topic

Community Affairs

Committee

Amendment Barcode (if applicable)

Name David Cruz

Phone 701-3476

Address P.O. Box 1757

Street

Email DCRUZ@FLCITIES.COM

Tallahassee FL

City

State

32302

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida League of Cities

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/16/24
Meeting Date

1526
Bill Number or Topic

Community Affairs
Committee

Amendment Barcode (if applicable)

Name Kim Dinkins Phone 850-273-5055

Address 308 N mannae St Email kdinkins@1000fof.org
Street

Tallahassee FL 32301
City State Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
1000 Friends of Florida
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

1/16/2024

Meeting Date

The Florida Senate
APPEARANCE RECORD

1526

Bill Number or Topic

COMMUNITY AFFAIRS

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name LENA JUAREZ

Phone 850 212 8330

Address PO Box 10390

Email lena@jejassoc.com

Street

TALLAHASSEE FL 32302

City

State

Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

5-001 (08/10/2021)



SENATOR Bryan Avila
39th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Government Oversight and Accountability, Chair
Appropriations
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Ethics and Elections
Health Policy
Select Committee on Resiliency
Joint Select Committee on Collective Bargaining

January 10, 2024

Honorable Senator Alexis Calatayud
Committee on Community Affairs

Honorable Chair Calatayud:

I respectfully request SB 1526 Local Regulations of Nonconforming or Unsafe Structures be placed on the next committee agenda.

SB 1526 Local Regulation of Nonconforming or Unsafe Structures; Designating the "Resiliency and Safe Structures Act"; prohibiting local governments from prohibiting, restricting, or preventing the demolition of certain structures unless necessary for public safety; authorizing local governments to review demolition permit applications only for a specified purpose; prohibiting additional local land development regulations or public hearings.

Sincerely,

A handwritten signature in blue ink that reads "Bryan Avila".

Senator Bryan Avila
Florida Senate, District 39

CC: Elizabeth Ryon, Staff Director
Tatiana Warden, Committee Administrative Assistant
Alian Collazo, Legislative Aide

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR BRYAN AVILA
39th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Appropriations
Appropriations Committee on Education
Appropriations Committee on Health and
Human Services
Education Pre-K -12
Ethics and Elections
Health Policy

SELECT COMMITTEE:
Select Committee on Resiliency

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining,
Alternating Chair

January 15, 2024

The Honorable Senator Alexis Calatayud
Committee on Community Affairs

REF: EXCUSAL LETTER

Honorable Senator Calatayud,

Thank you for scheduling SB 1526 Local Regulations of Nonconforming or Unsafe Structures for Tuesday, January 16, 2024. I am requesting SB 1526 to be Temporary Postponed until the third week of Session.

I have an unexpected emergency medical procedure.

Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Bryan Avila".

Bryan Avila
Senator
District 39

CC: Elizabeth Ryon, Secretary of the Senate
Tatiana Warden, Administrative Assistant
Jeremy Hudak, Legislative Analyst, Senate Majority Office
Alian Collazo, Legislative Assistant
Megan Ramba, Office Manager, Office of the President

□ 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Community Affairs Committee

Judge:

Started: 1/16/2024 11:00:49 AM

Ends: 1/16/2024 11:45:52 AM

Length: 00:45:04

11:00:50 AM Chair Calatayud calls meeting to order
11:00:58 AM Roll Call
11:01:00 AM Quorum is present
11:01:22 AM Tab 6 SB 1526 by Senator Avila is not going to be considered
11:01:40 AM Tab 1 SB 44 by Senator Stewart, Public Restroom Requirements
11:01:49 AM Senator Stewart recognized to explain the bill
11:02:45 AM Senator recognized to waive close
11:02:50 AM Roll call
11:03:11 AM Reported favorably
11:03:14 AM Tab 5 SB 1082 by Senator Collins, Housing for Agricultural Workers
11:03:22 AM Senator Collins recognized to explain the bill
11:04:13 AM Senator Berman recognized for question
11:04:28 AM Senator Collins recognized to answer
11:04:50 AM Senator Berman recognized for follow up
11:05:00 AM Senator Collins recognized to answer
11:05:19 AM Public Testimony recognized
11:05:53 AM Senator Collins recognized to close on the bill
11:06:09 AM Comments from Senator Collins
11:07:08 AM Roll call on SB 1082
11:07:31 AM Reported favorably
11:07:35 AM Tab 4 SB 1030 by Senator Rodriguez, Taxation
11:07:55 AM Senator Rodriguez recognized to explain the bill
11:08:27 AM Senator Berman recognized for question
11:08:40 AM Senator Rodriguez recognized for answer
11:09:12 AM Senator Berman recognized for follow up
11:09:37 AM Senator Rodriguez recognized for answer
11:10:17 AM Public Testimony recognized
11:10:44 AM Senator Berman recognized for back and forth
11:13:55 AM Public Testimony recognized
11:14:05 AM Senator Rodriguez recognized to close the bill
11:14:19 AM Roll Call SB 1030
11:14:39 AM Reported Favorably
11:14:42 AM Chair Calatayud passes the Gavel to Vice Chair Osgood
11:15:05 AM Tab 2 SB 894 by Senator Bradley, Governing Body Meetings
11:15:18 AM Senator Bradley recognized to explain the bill
11:15:57 AM Public Testimony recognized
11:16:10 AM Senator Bradley recognized to close on the bill
11:16:22 AM Senator Bradley waives close
11:16:28 AM Roll Call SB 894
11:16:47 AM Reported Favorably
11:16:58 AM Tab 3 SB 1004 by Senator Torres (Senator Pizzo filling in), Tax Exemptions for Disabled Ex-servicemembers
11:17:21 AM Senator Pizzo recognized to explain the bill
11:17:42 AM Public Testimony recognized
11:18:09 AM Senator Pizzo recognized to close on the bill
11:18:18 AM Roll Call SB 1004
11:18:36 AM Reported favorably
11:18:44 AM Stand in a Formal Recess
11:18:55 AM Recording Paused
11:36:26 AM Recording Resumed
11:36:29 AM Chair Calatayud has returned
11:36:35 AM Tab 6 SB 1364 by Senator Calatayud, Everglades Protection Area

11:36:49 AM Senator Calatayud recognized to explain the bill
11:37:48 AM Senator Berman recognized for question
11:38:13 AM Senator Calatayud recognized for answer, back and forth Between Senator Berman and Senator Calatayud
11:39:31 AM Public Testimony recognized
11:40:03 AM Senator Berman recognized for debate
11:40:33 AM Chair Osgood makes comments
11:40:43 AM Senator Calatayud recognized to close on the bill
11:41:25 AM Roll Call on SB 1364
11:41:35 AM Reported Favorably
11:41:49 AM Tab 7 SB 1440 by Senator Calatayud, Affordable Housing Property Tax Exemptions for Accessory Dwelling Units
11:42:03 AM Senator Calatayud recognized to explain the amendment
11:42:18 AM Take up Amendment Barcode #907494
11:43:33 AM Senator Calatayud recognized to close on amendment
11:43:43 AM Voice Vote
11:43:48 AM Back on bill as amended
11:44:14 AM Senator Calatayud recognized to close on the bill as amended
11:44:23 AM Roll Call on SB 1440
11:44:37 AM Reported favorably
11:44:46 AM Chair Osgood passes gavel back to Senator Calatayud
11:44:58 AM Senator Brodner shown voting on the affirmative on Tabs 2,3,4
11:45:14 AM Senator Martin shown voting on the affirmative on Tabs 1,5
11:45:25 AM Senator Calatayud shown voting on the affirmative on Tabs 2,3
11:45:35 AM Senator Bradley moves to adjourn
11:45:42 AM Meeting Adjourned