Tab 1	**CS/SB 368** by **IS, Rouson**; (Similar to CS/H 00503) Tampa Bay Area Regional Transit Authority

Tab 2	**CS/SB 538** by **IS, Diaz (CO-INTRODUCERS) Book, Pizzo, Perry**; (Compare to CS/H 00865) Emergency Reporting

274454	D	S	RCS	CA, Diaz	Delete everything after	02/11 02:13 PM

Tab 3	**CS/SB 724** by **EN, Albritton**; (Identical to H 01031) Local Government Recycling Programs

670630	A	S		CA, Albritton	Delete L.18 - 52:	01/30 08:15 AM

Tab 4	**CS/SB 752** by **IS, Bean (CO-INTRODUCERS) Book, Cruz**; (Similar to CS/H 00705) Emergency Sheltering of Persons with Pets

399324	D	S	RCS	CA, Bean	Delete everything after	02/12 08:14 AM

Tab 5	**SB 906** by **Farmer**; (Identical to H 01415) Prohibited Reptiles

852402	A	S	L	RCS	CA, Farmer	Delete L.62 - 91:	02/12 03:08 PM

Tab 6	**SB 1066** by **Gruters**; (Similar to CS/CS/H 00637) Impact Fees

977602	D	S	RCS	CA, Gruters	Delete everything after	02/12 10:38 AM

Tab 7	**SB 1102** by **Gruters**; (Similar to CS/H 01169) Specialty Contracting Services

166916	A	S	RCS	CA, Gruters	btw L.17 - 18:	02/12 11:49 AM

Tab 8	**SB 1122** by **Pizzo**; (Compare to H 01405) Emergency Telecommunication Devices in Public Swimming Pools

Tab 9	**CS/SB 1148** by **IS, Brandes**; (Similar to CS/H 00971) Electric Bicycles

Tab 10	**CS/SB 1154** by **IT, Baxley**; (Similar to CS/CS/H 00623) Community Associations

318148	A	S	RCS	CA, Baxley	Delete L.72 - 1430:	02/12 04:49 PM

Tab 11	**SJR 1502** by **Diaz**; (Identical to H 07061) Information About Counties and Municipalities

Tab 12	**SB 1512** by **Diaz**; (Similar to H 07069) Local Government Reporting

Tab 13	**SB 1662** by **Albritton (CO-INTRODUCERS) Broxson**; (Compare to CS/H 01249) Property Tax Exemption for Disabled Veterans

166378	A	S		CA, Albritton	Delete L.48 - 62:	01/31 03:44 PM
972868	SA	S	RCS	CA, Albritton	Delete L.48 - 62:	02/12 03:08 PM

Tab 14	**CS/SB 1766** by **JU, Lee (CO-INTRODUCERS) Perry**; (Compare to CS/H 00519) Growth Management

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Flores, Chair
Senator Farmer, Vice Chair

MEETING DATE: Monday, February 10, 2020
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 368** Infrastructure and Security / Rouson (Similar CS/H 503)	Tampa Bay Area Regional Transit Authority; Renaming the Tampa Bay Area Regional Transit Authority Metropolitan Planning Organization Chairs Coordinating Committee as the Chairs Coordinating Committee; providing that a mayor's designated alternate may be a member of the governing board of the authority; deleting a provision requiring that the authority present the original regional transit development plan and updates to specified entities, etc. IS 01/27/2020 Fav/CS CA 02/10/2020 Favorable RC	Favorable Yeas 5 Nays 0
2	**CS/SB 538** Infrastructure and Security / Diaz (Compare CS/H 865)	Emergency Reporting; Requiring a county or municipality to report certain incidents to the State Watch Office within the Division of Emergency Management; requiring the division to annually provide the State Watch Office Reportable Incidents List to local emergency managers and the Legislature; requiring the division to notify local emergency managers and the Legislature of any amendments to the reportable incidents list, etc. IS 01/21/2020 Fav/CS CA 02/10/2020 Fav/CS RC	Fav/CS Yeas 5 Nays 0
3	**CS/SB 724** Environment and Natural Resources / Albritton (Identical H 1031)	Local Government Recycling Programs; Creating the Florida Recycling Working Group; requiring the working group to submit a report to the Legislature by a specified date; providing an expiration date for the working group; providing an exemption for fiscally constrained counties from recycling requirements, etc. EN 12/09/2019 Fav/CS CA 02/03/2020 Temporarily Postponed CA 02/10/2020 Temporarily Postponed AP	Temporarily Postponed

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 752** Infrastructure and Security / Bean (Similar CS/H 705)	Emergency Sheltering of Persons with Pets; Requiring the Department of Education to assist the Division of Emergency Management in determining strategies regarding the evacuation of persons with pets; requiring counties that meet specified criteria to designate and operate at least one shelter that can accommodate persons with pets; specifying requirements for such shelters, etc. IS 01/27/2020 Fav/CS CA 02/10/2020 Fav/CS RC	Fav/CS Yeas 5 Nays 0
5	**SB 906** Farmer (Identical H 1415)	Prohibited Reptiles; Prohibiting a person, party, firm, association, or corporation from keeping, possessing, importing, selling, bartering, trading, or breeding for personal use or sale for personal use green iguanas or black and white tegus, etc. EN 01/21/2020 Favorable CA 02/10/2020 Fav/CS RC	Fav/CS Yeas 5 Nays 0
6	**SB 1066** Gruters (Similar CS/CS/H 637)	Impact Fees; Revising the conditions that counties, municipalities, and special districts must satisfy before enacting an impact fee by ordinance or passing an impact fee by resolution; providing timeframes for the collection of impact fees by local governments; requiring certain counties and municipalities to establish impact fee review committees, etc. CA 02/10/2020 Fav/CS FT AP	Fav/CS Yeas 5 Nays 0
7	**SB 1102** Gruters (Similar CS/H 1169)	Specialty Contracting Services; Authorizing certain persons under the supervision of specified licensed contractors to perform certain specialty contracting services for commercial or residential swimming pools, hot tubs or spas, or interactive water features; providing that such supervision does not require a direct contract between those persons, etc. IT 01/21/2020 Favorable CA 02/10/2020 Fav/CS RC	Fav/CS Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**SB 1122** Pizzo (Compare H 1405)	Emergency Telecommunication Devices in Public Swimming Pools; Authorizing public swimming pools to be equipped with continuously accessible emergency telecommunication devices; providing that an owner of a public swimming pool who elects to install such device must comply with certain requirements by a specified date; providing that property on which a public swimming pool is equipped with an emergency telecommunication device is eligible for certain adjustments or reductions in general liability insurance policy rates, etc. CA 02/10/2020 Favorable BI RC	Favorable Yeas 5 Nays 0
9	**CS/SB 1148** Infrastructure and Security / Brandes (Similar CS/H 971)	Electric Bicycles; Revising definitions relating to the Florida Uniform Traffic Control Law; authorizing a county or municipality to enact an ordinance regulating the operation of electric bicycles on sidewalks or sidewalk areas when such use is permissible under federal law; expanding exceptions to a prohibition on persons driving certain vehicles on sidewalks and bicycle paths; requiring electric bicycles to comply with specified provisions of law, etc. IS 02/03/2020 Fav/CS CA 02/10/2020 Favorable RC	Favorable Yeas 5 Nays 0
10	**CS/SB 1154** Innovation, Industry, and Technology / Baxley (Similar CS/CS/H 623, Compare CS/CS/H 689, CS/CS/H 733, H 1257, CS/S 802, S 912)	Community Associations; Exempting certain property association pools from Department of Health regulations; providing that discriminatory restrictions are unlawful, unenforceable, and declared null and void; providing that certain discriminatory restrictions are extinguished and severed from recorded title transactions; authorizing condominium associations to extinguish discriminatory restrictions; revising where the principal office of the Office of the Condominium Ombudsman must be maintained; revising provisions relating to a quorum and voting rights for members remotely participating in meetings, etc. IT 01/27/2020 Fav/CS CA 02/10/2020 Fav/CS RC	Fav/CS Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SJR 1502** Diaz (Identical HJR 7061)	Information About Counties and Municipalities; Proposing an amendment to the State Constitution to require the Chief Financial Officer, as prescribed by general law, to annually provide information about counties and municipalities to residents in a manner that allows residents to compare economic and noneconomic factors of each local government, etc. CA 02/10/2020 Favorable GO RC	Favorable Yeas 5 Nays 0
12	**SB 1512** Diaz (Similar H 7069)	Local Government Reporting; Deleting an annual requirement for county budget officers and municipal budget officers, respectively, to report specified budget information to the Office of Economic and Demographic Research; requiring each county and municipality to annually report specified fiscal and economic information to the Department of Financial Services; requiring the department to annually generate and distribute to residents a specified local government report, etc. CA 02/10/2020 Favorable AEG AP	Favorable Yeas 5 Nays 0
13	**SB 1662** Albritton (Compare CS/H 1249)	Property Tax Exemption for Disabled Veterans; Providing that the property tax exemption for certain veterans with a service-connected total and permanent disability may be applied to a tax year for homestead property acquired during that tax year if certain conditions are met; providing requirements for applying for such exemption with the property appraiser, etc. CA 02/03/2020 Temporarily Postponed CA 02/10/2020 Fav/CS FT AP	Fav/CS Yeas 5 Nays 0
14	**CS/SB 1766** Judiciary / Lee (Compare CS/H 519)	Growth Management; Revising notice of claim requirements for property owners; specifying that property owners retain the option to have a court determine awards of compensation; authorizing property owners to bring actions to declare prohibited exactions invalid; requiring the Department of Transportation to afford a right of first refusal to the previous property owner before disposing of property in certain circumstances, etc. JU 02/04/2020 Fav/CS CA 02/10/2020 Favorable RC	Favorable Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 368
INTRODUCER:	Infrastructure and Security Committee and Senator Rouson
SUBJECT:	Tampa Bay Area Regional Transit Authority
DATE:	February 6, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	**Fav/CS**
2.	Paglialonga	Ryon	CA	**Favorable**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 368:

- Renames the Tampa Bay Area Regional Transit Authority (TBARTA) Metropolitan Planning Organization (MPO) Chairs Coordinating Committee (CCC) as the CCC;
- Authorizes mayors who are members of the board to appoint a designee to attend a board meeting to act in their place with full voting rights on all issues;
- Requires the mayor's designee to be an elected official of the governing body of the mayor's municipality and be voted on by such body;
- Provides that a simple majority of board members constitutes a quorum and a simple majority of the voting members present will be necessary for any action to be taken by the board;
- Deletes the requirement that TBARTA present the original regional transit development plan and updates to the governing bodies of the counties within the designated region;
- Deletes the requirement that TBARTA coordinate plans and projects with the TBARTA MPO CCC and participate in the regional MPO planning process to ensure regional comprehension of TBARTA's mission, goals, and objectives; and
- Deletes the requirement that TBARTA provide administrative support and direction to the CCC.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Tampa Bay Area Regional Transit Authority

Part V of ch. 343, F.S., creates the TBARTA. The TBARTA covers Hernando, Hillsborough, Manatee, Pasco, and Pinellas counties and any other contiguous county that is a party to an agreement of participation.[1] The TBARTA's express purposes are to:

- Plan, implement, and operate mobility improvements and expansions of multimodal transportation options for passengers and freight throughout the designated region;
- Produce a regional transit development plan, integrating the transit development plans of participant counties, to include a prioritization of regionally significant transit projects and facilities; and
- Serve with the consent of the Governor or designee, as the recipient of federal funds supporting an intercounty project or an intracounty capital project that represents a phase of an intercounty project that exists in a single county within the designated region.[2]

The membership of the TBARTA's 13-member governing board (the board) consists of:

- One county commissioner from each of the boards of county commissioners of Hernando, Hillsborough, Manatee, Pasco, and Pinellas counties. Members are appointed to serve 2-year terms with not more than three consecutive terms being served by any person;
- The Mayors of the two largest municipalities within the service area of each of the Pinellas Suncoast Transit Authority and the Hillsborough Area Regional Transit Authority, or their legislatively created successor agencies;
- Four members of the regional business community appointed by the Governor, each of whom must reside in one of the counties governed by the authority, and none of whom may be an elected official. They serve a 2-year term with not more than three consecutive terms being served by any person; and
- Two members appointed from the governing boards of the Pinellas Suncoast Transit Authority and the Hillsborough Area Regional Transit Authority, or their legislatively created successor agencies. Each member appointed will serve a 2-year term with not more than three consecutive terms being served by any person.[3]

Seven members of the board are required to constitute a quorum, and the vote of seven members is necessary for any action to be taken by the TBARTA. The TBARTA may meet upon the constitution of a quorum, and a vacancy does not impair the right of a quorum of the board to exercise all rights and the ability to perform all duties of the TBARTA.[4]

Beginning July 1, 2017, the board was required to evaluate the abolishment, continuance, modification, or establishment of the following committees:[5]

- Planning committee;
- Policy committee;

[1] Section 343.91(1)(a), F.S.
[2] Section 343.922(1), F.S.
[3] Section 343.92(2)(b), F.S.
[4] Section 343.92(8), F.S.
[5] Section 343.92(9), F.S.

- Finance committee;
- Citizens advisory committee;
- TBARTA MPO CCC;
- Transit management committee; and
- Technical advisory committee.

After the board completed its evaluation, it was required to submit its recommendations for abolishment, continuance, modification, or establishment of the committees to the President of the Senate and the Speaker of the House of Representatives before the beginning of the 2018 Regular Session.[6]

The TBARTA MPO CCC was created within the TBARTA, composed of the MPO's serving Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota counties. The TBARTA is required to provide administrative support and direction to the CCC. The CCC must, at a minimum:

- Coordinate transportation projects deemed to be regionally significant by the committee;
- Review the impact of regionally significant land use decisions on the region;
- Review all proposed regionally significant transportation projects in the respective transportation improvement programs which affect more than one of the MPO's represented on the committee; and
- Institute a conflict resolution process to address any conflict that may arise in the planning and programming of such regionally significant projects.[7]

The CCC conducts two meetings a year, one in the summer and one in the fall. Every year, the CCC receives public comment and adopts the West Central Florida Regional Roadway Network, Transportation Regional Incentive Program Priority Projects, and Regional Multi-Use Trail Priority Projects. The CCC transmits these priorities to the District 1 and 7 offices of the Florida Department of Transportation. The CCC also makes a yearly recommendation to the TBARTA Board for the TBARTA Regional Priority Projects.[8]

III. Effect of Proposed Changes:

The bill amends s. 339.175(6), F.S., to:

- Modify the organization of the CCC so it is no longer created within the TBARTA;
- Modify the name TBARTA MPO CCC to only the CCC, with the composition of the CCC remaining the same; and
- Remove the requirement that the TBARTA provide administrative support and direction to the CCC.

The bill amends s. 343.92(2)(b), F.S., to provide that a mayor may appoint a designee to attend a TBARTA meeting to act in his or her place with full voting rights on all issues. The designee

[6] *Id.*
[7] Section 339.175(6)(i), F.S.
[8] Tampa Bay Area Regional Transit Authority, *MPOs Chairs Coordinating Committee*, available at https://tbarta.com/en/boards-committees/mpos-chairs-coordinating-committee/ (last visited Jan. 27, 2020).

must be an elected member of the municipality's city council and approved as the mayor's designated alternate by the municipality's city council.

The bill amends s. 343.92(8), F.S., to allow a simple majority of the TBARTA board to constitute a quorum and a simple majority of the voting members to be present for the board to take any action.

The bill amends s. 343.92(9), F.S., to remove language, which no longer serves a purpose with the passage of the 2018 Regular Legislative Session, that required the TBARTA to evaluate the abolishment, continuance, modification, or establishment of select TBARTA committees and submit those recommendations to the President of the Senate and the Speaker of the House of Representatives before the beginning of the 2018 Regular Session.

The bill amends s. 343.922(3), F.S., to remove the requirements that TBARTA:

- Present the original regional transit development plan and updates to the governing bodies of the counties within the designated region;
- Coordinate plans and projects with the TBARTA MPO Chairs Coordinating Committee and participate in the regional MPO planning process to ensure regional comprehension of TBARTA's mission, goals, and objectives; and
- Provide administrative support and direction to the TBARTA MPO Chairs Coordinating Committee.

The bill has an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

TBARTA may realize cost savings and improvement in efficiency from not having to:

- Cancel a noticed meeting due to a lack of quorum;
- Present the original regional transit development plan and updates to the governing bodies of the counties within the designated region;
- Coordinate plans and projects with the TBARTA MPO Chairs Coordinating Committee and participate in the regional MPO planning process to ensure regional comprehension of TBARTA's mission, goals, and objectives; and
- Provide administrative support and direction to the TBARTA MPO Chairs Coordinating Committee.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 339.175, 343.92, and 343.922

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 Infrastructure and Security on January 27, 2020:

- Renames the TBARTA MPO CCC as the CCC;
- Authorizes mayors who are members of the board to appoint a designee to attend a board meeting to act in their place with full voting rights on all issues;
- Requires the mayor’s designee to be an elected official of the governing body of the mayor’s municipality and be voted on by such body;
- Provide that a simple majority of board members constitutes a quorum and a simple majority of the voting members present will be necessary for any action to be taken by the board;

- Deletes an obsolete provision related to the TBARTA committees;
- Deletes requirement that TBARTA present the original regional transit development plan and updates to the governing bodies of the counties within the designated region;
- Deletes requirement that TBARTA coordinate plans and projects with the TBARTA MPO Chairs Coordinating Committee and participate in the regional MPO planning process to ensure regional comprehension of TBARTA's mission, goals, and objectives; and
- Deletes requirement that TBARTA provide administrative support and direction to the TBARTA MPO Chairs Coordinating Committee.

B. Amendments:

None.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

368
Bill Number (if applicable)

Topic TBARTA

Amendment Barcode (if applicable)

Name Kaitlyn Bailey

Job Title RSA Consulting

Address 113 E College Ave
Street

Phone 850 585 0523

Tallahassee
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing TBARTA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

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/CS/SB 538
INTRODUCER:	Community Affairs Committee; Infrastructure and Security Committee; and Senator Diaz and others
SUBJECT:	Emergency Reporting
DATE:	February 11, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	**Fav/CS**
2.	Toman	Ryon	CA	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 538 directs the State Watch Office (SWO) to create and maintain a list of emergency-related reportable incidents. The list must include, but is not limited to the following:

- Major fire incidents;
- Search and rescue operations;
- Bomb threats;
- Natural hazards and severe weather;
- Public health and population protective actions;
- Animal or agricultural events;
- Environmental concerns;
- Nuclear power plant events;
- Major transportation events;
- Major utility or infrastructure events; and
- Certain military events.

Political subdivisions must notify the SWO of incidents occurring within their geographic boundaries. The SWO may develop guidelines for reporting and must annually provide the list of reportable incidents to political subdivisions.

II. Present Situation:

The SWO[1] is located in the State Emergency Operations Center in Tallahassee, FL, and is staffed by the Division of Emergency Management (DEM) Operations Officers. The SWO is Florida's official State Warning Point with the Federal Emergency Management Agency, and maintains communication systems and warning capabilities to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.[2,3]

The SWO is staffed 24 hours a day, 7 days a week, and its primary purpose is to record, analyze and share information with local, county, state and federal partners to aid in their appropriate response. The SWO is not a dispatch center but a clearinghouse of information to be shared with other government entities who can independently act within their own agency authority and protocols.[4] DEM's mission is to provide members of the State Emergency Response Team with the most accurate information available relating to ongoing or impending hazardous situations throughout the State and region.[5]

The SWO also maintains a direct relationship with the Florida Fusion Center,[6] which allows both emergency management and law enforcement officials to have the most complete and up-to-date intelligence available to better serve citizens, businesses, and visitors.[7]

The SWO tracks between 8,000 and 9,000 incidents a year.[8] They include simple fuel spills, radiological emergencies, damages from severe weather, and rocket launches from Cape Canaveral.

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[1] Section 14.2016(2), F.S., establishes the State Watch Office within the Division of Emergency Management.
[2] Section 252.35, F.S.
[3] Florida Division of Emergency Management, *State Watch Office Guide for Florida County Warning Points and PSAPs* (Published June 2015), available at https://www.floridadisaster.org/globalassets/dem/response/operations/state-watch-office-reportable-incidents-list.pdf (last visited Jan. 30, 2020).
[4] Florida Division of Emergency Management, *State Watch Office Incident Reporting Guidelines* (Aug. 2011), available at https://www.floridadisaster.org/globalassets/importedpdfs/swo-reporting-guidelines-2011.pdf (last visited Jan. 30, 2020).
[5] *Supra*, note 2.
[6] The Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (Dec. 17, 2004), provided guidance on the need for each state to designate a single fusion center to serve as a hub for information sharing, access and collaboration at all levels. The Florida Fusion Center is housed within the Florida Department of Law Enforcement with a mission to protect citizens, visitors, resources, and critical infrastructure of Florida by gathering, processing, analyzing, and disseminating of terrorism, law enforcement, and homeland security information for all local, state, and federal agencies in accordance with Florida's Domestic Security Strategy.
[7] *Supra*, note 2.
[8] Florida Division of Emergency Management, *Program Spotlight: The Florida State Watch Office*, available at https://floridagetaplan.wordpress.com/2015/07/17/program-spotlight-the-florida-state-watch-office/ (last visited Jan. 30, 2020).

A list of potential hazards that are reported to and monitored by the SWO are provided in the table below.[9]

Natural Hazards	Technological Hazards
• Hurricanes • Tornadoes • Flooding • Wildfires • Severe Thunderstorms • Severe Hot and Cold • Earthquakes	• Terrorism • Mass Migration • Radiological Incidents • Hazardous Materials • Special Events (i.e. 2012 Republican National Convention, Super Bowl) • Transportation Accidents (i.e. rail, aircraft, motor vehicle, marine) • Law Enforcement Incidents

The information for these incidents is generally given to the SWO from a county Public Safety Answering Point,[10] and sometimes from the general public. The collected information is logged into an incident tracking system and then disseminated to local, state, tribal, federal, and private partners to aid in their response actions.[11]

Political subdivisions, defined as "a county or municipality created pursuant to law" in ch. 252, F.S., currently have no statutory direction on informing the state about localized emergency events or incidents in their jurisdiction(s). However, local governments currently share information regularly with the SWO regarding natural and technological hazards, so that the SWO is consistently provided with incident reports from across the state.[12] Currently, only wastewater and chemical spills are required by law to be reported to the SWO.[13]

III. Effect of Proposed Changes:

The bill creates s. 252.351, F.S., to require mandatory reporting of certain incidents by political subdivisions (i.e., counties and municipalities) to the State Watch Office (SWO). The bill provides that:

- The SWO must create and maintain a list of emergency-related reportable incidents. The list must include but is not limited to (additional information clarifying the meaning of each incident is provided in the bill):
  - Major fire incidents;
  - Search and rescue operations;

[9] *Id.*
[10] DATA.GOV, *Public Safety Answering Point (PSAP) 911 Service Area Boundaries*, available at https://catalog.data.gov/dataset/public-safety-answering-point-psap-911-service-area-boundaries (last visited Jan. 30, 2020), defines a Public Safety Answering Point as a facility equipped and staffed to receive 9-1-1 calls.
[11] *Supra*, note 7.
[12] Division of Emergency Management, *FDEM Legislative Priorities 2019-2020 (Fla. Stat. § 252)* (on file with the Senate Committee on Infrastructure and Security).
[13] Section 403.077(2), F.S., see also Chapter 62-620, F.A.C.

  - Bomb threats;
  - Natural hazards and severe weather;
  - Public health and population protective actions;
  - Animal or agricultural events;
  - Environmental concerns;
  - Nuclear power plant events;
  - Major transportation events;
  - Major utility or infrastructure events;
  - Certain military events.
- As soon as practicable following its initial response to an incident, a political subdivision must provide notification to the SWO of an incident specified on the list which occur within its geographic boundaries;
- The SWO may establish guidelines specifying the method and format a political subdivision must use when annually reporting an incident.
- Beginning December 1, 2020, and by December 1 every year thereafter, the SWO must provide the list of reportable incidents to each political subdivision.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, subsection (a) of section 18 of the State Constitution provides that cities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

Under the bill, cities and counties may incur costs relating to reporting of certain incidents. However, the mandate requirements do not apply to laws having an insignificant impact, which, for fiscal year 2020-2021, is forecast at slightly over $2.1 million.[14,15,16] The impact of the bill on cities and counties is indeterminate, but likely nominal.

If such costs are determined to exceed $2.1 million in the aggregate, the bill may be binding on cities and counties if the bill contains a finding of important state interest and meets one of the exceptions specified in the State Constitution (e.g., provision of funding or a funding mechanism or enactment by vote of two-thirds of the membership of each house).

[14] Fla. Const. art. VII, s. 18(d).
[15] An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times $0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited Jan. 30, 2020).
[16] Based on the Florida Demographic Estimating Conference's December 3, 2019, population forecast for 2020 of 21,555,986. The conference packet is available at http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf (last visited Jan. 30, 2020).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be an insignificant negative fiscal impact to local governments for implementation of the bill. With the exception of wastewater and chemical spills,[17] counties and municipalities have no statutory direction on informing the state about localized emergency events or incidents in their jurisdiction(s). However, local governments currently share information regularly with the SWO regarding natural and technological hazards, so that the SWO is consistently provided with incident reports from across the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 252.351.

[17] *Supra,* note 12.

IX. Additional Information:

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

CS/CS by Community Affairs on February 10, 2020:
The committee substitute:

- Specifies, but does not limit, a list of 11 emergency-related reportable incidents that the State Watch Office must create and maintain and annually provide to counties and municipalities.
- Removes a requirement that the Speaker of the House of Representatives and the President of the Senate must annually receive the list of reportable incidents.

CS by Infrastructure and Security on January 21, 2020:
The committee substitute:

- Requires the DEM to annually provide the State Watch Office Reportable Incidents List to county and municipal emergency managers, the Speaker of the House of Representatives, and the President of the Senate; and
- Requires the DEM to maintain the State Watch Office Reportable Incidents List, and shall annually notify county and municipal emergency managers, the Speaker of the House of Representatives, and the President of the Senate when the list is amended by the division director.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 252.351, Florida Statutes, is created to read:

252.351 Mandatory reporting of certain incidents by political subdivisions.—

(1) For purposes of this section, the term "office" means the State Watch Office established within the division pursuant

to s. 14.2016.

(2) The office, to aid in its mission of serving as a clearinghouse for emergency-related information across all levels of government, shall create and maintain a list of reportable incidents. The list must include, but is not limited to, the following events:

(a) Major fires, including wildfires, commercial or multiunit residential fires, and industrial fires.

(b) Search and rescue operations, including structure collapse or urban search and rescue response.

(c) Bomb threats or threats to inflict harm on a large number of people or significant infrastructure, a suspicious device, or device detonation.

(d) Natural hazards and severe weather, including earthquakes, landslides, or ground subsidence or sinkholes.

(e) Public health and population protective actions, including public health hazards, evacuation orders, or emergency shelter openings.

(f) Animal or agricultural events, including suspected or confirmed animal disease, suspected or confirmed agricultural disease, crop failure, or food supply contamination.

(g) Environmental concerns, including an incident of reportable pollution release as required in s. 403.077(2).

(h) Nuclear power plant events, including events in process or that have occurred that indicate a potential degradation of the level of safety of the plant or that indicate a security threat to facility protection.

(i) Major transportation events, including aircraft or airport incidents, passenger or commercial railroad incidents,

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major road or bridge closures, or marine incidents involving a blocked navigable channel of a major waterway.

(j) Major utility or infrastructure events, including dam failure or overtopping, drinking water facility breach, or major utility outages or disruptions involving transmission lines or substations.

(k) Military events, when information regarding such activity is provided to a political subdivision.

(3) As soon as practicable following its initial response to an incident, a political subdivision shall provide notification to the office that an incident specified on the list of reportable incidents has occurred within its geographical boundaries. The office may establish guidelines specifying the method and format a political subdivision must use when reporting an incident.

(4) Beginning December 1, 2020, and by December 1 every year thereafter, the office must provide the list of reportable incidents to each political subdivision.

Section 2. This act shall take effect July 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to emergency reporting; creating s. 252.351, F.S.; defining the term "office"; requiring the State Watch Office within the Division of Emergency Management to create a list of reportable


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incidents; requiring a political subdivision to report incidents contained on the list to the office; authorizing the office to establish guidelines a political subdivision must follow to report an incident; requiring the office to annually provide the list of reportable incidents to each political subdivision; providing an effective date.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

538
Bill Number (if applicable)

274454
Amendment Barcode (if applicable)

Topic EMERGENCY REPORTING

Name Jared Rosenstein

Job Title Legislative Affairs Dir

Address 2555 Shumard Oak Blvd
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 786-247-8716

Email Jared.Rosenstein@em.myflorida.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FDEM

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 724
INTRODUCER:	Environment and Natural Resources Committee and Senator Albritton
SUBJECT:	Local Government Recycling Programs
DATE:	January 30, 2020 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

II. Present Situation:

Recycling in Florida

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

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

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

In 2008, the Legislature established a weight-based goal of recycling 75 percent of Florida's municipal solid waste by 2020.[6] In 2010, the Legislature established interim goals that counties must pursue leading up to 2020.[7] The interim goals require each Florida county to have a recyclable materials recycling program with a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020.[8] These programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream before final disposal at a solid waste disposal facility and to offer these materials for recycling:

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

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

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

[4] Section 403.703(31), F.S.
[5] Section 403.706(5), F.S.
[6] Section 403.7032, F.S.; Ch. 2008-227, s. 95, Laws of Fla.; *see* DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 5 (2017), *available at* https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 29, 2019).
[7] Section 403.706(2)(a), F.S.
[8] Section 403.706(2)(a), F.S. These are interim goals to help Florida reach the goal of recycling at least 75% of municipal solid waste by 2020; Ch. 2010-143, s. 7, Laws of Fla.; *see* s. 403.7032(2), F.S.
[9] Section 403.706(2)(f), F.S.
[10] Section 403.706(4)(c), F.S.

According to DEP's report, only 36 of Florida's 67 counties have populations over 100,000.[11] These 36 counties contain approximately 95% of Florida's population and produced 45 million of the 47 million tons of municipal solid waste generated in Florida in 2018.[12]

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

In those years when the state's recycling rate does not meet the statutory thresholds for the interim goals, DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives.[19] This report must identify those additional programs or statutory changes needed to achieve the state's recycling goals.[20] Florida achieved the interim recycling goals established for 2012 and 2014.[21] However, Florida's recycling rate for 2016 was 56 percent, falling short of 60 percent by 2017.[22] Florida's recycling rate declined from 52 percent in 2017 to 49 percent in 2018, both of which fall short of the interim targets.[23] This decrease can largely be attributed to a reduction in the reported amount of construction and demolition (C&D) debris recycled in 2018.[24] DEP submitted the most recent status report in 2019.[25] Without significant changes to the current approach, the 2020 goal of 75% will not be achieved.[26]

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[11] DEP, *Florida and the 2020 75% Recycling Goal: 2019 Status Report*, *Volume 1*, 3, 9 (2019)[hereinafter *DEP 2019 Report*], *available at* https://floridadep.gov/sites/default/files/Final%20Strategic_Plan_2019%2012-13-2019_1.pdf.
[12] *Id.* at 29.
[13] Section 403.706(3), F.S.
[14] Section 403.706(2)(a), F.S.
[15] Section 403.706(4), F.S.
[16] Section 403.706(7), F.S.; Fla. Admin. Code R. 62-716.450.
[17] Section 403.706(2)(d), F.S.
[18] *DEP 2019 Report*, at 3.
[19] Section 403.706(2)(e), F.S.
[20] *Id.*
[21] DEP, *Florida and the 2020 75% Recycling Goal*, *Volume I - Report*, 5 (2017), *available at* https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 30, 2019).
[22] *Id.*
[23] *DEP 2019 Report*, at 3.
[24] *Id.* at 9.
[25] *Id.* at 3.
[26] *Id.* at 29.

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

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

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

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

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

A local government may not:

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

[27] *Id.* at 3.
[28] *Id.*
[29] *Id.* at 9.
[30] *Id.*
[31] Section 403.706(6), F.S.
[32] *Id.*
[33] Section 403.706(9), F.S.
[34] Section 403.706(21), F.S.
[35] *Id.*
[36] Section 403.706(21), F.S.

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

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

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

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

Contamination

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

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

[37] Section 403.7046(3), F.S.
[38] Section 403.7046(3)(a), F.S.
[39] *DEP 2019 Report*, at 22; Rethink. Reset. Recycle., *About*, https://floridarecycles.org/ (last visited Dec. 20, 2019).
[40] *See* EPA, *Sustainable Materials Management Basics*, https://www.epa.gov/smm/sustainable-materials-management-basics (last visited Dec. 20, 2019).
[41] *DEP 2019 Report*, at 10, *available at* https://floridadep.gov/sites/default/files/Final%20Strategic_Plan_2019%2012-13-2019_1.pdf.
[42] *Id.* at 11.
[43] *Id.*
[44] *Id.*

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

Recycling Markets

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

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

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[45] *Id.*

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

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

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

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

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

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

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

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

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

Exceptions to Requirements for Environmental Resource Permitting

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

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

[53] Waste Dive, *How Recycling is Changing in All 50 States* (June 5, 2019), https://www.wastedive.com/news/what-chinese-import-policies-mean-for-all-50-states/510751/ (last visited Oct. 31, 2019).
[54] DEP, *Florida and the 2020 75% Recycling Goal, Volume I - Report*, 15 (2017), *available at* https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Oct. 29, 2019).
[55] *Id.*
[56] *Id.* at 15-17; *DEP 2019 Report*, at 12-15, *available at* https://floridadep.gov/sites/default/files/Final%20Strategic_Plan_2019%2012-13-2019_1.pdf.
[57] *DEP 2019 Report*, at 12.
[58] *Id.*
[59] *Id.* at 12-13.
[60] Chapter 373, p. IV, F.S.; Fla. Admin. Code Ch. 62-330; DEP, *DEP 101: Environmental Resource Permitting*, *available at:* https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting (last visited Oct. 29, 2019).
[61] Fla. Admin. Code R. 62-330.010. The responsibilities for implementing the statewide ERP program are partially delegated by DEP to the water management districts and certain local governments.
[62] Section 403.813, F.S.
[63] Fla. Admin. Code Rules 62-330.050(1) and 62-330.051(2).
[64] Section 403.813(1), F.S.; Fla. Admin. Code R. 62-330.051.

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

III. Effect of Proposed Changes:

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

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

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

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

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

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

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

[65] Section 403.813(1)(d), F.S.
[66] Section 403.813(1), F.S.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.706 of the Florida Statutes.

IX. Additional Information:

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

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

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

B. Amendments:

None.

670630

LEGISLATIVE ACTION

Senate . House

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

Senate Amendment (with title amendment)

Delete lines 18 - 52

and insert:

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

670630

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

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

And the title is amended as follows:

Delete lines 3 - 8

and insert:

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/CS/SB 752
INTRODUCER:	Community Affairs Committee; Infrastructure and Security Committee; and Senator Bean and others
SUBJECT:	Emergency Sheltering of Persons with Pets
DATE:	February 10, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	**Fav/CS**
2.	Paglialonga	Ryon	CA	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 752 requires:

- The Department of Education (DOE) and the Department of Agriculture and Consumer Services (DACS) to assist the Division of Emergency Management (DEM) in determining strategies for the emergency sheltering of persons with pets;
- A county which maintains any designated shelters to also designate a shelter that can accommodate persons with pets; and
- Shelters to comply with applicable disaster assistance policies and procedures of the Federal Emergency Management Agency (FEMA) and with safety procedures regarding the sheltering of pets established in the shelter component of both local and state comprehensive emergency management plans.

II. Present Situation:

On October 6, 2006, the federal Pets Evacuation and Transportation Standards (PETS) Act was signed into law, amending Sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).[1] The PETS Act requires state and local emergency preparedness authorities to plan for how they will accommodate the needs of individuals with

[1] 42 U.S.C 5170b, 42 U.S.C. 5192; the Pets Evacuation and Transportation Standards Act (PETS Act) of 2006, P.L. No. 109-308, § 4, 120 Stat. 1725 (2006); and 44 CFR §§ 206.223(a), 206.225(a).

household pets and service animals prior to, during, and following a major disaster or emergency when presenting their plans to FEMA. Section 403, as amended by the PETS Act, authorizes FEMA to provide rescue, care, shelter, and essential needs for individuals with household pets and service animals and to the household pets and animals themselves following a major disaster or emergency.

FEMA Disaster Assistance Policy (DAP) 9523.19 provides:

- "Household pet" means a domesticated animal, such as a dog, cat, bird, rabbit, rodent, or turtle that is traditionally kept in the home for pleasure rather than for commercial purposes, can travel in commercial carriers, and be housed in temporary facilities. Household pets do not include reptiles (except turtles), amphibians, fish, insects and arachnids, farm animals (including horses), and animals kept for racing purposes; and
- "Service animal" means any guide dog, signal dog, or other animal individually trained to assist an individual with a disability including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.[2,3]

Also, FEMA DAP 9523.19 identifies the expenses related to state and local governments' emergency pet evacuation and sheltering activities that may be eligible for reimbursement to include:

- Household pet rescue (may include overtime for regular full-time employees, regular and overtime for contract labor, and use of owned or leased equipment); and
- Congregated household pet sheltering (may include facilities, supplies and commodities, labor, equipment, emergency veterinary services, transportation, shelter safety and security, cleaning and restoration, removal and disposal of animal carcasses, and cataloging and tracking system for pets).[4]

For state and local governments to qualify for federal disaster funding from FEMA's Public Assistance Grant Program, they must comply with the PETS Act requirements in their disaster preparedness plans.

The DEM, with the assistance of the DACS, is required to address strategies for the evacuation of persons with pets in the shelter component of the state comprehensive emergency management plan and must include the requirement for similar strategies in its standards and requirements for local comprehensive emergency management plans.[5]

During the 2018 Regular Session, the need for a minimum number of pet shelters per-county was discussed by the House Select Committee on Hurricane Response and Preparedness, and their final report contained the following policy recommendation:

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[2] Department of Justice, Americans with Disabilities Act (ADA), 42 USC 1201 et seq, implementing regulations at 28 CFR § 36.104.
[3] Federal Emergency Management Agency, *FEMA Disaster Assistance Policy*, available at https://www.fema.gov/pdf/government/grant/pa/policy.pdf (last visited January 23, 2020).
[4] *Id.*
[5] Section 252.3568, F.S.

- Determine the adequacy of communications about and the availability of pet shelters, and consider means to improve communication and the merits of requiring a standard population-based minimum number of pet shelters or ratio of pet and non-pet shelters.[6]

The 2014 State of Florida Comprehensive Emergency Management Basic Plan addresses the sheltering of pets or service animals and states:

> "A person with who uses a service animal must be allowed to bring his or her service animal into a general population or special needs shelter and has the right to be accompanied by a service animal in all areas of a public accommodation (See sections 252.355(3) and 413.08, F. S.). In developing these strategies, the state considers the following:
> - Locating pet-friendly shelters within buildings with restrooms, running water, and proper lighting.
> - Allowing pet owners to interact with their animals and care for them.
> - Ensuring animals are properly cared for during the emergency."[7]

III. Effect of Proposed Changes:

The bill amends s. 252.3568, F.S., to require:

- The DOE and the DACS to assist the DEM in determining strategies for the emergency sheltering of persons with pets;
- A county which maintains any designated shelters to also designate a shelter that can accommodate persons with pets; and
- Shelters that can accommodate persons with pets to comply with the applicable disaster assistance policies and procedures of FEMA and with safety procedures regarding the sheltering of pets established in the shelter component of both local and state comprehensive emergency management plans.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, subsection (a) of section 18 of the State Constitution provides that cities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

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[6] Florida House of Representatives, Select Committee on Hurricane Response & Preparedness Final Report (January 16, 2018), on page 63, available at https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=General%20Publications&FileName=SCHRP%20-%20Final%20Report%20online.pdf (last visited January 23, 2020).

[7] The Division of Emergency Management, *2014 State of Florida Comprehensive Emergency Management Basic Plan*, available at https://www.floridadisaster.org/globalassets/importedpdfs/2014-state-cemp-basic-plan.pdf (last visited January 23, 2020).

Under the bill, counties may incur costs associated with designating and maintaining a shelter that can accommodate persons with pets. However, the mandate requirements do not apply to laws having an insignificant impact, which, for fiscal year 2020-2021, is forecast at slightly over $2.1 million.[8,9,10] The fiscal impact of the bill on counties is indeterminate at this time.

If such costs are determined to exceed $2.1 million in the aggregate, the bill may be binding on counties if the bill contains a finding of important state interest and meets one of the exceptions specified in the State Constitution (e.g., provision of funding or a funding mechanism or enactment by vote of two-thirds of the membership of each house).

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:

None.

[8] Fla. Const. art. VII, s. 18(d).
[9] An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times $0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited Jan. 30, 2020).
[10] Based on the Florida Demographic Estimating Conference's December 3, 2019, population forecast for 2020 of 21,555,986. The conference packet is available at http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf (last visited Jan. 30, 2020).

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on counties in designating a shelter that can accommodate persons with pets that complies with FEMA policies and procedures and appicable safety procedures within local and state comprehensive emergency management plans. However, such expenses to maintain a pet shelter may be partially or fully reimbursable by FEMA. The number of counties with shelters that accommodate pets and which meet the bill's requirements is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 252.3568 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Community Affairs on February 10, 2020:
The committee substitute removes language that required the county to "operate at least one" shelter that can accommodate persons with pets. Alternatively, the substitute requires counties to "designate a shelter that can accommodate persons with pets." The committee substitute also makes a technical change to abbreviate the "Federal Emergency Management Agency" as "FEMA."

CS by Infrastructure and Security on January 27, 2020:
- Requires the DOE and the DACS to assist the DEM in determining strategies for the emergency sheltering of persons with pets;
- Requires a county which maintains any designated shelters, to also designate and operate at least one shelter that can accommodate persons with pets; and
- Requires shelters to be in compliance with any applicable disaster assistance policies and procedures of the FEMA and with safety procedures regarding the sheltering of pets established in the shelter component of the local and state comprehensive emergency management plans.

B. Amendments:

None.

399324

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 252.3568, Florida Statutes, is amended to read:

252.3568 Emergency sheltering of persons with pets.—

(1) In accordance with s. 252.35, the division shall address strategies for the evacuation of persons with pets in the shelter component of the state comprehensive emergency

399324

management plan and shall include the requirement for similar strategies in its standards and requirements for local comprehensive emergency management plans. The Department of Agriculture and Consumer Services and the Department of Education shall assist the division in determining strategies regarding this activity.

(2) If a county maintains designated shelters, it must also designate a shelter that can accommodate persons with pets. The shelter must be in compliance with applicable FEMA Disaster Assistance Policies and Procedures and with safety procedures regarding the sheltering of pets established in the shelter component of both local and state comprehensive emergency management plans.

Section 2. This act shall take effect July 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to emergency sheltering of persons with pets; amending s. 252.3568, F.S.; requiring the Department of Education to assist the Division of Emergency Management in determining strategies regarding the evacuation of persons with pets; requiring counties that maintain designated shelters to designate a shelter that can accommodate persons with pets; specifying requirements for such shelters; providing an effective date.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

754
Bill Number (if applicable)

Topic Emergency Shelter of Persons With Pets

399324
Amendment Barcode (if applicable)

Name Jared Rosenstein

Job Title Legislative Affairs Dir.

Address 2555 Shumard Oak Blvd
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 786-247-8716

Email Jared.Rosenstein@em.myflorida.com

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

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

Representing FDEM

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/ /20
Meeting Date

SB 752
Bill Number (if applicable)

Topic EMERGENCY SHELTERING OF PERSONS WITH PETS

Amendment Barcode (if applicable)

Name JENNIFER HOBGOOD

Job Title SENIOR DIRECTOR, LEGISLATION

Address P O BOX 5741 *Street*

Phone 850 445 5245

TALL. *City* FL *State* 32301 *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing ASPCA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

CS/SB 752
Bill Number (if applicable)

Topic Emergency Sheltering of Persons w/ Pets

Amendment Barcode (if applicable)

Name Dorcas Barker

Job Title Associate State Director

Address 215 S. Monroe St, Suite 603 Phone 850 228-6387
Street

Tallahassee FL 32308 Email dobarker@aarp.org
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing AARP FL

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.10.2020
Meeting Date

752
Bill Number (if applicable)

Topic Emergency Sheltering of Persons w/Pets

Amendment Barcode (if applicable)

Name Tonnette Tone-Net Graham

Job Title Assoc. Director of Public Policy

Address 100 S. Monroe Street
Street

Phone 850.922.4300

Tallay FL 32301
City *State* *Zip*

Email tgraham@fl-counties.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Association of Counties

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

752
Bill Number (if applicable)

Topic Emergency Shelter-Pets

Amendment Barcode (if applicable)

Name Chris Doolin

Job Title Consultant

Address 1118-B Thomasville Rd
Street
Tallahassee, Fla. 32303
City *State* *Zip*

Phone 850-508-5492

Email cdooling@nettally.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Small County Coalition

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

752
Bill Number (if applicable)

Topic Emergency Sheltering

Amendment Barcode (if applicable)

Name Katie MacFall

Job Title

Address
Street

Phone 850 508-1001

City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Humane Society of the United States

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

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 906
INTRODUCER:	Community Affairs Committee and Senator Farmer
SUBJECT:	Prohibited Reptiles
DATE:	February 10, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	**Favorable**
2.	Paglialonga	Ryon	CA	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 906 adds the green iguana (*Iguana iguana*) and the black and white tegu (*Salvator merianae*) to the list of species that may not be kept, possessed, imported into the state, sold, bartered, traded, or bred in this state. However, the bill provides an exception to this provision, which allows persons and entities to legally possess such species for the purpose of the out-of-state sale of such species, upon being issued a permit by the Florida Fish and Wildlife Conservation Commission (FWC).

The bill directs the FWC to establish by rule methods and processes for the capture, purchase, inventory, and sale of all green iguanas and black and white tegus.

II. Present Situation:

Nonnative Species

Under Article IV, section 9 of the Florida Constitution, the FWC exercises the regulatory and executive powers of the state concerning wild animal life, freshwater aquatic life, and marine life.[1] These powers include the authority to control and manage nonnative species.[2] Nonnative

[1] FLA. CONST. Art. IV, s. 9.

[2] Fish and Wildlife Conservation Commission (FWC), *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environment and Natural Resources).

species are animals living outside captivity and which are not historically present in the state.[3] More than 500 nonnative fish and wildlife species inhabit Florida environments.[4] Not all nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.[5] To manage and minimize the impacts of nonnative species, Florida law and regulations provide that it is illegal to import for sale or use or to release within the state, any species not native to Florida unless authorized by the FWC.[6]

Prohibited or conditional nonnative snakes and lizards

Prohibited species are nonnative species that pose a very high risk to native fish and wildlife, to the ecology of native wildlife communities, or human safety. Possession of these species requires a permit from the FWC and is generally limited to public exhibition and research.[7]

Conditional species[8] are nonnative species that pose a risk to native fish and wildlife or the ecology of native wildlife communities. Conditional nonnative snakes and lizards are not authorized for personal possession.[9] Specifically, the following nonnative snakes and lizards are prohibited from being kept, possessed, imported into the state, sold, bartered, traded, or bred for personal use:

- Burmese or Indian python;
- Reticulated python;
- Northern African python;
- Southern African python;
- Amethystine or scrub python;
- Green Anaconda;
- Nile Monitor; and
- Any other reptile designated as a conditional or prohibited species by the FWC.[10]

A reptile dealer, researcher, or public exhibitor providing educational exhibits may apply for a permit to import, export, or possess conditional nonnative snakes and lizards.[11] Conditional nonnative snakes and lizards must be kept indoors or in outdoor enclosures with a fixed roof and must be permanently identified with a passive integrated transponder (PIT) tag, also known as a

[3] FWC, *What is a nonnative species?*, https://myfwc.com/wildlifehabitats/nonnatives/exotic-information/ (last visited Jan. 13, 2020).
[4] FWC, *Florida's Exotic Fish and Wildlife*, http://myfwc.com/wildlifehabitats/nonnatives/ (last visited on Jan. 13, 2020).
[5] *Id*.
[6] Section 379.231, F.S.
[7] Section 379.372, F.S.; *see* Fla. Admin. Code R. 68-5.003 for a complete list of prohibited species.
[8] Statute uses the phrase "reptiles of concern," but FWC lists such species in its conditional species list. See FWC, *Reptiles of Concern*, https://myfwc.com/license/captive-wildlife/reptiles-of-concern/ (last visited Dec. 30, 2019); s. 379.372(b), F.S.
[9] FWC, *Conditional Snakes and Lizards*, http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/ (last visited Jan. 13, 2020).
[10] Section 379.372(2)(a), F.S.
[11] Fla. Admin. Code R. 68-5.005(1); *see* FWC, *Conditional Snakes and Lizards*, http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/ (last visited Jan. 13, 2020).

microchip.[12] Owners of such species must submit a Captive Wildlife Disaster and Critical Incident Plan to the FWC and must maintain records of their inventory.[13]

In 2018, the Legislature created s. 379.2311, F.S., which directed FWC to create a pilot program to mitigate the impact of priority invasive species on the public lands or waters of the state. The goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of priority invasive species, contain their populations, and eradicate them from this state. As part of the program, FWC is authorized to enter into contracts to capture or destroy animals belonging to priority invasive species found on public lands, in the waters of this state, or on private lands or waters with the consent of the owner. All captures and disposals of animals that are priority invasive species must be documented and photographed, and the geographic location of the capture must be recorded for research purposes. FWC is required to submit a report of findings and recommendations regarding its implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2021.

Priority invasive species are:
- Lizards of the genus Tupinambis, also known as tegu lizards;
- The conditional lizard and snake species listed above;
- Pterois volitans, also known as red lionfish; and
- Pterois miles, also known as the common lionfish or devil firefish.[14]

Tegus

The Argentine Black and White Tegu (*Tupinambis merianae*), commonly referred to as a tegu, is a large species of lizard that can grow up to four feet in length and is native to South America.[15] Tegus are not innately aggressive but have sharp teeth, strong jaws, and sharp claws, which they will use to defend themselves if threatened.[16] Tegus are an invasive species and have known breeding populations in Miami-Dade and Hillsborough counties[17] and an emerging population in Charlotte County.[18] The tegu causes harm to native species by disturbing alligator nests and consuming their eggs, and utilizing gopher tortoise burrows and consuming juvenile gopher tortoises.[19]

The tegu is not designated as a conditional or prohibited species.[20] However, a person must possess a license from FWC to sell a tegu or for public exhibition.[21] A November 2019 survey of

[12] Fla. Admin. Code R. 68-5.005(5). .
[13] *Id*.
[14] Section 379.2311, F.S.
[15] FWC, *Argentine black and white tegu*, https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/ (last visited Jan. 2, 2020).
[16] *Id*.
[17] *Id*.
[18] Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 2 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).
[19] FWC, *Argentine black and white tegu*, https://myfwc.com/wildlifehabitats/nonnatives/reptiles/whiptails-and-wall-lizards/tegu/ (last visited Jan. 2, 2020).
[20] *Id*.
[21] *Id*; *see* s. 379.3761, F.S.

all Class III license holders allowing for the sale of reptiles found 106 license holders listed that may sell tegus with more than 1,245 in inventory.[22] FWC developed a trapping removal program and works with other agencies and organizations to assess the tegu's threat and develop management strategies.[23] The goal of the program is to minimize the impact of tegus on native wildlife and natural areas.[24] A limited number of commercial wildlife operators trap and remove tegus for homeowners or on other private lands.[25]

Members of the public may also remove and kill tegus from 22 FWC managed public lands without a license or permit.[26] Through these efforts, over 7,800 tegus have been reported to the Commission as removed from the wild or found dead in Florida by FWC staff, partners, and the public since 2012, primarily in Miami-Dade County.[27]

Green Iguanas

Green iguanas *(Iguana iguana*) are large, typically green lizards, though they can sometimes be brown or almost black.[28] Some adults can take on an orange or pink coloration during certain times of the year. Male green iguanas can grow to over five feet in length and weigh up to 17 pounds. Females can also reach five feet in length but usually do not exceed seven pounds. Females typically reach reproductive maturity at two to four years of age. Green iguanas can live up to 10 years in the wild and 19 years in captivity. Green iguanas thrive in southern Florida and are not cold hardy.[29]

Green iguanas are a nonnative, invasive species in Florida.[30] Green iguanas can live on the ground, in shrubs, or trees in a variety of habitats, including suburban developments, urban areas, small towns, and agricultural areas. They are excellent swimmers, tolerating both salt and fresh water and can submerge themselves for up to four hours at a time.[31]

Green iguanas cause damage to residential and commercial landscape vegetation and are often considered a nuisance by property owners. Iguanas are attracted to trees with foliage or flowers, most fruits (except citrus), and almost any vegetable. Some green iguanas cause damage to infrastructure by digging burrows that erode and collapse sidewalks, foundations, seawalls, berms, and canal banks. Green iguanas may also leave droppings on docks, moored boats, seawalls, porches, decks, pool platforms, and inside swimming pools.

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[22] Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 3 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).
[23] *Id*. (under Frequently Asked Questions).
[24] *Id*.
[25] FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environment and Natural Resources).
[26] FWC, EO 17-11 (Mar. 31, 2017), *available at* https://myfwc.com/media/3682/eo-17-11.pdf.
[27] Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 2 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).
[28] FWC, *Invasive Green Iguana*, https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/ (last visited Dec. 30, 2019).
[29] *Id*.
[30] *Id*.
[31] *Id*.

Green iguanas are not designated as conditional or prohibited species.[32] However, a person must possess a license from the FWC to sell a green iguana or for public exhibition.[33] A November 2019 survey of all Class III license holders allowing for the sale of reptiles found 382 license holders listed that may sell iguanas with more than 5,307 in inventory.[34]

The FWC encourages the removal of green iguanas from private properties by landowners. Members of the public may also remove and kill iguanas from 22 FWC managed public lands without a license or permit.[35] The FWC hosts Iguana Technical Assistance Public Workshops to help empower homeowners to manage this nonnative species on their property with legal trapping and removal options.[36] In 2018, FWC initiated removal efforts on public conservation lands, resulting in the removal of nearly 5,000 iguanas.[37]

III. Effect of Proposed Changes:

Section 1 amends s. 379.372, F.S., to add the green iguana (*Iguana iguana*) and the black and white tegu (*Salvator merianae*) to the list of reptiles to the list of species that may not be kept, possessed, imported into the state, sold, bartered, traded, or bred in this state. However, the bill provides an exception to this provision, which allows a person, party, firm, association, or corporation who holds a permit issued by the FWC to legally possess such species for the purpose of the out-of-state sale of such species.

The bill directs the FWC to establish methods and processes for the capture, purchase, inventory, and sale of these reptiles by administrative rule.

Section 2 reenacts s. 379.2311, F.S., to incorporate the amendment made in section 1.

Section 3 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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[32] *Id*.
[33] *Id*; *see* s. 379.3761, F.S.
[34] Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 3 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).
[35] FWC, EO 17-11 (Mar. 31, 2017), *available at* https://myfwc.com/media/3682/eo-17-11.pdf.
[36] FWC, *Nonnative Species Public Workshops*, https://myfwc.com/wildlifehabitats/nonnatives/public-workshops/ (last visited Dec. 30, 2019).
[37] Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 2 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).

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:

There may be a negative fiscal impact on commercial owners of tegus and iguana who are no longer able to sell the species to in-state customers under the bill.

C. Government Sector Impact:

The FWC may incur costs associated with establishing rules governing the methods and processes for the capture, purchase, inventor, and sale of all green iguanas and black and white tegus.

VI. Technical Deficiencies:

None.

VII. Related Issues:

FWC has suggested that for enforcement purposes, language including all tegu species would be preferable. FWC recommends that the language on line 69 of the bill be replaced with "any species of the genera *Salvator* and *Tupinambis*" to prevent law enforcement and prosecutors from having to prove species and reduce additional damage from other tegu species that aren't currently listed.[38]

There is more than one species of tegu currently in trade in the commercial herpetological industry, including but not limited to, gold tegus and red tegus. The pet industry has created designer color hybrids of tegu species, which could make it difficult for law enforcement to enforce the proposed language because of challenges in the identification of the species.[39] If all

[38] Fish and Wildlife Conservation Commission (FWC), *Senate Bill 906 Agency Bill Analysis*, 6 (Nov. 27, 2019) (on file with the Senate Committee on Environment and Natural Resources).
[39] *Id*.

species of tegu are not regulated simultaneously, the commercial herpetological industry may move to sell other species that would cause similar impacts to native species if released or create additional hybrid species that may make the statute difficult to enforce.[40] There are currently seven identified species of tegus split between two genera: *Salvator* and *Tupinambis*.[41]

VIII. Statutes Affected:

This bill substantially amends section 379.372 of the Florida Statutes.
This bill reenacts section 379.2311 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on February 10, 2020:
The committee substitute:

- Provides an exception to allow persons and entities to possess green iguanas and black and white tegus for the purpose of the out-of-state sale of such species; and
- Directs the FWC to establish methods and processes for the capture, purchase, inventory, and sale of these reptiles by administrative rule.

B. Amendments:

None.

[40] *Id*.
[41] *Id*.

852402

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 62 - 91

and insert:

8. Green iguana (*Iguana iguana*), except as provided in paragraph (d).

9. Black and white tegu (*Salvator merianae*), except as provided in paragraph (e).

10.~~8.~~ Any other reptile designated as a conditional or prohibited species by the commission.

852402

(b) If a person, party, firm, association, or corporation holds a permit issued before July 1, 2010, under subsection (1) to legally possess a species listed in paragraph (a), that person, party, firm, association, or corporation may possess such reptile for the remainder of the life of the reptile.

(c) If a person, party, firm, association, or corporation holds a permit issued before July 1, 2010, under subsection (1) to legally possess a reptile listed in paragraph (a), and the reptile remains alive following the death or dissolution of the licensee, the reptile may be legally transferred to another entity holding a permit authorizing possession of the reptile for the remainder of the life of the reptile.

(d) If a person, party, firm, association, or corporation holds a permit issued by the commission under subsection (1) to legally possess green iguanas, that person, party, firm, association, or corporation may only possess green iguanas for the purpose of the out-of-state sale of green iguanas.

(e) If a person, party, firm, association, or corporation holds a permit issued by the commission under subsection (1) to legally possess black and white tegus, that person, party, firm, association, or corporation may only possess black and white tegus for the purpose of the out-of-state sale of black and white tegus.

(f) ~~(d)~~ If the commission designates a species of reptile as a conditional or prohibited species after July 1, 2010, the commission may authorize the personal possession of that newly designated species by those licensed to possess that species of reptile before the effective date of the species' designation by the commission as a conditional or prohibited species. The

852402

personal possession of such reptile is not a violation of paragraph (a) if the personal possession was authorized by the commission.

(g) ~~(e)~~ This subsection does not apply to traveling wildlife exhibitors that are licensed or registered under the United States Animal Welfare Act or to zoological facilities that are licensed or exempted by the commission from the licensure requirement.

(3) The commission shall establish by rule a method and process for the capture, purchase, inventory, and sale of all green iguanas and black and white tegus.

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

And the title is amended as follows:

Between lines 7 and 8

insert:

authorizing certain persons, parties, firms, associations, and corporations to possess green iguanas and black and white tegus for specified purposes; requiring the Fish and Wildlife Conservation Commission to adopt rules;

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

SB906
Bill Number (if applicable)

Topic Tegu / Iguana Bill

Amendment Barcode (if applicable)

Name Austin Harris

Job Title GM

Address 1426 SE 13th Ave
Street

Phone 954-937-7583

Deerfield Beach FL 33441
City *State* *Zip*

Email Austin@Undergroundreptiles.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Undergraund Reptiles

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/2020
Meeting Date

SB 906
Bill Number (if applicable)

Topic Tegu/Iguana Bill

Amendment Barcode (if applicable)

Name Rian Gittman

Job Title Pres. Underground Reptiles

Address 8850 NW 172nd street
Street

Parkland FL 33067
City *State* *Zip*

Phone 9549800252

Email R.Gitt@outlook.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Underground Reptiles

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/10/2020
Meeting Date

SB 906
Bill Number (if applicable)

Topic Iguana & Tegu Ban

Amendment Barcode (if applicable)

Name Robert Beaulieu

Job Title Owner

Address 548 S Duncan Dr
Street

Phone 352 434 5252

Tavares FL 32778
City *State* *Zip*

Email ColossalReptilesLLC@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Colossal Reptiles & USARK

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

906
Bill Number (if applicable)

Topic Reptiles

Amendment Barcode (if applicable)

Name Brad Valle

Job Title Asst director of Dragonwood conservancy

Address 28035 Hosea ln
Street

Phone 863-258-0669

Eustis FL 32736
City *State* *Zip*

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing USARK

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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Feb 10, 20
Meeting Date

906
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Iguana / Tegu Ban

Name Jeanne Brocksky

Job Title C/O Reptile Industries

Address 2271 Rock Rd
Street
Naples FL 34120
City *State* *Zip*

Phone 239/455-9128

Email Kim@reptileIndustries.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing US ARK

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/10/20
Meeting Date

SB 906
Bill Number (if applicable)

Topic Iguana Trade Ban

Amendment Barcode (if applicable)

Name Michael VanMostrand

Job Title Owner / Strictly Reptiles

Address 6458 Stirling
Street

Phone 954-868-0661

Hollywood FL 33024
City *State* *Zip*

Email SReptilesmike@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing US Ark Florida / Strictly Reptiles

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

906
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 906

Name WILLIAM VINZANT

Job Title REPTILE BREEDER

Address 5719 OLD HWY 37
Street

LAKELAND FL 33811
City State Zip

Phone 863-602-5228

Email WVINZANT@HOTMAIL.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing MYSELF / REPTILE BREEDERS / ~~NOT REGISTERED~~

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

906

Meeting Date | *Bill Number (if applicable)*

Topic SB906 | *Amendment Barcode (if applicable)*

Name Michael Layman

Job Title Owner The Gourmet Rodent

Address 25275 NW 8th Pl. suite 50 Phone 352 494-0247

Street

Newberry FL 32669 Email Mike.Layman@gourmetrodent.com

City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

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

Representing USARK FT

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/10/20 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

SB 906

Bill Number (if applicable)

Topic SB 906

Amendment Barcode (if applicable)

Name Terry Cullen

Job Title Director

Address 28035 Hosea Ln.
Street

Phone (352) 423 0081

Eustis FL 32736
City *State* *Zip*

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Dragonwood Conservancy

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

SB ~~###~~ 904
Bill Number (if applicable)

Topic Prohibited Reptiles

Amendment Barcode (if applicable)

Name Jenifer Solidea

Job Title

Address 511 SE 31st Ave
Street

Phone 9564351238

Ocala FL 34471
City *State* *Zip*

Email thebugon@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

SB 906
Bill Number (if applicable)

Topic Tego / Iguana Bill

Amendment Barcode (if applicable)

Name Michael Cole

Job Title Reptile Business Owner

Address 21 Cayer Rd
Street

Phone 863-439-3015

Hawes City FL 33844
City *State* *Zip*

Email ballroom@tampabay.rr.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Ballroom Pythons Sarl Family Business

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/10/20
Meeting Date

906
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SP 906

Name Tiara Johnson

Job Title breeder

Address 7810 Camellia Rd.
Street

Phone 208-206-2776

Lakeland FL 33813
City *State* *Zip*

Email tiarajwatkins@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/10/2020
Meeting Date

906
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic International Commodities

Name Michael Barrera

Job Title Owner/President

Address 8735 SW 72 ST
Street
Miami FL 33173
City *State* *Zip*

Phone 7864498930

Email albinoturtles@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing USARK FL - Snakes at Sunset / 7 employees

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date	Bill Number (if applicable)
	906

Amendment Barcode (if applicable)

Topic SP906

Name Elizabeth Wisneski

Job Title Business Owner

Address 4525 S. Florida Ave
Street

Phone 863-581-6757

Lakeland FL 33813
City *State* *Zip*

Email fmaceli zabeth@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing USARK FL

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

906
Bill Number (if applicable)

Topic SP 906

Amendment Barcode (if applicable)

Name Kiersa Johnson

Job Title Student

Address 7010 Camellia Rd.
Street

Phone 208-206-2776

Lakeland FL 33813
City *State* *Zip*

Email tiarasweetmom@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

SB906
Bill Number (if applicable)

Topic Iguana & tegu

Amendment Barcode (if applicable)

Name Ashley Hirko

Job Title Small Reptile Breeder

Address 2755 Teton Trl
Street

Phone 9043077866

Tallahassee FL 32303
City *State* *Zip*

Email ashleyhirkoirelandh@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing USARK

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

906
Bill Number (if applicable)

Topic SB906

Amendment Barcode (if applicable)

Name Brittni Brewer

Job Title Reptile Breeder

Address 5543 Kennedy Hills Dr.
Street

Phone 731-201-0963

Seffner FL 33584
City *State* *Zip*

Email Brittnifallifrone@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

906
Bill Number (if applicable)

Topic Reptiles

Amendment Barcode (if applicable)

Name Kipp Frohlich

Job Title Div. Dir. FWC

Address 8141 B/dE Quail TR
Street

Tallahassee FL 32312
City *State* *Zip*

Phone 850 528-8151

Email Kipp.frohlich@myfwc

Speaking: ☐ For ☐ Against ☒ Information

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

Representing FWC (if called upon)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

906

Meeting Date | *Bill Number (if applicable)*

Topic SB 906 | *Amendment Barcode (if applicable)*

Name JOHN SEYDAGHT

Job Title EXECUTIVE DIRECTOR ZAA

Address 14601 NW 122 TERRACE (*Street*) Phone 443 392 5897

ALACHUA FL 32615 (*City* / *State* / *Zip*) Email john@ZAA.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Zoological Association of America (ZAA)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

GA 301

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/10/16
Meeting Date

906
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 104-2 Crest St
Street

Phone 941-323-2404

Tlh FL 32301
City *State* *Zip*

Email collemesea@aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

906
Bill Number (if applicable)

Topic Reptiles

Amendment Barcode (if applicable)

Name Kate MacFall

Job Title

Address 1624 Nutmeg Circle
Street

Tallahassee FL 32308
City *State* *Zip*

Phone 850 508-1001

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Humane Society of the United States

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

SB906
Bill Number (if applicable)

Topic Non-native reptiles

Amendment Barcode (if applicable)

Name Phil Goss

Job Title President

Address 2271 Rock Rd
Street

Phone 317-431-3298

Naples FL 34120
City *State* *Zip*

Email president@usark.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing U.S. Assoc. of Reptile Keepers

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.10.20
Meeting Date

906
Bill Number (if applicable)

Topic Reptiles

Amendment Barcode (if applicable)

Name CURT HARBSMEIER

Job Title ATTORNEY

Address 5120 S. LAKELAND DR. #3 Phone (863) 640-7484
Street

LAKELAND FL 33813 Email charbsmeier@hcla.com
City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information

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

Representing USARK Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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:	CS/SB 1066
INTRODUCER:	Community Affairs Committee and Senator Gruters
SUBJECT:	Impact Fees
DATE:	February 11, 2020
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1066 requires each county or municipality assessing impact fees to establish an impact fee review committee to:

- Establish policy and methodology for determining impact fees on new developments;
- Review proposed impact fees on each new development before the fee becomes final;
- Submit recommendations to the county or city commission; and
- Review all proposed expenditures of an impact fee after adoption by the local government to ensure that the fee is used for capital projects within the jurisdiction.

In addition, the bill requires that the calculation of an impact fee utilize data obtained within the most recent 36 months and exclude any costs that do not meet specific definitions for infrastructure and public facility. The cost per student station calculation of a school impact fee may not exceed the statutory total maximum cost per student station. Impact fee expenditures and revenues must be accounted for in a separate impact fee account. A new or increased impact fee may not apply to current or pending permit applications submitted prior to the effective date of an ordinance imposing the new or increased fee.

The bill also provides that impact fee credits are assignable and transferable at any time after establishment from one development or parcel to another within the same impact fee jurisdiction for the same type of applicable public facility. Provisions for crediting contributions in lieu of impact fees of greater value and those related to a transportation system and mobility as well as the timing for contribution acceptance and commitment are also outlined.

II. Present Situation:

Local Government Authority

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

Local Government Impact Fees

Pursuant to home rule authority, counties and municipalities may impose proprietary fees,[4] regulatory fees, and special assessments[5] to pay the cost of providing a facility or service or regulating an activity. As one type of regulatory fee, impact fees are charges imposed by local governments against new development to provide for capital facilities' costs made necessary by such growth.[6] Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee. With respect to a school impact fee, the fee is imposed by the respective board of county commissioners at the request of the school board.

Section 163.31801(3), F.S., provides requirements and procedures for the adoption of an impact fee. An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

- Require that the calculation of the impact fee be based on the most recent and localized data;
- Provide for accounting and reporting of impact fee collections and expenditures. If a local government imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund;
- Limit administrative charges for the collection of impact fees to actual costs; and
- Require that notice be provided at least 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.

[1] FLA. CONST. art. VIII, s. 1(f).
[2] FLA. CONST. art. VIII, s. 1(g).
[3] FLA. CONST. art. VIII, s. 2(b). See also s. 166.021(1), F.S.
[4] Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, *available at* http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf (last visited Jan. 6, 2019). Examples of proprietary fees include admissions fees, franchise fees, user fees, and utility fees.
[5] *Id.* Special assessments are typically used to construct and maintain capital facilities or to fund certain services.
[6] *See supra* note 4.

Some local governments impose impact fees specifically for local school facilities.[7] School districts have authority to impose ad valorem taxes within the district for school purposes[8] but are not general purpose governments with home rule power[9] and are not expressly authorized to impose impact fees.[10] Local governments imposing specific impact fees for education capital improvements typically collect the fees for deposit directly into an account segregated for funding those improvements.[11] Local government ordinances creating the impact fee also typically stipulate that the funds be used only for education capital improvement projects.[12] The credit imposed for impact fees imposed for public educational facilities must be based on the total impact fee assessed and not limited to the impact fee imposed for a particular type of school.[13]

Section 163.31801(5), F.S., provides that if a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under concurrency, developments of regional impact, or otherwise,[14] which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established.[15]

Section 163.31801(7), F.S., provides that in any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees, as provided in s. 163.3180(6)(h)2.b., F.S.,[16] the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and s. 163.31801, F.S. The court may not use a deferential standard for the benefit of the government.

Chapter 2019-165, L.O.F., amended s. 163.31801, F.S., to codify the 'dual rational nexus test' for impact fees, as articulated in case law. This test requires an impact fee to be proportional and have a reasonable connection, or rational nexus, between 1) the proposed new development and the need and the impact of additional capital facilities, and 2) the expenditure of funds and the

[7] *See, e.g.*, Miami-Dade County Code of Ordinances ch. 33K, *Educational Facilities Impact Fee Ordinance* and Orange County Code of Ordinances ch. 23, art. V, *School Impact Fees.*
[8] FLA. CONST. art. VII, s. 9(a), and art. IX, s. 4(b), s. 1011.71, F.S.
[9] *See* FLA. CONST. art. VIII, ss. 1(f)-(g) and 2
[10] Section 163.31801(2), F.S.
[11] In Miami-Dade County, the education facility impact fee is paid to the County Planning & Zoning Director, who must then deposit that amount into a specific trust fund maintained by the county. *See* Miami-Dade County Code of Ordinances, ss. 33K-7(a), 33K-10(c). In Orange County, the school impact fee is paid to the county or municipality (if the land being developed is within a municipality), which then transfers the funds collected at least quarterly to the Orange County School District. The District is responsible for maintaining the trust into which the impact fee revenues must be deposited. *See* Orange County Code of Ordinances, s. 23-142.
[12] *See* Miami-Dade County Code of Ordinances, s. 33K-11(a); Orange County Code of Ordinances, s. 23-143(b).
[13] Section 163.3180(6)(h)2.b., F.S.
[14] Local governments often specify types of credits and how they operate.
[15] This subsection shall operate prospectively and not retrospectively.
[16] With respect to school concurrency applied by a local government, when a contribution of land; the construction, expansion, or payment for land acquisition; the construction or expansion of a public school facility, or a portion thereof; or the construction of a specified charter school is used as proportionate-share mitigation, the local government is required to credit such contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by a local ordinance for the same need, on a dollar-for-dollar basis.

benefits accruing to the proposed new development.[17] Local governments are prohibited from requiring the payment of impact fees prior to issuing a property's building permit.[18]

Additionally, ch. 2019-165, L.O.F, established that impact fee funds must be earmarked for capital facilities that benefit new residents and may not be used to pay existing debt unless specific conditions are met.[19] Provisions also authorized a local government to provide an exception or waiver for an impact fee for affordable housing. If a local government provides such an exception or waiver, it is not required to use any revenues to offset the impact.[20] Impact fee provisions in s. 163.31801, F.S., do not apply to water and sewer connection fees.

Concurrency and Proportionate Share

Concurrency requires public facilities and services to be available concurrent with the impacts of new development. Concurrency was formerly required for transportation, schools, and parks and recreation, but in 2011, the Legislature made concurrency for these facilities optional with the passage of the Community Planning Act (CPA).[21] Concurrency on a statewide basis is required only for sanitary sewer, solid waste, drainage, and potable water. However, any local government is authorized to extend the concurrency requirement to additional public facilities within its jurisdiction.[22] "Area" or "area of jurisdiction" within the CPA means the total area qualifying under the act, whether this be all of the lands lying within the limits of an incorporated municipality, lands in and adjacent to incorporated municipalities, all unincorporated lands within a county, or areas comprising combinations of the lands in incorporated municipalities and unincorporated areas of counties.[23]

Many local governments continue to exercise the option to impose concurrency on transportation and school facilities. If a local government elects to apply concurrency to either transportation or school facilities, or both, its comprehensive plan must provide principles, guidelines, standards, and strategies, including adopted levels of service,[24] to guide its application of concurrency requirements.[25] Concurrency is tied to provisions requiring local governments to adopt level-of-service (LOS) standards, address existing deficiencies, and provide infrastructure to accommodate new growth reflected in the comprehensive plan.[26] Local governments are charged with setting LOS standards within their jurisdictions. The local comprehensive plan must demonstrate, for required or optional concurrency requirements, that the adopted LOS standards can be reasonably met, and infrastructure needed to ensure that the LOS standards are achieved

[17] Section 163.31801(3)(f) and (g), F.S.
[18] Section 163.31801(3)(e), F.S.
[19] Section 163.31801(3)(h) and (i), F.S.
[20] Section 163.31801(8), F.S.
[21] Chapter 2011-139, s. 15, Laws of Fla.
[22] Section 163.3180(1), F.S.
[23] Section 163.3164(6), F.S.
[24] "Level of service" is defined in s. 163.3164(28), F.S., to mean "an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility."
[25] *See* ss. 163.3180(5) and (6), F.S., with respect to concurrency applied to transportation facilities and to public education facilities, respectively.
[26] Section 163.3180, F.S.

and maintained for a five-year period must be identified.[27] Generally, if the LOS standards are not met, development permits may not be issued without an applicable exception.

Proportionate share is a tool local governments may use to require developers to help mitigate the impacts of their development notwithstanding a failure to achieve and maintain the adopted LOS standards.[28] Proportionate share generally requires developers to contribute to costs, or build facilities, necessary to offset a new development's impacts.[29] Local governments may require proportionate share contributions from developers for both transportation and school impacts.[30]

A local government applying the concurrency requirement to transportation facilities must comply with the statutory requirements in order to achieve and maintain the LOS standard adopted in the comprehensive plan.[31] A local government that later repeals transportation concurrency is encouraged to apply statutory criteria to an alternative mobility funding system. A mobility fee-based funding system adopted by a local government must comply with the dual rational nexus test applicable to impact fees.[32]

With respect to school concurrency applied by a local government, when a contribution of land; the construction, expansion, or payment for land acquisition; the construction or expansion of a public school facility, or a portion thereof; or the construction of a specified charter school is used as proportionate-share mitigation, the local government is required to credit such contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by a local ordinance for the same need, on a dollar-for-dollar basis.[33]

School Per-Student Station Costs

Section 1013.64(6), F.S., provides that each district school board must meet all educational plant space needs of its elementary, middle, and high schools.[34] Section 1013.64(6)(b)1, F.S., specifies maximum total costs per student station for each school level as of January 2006, adjusted annually to reflect increases or decreases in the Consumer Price Index. Chapter 2019-23, L.O.F., directed the Department of Education in conjunction with the Office of Economic and Demographic Research to review and adjust the cost per student station limits to reflect actual construction costs by January 1, 2020, and annually thereafter.

Capital Assets, Infrastructure and Public Facilities

As used in the Rules of the Auditor General, Chapter 10.550 on Local Government Entity Audits, "generally accepted accounting principles" are those accounting principles generally

[27] Section 163.3180(1)(b), F.S.
[28] Florida Department of Community Affairs (now Department of Economic Opportunity), *Transportation Concurrency: Best Practices Guide*, pg. 64 (2007), retrieved from http://www.cutr.usf.edu/pdf/DCA_TCBP%20Guide.pdf (last visited March 18, 2019).
[29] *Id.*
[30] Sections 163.3180(5) and 163.3180(6), F.S.
[31] Section 163.3180(5), F.S.
[32] Section 163.3180(5)(i), F.S.
[33] Section 163.3180(6)(h)2.b., F.S.
[34] *Id.*

accepted in the United States of America, as defined by the Governmental Accounting Standards Board (GASB).[35] The GASB definition of capital assets and their link to infrastructure assets includes:

> …land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, works of art and historical treasures, infrastructure, and all other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period. Infrastructure assets are long-lived capital assets that normally are stationary in nature and normally can be preserved for a significantly greater number of years than most capital assets. Examples of infrastructure assets include roads, bridges, tunnels, drainage systems, water and sewer systems, dams, and lighting systems.[36]

Section 212.055(2), F.S., authorizes counties to levy a local government infrastructure surtax. For the purposes of the surtax, the term "infrastructure" means any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service.[37] An allowable meaning for a public facility is one used in the Community Planning Act: major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities.[38]

III. Effect of Proposed Changes:

Section 1 amends s. 163.31801, F.S., to provide definitions for both "infrastructure" and "public facility" as they relate to impact fees in this section of law. Infrastructure means:

- Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of a public facility, excluding the cost of repairs or maintenance, that have a life expectancy of 5 or more years;
- Any related land acquisition, land improvement, design, engineering, and permitting costs; and
- All other related construction costs required to bring the public facility into service.

The term public facility is defined similarly to its meaning in the Community Planning Act, i.e., a major capital improvement, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities and would, with the bill, also include a fire and law enforcement facility.

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[35] State of Florida Auditor General, *Rules of the Auditor General, Chapter 10.550 Local Government Entity Audits* (Sep. 30, 2019) *available at* https://flauditor.gov/pages/pdf_files/10_550.pdf (last visited Feb. 6, 2020).
[36] *See* Governmental Accounting Standards Board, *Capital Assets –Project Plan available at* *https://www.gasb.org/jsp/GASB/GASBContent_C/ProjectPage&cid=1176173270952* (last visited February 6, 2020)
[37] Section 212.055(2)(d)1., F.S.
[38] Section 163.3164(39), F.S.

Minimum impact fee requirements are amended to include that:

- The data upon which an impact fee is calculated be collected within the last 36 months and exclude any cost that does not meet the definition of infrastructure.
- The cost per student station established in school impact fee calculations may not exceed the statutory total maximum cost per student station.
- New or increased impact fees may not apply to current or pending permit applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.

This section of the bill also amends s. 163.31801, F.S., to provide that:

- An existing required local government affidavit of compliance with s. 163.31801, F.S., must also state compliance with spending period provisions of an impact fee.
- Factors surrounding an action challenging an impact fee or a government's failure to provide credits for the payment of an impact fee also include a challenge for contributions made and these types of challenges apply within all of ch. 163, F.S.
- Impact fee credits are assignable[39] and transferable at any time after establishment from one development or parcel to another within the same impact fee jurisdiction for the same type of public facility for which the impact fee is applicable.
- A local government shall provide impact fee credits or other forms of compensation if a contribution is greater in value than the applicable impact fee.
- Contributions related to a transportation system are creditable against the combined total of all impact fees and exactions charged for mobility.
- The above provisions apply at the time any contribution is accepted, regardless of when the contributions were agreed upon or committed to.

Section 163.31801, F.S., is further amended to require a county or municipality that assesses impact fees to establish an impact fee review committee. Committee membership elements include:

- Qualified elector, committee member appointments by the local government of:
  - Two county or municipality employees (and an alternate).
  - Two business community members (and an alternate).
  - Two local residential contractors (and an alternate).
  - One at-large member.
- Committee members serving without compensation at the pleasure of the local government until they are replaced.
- Duly noticed committee meetings requiring a quorum.
- Committee membership forfeiture specifications related to non-attendance.

The committee shall meet as needed to:

- Establish a policy and methodology for determining impact fees on new developments.
- Review proposed impact fees on each new development before the fees becomes final.
- Submit recommendations made by the impact fee consultant to the local government at meetings when impact fees on new development will be discussed and voted upon.

[39] Assignability is the quality or attribute which permits a thing to be transferred or negotiated. *See* BLACK'S LAW DICTIONARY (6th ed. 1990).

After the adoption of each impact fee, the committee shall review all proposed expenditures of that impact fee to ensure the fee is used for capital projects within the jurisdiction.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18(a) of the Florida Constitution, provides that cities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. However, the mandate requirement does not apply to laws having an insignificant impact,[40] which for Fiscal Year 2020-2021 is forecast at approximately $2.2 million.[41,42]

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

Under this bill, cities and counties that assess impact fees will incur costs related to the administration of the newly required impact fee review committees and they may realize a reduction in impact fee collections (revenues) as a result of the newly provided definitions for infrastructure and public facility. If costs are determined to exceed $2.2 million in the aggregate, and no other exemption or exception applies, in order to be binding on the cities and counties, the bill must contain a finding of important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature. If a reduction in authority to raise revenues is found and the reduction exceeds the aggregate threshold, final passage of the bill would require approval by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

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[40] An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times $0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), *available at:* http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited Feb.5, 2020).

[41] FLA. CONST. art. VII, s. 18(d).

[42] Based on the Florida Demographic Estimating Conference's December 3, 2019 population forecast for 2020 of 21,555,986. The conference packet is *available at*: http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf (last visited Feb. 5, 2020).

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 Committee adopted a positive/negative indeterminate impact for the bill.[43]

B. Private Sector Impact:

The bill's provisions related to assignable and transferable impact fee credits and impact fee contribution crediting may have an indeterminate impact on holders of such credits or contributions.

C. Government Sector Impact:

Local governments will likely incur additional expenses to accommodate the administrative facets of the bill's required impact fee review committee and may incur expenses if their current impact fee calculations are based on data older than 36 months. In addition, local governments may realize a reduction in impact fee collections as a result of the newly provided definitions for infrastructure and public facility which could prohibit current impact fee collections for certain facilities.

VI. Technical Deficiencies:

Lines 78-79 outline provisions when new or increased impact fees apply to "current or pending permit applications." The sponsor may want to clarify whether these are "building permit applications" as referenced elsewhere in s. 163.31801, F.S., or may include other types of permits.

VII. Related Issues:

None.

[43] Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: CS/CS/HB 637 (Similar SB 1066)*, 414-430 (Feb. 7, 2020), *available at* http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/Impact0207.pdf (last visited Feb. 12, 2020).

VIII. Statutes Affected:

This bill substantially amends section 163.31801 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on February 10, 2020:
The committee substitute:

- Provides impact fee related definitions for infrastructure and public facility.
- Establishes a 36-month age-of-data requirement for analysis sources used to calculate impact fees.
- Provides that new or increased impact fees may not apply to current or pending permit applications submitted prior to the effective date of an ordinance imposing new or increased fees.
- Includes contributions within exiting impact fee challenge provisions and makes the challenges applicable to all of ch. 163, F.S.
- Clarifies that impact fee credits are assignable and transferrable within the same impact fee jurisdiction.
- Provides directives on how and when contributions in lieu of impact fees are credited.
- Removes a requirement that an impact free review committee select an impact fee consultant.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 163.31801, Florida Statutes, is amended to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

(1) This section may be cited as the "Florida Impact Fee Act."

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(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts, collects, or administers an impact fee by ordinance or a special district adopts, collects, or administers an impact fee by resolution, the governing authority complies with this section to ensure a consistent statewide process.

(3) For purposes of this section:

(a) The term "infrastructure" means any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of a public facility, excluding the cost of repairs or maintenance, that have a life expectancy of 5 or more years; any related land acquisition, land improvement, design, engineering, and permitting costs; and all other related construction costs required to bring the public facility into service.

(b) The term "public facility" means any facility as defined in s. 163.3164(39), and includes any fire and law enforcement facility.

(4) At a minimum, each county and municipality that adopts, collects, or administers an impact fee by ordinance and each special district that adopts, collects, or administers an impact fee by resolution ~~an impact fee adopted by ordinance of a county or municipality or by resolution of a special district~~ must


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~~satisfy all of the following conditions~~:

(a) Require that the calculation of the impact fee ~~must~~ be based on the most recent and localized data collected within the last 36 months and excludes any cost that does not meet the definition of infrastructure.

(b) Account for the revenues and expenditures of such impact fee in a separate impact fee account, if the local governmental entity imposes an impact fee to address its infrastructure needs ~~The local government must provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund~~.

(c) Limit administrative charges for the collection of impact fees ~~must be limited~~ to actual costs. The cost per student station established in school impact fee calculations may not exceed that statutory total maximum cost per student station calculated under s. 1013.64(6).

(d) ~~The local government must~~ Provide notice not less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. New or increased impact fees may not apply to current or pending permit applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.

(e) ~~Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit~~

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~~for the property that is subject to the fee.~~

~~(f)~~ Ensure that the impact fee is ~~must be~~ proportional and reasonably connected to, or has ~~have~~ a rational nexus with, the need for additional infrastructure ~~capital facilities~~ and the increased impact generated by the new residential or commercial construction.

(f) ~~(g)~~ Ensure that the impact fee is ~~must be~~ proportional and reasonably connected to, or has ~~have~~ a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.

(g) ~~(h) The local government must~~ Specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving infrastructure ~~capital facilities~~ to benefit new users.

(5) Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.

(6) ~~(i)~~ Revenues generated by the impact fee may not be used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or nonresidential construction.

(7) ~~(4)~~ The local government must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of exaction, related to public education facilities, including land dedication, site planning and design, or construction. Any contribution must be applied to reduce any education-based

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impact fees on a dollar-for-dollar basis at fair market value.

(8) ~~(5)~~ If a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under s. 163.3180, s. 380.06, or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. This subsection shall operate prospectively and not retrospectively.

(9) ~~(6)~~ Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section and the spending period provision in the local ordinance or resolution.

(10) ~~(7)~~ In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees or for contributions made as provided in this chapter ~~s. 163.3180(6)(h)2.b.~~, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.

(11) Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other development or parcel within the same impact fee jurisdiction for the same type of public facility for which the

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impact fee applies.

(12) ~~(8)~~ A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact. To ensure impact fees or equivalent contributions are only collected once, a local government shall provide impact fee credits or other forms of compensation if a contribution is greater in value than the applicable impact fee. Contributions related to the transportation system are creditable against the combined total of all impact fees and exactions charged for mobility. This subsection applies at the time any contribution is accepted, regardless of when the contributions were agreed upon or committed to.

(13)(a) Each county and municipality that assesses impact fees must establish an impact fee review committee.

(b)1. The committee shall be composed of the following members appointed by the county commission or the governing body of the municipality, as applicable:

a. Two members who are employed by the county or municipality.

b. Two members who represent the business community.

c. Two members who are local licensed general or residential contractors.

d. One at-large member.

2. The county commission or the governing body of the municipality, as applicable, shall appoint three alternate

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members, consisting of one representative from each of the categories described in sub-subparagraphs 1.a., b., and c., who shall serve in the absence of their respective member.

3. Members and alternate members must be qualified electors of the county or municipality, as applicable, for at least 2 years before their appointment.

4. Committee members shall serve at the pleasure of the local government and shall serve until they are replaced.

(c)1. Each committee meeting must be duly noticed and open to the public as required by s. 286.011.

2. A meeting may not be held unless a quorum is present. A quorum consists of a majority of members of the committee, but an alternate member shall count toward the quorum when a regular member is absent.

3. A member who fails to attend three consecutive meetings or fails to attend two-thirds of the meetings within a calendar year automatically forfeits the appointment, and the county commissioners or members of the governing body of the municipality, as applicable, shall promptly fill the vacancy.

4. Members of the committee shall serve without compensation.

(d) The committee shall meet as needed to:

1. Establish a policy and methodology for determining impact fees on new developments.

2. Review the proposed impact fee on each new development before the fee becomes final.

3. Submit recommendations made by the impact fee committee to the county commission or governing body of the municipality, as applicable. The recommendations must be presented at the

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meeting when the impact fee on the new development will be discussed and voted upon.

4. After each impact fee is adopted by the local government, review all proposed expenditures of that impact fee to ensure the fee is used for capital projects within the jurisdiction.

(14) ~~(9)~~ This section does not apply to water and sewer connection fees.

Section 2. This act shall take effect July 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to impact fees; amending s. 163.31801, F.S.; providing definitions; revising requirements for counties and municipalities that adopt, collect, or administer an impact fee by ordinance and for special districts that adopt, collect, or administer an impact fee by resolution; providing timeframes for the collection of impact fees by local governments; providing that impact fee credits are assignable and transferable under certain conditions; requiring local governments to provide impact fee credits or other forms of compensation under certain conditions; providing applicability; requiring certain counties and municipalities to establish impact fee review committees; providing for membership; providing

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procedures for holding meetings and establishing quorums; providing committee duties; providing an effective date.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/19
Meeting Date

1066
Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Marco Paredes

Job Title

Address 106 East College Ave. (*Street*)
Tallahassee (*City*) FL (*State*) 32301 (*Zip*)

Phone 850-354-7608

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing M/I Homes of Tampa

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/2020
Meeting Date

1066
Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Eric Poole

Job Title Leg. Liaison

Address 100 South Monroe
Street

Phone 922-4300

Tallahassee fl 32311
City *State* *Zip*

Email epoole@flcounties.com

Speaking: ☐ For ☑ Against ☑ Information

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

Representing Florida Association of Counties

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2-10-26
Meeting Date

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

SB 1066
Bill Number (if applicable)

Topic IMPACT FEES

Amendment Barcode (if applicable)

Name KAFI HEBRANK

Job Title

Address 215 S. Monroe Street
Street
TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850-566-7824

Email khebrank@carltonfields.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FLORIDA HOME BUILDERS ASSOC.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/2020
Meeting Date

1066
Bill Number (if applicable)

Topic IMPACT FEES

Amendment Barcode (if applicable)

Name DEBBIE McDowell

Job Title Mayor - City of North Port

Address 4970 City Hall Blvd.
Street

Phone 941-429-7071

North Port FL 34286
City *State* *Zip*

Email dmcdowell@cityofnorthport.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

1066
Bill Number (if applicable)

Topic IMPACT Fees

Amendment Barcode (if applicable)

Name Louis Rotunda

Job Title

Address 302 Pinestraw Circles
Street

Altamonte Springs FL 32714
City *State* *Zip*

Phone 407-699-9361

Email LGR5002@aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing City of Altamonte Springs

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

1066
Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757 Phone 701-3676
Street

Tallahassee FL 32301 Email DCruz@FLcities.com
City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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:	CS/SB 1102
INTRODUCER:	Community Affairs Committee and Senator Gruters
SUBJECT:	Specialty Contracting Services
DATE:	February 10, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	IT	**Favorable**
2.	Paglialonga	Ryon	CA	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1102 creates an exemption from local and state licensing for persons under the supervision of a certified or registered pool contractor for the construction, remodeling, or repair of swimming pools, hot tubs, and other water features. The supervising contractor need not have a direct contract with the unlicensed person performing the specialty contracting services. The exemption is not available for persons required to be certified or registered as contractors for specified trade categories described in current law.[1]

The bill also expands an existing licensure exemption in s. 487.117(4)(d), F.S., to allow unlicensed persons to perform certain contracting services for the construction, remodeling, repair, or improvement of *clubhouses* or *recreation buildings* in a residential development without obtaining a local license. Such persons must be under the supervision of a licensed general, building, or residential contractor. Currently, this licensure exemption applies only to certain contracting services on *single-family residences*, including townhouses.

The bill provides an effective date of July 1, 2020.

[1] See ss. 489.105(3)(a) through (i) and (m) through (o), F.S. The specified scopes of work are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, plumbing contractor, underground utility and excavation contractor, and solar contractor.

II. Present Situation:

Construction Contracting

Part I of ch. 489, F.S., dealing with Constructing Contracting, sets forth requirements for qualified persons to be licensed if they have sufficient technical expertise in the applicate trade.[2]

A contractor is a person who undertakes a job or submits a bid to construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure for others, and whose job scope is substantially similar to one of 17 specified scopes of work.[3] A contractor must be licensed by the Department of Business and Professional Regulation's Construction Industry Licensing Board (board) or certified by the county in which he or she wishes to work.[4] In most circumstances, a contractor must subcontract all electrical, mechanical, plumbing, roofing, sheet metal, swimming pool, and air-conditioning work unless the contractor holds a state certificate or registration in the appropriate trade category.[5]

A subcontractor who does not have a state certificate or registration may work under the supervision of a licensed or certified contractor, if:

- The work of the subcontractor falls within the scope of the contractor's license; and
- The subcontractor is not engaged in construction work that would require specified contractor licensing (i.e., licensure as an electrical contractor,[6] a septic tank contractor,[7] a sheet metal contractor, roofing contractor, Class A, B, or C air-conditioning contractor, mechanical contractor, commercial pool/spa contractor, residential pool/spa contractor, swimming pool servicing contractor, plumbing contractor, underground utility and excavation contractor, or solar contractor.[8]

The term "certification" means the act by a contractor obtaining or holding a geographically unlimited certificate of competency from the Department of Business and Professional Regulation (DBPR).[9] A contractor "registered" with the DBPR has fulfilled competency requirements only in those jurisdictions in which the registration is issued, and registered contractors may contract only in those jurisdictions.[10]

The term "specialty contractor" means a contractor whose scope of practice is limited to:

- A particular construction category adopted by board rule; and

---

[2] *See* ss. 489.101-489.146, F.S.
[3] *See* s. 489.105(3)(a) through (q), F.S. The specified scopes of work are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, commercial pool/spa contractor, residential pool/spa contractor, swimming pool servicing contractor, plumbing contractor, underground utility and excavation contractor, solar contractor, pollutant storage systems contractor, and specialty contractor.
[4] Sections 489.107(1), 489.113(1), and 489.117(1)(b), F.S.
[5] Section 489.113(3), F.S. Various exceptions for general, building, residential, and solar contractors are set forth in s. 489.113(3)(a) through (g), F.S.
[6] *See* Part II, of ch. 489, F.S., relating to Electrical and Alarm System Contracting,
[7] *See* Part III of ch. 489, F.S., relating to Septic Tank Contracting.
[8] Section 489.113(2), F.S.
[9] *See* ss. 489.105(7) and (8), F.S.
[10] *See* ss. 489.105 (9) and (10), F.S.

- A subset of the [trade categories for contractors listed in s. 489.105(3)(a) through (p), F.S., such as roofing, air-conditioning, plumbing, etc.].[11]

Swimming Pool/Spa Contractors

Section 489.105(3)(j) – (l), F.S., provides three categories of pool/spa contractors in the construction industry. These contractor categories include commercial pool/spa, residential pool/spa, and swimming pool/spa servicing. If an individual's scope of work involves, but is not limited to, the construction, repair, and servicing of these types of swimming pools and spas, one must obtain a state license from the DBPR and is valid in any county or municipality throughout the state. In addition to the state licenses described in s. 489.105(3)(j) – (l), F.S., the DBPR also provides the ability to obtain a voluntary specialty contractor license in specific areas of pool/spa construction pursuant to Florida Administrative Code Rule 61G4-15.032.[12] However, these specialty contractors must work under the supervision of a state licensed contractor.[13]

Pursuant to Florida Administrative Code Rule 61G4-15.032, the DBPR's licensing board has adopted specific rules for the voluntary certification of swimming pool specialty contractors and residential pool/spa servicing contractors.[14] Licenses for these contractors include those for:

- Swimming Pool Layout;
- Swimming Pool Structural;
- Swimming Pool Excavation;
- Swimming Pool Trim;
- Swimming Pool Decking;
- Swimming Pool Piping; and
- Swimming Pool Finishes.

Licensure Exemption in s. 489.117(4)(d), F.S.

Section 489.117(4)(d), F.S., commonly referred to as the "Jim Walter" exemption, was enacted in 1993[15] and allows unlicensed persons to perform contracting services for the construction, remodeling, repair, or improvement of single-family residences and townhouses[16] without obtaining a local license. The person must be under the supervision of a certified or registered general, building, or residential contractor, and the work may not be work that requires licensure in the areas of roofing, sheet metal, air-conditioning, mechanical, pool/spa, plumbing, solar, or underground utility and excavation contractor.[17] The supervising contractor need not have a direct contract with the unlicensed person performing the contracting services.

Florida's Fifth District Court of Appeals has addressed the applicability of this exemption to a local building contractor licensing requirement in a St. Johns County ordinance.[18] In this case,

[11] Section 489.105(3)(q), F.S.
[12] *See* Fla. Admin. Code R. 61G4-15.032 and 61G4-15.040 (2020), *available at:* https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61G4-15 (last visited Jan. 14, 2020).
[13] *Id.*
[14] *Id.*.
[15] *See* ch. 93-154, s. 3, and ch. 93-166, s. 12, Laws of Fla. These provisions have been subsequently amended.
[16] "Townshouses" was added to the exemption in 2003. *See* ch. 2003-257, s.5, Laws of Fla.
[17] Section 489.117(d), F.S.
[18] *See Florida Home Builders Ass'n v. St. Johns County*, 914 So.2d 1035 (Fla. 5th DCA 2005).

the court found that under s. 489.117(4)(d), F.S., the county's ordinance requiring all non-certified contractors to obtain a local license conflicted with state law.[19]

Another example of the applicability of this exemption is contained in a 2001 Attorney General Opinion. In this opinion, Florida's Attorney General, Robert A. Butterworth, explained that a county may not enact an ordinance that requires local certification of drywall installers. Mr. Butterworth reasoned that, under the exemption in s. 489.117(4)(d), F.S., "the county may not require certification of persons performing drywall installation on single-family residences when such persons are working under the supervision of a certified or registered general, building, or residential contractor." [20] Drywall installation fits the local licensing exemption because one does not have to obtain registration or certification under s. 489.105(3)(d)-(o), F.S., to perform this aspect of construction; thus, drywall installers are exempt from local regulations that provide otherwise.

III. Effect of Proposed Changes:

CS/SB 1102 amends s. 487.117(4), F.S., to expand the circumstances under which unlicensed persons may perform certain construction contracting services.

First, the bill expands the licensure exemption in s. 487.117(4)(d), F.S., to allow unlicensed persons to perform contracting services for the construction, remodeling, repair, or improvement of *clubhouses* or *recreation buildings* in a residential development without obtaining a local license. As is imposed under current law, such unlicensed persons must be under the supervision of a licensed general, building, or residential contractor, and the work may not be work that requires licensure as a roofing, sheet metal, air-conditioning, mechanical, pool/spa, plumbing, solar, or underground utility and excavation contractor. Currently, this licensure exemption applies only to eligible construction activities on *single-family residences*, including townhouses.

Second, the bill creates s. 487.117(4)(e), F.S., to exempt from local and state licensing persons under the supervision of a certified or registered commercial pool/spa contractor, a residential pool/spa contractor, or a swimming pool/spa servicing contractor (a licensed pool contractor) for the performance of certain specialty contracting services. The bill provides a contractual relationship between the supervising contractor and those performing the specialty contracting services is not required (i.e., the performance of such contracting services is outside the business of contracting and need not be undertaken through a contractor/subcontractor relationship).

The services that may be performed by unlicensed persons under the supervision of a licensed pool contractor include the construction, remodeling, repair, or improvement of swimming pools, hot tubs, spas, and interactive water features, as defined in the Florida Building Code (code).[21]

---

[19] *Id.* at 1037

[20] *See* Op. Atty. Gen. 2001-25, March 28, 2001, *available at:* http://www.myfloridalegal.com/ago.nsf/Opinions/4C31D4CAE5F162BF85256A1E00532DAC (last visited February 11, 2020).

[21] The term "swimming pool" is defined as "[a]ny structure intended for swimming, recreational bathing or wading that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground pools; hot tubs; spas and fixed-in-place wading pools." *See* ch. 2 of the 2017 Florida Building Code (Sixth Edition), available at https://codes.iccsafe.org/content/FBC2017/chapter-2-definitions (last visited Jan. 14, 2020).

Of those terms, the current code does not appear to define "interactive water features." However, the described scope of work for "swimming pool piping specialty contractor" includes "decorative or interactive water displays or areas."[22]

The exemption is not available for persons required to be certified or registered as contractors for specified trade categories described in s. 489.105(3), F.S.[23]

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who are not licensed as contractors in a trade and have not been eligible to engage in such work may now, under the supervision of certified or registered contractors whose licenses cover such work, construct, remodel, repair, or improve clubhouses or recreational buildings in a residential development, and swimming pools, hot tubs, spas, or interactive water features.

---

[22] *See* Fla. Admin. Code R. 61G4-15.032(2)(f), relating to certification of swimming pool piping specialty contractors, available at https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61G4-15 (last visited Jan. 14, 2020).

[23] *See* s. 489.105(3)(a) through (i) and (m) through (o), F.S. The specified scopes of work are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, plumbing contractor, underground utility and excavation contractor, and solar contractor.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 489.117 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on February 10, 2020:
The committee substitute expands the licensing exemption in s. 487.117(4)(d), F.S., to include work on *clubhouses* or *recreation buildings* in a residential development.

B. Amendments:

None.

166916

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Between lines 17 and 18

insert:

(d) Any person who is not required to obtain registration or certification pursuant to s. 489.105(3)(d)-(o) may perform contracting services for the construction, remodeling, repair, or improvement of single-family residences, including a townhouse as defined in the Florida Building Code, and clubhouses or recreation buildings in a residential development

166916

without obtaining a local license if such person is under the supervision of a certified or registered general, building, or residential contractor. Such ~~As used in this paragraph,~~ supervision does not ~~shall not be deemed to~~ require ~~the existence of~~ a direct contract between the certified or registered general, building, or residential contractor and the person performing specialty contracting services.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
And the directory clause is amended as follows:

Delete lines 14 - 15

and insert:

Section 1. Paragraph (d) of subsection (4) of section 489.117, Florida Statutes, is amended, and paragraph (e) is added to that subsection, to read:

================ T I T L E A M E N D M E N T ================
And the title is amended as follows:

Delete line 3

and insert:

amending s. 489.117, F.S.; revising the types of buildings for which individuals who are not required to obtain certain registrations or certifications may perform contracting services without a local license; authorizing certain persons

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

SB 1102
Bill Number (if applicable)

166916
Amendment Barcode (if applicable)

Topic Specialty Contracting

Name KARL HEBRANK

Job Title

Address 215 S. Monroe St., Suite 500
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850-566-7824

Email khebrank@carltonfields.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FLORIDA HOME BUILDERS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/2020
Meeting Date

1102
Bill Number (if applicable)

Topic Specialty Contracting Services

Amendment Barcode (if applicable)

Name Paul Lowell

Job Title

Address 307 W. Park Ave #214
Street

Phone 850-728-0861

Tallahassee FL 32301
City *State* *Zip*

Email paul@convergegov.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Swimming Pool Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

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 1122
INTRODUCER:	Senator Pizzo
SUBJECT:	Emergency Telecommunication Devices in Public Swimming Pools
DATE:	February 6, 2020
REVISED:	

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

I. Summary:

SB 1122 provides a voluntary method for owners of public swimming pools to equip their pools with emergency telecommunications devices. Public swimming pool owners electing to do so must comply by December 31, 2020, or earlier if required by the local health department, and must meet certain location and signage requirements for the device. The bill provides that property containing a public swimming pool equipped with a device is eligible for certain adjustments or discounts to general liability insurance policy rates.

II. Present Situation:

Public Swimming Pools

Section 514.011(2), F.S., defines "public swimming pool" or "public pool" to mean:

> "a watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. A public swimming pool or public pool shall mean a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses."[1]

[1] Section 514.011, F.S., defines "private pool" to mean a facility used only by an individual, family, or living unit members and their guests which does not serve any type of cooperative housing or joint tenancy of five or more living units.

Department of Health and Public Swimming Pools

Section 514.021, F.S., authorizes the Department of Health (DOH) to adopt and enforce rules to protect the health, safety, or welfare of persons by setting sanitation and safety standards[2] for public swimming pools (and public bathing places). These standards are limited to matters relating to source of water supply; microbiological, chemical, and physical quality of the water in the pool; method of water purification, treatment, and disinfection; lifesaving apparatus; and measures to ensure safety of bathers. However, the DOH may not by rule regulate the design, alteration, modification, or repair of public swimming pools, which rule has no impact on sanitation and safety of persons using such pools; or regulate the construction, erection, or demolition of such pools. Those functions are preempted to the Florida Building Commission.[3]

DOH Assignment of County Health Departments

Section 514.025, F.S., directs the DOH to assign to county health departments that are staffed with qualified engineering personnel the functions of reviewing applications and plans for the construction, development, or modification of public swimming pools; of conducting inspections; and of issuing all permits. The DOH is responsible for such functions if a county health department determines that qualified staff are not available. County health departments are responsible for routine surveillance of water quality in all public swimming pools, including routine inspections, complaint investigations, enforcement procedures, and operating permits.

Required Operating Permits for Public Swimming Pools

Section 514.031, F.S., requires any person or public body desiring to operate a public swimming pool to file an application for an operating permit with the DOH containing specified information. If the DOH determines the pool is or may reasonably be expected to be operated in compliance with applicable law, the DOH is directed to grant the permit. Each permit must be renewed annually, and the permit must be posted in a conspicuous place. According to DOH, there are over 41,000 public swimming permits currently active in Florida.[4]

Public Swimming Pool Safety Features

Section 514.0315, F.S., requires a public swimming pool to be equipped with an anti-entrapment system or device that complies with American Society of Mechanical Engineers/American National Standards Institute standard A112.19.8, or any successor standard.[5, 6] Additional

[2] *See* the DOH Rule Chapter 64E-9, Florida Administration Code, *available at* https://www.flrules.org/gateway/ChapterHome.asp?Chapter=64E-9 (last visited Feb. 5, 2020).
[3] Section 514.021(2), F.S.
[4] Florida Department of Health, *SB 1122 Agency Bill Analysis* (Jan. 9, 2020) (on file with the Senate Committee on Community Affairs).
[5] "This standard establishes materials, testing, and marking requirements for suction fittings that are designed to be totally submerged for use in swimming pools, wading pools, spas, and hot tubs, as well as other aquatic facilities." *See* ANSI Webstore, *ANSI/ASME A112.19.8-2007, available at* https://webstore.ansi.org/standards/asme/ansiasmea112192007 (last visited Feb. 6, 2020).
[6] With limited exception, the federal government is not involved in regulating swimming pools. The 2007 Virginia Graeme Baker Act requires pools to be equipped with anti-entrapment devices to keep swimmers, especially small children, from

provisions in s. 514.0315, F.S., address safety requirements for public swimming pools built before 1993 that have single main drains.

Rule 64E-9.008, F.A.C., provides that all owners, managers, lifeguards, or swimming instructors in charge of, or working at, public swimming pools shall be responsible for the supervision and safety of the pool. The rule also specifies that all pools shall be equipped with the following safety equipment mounted in a conspicuous place and readily available for use:

- Safety drain outlet cover(s)/grate(s).
- A shepherd's hook not less than 16 feet in length.
- At least one 18-inch diameter lifesaving ring.

Enhanced 911

The Federal Communications Commission requires wireless phone companies to implement Enhanced 911 (E911) service.[7] Enhanced 911 is a statewide emergency system that provides rapid access to first responders when a person dials "911" on her or his phone,[8] and reduces response times by law enforcement, fire departments, and emergency medical services.[9] The caller's phone number, geographic location, and jurisdictional first responder agency[10] appear on the 911 emergency operator's screen, as opposed to the basic 911 service where the caller has to tell the operator their phone number and location.[11] E911 "may also include details such as the floor, wing, room, or office of the caller to allow arriving first responders more quickly locate the source of the emergency."[12] E911 is helpful when a caller cannot communicate with the operator. The operator automatically has the caller's location and phone number and can dispatch first responders to the proper location.[13]

E911 uses selective, alternate, and default routing methods to send 911 calls to the appropriate Public-Safety Answering Point (PSAP) based on the geographic location of the caller.[14] A PSAP is a dispatch center staffed by emergency operators that receive 911 calls and dispatches the appropriate first responder.[15] All PSAPs operate 24 hours a day, seven days a week,[16] and are

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being caught in pool and spa drains. *See* National Conference of State Legislatures Legisbrief, *Keeping Recreational Water Facilities Safe*, Vol 23., No. 24, June 2015, *available at* http://www.ncsl.org/LinkClick.aspx?fileticket=f0vZuHlkTt8%3D&tabid=29483&portalid=1 (last visited Feb. 6, 2020).

[7] Federal Communications Commission, Fact Sheet, *FCC Wireless 911 Requirements*, *available at* https://transition.fcc.gov/pshs/services/911-services/enhanced911/archives/factsheet_requirements_012001.pdf. (last visited Feb. 6, 2020).

[8] Section 365.175(2)(a), F.S.

[9] Florida Department of Management Services, *Florida Emergency Communications Number E911 State Plan*, *available at* https://www.dms.myflorida.com/content/download/108633/610926/State_E911_PLAN_2017_post.pdf. (last visited Feb. 6, 2020).

[10] *Id*.

[11] Intrado, *E911 Frequently Asked Questions*, https://www.west.com/safety-services/enterprise-e911-solutions/what-is-e911-faqs/ (last visited Jan. 17, 2020).

[12] *Id*.

[13] *Id*.

[14] Florida Department of Management Services, *supra* note 9.

[15] Section 365.172(3)(y), F.S.

[16] Rule 60FF-6.005(1)(a), F.A.C.

required to have staffing levels that ensure that at least 90 percent of calls are answered within 10 seconds.[17]

Public Swimming Pool Emergency Phones in other States

While Florida has no requirements for public swimming pool emergency communication devices in state statute or rule, other states do. North Carolina's rules governing public swimming pools require that a telephone capable of directly dialing 911 or another emergency notification system shall be provided and accessible to all pool users.[18] The telephone must be permanently affixed to a location inside the pool enclosure or outside the enclosure within 75 feet of a bather entrance. Signage posted at the telephone must provide dialing instructions, address of the pool location, and the telephone number.

South Carolina's general construction requirements for all public swimming pools states that a toll free emergency notification device to notify emergency personnel must be provided within a 200-foot walking distance of the pool.[19] Only permanently mounted notification devices are acceptable. Mobile, voice over internet, or cordless telephones are not an acceptable alternative to permanently mounted emergency notification devices.

Insurance Rate Standards

The rating requirements for property, casualty, and surety insurance are located in part I of ch. 627,F.S.,[20] which is entitled the "Rating Law," and applies to all property, casualty, and surety insurance. Section 627.062(1), F.S., specifies that the rates for all classes to which part I applies "shall not be excessive, inadequate, or unfairly discriminatory."

Section 627.062(2)(a), F.S., describes the filing process and time frames that must be followed by all insurers subject to its provisions. Generally, insurers may choose to submit their rate to the Office of Insurance Regulation (OIR) pursuant to either the "file and use" method or the "use and file" method. Section 627.062(f), F.S., provides that during its review process, the OIR can require an insurer to submit at the insurer's expense all information that the OIR deems necessary to evaluate the condition of the insurer and the reasonableness of the filing.

Certain categories or kinds of insurance and types of commercial lines risks are exempt from the filing and review requirements of s. 627.062(2)(a) and (f), F.S., including general liability insurance.[21] Consequently, general liability insurers are not required to submit premium credit or discount schedules to OIR for approval.

[17] Rule 60FF-6.005(1)(b), F.A.C.
[18] *See* North Carolina Department of Health, *Rules Governing Public Swimming Pools: 15A NCAC 18A.2530, available at* https://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf (last visited Feb. 6, 2020).
[19] *See* South Carolina Department of Health, *Regulation 61-51: Public Swimming Pools, available at https://www.scdhec.gov/sites/default/files/media/document/R.61-51.pdf#page=43* (last visited Feb. 6, 2020).
[20] Sections 627.011 - 627.381, F.S.
[21] Section 627.062(3)(d)(1)i., F.S.

III. Effect of Proposed Changes:

Section 1 creates s. 514.0316, F.S., to provide that a public swimming pool may be equipped with an emergency telecommunication device, continuously accessible to all public swimming pool users, that is capable of directly communicating with a public or private emergency notification service. If the owner of a public swimming pool elects to equip the pool with such a device, the owner must comply with all of the following requirements:

- The device must be permanently mounted inside the pool enclosure, or outside the enclosure but within 75 feet of a bather entrance, and include dialing instructions.
- The device must be visible from inside the pool enclosure or, if mounted outside the pool enclosure, a sign must be posted inside the enclosure indicating the location of the device.

Owners electing to equip a pool with a device must comply with the above provisions by the compliance date set by the local health department or December 31, 2020, whichever date is earlier.

Property containing a public swimming pool that is equipped with an emergency telecommunication device specified in the bill is eligible for any adjustments or discounts to general liability insurance policy rates under s. 627.062, F.S., on insurance rate standards which are associated with the reduction of drownings or the reduction of swimming pool accidents and drownings.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

An indeterminable number of public swimming pools may choose to install a telecommunication device and install signage for their pool. For those that do install a device, DOH county health departments will add a 48th inspection item to the twice per year site inspection to verify compliance with the new statute.[22] DOH estimates an indeterminate number of compliance actions that may be needed for recalcitrant pool owners that do not meet statute. If 10 percent of the over 41,000 pools need a compliance action, this would result in 4,100 hours of added compliance worktime for DOH staff.[23]

VI. Technical Deficiencies:

It appears that the line 41 reference to "paragraph (1)(a)" may have been intended to be "paragraph (1)."

VII. Related Issues:

Lines 41-43 create new provisions specific to general liability insurance policy rates within ch. 514, F.S., on Public Swimming and Bathing Facilities. To clarify and ensure completeness of insurance rating standards, this provision may be better placed within the Rate Standards section of the Rating Law under the Florida Insurance Code in s. 627.062, F.S.

VIII. Statutes Affected:

This bill creates section 514.0316 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.

[22] Florida Department of Health, *SB 1122 Agency Bill Analysis* (Jan. 9, 2020) (on file with the Senate Committee on Community Affairs).
[23] *Id.*

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

1122
Bill Number (if applicable)

Topic Swimming Pool Safety

Amendment Barcode (if applicable)

Name Taylor Biehl

Job Title Dir. Gov Relations

Address 106 E. College Ave. Suite 640
Street

Phone 850-224-1660

Tallahassee FL 32301
City *State* *Zip*

Email taylor@capitolalliancegroup.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Kings III

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

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 1148
INTRODUCER:	Infrastructure and Security Committee and Senator Brandes
SUBJECT:	Electric Bicycles
DATE:	February 6, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	**Fav/CS**
2.	Toman	Ryon	CA	**Favorable**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1148 addresses the definition and operation of electric bicycles (e-bikes) within a three-tiered classification system, revising a number of related definitions. The bill creates regulations governing the operation of e-bikes, affording an e-bike or e-bike operator with all of the rights and privileges, and subjecting them to all of the duties, of a bicycle or bicycle operator. E-bikes are authorized to operate where bicycles are allowed, including, but not limited to, streets, highways, roadways, shoulders, bicycle lanes, and bicycle or multiuse paths. However, the bill provides that the new e-bike regulations may not be construed to prevent a local government from regulating the operation of e-bikes on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction; or to prevent a municipality, county, or agency of the state having jurisdiction over a bicycle lane, bicycle path, multiuse path, or trail network from restricting or prohibiting the operation of an e-bike on such lanes, paths, or trail networks.

The bill provides that an e-bike or an e-bike operator is not subject to the provisions of law relating to financial responsibility, driver or motor vehicle licenses, vehicle registration, title certificates, off-highway motorcycles, or off-highway vehicles. Additionally, the bill sets out labeling requirements for manufacturers and distributors of electric bicycles and prohibits tampering with or modifying an electric bicycle unless the label is replaced after modification.

The bill will likely have a negative but insignificant fiscal impact to the State Transportation Trust Fund and the Highway Safety Operating Trust Fund. The fiscal impact to local governments is indeterminate. See the "Fiscal Impact Statement" for additional information.

The bill takes effect July 1, 2020.

II. Present Situation:

In 2002, Congress amended the Consumer Product Safety Commission (CPSC) definition of e-bikes.[1] The law defines a low-speed e-bike as "A two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph." The federal law permits e-bikes to be powered by the motor alone (a "throttle-assist" e-bike), or by a combination of motor and human power (a "pedal-assist" e-bike).[2]

Devices that meet the federal definition of an e-bike are regulated by the CPSC and must meet bicycle safety standards. However, federal law only applies to e-bikes' product standards and safety, and only specifies the maximum speed that an e-bike can travel under motor power alone. It does not provide a maximum speed when the bicycle is being propelled by a combination of human and motor power. The law does distinguish e-bikes that can travel 20 mph or less under motor power *alone* from motorcycles, mopeds, and motor vehicles. [3] The CPSC has clarified that the federal law does not prohibit e-bikes from traveling faster than 20 mph when using a combination of human and motor power.[4]

While the federal government regulates the manufacturing and first sale of an e-bike, its operation on streets and bikeways remains within each state's control. Therefore, many states have their own laws that categorize e-bikes with mopeds and other motorized vehicles, require licensure and registration, or do not enable them to be used on facilities such as bike lanes or multi-purpose trails.[5]

For ease of organization of the provisions in SB 1148, the present situation is discussed below in conjunction with the Effect of Proposed Changes.

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[1] House Bill 727, available at https://www.congress.gov/bill/107th-congress/house-bill/727/text (last visited February 6, 2020).
[2] National Conference of State Legislatures, *State Electric Bicycle Laws: A Legislative Primer* (March 28, 2019), available at https://www.ncsl.org/research/transportation/state-electric-bicycle-laws-a-legislative-primer.aspx (last visited February 6, 2020).
[3] *Id.* Emphasis added.
[4] *Id.*
[5] *Id.*

Bicycle Regulation

Present Situation

State Bicycle Regulation:

Section 316.003(4), F.S., defines a "bicycle" as "every vehicle propelled solely by human power, and *every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride*, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels."[6] The term does not include:

- Such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position, or
- A scooter or similar device.

That section prohibits a person under the age of 16 from operating or riding upon a motorized bicycle.[7]

Under current law, every person propelling a vehicle *by human power* has all of the rights and duties applicable to any other vehicle driver and is generally required to obey the same rules of the road as other vehicle operators, including traffic signs, signals, and lane markings.[8] Section 316.2065, F.S., governs the operation of bicycles in Florida and provides a number of regulations, including:

- A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet.[9]
- A person may not knowingly rent or lease any bicycle to be ridden by a child who is under the age of 16 years unless the child possesses a bicycle helmet or the lessor provides a bicycle helmet for the child to wear.[10]
- Every bicycle in use between sunset and sunrise must be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear.[11]
- A person operating a bicycle on a sidewalk, or across a roadway on a crosswalk, must yield the right-of-way to any pedestrian and must give an audible signal before overtaking and passing the pedestrian.[12]

A person operating a bicycle on a roadway must ride in the bicycle lane, but if there is no bicycle lane, the bicycle operator must ride as close to the right-hand curb or edge of the roadway as practicable, except when:

- Overtaking and passing another bicycle or vehicle proceeding in the same direction.

[6] Section 316.003(4), F.S. Emphasis added.
[7] *Id.*
[8] Section 316.2065, F.S.
[9] Section 316.2065(3)(d), F.S.
[10] Section 316.2065(15)(a), F.S.
[11] Section 316.2065(7), F.S.
[12] Section 316.2065(10), F.S.

- Preparing for a left turn at an intersection or into a private road or driveway.
- Reasonably necessary to avoid any condition or potential conflict, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard-width lane, which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.[13]

Bicycle operators traveling on a one-way highway with two or more marked traffic lanes may ride as near to the left-hand curb or edge of the roadway as practicable[14] and bicycle operators may not ride more than two abreast on a roadway.[15]

With respect to vehicle drivers relative to a bicycle or other nonmotorized vehicle on the roadway, a driver overtaking either must pass at a safe distance of not less than three feet between the vehicle and the bicycle or nonmotorized vehicle.[16]

Bicycles are currently excluded from provisions of law relating to child restraint requirements,[17] safety belt usage,[18] vehicle registration,[19] driver licensing,[20] minimum insurance requirements,[21] and waste tire and lead-acid battery requirements.[22]

Motorized Bicycle Registration:

For purposes of vehicle registration, s. 320.01, F.S., currently provides that a "motor vehicle" does not include bicycles. However, among other fees, s. 320.08, F.S., imposes a $5 flat fee for registration (or renewal of registration) of mopeds and motorized bicycles. In addition, a $2.50 motorcycle safety education fee is imposed on mopeds, which is deposited into the Highway Safety Operating Trust Fund (HSOTF).[23] The Department of Highway Safety and Motor Vehicles advises that moped and motorized bicycle registration data is combined and provides the following information on moped *and* motorized bicycle registration:[24]

[13] Section 316.2065(5)(a), F.S. For purposes of subsection (5), a substandard width lane is any lane that is too narrow for a bicycle and another vehicle to travel safely side-by-side within the lane.
[14] Section 316.2065(5)(b), F.S.
[15] Section 316.2065(6), F.S.
[16] Section 316.083, F.S.
[17] Section 316.613(2), F.S.
[18] Section 316.614(3)(a), F.S.
[19] Section 320.01(1), F.S.
[20] Section 322.01(27) and (44), F.S.
[21] Section 324.021(1), F.S.
[22] Section 403.717(1), F.S.
[23] Section 320.08(1)(c), F.S. These funds may be used to fund a motorcycle driver improvement program, the Florida Motorcycle Safety Education Program, or the general operations of the Department of Highway Safety and Motor Vehicles.
[24] *See* email to House Committee Staff, January 9, 2020 (on file in the Senate Infrastructure and Security Committee). Section 320.20, F.S., after other distributions, directs the remainder of revenue derived from registration of motor vehicles for deposit in the State Transportation Trust Fund.

Moped and Motorized Bicycle Registration Transactions		
FY 2016-17	FY 2017-18	FY 2018-19
2,389	2,159	1,951
Moped and Motorized Bicycle Revenue Distribution		
State Transportation Trust Fund ($5)		
$11,945.00	$10,795.00	$9,755.00
Highway Safety Operating Trust Fund ($2.50)		
$5,972.50	$5,397.50	$4,877.50

Local Regulation of Bicycles and Other Motorized Transportation Modes:

Local authorities, in the exercise of their police power, are authorized to regulate the operation of bicycles.[25] Additionally, local authorities may prohibit or regulate the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic.[26] As the definition of "bicycles" currently includes motorized bicycles, local authorities are authorized to impose regulations under both grants of power.

Current law prohibits a person from driving any vehicle *other than by human power* upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway.[27] However, exceptions to the prohibition are made with respect to local regulation, and current law provides that:

- A county or municipality may enact an ordinance to regulate the operation of vehicles, golf carts, mopeds,[28] motorized scooters,[29] and electric personal assistive mobility devices[30] on sidewalks or sidewalk areas when such use is permissible under federal law, if the vehicles or devices are restricted to a maximum speed of 15 miles per hour in such areas.[31]

[25] Section 316.008(1)(h), F.S.
[26] Section 316.008(1)(n), F.S.
[27] Section 316.1995, F.S.
[28] The term "moped" means "any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of 2 brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters." Section 316.003(41), F.S.
[29] The term "motorized scooter" means "any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground." Section 316.003(45), F.S.
[30] The term "electric personal assistive mobility device" means "any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour." These devices, however, are not vehicles as defined in s. 316.003, F.S. Section 316.003(22), F.S.
[31] Section 316.008(7)(a), F.S.

- A personal delivery device[32] and a mobile carrier[33] may be operated on sidewalks and crosswalks within a county or municipality when such use is permissible under federal law, except that a county or municipality may adopt regulations for the safe operation of personal delivery devices and mobile carriers. A personal delivery device may not be operated on the Florida Shared-Use Nonmotorized Trail Network or components of the Florida Greenways and Trails System.[34] As its title indicates, the network consists "of a statewide network of nonmotorized trails which *allows nonmotorized vehicles and pedestrians* to access a variety of origins and destinations *with limited exposure to motorized vehicles*."[35]
- A local governmental entity may regulate golf cart operation on sidewalks adjacent to specific segments of municipal streets, county roads, or state highways within the jurisdictional territory of the local governmental entity if:
  - The local entity determines, after considering the condition and current use of the sidewalks, the character of the surrounding community, and the locations of authorized golf cart crossings, that golf carts, bicycles, and pedestrians may safely share the sidewalk;
  - The local entity consults with the Department of Transportation before adopting the ordinance;
  - The ordinance restricts golf carts to a maximum speed of 15 miles per hour and permits such use on sidewalks adjacent to state highways only if the sidewalks are at least eight feet wide;
  - The ordinance requires golf carts to meet certain equipment requirements;[36] and
  - The local entity posts appropriate signs or otherwise informs residents that the ordinance exists and applies to such sidewalks.[37]
- A local government may regulate the operation of micromobility devices and motorized scooters on streets, highways, sidewalk, and sidewalk areas under the local government's jurisdiction.[38]

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[32] The term "personal delivery device" means "an electrically powered device that (a) is operated on sidewalks and crosswalks and intended primarily for transporting property, (b) weighs less than 80 pounds, excluding cargo; (c) has a maximum speed of 10 miles per hour; and (d) is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person." Section 316.003(55), F.S.

[33] The term "mobile carrier" means "an electrically powered device that (a) is operated on sidewalks and crosswalks and intended primarily for transporting property, (b) weighs less than 80 pounds, excluding cargo; (c) has a maximum speed of 12.5 miles per hour; and (d) is equipped with a technology to transport personal property with the active monitoring of a property owner and primarily designed to remain with 25 feet of the property owner." Section 316.003(40), F.S. Under current law, a personal delivery device is not a vehicle unless expressly defined by law as a vehicle, and a mobile carrier is not a personal delivery device. Section 316.003(55), F.S.

[34] Section 316.008(7)(b), F.S. Emphasis added. Section 339.81, F.S., creates the Florida Shared-Use Nonmotorized Trail Network as a component of the Florida Greenways and Trails System established in ch. 260, F.S. "The statewide network consists of multiuse trails or shared-use paths physically separated from motor vehicle traffic and constructed with asphalt, concrete, or another hard surface which, by virtue of design, location, extent of connectivity or potential connectivity, and allowable uses, provides *nonmotorized* transportation opportunities for bicyclists and pedestrians statewide…." Section 339.81(2), F.S.

[35] Section 339.81(1), F.S. Emphasis added. A bicycle rider or pedestrian on the trail network might, for example, encounter limited exposure to motorized vehicles on an on-road facility no longer than one-half mile connecting two or more nonmotorized trails. *See* s. 339.81(3)(a), F.S.

[36] Section 316.212(6), F.S., requires a golf cart to be equipped with efficient brakes, reliable steering apparatus, safe tires, a rear-view mirror, and red reflectorized warning devices in both the front and rear.

[37] Section 316.212(8)(b), F.S.

[38] Section 316.2128, F.S.

Effect of Proposed Changes

Definitions (Sections 1, 2, 4, and 7-15):

Section 2 of the bill revises s. 316.003, F.S., relating to definitions for the purposes of state uniform traffic control requirements. Specifically, the bill removes the definition of "motorized bicycle" from within the definition of "bicycle." The bill creates a separate definition for "electric bicycle," and defines three classes, as follows:

- "Electric bicycle" means "a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:
  - "Class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
  - "Class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
  - "Class 3 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.

The bill deletes the provision in the current definition of "bicycle" providing that the term does not include "a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position," leaving in place exclusion from the definition of a scooter or similar device. This revision means that vehicles with the specified seat height are bicycles and would be subject to all bicycle regulations.

While provided information[39] indicates that this revision is an attempt to address confusion over recumbent bicycles and tricycles,[40] a reading of the plain words of the revision could allow small children to legally operate the described bicycles on highways and streets.[41] However, riders of the described bicycles who are under 16 years of age would be required to wear bicycle helmets.[42]

The bill deletes the provision in the current definition of "bicycle" prohibiting a person under the age of 16 from operating or riding on a motorized bicycle. Presumably, this revision is intended to authorize any person, regardless of age, to operate or ride on an e-bike as defined in the bill.

[39] Telephone conversation with Becky Afonso, Executive Director, Florida Bicycle Association, January 31, 2020. *See* also FDOT and DHSMV email to committee staff, January 31, 2020 (on file in the Senate Infrastructure and Security Committee).
[40] Merriam-Webster defines "recumbent" with respect to a bicycle as "a bicycle with a wide seat that has a back support and is positioned so that the rider's legs are extended horizontally forward to the pedals and the body is reclined. Merriam-Webster, available at https://www.merriam-webster.com/dictionary/recumbent (last visited Feb. 6, 2020).
[41] *See* s. 316.2065(5)(a), F.S.
[42] Section 316.2065(3)(d), F.S.

This section of the bill also excludes e-bikes from the current definitions of moped,[43] motor vehicle,[44] motorcycle,[45] and motorized scooter.[46] Definition of the terms "bicycle," "moped," "motorcycle," and "motorized scooter" continue to include identification as "vehicles."

Section 4 of the bill amends s. 316.027, F.S., relating to vulnerable road users and leaving the scene of a crash, to include a person operating an e-bike within that section's definition of "vulnerable road user." This revision has no effect, as under current law, a motorized bicycle rider is already a vulnerable road user.

Sections 1 and 9 through 15 make conforming revisions, likewise excluding e-bikes from the current definitions of:

- "OHM" or "off-highway motorcycle" in s. 261.03(4), F.S., for purposes of off-highway vehicle safety and recreation provisions.
- "Motor vehicle" in s. 316.613(2), F.S., relating to child restraint requirements; in s. 316.614(3)(a), F.S., relating to safety belt usage; in s. 320.01(1), F.S., relating to motor vehicle registration; in s. 322.01(27), F.S., relating to driver licensing; in s. 324.021(1), F.S., relating to minimum insurance requirements; in s. 403.717(1), F.S., relating to waste tire and lead-acid battery requirements; and in s. 681.102(14), F.S., relating to motor vehicle sales warranties.
- "Vehicle" in s. 322.01(44), F.S., relating to driver licensing.

State and Local Regulation of E-bikes (Sections 3, 5, and 8):

Section 3 amends s. 316.008(7)(a), F.S., relating to powers of local authorities with respect to traffic control, authorizing a county or municipality to enact an ordinance regulating the operation of e-bikes on sidewalks and sidewalk areas when such use is permissible under federal law.[47] Under current state law, the ordinance must restrict e-bikes to a maximum speed of 15 miles per hour in such areas. While federal law *authorizes* state and local regulations permitting the use of e-bikes on sidewalks, whether to undertake such state or local regulation is within state or local government discretion.

Section 8 creates s. 316.20655, F.S., establishing regulations governing the operation of e-bikes and providing that an e-bike or an e-bike operator shall be afforded all the rights and privileges,

[43] *Supra* note 28.
[44] Currently defined, except when used in s. 316.1001, F.S., relating to toll payment, as "a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped." Section 316.003(43), F.S.
[45] Currently defined as "any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contract with the ground," including an autocycle, but the term "does not include a tractor, a moped, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements of the National Highway Traffic Safety Administration for a motorcycle." Section 316.003(44), F.S.
[46] *Supra* note 29.
[47] 23 U.S.C. s. 217 authorizes a state to expend certain funds for construction of pedestrian walkways (sidewalks) and bicycle transportation facilities and for carrying out non-construction projects related to safe bicycle use. 23 U.S.C. s. 217(h) specifically prohibits motorized vehicles on trails and pedestrian walkways if such funds are used by the state to construct them, except for maintenance purposes; when snow conditions and state or local regulations permit, snowmobiles; motorized wheelchairs; when state or local regulations permit, electric bicycles; and such other circumstances as the U.S.D.O.T. Secretary deems appropriate. Failure to comply can result in the state's loss of those federal funds.

and be subject to all of the duties, of a bicycle or a bicycle operator, including s. 316.2065, F.S., governing the operation of bicycles. However, the bill provides that the new section of law may not be construed to prevent a local government, through the exercise of its powers under s. 316.008, F.S., from adopting an ordinance governing the operation of e-bikes on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction; or to prevent a municipality, county, or agency of the state having jurisdiction over a bicycle lane, bicycle path, multiuse path, or trail network from restricting or prohibiting the operation of an e-bike on such lanes, paths, or trail networks.

Under the bill, an e-bike is considered a vehicle to the same extent as a bicycle, and the bill authorizes an e-bike to operate where bicycles are allowed, including, but not limited to, streets, highways, roadways, shoulders, bicycle lanes, bicycle or multiuse paths, and trail networks, unless restricted or prohibited as authorized.

Like bicycles under current law, the bill provides that an e-bike or an operator of an e-bike is not subject to the provisions of law relating to financial responsibility, driver or motor vehicle licenses, vehicle registration, title certificates, off-highway motorcycles, or off-highway vehicles. These provisions have no effect, as bicycles are already excluded from those provisions, except that "motorized" bicycles as currently defined are subject to the described registration fees. E-bikes will not be subject to registration fees.

The bill also requires that an e-bike must function so that the electric motor is disengaged or ceases to function when the rider stops pedaling or when the brakes are applied.

Beginning January 1, 2021, the bill requires manufacturers and distributors of e-bikes to apply a label that is permanently affixed in a prominent location to each e-bike containing the classification number, top assisted speed, and motor wattage of the e-bike. The bill prohibits a person from tampering with or modifying an e-bike in order to change the motor-powered speed capability or engagement of an e-bike, unless the label indicating the classification number required is replaced after such modification. E-bikes must comply with the equipment and manufacturing requirements for bicycles adopted by the CPSC.[48] The latter provision is a restatement of current law, as bicycles (including e-bikes) must already comply with the requirements of applicable federal law.

Section 5 amends s. 316.083, F.S., to include e-bikes in the provisions of law relating to a driver overtaking a bicycle or other nonmotorized vehicle. Under the bill, a driver overtaking an e-bikes must pass the e-bike at a safe distance of not less than three feet between the vehicle and the e-bike.

Motorized Bicycle Registration (Section 16):

Section 16 amends s. 320.08, F.S., to repeal the imposition of the $5 flat fee for registration or registration renewal, as well as the $2.50 safety education fee, imposed on motorized bicycles. These fees will no longer be collected and distributed into the State Transportation Trust Fund and the Highway Safety Operating Trust Fund.

[48] 16 C.F.R. Part 1512 applies to bicycles and e-bikes.

Additional Technical and Conforming Changes (Sections 6, 7, 17, and 18):

Section 6 amends s. 316.1995, F.S., relating to driving on a sidewalk or bicycle path, to insert a cross-reference to the e-bike regulations in new s. 316.20655, F.S.

Section 7 amends s. 316.2065(3)(d), F.S., to remove references to obsolete bicycle helmet safety standards, leaving in place reference to the federal safety standard for bicycle helmets in 16 C.F.R. part 1203.

Section 17 and 18 amend ss. 316.306 and 655.960, F.S., to correct cross-references made necessary by the revisions to the definitions in s. 316.003, F.S.

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners of e-bikes will no longer have to pay a $5 flat fee for registration or registration renewal, nor the $2.50 safety education fee.

C. Government Sector Impact:

The bill will likely have a negative but insignificant fiscal impact to the State Transportation Trust Fund and Highway Safety Operating Trust Fund. In FY 2018-19, $14,633 was collected by the Department of Highway Safety and Motor Vehicles (DHSMV) for both moped and motorized bicycle registration fees.[49] Because the data is collected and stored together, it is uncertain what percent of the $14,633 is associated with motorized bicycle registration fees that would not be collected under the bill. The DHSMV advises its Division of Motorist Services will be required to modify its existing procedures, website, driver license handbook, and communications to specific stakeholders, including tax collectors, but assigned no dollar value to these expenses.[50]

Local governments that choose to hold public hearings for the purpose of restricting or prohibiting the operation of an e-bike on bicycle or multi-use paths may incur indeterminate but likely insignificant expenses, offset by possible penalties for violation of any restriction or limitation adopted by the local government. However, the fiscal impact to local governments is indeterminate.

V. Technical Deficiencies:

None.

VI. Related Issues:

The bill deletes the provision in the current definition of "bicycle" prohibiting a person under the age of 16 from operating or riding on a motorized bicycle. Presumably, this revision is intended to authorize any person, regardless of age, to operate or ride on an electric bicycle as defined in the bill. The bill may need revision to ensure that such authorization is or is not intended.

Representatives of the Florida Bicycle Association have expressed some concerns with the e-bike three-class definition. One concern is that the class 2 e-bike does not need pedal assist to engage and may be more similar to a motorized vehicle than a bicycle. Another concern is that the class 3 e-bike can reach speeds of 28 mph, which may be too fast to safely operate on sidewalks or multi-use paths.[51]

Likewise, some environmental groups, mountain bikers, hunters, and anglers in other states have voiced opposition to the authorization of e-bikes on public trails. Their concerns relate to damage to the trails, overcrowding of the trails, and too much access to wildlife habitats.[52]

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[49] *Supra* note 26.
[50] *See* the DHSMV's 2020 Legislative Bill Analysis for SB 1148 (on file in the Senate Infrastructure and Security Committee).
[51] *See* email to House committee staff, November 11, 2019 (on file in the Senate Infrastructure and Security Committee).
[52] *See* Kurt Repanshek, *Dozens of Conservation Groups Oppose eBikes on Non-Motorized Trails*, National Parks Traveler (August 7, 2019), available at https://www.nationalparkstraveler.org/2019/08/dozens-conservation-groups-oppose-ebikes-non-motorized-trails (last visited Feb. 6, 2020).

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 261.03, 316.003, 316.027, 316.083, 316.1995, 316.613, 316.614, 320.01, 322.01, 324.021, 403.717, 681.102, 320.08, 316.306, and 655.960.

This bill creates the following section of the Florida Statutes: 316.20655.

VIII. Additional Information:

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

CS by Infrastructure and Security on February 3, 2020:
The committee substitute:

- Removes obsolete language relating to bicycle helmets, leaving reference to the existing federal safety standard for bicycle helmets.
- Removes a current exclusion for a bicycle with a specified seat height from the definition of "bicycle," thereby subjecting the described bicycles to bicycle regulations.
- Authorizes a county or municipality to enact an ordinance to regulate the operation of e-bikes on sidewalks and sidewalk areas when permissible under federal law if the ordinance restricts the maximum speed of an e-bike to 15 miles per hour.
- Provides that the new e-bike regulations may not be construed to prevent a local government from adopting an ordinance governing the operation of e-bikes on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction; or to prevent a municipality, county, or agency of the state having jurisdiction over a bicycle lane, bicycle path, multiuse path, or trail network from restricting or prohibiting the operation of an e-bike on such lanes, paths, or trail networks.
- Removes the provision requiring a municipality, county, or agency of the state having jurisdiction over a bicycle or multiuse path to provide notice and hold a public hearing before restricting or prohibiting the operation of an e-bike on the path if the entity finds that such a restriction is necessary in the interest of public safety or to comply with other laws or legal obligations.

B. Amendments:

None.

THE FLORIDA SENATE

APPEARANCE RECORD

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

February 10, 2020
Meeting Date

SB 1148
Bill Number (if applicable)

Topic Electric bicycles

Amendment Barcode (if applicable)

Name Harry van den Berg

Job Title Retired

Address 9029 E Nighthawk Ln
Street

Phone (352) 726-9529

Floral City FL 34436
City *State* *Zip*

Email harrybay@centurylink.net

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/2020
Meeting Date

1148
Bill Number (if applicable)

Topic Electric Bikes

Amendment Barcode (if applicable)

Name Jeff Branch

Job Title Legislative Advocate

Address _____ Phone 701-3701
Street

Tallahassee _____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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:	CS/CS/SB 1154
INTRODUCER:	Community Affairs Committee; Innovation, Industry, and Technology Committee; and Senator Baxley
SUBJECT:	Community Associations
DATE:	February 10, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	IT	**Fav/CS**
2.	Paglialonga	Ryon	CA	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1154 revises the regulation and governance of condominium, cooperative, and homeowners' associations under chs. 718, 719, and 720, F.S., respectively.

The bill authorizes parcel owners, including a parcel owner in a condominium, cooperative, or homeowners' association, to extinguish discriminatory restrictions in recorded title transactions.

For condominium associations, the bill:

- Prohibits a unit owner's insurance policy from including rights of subrogation against the association if the association's policy does not provide subrogation rights against the unit owner;
- Reduces the time period an association must maintain official records of bids for work, equipment, or services to be performed from 7 years to 1 year after receipt of the bid;
- Requires associations to provide members a checklist of all records that are made available for inspection and copying in response to a written request for official records. The checklist must be signed by a ch. 468, F.S., licensed manager or include an affidavit attesting the veracity of the list executed by an authorized agent of the association. Delivery of the checklist (and the affidavit if needed) to a member creates a rebuttable presumption that the association complied with the right of a member to inspect official records of the association;

- Provides that the Division of Florida Condominiums, Timeshares, and Mobile Homes may adopt rules outlining the requirements of the checklist and requirements for the training and education of association board members;
- Permits associations with 150 or more units to make official records available for inspection through an application that can be downloaded on a mobile device;
- Provides that only a board member's service that occurs on or after July 1, 2018, may be used when calculating a board member's term limit;
- Permits associations to electronically transmit members written notice of a meeting;
- Permits associations to charge unit owners the actual costs of performing a background check or screening of a potential unit occupant when a unit owner transfers an interest to the occupant through a sale, mortgage, lease, sublease, or other transfer. The actual costs of the background check or screening must be supported by an invoice from the independent third party company conducting the investigation;
- Removes prohibition against an association employing or contracting with any service provider that is owned or operated by a board member or person who has a financial relationship with a board member or officer;
- Permits unit owners to install a charging station for an electric vehicle or a natural gas fuel vehicle on a parking area exclusively designated for use by the unit owner. The unit owner is required to be responsible for the costs related to the installation, maintenance, and removal of the charging station for an electric vehicle or a natural gas fuel vehicle;
- Provides a process for the parties in certain condominium disputes to initiate presuit mediation as an alternative to mandatory nonbinding arbitration. Election and recall disputes are not eligible for mediation and must be arbitrated or filed in court;
- Clarifies what costs a condominium developer may expend escrow funds to satisfy; and
- Repeals the requirement that the condominium ombudsman must maintain his or her office in Leon County.

For cooperative associations, the bill:

- Provides that an interest in a cooperative unit is an interest in real property; and
- Permits board or committee members to appear and vote by telephone, real-time video conferencing, or similar real-time electronic or video communication.

For homeowners' associations, the bill:

- Permits associations to adopt, by rule, procedures for posting meeting notices and agendas on a website and emailing members meeting notices and agendas;
- Requires sign-in sheets, voting proxies, ballots, and all other papers related to voting to be maintained as official records; and
- Clarifies the situations in which an association is obligated to create or fund association reserve accounts.

For condominiums and cooperatives, association members are not required to demonstrate any purpose or state any reason for inspecting official records.

For condominium and homeowners' associations, the bill clarifies that payment of a fine is due five days after notice of the fine is provided to the unit owner, tenant, or invitee of the unit owner.

The effective date of the bill is July 1, 2020.

II. Present Situation:

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business the Professional Regulation (DBPR) administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The division may investigate complaints and enforce compliance with chs. 718 and 719, F.S., for associations that are still under developer control.[1] The division also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the association.[2] After control of the condominium is transferred from the developer to the unit owners, the division has jurisdiction to investigate complaints related to financial issues, elections, and unit owner access to association records.[3] For cooperatives, the division's jurisdiction extends to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.[4]

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers, associations, and association board members.[5]

If the division has reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or a related rule has occurred, the division may institute enforcement proceedings in its name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. Also, Florida law authorizes the division to petition a court to appoint a receiver or conservator to implement a court order or to enforce an injunction or temporary restraining order. The division may also impose civil penalties.[6]

Unlike condominium and cooperative associations, homeowners' associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

> The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, F.S., the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative

[1] Sections 718.501(1) and 719.501(1), F.S.
[2] *Id.*
[3] Section 718.501(1), F.S.
[4] Section 719.501(1), F.S.
[5] Sections 718.501(1) and 719.501(1), F.S.
[6] *Id.*

> process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 F.S., are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

For homeowners' associations, the division's authority is limited to the arbitration of recall election disputes.[7]

Condominium

A condominium is a "form of ownership of real property created under ch. 718, F.S."[8] Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common elements and members of the condominium association.[9] For unit owners, membership in the association is an unalienable right and required condition of unit ownership.[10] A condominium is created by recording a declaration of the condominium in the public records of the county where the condominium is located.[11] A declaration is similar to a constitution in that it:

> [S]trictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.[12]

Condominium associations are creatures of statute and private contracts. Under the Florida Condominium Act, Associations must be incorporated as a Florida for-profit corporation or a Florida not-for-profit corporation.[13] Although unit owners are considered shareholders of this corporate entity, like other corporations, a unit owner's role as a shareholder does not implicitly provide them any authority to act on behalf of the association.

A condominium association is administered by a board of directors referred to as a "board of administration."[14] The board of administrators is individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements which are owned in undivided

[7] *See* s. 720.306(9)(c), F.S.
[8] Section 718.103(11), F.S.
[9] *See* s. 718.103, F.S.
[10] *Id.*
[11] Section 718.104(2), F.S.
[12] *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).
[13] Section 718.303(3), F.S.
[14] Section 718.103(4), F.S.

shares by unit owners.[15] In litigation, an association's board of directors are the individuals in charge of directing attorney actions.[16]

Cooperative Associations

Section 719.103(12), F.S., defines a "cooperative" to mean:

> [T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative owner receives an exclusive right to occupy the unit based on their ownership interest in the cooperative entity as a whole. A cooperative owner is either a stockholder or member of a cooperative apartment corporation who is entitled, solely by reason of ownership of stock or membership in the corporation, to occupy an apartment in a building owned by the corporation.[17] The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.[18]

Homeowners' Associations

Chapter 720, F.S., provides statutory recognition to corporations that operate residential communities in Florida as well as procedures for operating homeowners' associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.[19]

A "homeowners' association" is defined as a "Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel."[20] Unless specifically stated to the contrary in the articles of incorporation, homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations or by ch. 617, F.S., relating to not-for-profit corporations.[21]
Homeowners' associations are administered by a board of directors whose members are elected.[22] The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include a

[15] Section 718.103(2), F.S.
[16] Section 718.103(30), F.S.
[17] *See Walters v. Agency for Health Care Administration*, 2019 WL 6691513, 44 Fla. L. Weekly D2898 (Fla. 3rd DCA 2019)
[18] *See* ss. 719.106(1)(g) and 719.107, F.S.
[19] *See* s. 720.302(1), F.S.
[20] Section 720.301(9), F.S.
[21] Section 720.302(5), F.S.
[22] *See* ss. 720.303 and 720.307, F.S.

recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.[23] The officers and members of a homeowners' association have a fiduciary relationship to the members who are served by the association.[24]

Homeowners associations mainly differ from condominiums, in the type of property individually owned. Condominium unit owners essentially own airspace within a building, whereas homeowner association members own a parcel of real property or land.

Chapters 718, 719, and 720, F.S.

Chapter 718, F.S., relating to condominiums, ch. 719, F.S., relating to cooperatives, and ch. 720, F.S., relating to homeowners' associations, provide for the governance of these community associations. The chapters delineate requirements for notices of meetings,[25] recordkeeping requirements, including which records are accessible to the members of the association,[26] and financial reporting.[27] Timeshare condominiums are generally governed by ch. 721, F.S., the "Florida Vacation Plan and Timesharing Act."

For ease of reference to each of the topics addressed in the bill, the Present Situation for each topic will be described in Section III of this analysis, followed immediately by an associated section detailing the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Discriminatory Real Estate Restrictions

Present Situation

Federal and state law prohibits discrimination based on race and several other characteristics in the sale, lease, or use of real property. The Fourteenth Amendment to the United States Constitution grants equal civil and legal rights, including due process and equal protection under the law, to all persons within its jurisdiction.

In Florida, the basic rights are provided in Article I of the Florida Constitution, including the right to due process.[28] Specifically, Article I, section 2, of the Florida Constitution, provides:

> Basic rights.—All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be

[23] *See* ss. 720.301 and 720.303, F.S.
[24] Section 720.303(1), F.S.
[25] *See* ss. 718.112(2), 719.106(2)(c), and 720.303(2), F.S., for condominium, cooperative, and homeowners' associations, respectively.
[26] *See* ss. 718.111(12), 719.104(2), and 720.303(4), F.S., for condominium, cooperative, and homeowners' associations, respectively.
[27] *See* ss. 718.111(13), 719.104(4), and 720.303(7), F.S., for condominium, cooperative, and homeowners' associations, respectively.
[28] FLA. CONST. art. I, s. 9.

> deprived of any right because of race, religion, national origin, or physical disability.

Nonetheless, discriminatory restrictive covenants and other instruments—relics of an era when real estate discrimination was legal—remain in the records of many, perhaps all, counties, and can still be found in a title search. Though these documents are not legally enforceable, their existence has troubled many people who have discovered that a property that they own or rent, or would like to own or rent, was once encumbered by a discriminatory restriction.[29] However, current law does not appear to provide a way to strike or otherwise disavow these provisions in the public records.

Fair Housing Act

This state's Fair Housing Act (act), which was closely modeled from the federal act,[30] broadly prohibits discrimination in the sale or rental of real property, including by way of racist restrictive covenants.

The act's main operative provisions relating to the sale, rental, and use of real estate are outlined in ss. 760.23(1) and (2), F.S.:

> (1) It is unlawful to refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny a dwelling to any person because of race, color, national origin, sex, handicap, familial status, or religion.
>
> (2) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, sex, handicap, familial status, or religion.

Moreover, s. 760.23(3), F.S., specifically prohibits discriminatory notices and statements:

> (3) It is unlawful to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, national origin, sex, handicap, familial status, or religion or an intention to make any such preference, limitation, or discrimination.

However, these provisions are subject to exceptions and exemptions, as set forth in s. 760.29, F.S. For instance, the prohibitions do not apply to the sale or rental of a single-family house by its owner, or the rental of a small multi-unit building, such as a duplex if the owner lives in one of the units. The act also does not apply to prevent a religious organization from restricting the occupancy, sale, or rental of its facilities to members of its religion. Moreover, the

[29] *See, e.g., Attorney wants outdated, racist covenant language in Betton Hills stripped*, TALLAHASSEE DEMOCRAT (July 1, 2019), https://www.tallahassee.com/story/news/money/2019/07/01/attorney-wants-outdated-racist-covenant-language-betton-hills-stripped-tallahassee/1546406001/ (last visited Jan. 14, 2020).
[30] *See* 42 U.S.C. §§ 3601-19.

act's prohibitions on discrimination based on familial status "do not apply with respect to housing for older persons."

As for enforcement, the act authorizes a person who alleges that he or she has been injured by a discriminatory housing provision to pursue administrative and civil remedies. However, the act does not mention an opportunity for a homeowner to obtain a written determination that the act or any other law extinguishes a discriminatory restriction on his or her property. Similarly, the act does not allow a condominium, cooperative, or homeowners' association to forego its normal procedures for removing these provisions from a document affecting a parcel within the association.

Effect of Proposed Changes

The bill creates s. 712.065, F.S., to provide a process for the extinguishment of a discriminatory restriction in a recorded title transaction. The bill defines the term "discriminatory restriction" to mean:

> [A] provision in a title transaction recorded in this state which restricts the ownership, occupancy, or use of any real property in this state by any natural person on the basis of a characteristic that has been held, or is held after July 1, 2020, by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability.

The bill provides that discriminatory restrictions are unlawful, are unenforceable, and are null and void. Under the bill, a discriminatory restriction in a previously recorded title transaction is extinguished and severed from the recorded title transaction. The remainder of the title transaction remains enforceable and effective. If any notice preserving or protecting interests or rights is recorded under s. 712.05, F.S., the Marketable Record Title Act,[31] the recording does not reimpose or preserve any discriminatory restriction.

If a discriminatory restriction affects a covenant or other restriction, the bill authorizes a parcel owner to request the removal of the discriminatory restriction by an amendment approved by a majority vote of the board of directors of the respective property owners' association or an owners' association in which all owners may voluntarily join. Parcel owners may approve such an amendment, notwithstanding any other requirements for approval of an amendment of the covenant or restriction. If the amendment does not change other nondiscriminatory provisions of the covenant or restriction, the recording of an amendment removing a discriminatory restriction

[31] The Marketable Record Title Act in ch. 712, F.S., provides a process to extinguish most "rights" in real property that were not created in or after the "root of title." The root of title is essentially the most recent title transaction (such as a deed) that is more than 30 years old. (MRTA) Section 712.05, F.S., provides a process to preserve right or interests in land that would be extinguished under MRTA if not preserved.

does not constitute a title transaction occurring after the root of the title for purposes of s. 712.03(4), F.S.[32]

The bill also creates ss. 718.112(1)(c), 719.106(3), 720.3075(6), F.S., to authorize condominium, cooperative, and homeowners' associations, respectively, to extinguish a discriminatory restriction according to s. 712.065, F.S.

Condominium Unit Insurance

Present Situation

A condominium association is required to use its best efforts to maintain insurance for the association, the association property, the common elements, and the condominium property.[33] Insurance coverage for the association must insure the condominium property as originally installed all alterations or additions made to the condominium property.[34]

Condominium association insurance coverage does not include personal property within a unit or a unit's limited common elements, floor, wall, ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments. Such property and insurance is the responsibility of the unit owner.[35]

A condominium unit owner's insurance policy must conform to s. 627.714, F.S.,[36] which requires that an individual unit owner's residential property insurance policy must state that the coverage afforded by the policy is excess coverage over the amount recoverable under any policy covering the same property.[37]

An association is not obligated to pay for reconstruction or repairs to an improvement, benefiting a specific unit and installed by a unit owner.[38]

Alternatively, s. 718.111(11)(j), F.S., provides that any portion of the condominium property that must be insured by the association against property loss under s. 718.111(11)(f), F.S., which is damaged by an insurable event, shall be reconstructed, repaired, or replaced as necessary by the association as a common expense to the association. Under s. 718.111(j)1., F.S., the subrogation[39] rights of an insurer are not compromised if the unit owner is responsible for the costs of repair or replacement of any portion of the condominium property not paid by an association's insurance proceeds if such damage is caused by intentional conduct, negligence, or

[32] Section 712.03, F.S., provides exceptions to the applicability of MRTA, i.e., rights that are not extinguished by MRTA. Section 712.03(4), F.S., provides an exception to MRTA for estates, interests, claims, or charges arising out of a title transaction which has been recorded subsequent to the effective date of the root of title.
[33] Section 718.111(11), F.S.
[34] Section 718.111(11)(f), F.S.
[35] Section 718.111(11)(f)3., F.S.
[36] Section 718.111(11)g), F.S.
[37] Section 627.714(4), F.S.
[38] Section 718.111(11)(n), F.S.
[39] The term "subrogation" is described a legal right held by insurance carriers to legally pursue a third party that caused an insurance loss to the insured. This is done in order to recover the amount of the claim paid by the insurance carrier to the insured for the loss. *See* Investopedia.com, *Subrogation*, at https://www.investopedia.com/terms/s/subrogation.asp (last visited Feb. 3, 2020).

failure to comply with the terms of the declaration or the rules of the association by a unit owner, the members of his or her family, unit occupants, tenants, guests, or invitees.

Section 718.111(11)(j)3., F.S., provides that an association may reimburse the unit owner without the waiver of any subrogation rights, if:

- The cost of repair or reconstruction is the unit owner's responsibility;
- The association has collected the cost of such repair or reconstruction from the unit owner; and
- The association from insurance proceeds reimburses the unit owner.

Section 718.111(j), F.S., does not provide a condominium unit owner or their insurer a private right of action against another unit owner or their insurer for property damage caused by the latter's intentional conduct, negligence, or failure to comply with the terms of the declaration or the rules of the association.[40]

In 2010, the Legislature repealed a prohibition against an insurance policy issued to an individual unit owner providing rights against the condominium association.[41]

Fannie Mae mortgage lending guidelines require that the insurance policy for a condominium project waive the right of subrogation against unit owners.[42]

Effect of Proposed Changes

The bill amends s. 627.714(4), F.S., to provide that a condominium unit owner's insurance policy may not provide subrogation rights against the association operating the condominium in which the property is located if the association's insurance policy does not provide a subrogation right against the unit owners. This revision would deny condominium unit insurers the right to pursue claims against associations for property losses sustained by a unit owner due to association actions.

Official Records – Condominium, Cooperative, and Homeowners' Associations

Present Situation

Florida law specifies the official records that condominium, cooperative, and homeowners' associations must maintain.[43] Generally, the official records must be maintained in Florida for at least seven years.[44] Certain of these records must be accessible to the members of an association.[45] Additionally, certain records are protected or restricted from disclosure to

[40] *See Universal Property & Casualty Insurance Company v. Loftus*, 276 So.3d 849 (Fla. 4th DCA 2019)
[41] Chapter 2010-174, s. 9, Laws of Fla. (amending s. 718.111(1)(g), F.S.)
[42] Fannie Mae, Selling Guide, Fannie Mae Single Family, Special Requirements for Condo Projects, p. 903, Dec. 4, 2019, available at https://www.fanniemae.com/content/guide/sel120419.pdf (last visited Jan. 27, 2020).
[43] See ss. 718.111(12), 719.104(2), 720.303(5), F.S., relating to condominium, cooperative, and homeowners' associations, respectively.
[44] See ss. 718.111(12)(b), 719.104(2)(b), and 720.303(5), F.S., relating to condominium, cooperative, and homeowners' associations, respectively.
[45] *See* ss. 718.111(12)(a), 719.104(2)(a), and 720.303(5), F.S., , relating to condominium, cooperative, and homeowners' associations, respectively.

members, such as records protected by attorney-client privilege, personnel records, and personal identifying records of owners.[46]

Condominium associations with 150 or more units are required to post digital copies of specified documents on its website.[47]

Effect of Proposed Changes

The bill amends ss. 718.111(12), 718.501, 719.104(2)(c), and 720.303(5), F.S., to revise the official records requirements for condominiums, cooperatives, and homeowners' associations.

For condominium associations, the bill:

- Reduces the time period bids for work performed and bids for materials, equipment, or services must be maintained by associations to 1 year after receipt. Under current law, such records must be maintained for seven years.[48]
- Permits condominium associations with 150 or more to post digital copies of specified documents on an application that can be downloaded on a mobile device.
- Requires the DBPR Division of Condominiums, Timeshares, and Mobile Homes to have additional oversight responsibilities over the manner and format official records of a condominium association are maintained to provide unit owners easy access to these documents for inspection.
- Requires associations to create and maintain a checklist of official records that must be made available to a unit owner upon request. The checklist must identify documents not available. The checklist must be signed by a manager licensed under ch. 468, F.S., or the association must provide the person requesting records an affidavit attesting the veracity of the checklist. The checklist and affidavit must be maintained for at least 7 years from the document request. Delivery of the checklist and affidavit create a rebuttable presumption that the association complied with open record inspection requirements in s. 718.111(12)(c)1., F.S.
    - Clarifies that a renter only has the right to inspect copies of the declaration of condominium, association bylaws, and rules.
    - Amends s. 718.501, F.S., to:
        - Define "financial issue" as an issue related to operating, budgets, reserve schedules, accounting records under s. 718.111(12)(a)11., F.S., notices of meetings, minutes of meetings discussing budget or financial issues, assessment for common expenses, fees, or fines, the commingling of funds, or the records detailing the revenues and expenses of the association;
        - Provide that the Division of Condominiums, Timeshares, and Mobile Homes may adopt rules to define what a financial interest issue is under the section and outline the requirements of the checklist under s. 718.111(c)1., F.S.;
        - Clarifies the division has jurisdiction to investigate the maintenance of association records; and

[46] *See* ss. 718.111(12)(c), 719.104(2)(c), and 720.303(5), F.S., relating to condominium, cooperative, and homeowners' associations, respectively.
[47] Section 718.111(12)(g), F.S.
[48] Sections 719.104(2)(a)9.d. and 720.303(4)(i), F.S., provide an identical provision for cooperative and homeowners' associations, respectively.

- Clarifies that the division may adopt rules to establish requirements for the training and educational programs required by s. 718.501(2)(j), F.S.

The bill permits condominium associations to make digital copies of specified documents available to members through an application that may be downloaded on a mobile device as an alternative to the requirement posting copies of the documents on a website.

Regarding the official records requirements for condominium and cooperative associations, the bill prohibits condominium and cooperative associations from requiring a unit owner to demonstrate a purpose or state a reason for the inspection.[49]

Regarding homeowners' associations, the bill designates as an official record for all ballots, sign-in sheets, voting proxies, and all other papers relating to voting by owners in the association's official records.[50] Under the bill, these records must be maintained for one year after the date of the election, vote, or meeting to which the document relates.

Condominiums Term Limits for Board Members

Present Situation

The terms of all condominium association board members expire at the annual meeting, unless:
- It is a timeshare or nonresidential condominium;
- The staggered term of a board member does not expire until a later annual meeting; or
- All members' terms would otherwise expire but there are no candidates.[51]

Board members may serve terms longer than one year if permitted by the bylaws or articles of incorporation. A board member may not serve more than eight consecutive years unless approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy.[52]

Section 718.112(2)(d)2., F.S., was amended by ch. 2018-96, s. 2, Laws of Fla., to allow board members to serve longer than 1 year if permitted by the bylaws or article of incorporation, but provided that the board members could not serve more than eight consecutive years. The effective date of the change was July 1, 2018. The division issued a declaratory statement on September 12, 2018, that:

> If at the time of the next scheduled election the current board member has served on the association board for eight consecutive years, the board member would be ineligible to serve unless there are fewer eligible candidates than vacant seats on the board or unless that candidate is

[49] Section 720.303(5)(c), F.S., provides a comparable provision for homeowners' associations.
[50] Sections 718.111(12)(a)12. and 719.104(2)(a)10., F.S., provide an identical provision for condominium and cooperative associations, respectively.
[51] Section 718.112(2)(d), F.S. The term of a board member does not expire at the annual board meeting if the association is for a timeshare or nonresidential condominium, the staggered term of a board member does not expire until a later annual meeting, or all members' terms would otherwise expire but there are no candidates.
[52] *Id.*

approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election.[53]

Effect of Proposed Changes

The bill amends s. 718.112(2)(d)2., F.S., to provide that only service on the board of a condominium association that occurs on or after July 1, 2018, may be used when calculating a board member's term limit.

Condominium Meeting Notices

Present Situation

A condominium association must provide written notice for the annual meeting of the unit owners. The notice must include an agenda. Current law does not specify whether the requirement to include an agenda applies to all meetings of unit owners, including the annual meeting. The notice must be mailed, delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting. The notice must also be posted in a conspicuous place on the condominium property for at least 14 continuous days before the annual meeting. Instead of posting the notice in a conspicuous place, a condominium may repeatedly broadcast the notice and agenda on a closed-circuit cable television system serving the association.[54]

Effect of Proposed Changes

The bill amends s. 718.112(2)(d)3., F.S., to extend the notice requirements to all meetings of the unit owners.

Condominium Voting Process

Present Situation

At least 60 days before a scheduled election, a condominium association must mail, deliver, or electronically transmit to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda for the unit owner meeting, the association must mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates.[55]

Effect of Proposed Changes

The bill amends s. 718.112(2)(d)4., F.S., to require the second notice of the election to be sent to all unit owners entitled to vote not less than 14 days, or more than 34 days, before the date of the election.

[53] *In re: Petition for Declaratory Statement, Apollo Condominium Association, Inc.,* DS 2018-035, Division of Florida Condominiums, Timeshares, and Mobile Homes, September 12, 2018.
[54] Section 718.112(d), F.S.
[55] Section 718.112(2)(d)4., F.S.

Condominium Transfer Fees

Present Situation

Condominium associations may charge unit owners costs or fees in connection with the sale, lease, sublease, or transfer of their unit, if:

- The fee is limited to $100 or less;
- The fee is authorized in the association's governing documents; and
- The association is required to approve the transfer.[56]

For example, if a unit owner utilizes their property as a vacation rental and has three separate guest leases during a month, the condominium may charge up to $300 in transfer fees if the above requirements are met under s. 718.112(2)(i), F.S.

Also, condominium associations may require a potential renter to provide the association with a security deposit equivalent to one month of rent. The association must place the security deposit in an escrow account maintained by the association.[57]

Effect of Proposed Changes

The bill amends s. 718.112(2)(i), F.S., to permit a condominium association to charge unit owners a fee for the actual costs of performing a background check or screening of an individual receiving a property interest in a condominium unit. This revision would apply when an association incurs actual costs while checking the background of a person in connection with a unit owner's sale, mortgage, lease, sublease, or other transfer of a unit. The revision requires that the association support the actual costs of background checks and screening with an invoice from an independent third party company conducting the investigation.

The association does need authorization under its declaration, articles, or bylaws to charge a fee for the background check or screening. The fee for the background check or screening may exceed the $100 charge limit per transfer and may extend to whatever actual costs an association expends in the screening process. A husband and wife, or parent and dependent child, are considered one applicant for transfer purposes.

Condominium Boards and Conflicts of Interest

Present Situation

Sections 718.3027, F.S., requires an officer or director of a condominium association (that is not a timeshare condominium association), to disclose any financial interest of the officer or director (or such person's relative) in a contract for goods or services, if such activity may reasonably be construed by the board to be a conflict of interest. Section 718.3027(2), F.S., requires the board of a condominium association to approve a contract for services or other transactions by an affirmative vote of two-thirds of all other directors present.

[56] Section 718.112(2)(i), F.S.
[57] *Id.*

Section 718.112(2)(p), F.S., also prohibits an association (that is not a timeshare condominium association) from employing or contracting with any service provider that is owned or operated by a board member or with any person who has a financial relationship with a board member or officer, or a relative within the third degree of consanguinity[58] by blood or marriage of a board member or officer. This prohibition does not apply to a service provider in which a board member or officer, or a relative within the third degree of consanguinity by blood or marriage of a board member or officer, owns less than 1 percent of the equity shares.

Section 718.112(2)(p), F.S., appears to conflict with ss. 718.3027 and 720.3033, F.S., because those sections permit financial relationships that may create a conflict of interest when the financial interests are disclosed, and the contract or transaction is approved by the board or the members, as appropriate. However, s. 718.112(2)(p), F.S., expressly prohibits such potential conflicts of interest whether the financial interest is disclosed or approved by the board or the members.

Effect of Proposed Changes

The bill repeals s. 718.112(2)(p), F.S., relating to conflicts of interests between officers or directors of a condominium association and service providers. This revision does not prevent certain relationships from being considered a conflict of interest under s. 718.3027, F.S.

Condominium Alternative Fuel Charging Station

Present Situation

A condominium association may not prohibit a unit owner from installing an electric vehicle charging station within the boundaries of the unit owner's limited common element parking area. The electricity charges for the station must be separately metered and payable by the unit owner.[59] Current law does not expressly permit a unit owner to install a natural gas fuel station.

Natural gas fuel is any liquefied petroleum gas product, compressed natural gas product, or a combination of these products used in a motor vehicle.[60] The term includes all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas.[61] However, the term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electricity generation.[62]

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[58] Relatives of the third degree of consanguinity include great grandparent, aunt/uncle, niece/nephew, and great grandchild. *See*: https://www.uab.edu/humanresources/home/images/M_images/Relations/PDFS/FAMILY%20MEMBER%20CHART.pdf (last visited Jan. 17, 2020).
[59] Section 718.113(8), F.S.
[60] Section 206.9951(2), F.S.
[61] *Id.*
[62] *Id.*

Effect of Proposed Changes

The bill amends s. 718.113(8), F.S., to include an exclusively designated parking area as a location where the association may not prohibit a unit owner from installing an electric vehicle charging station.

The bill also amends s. 718.113(8), F.S., to permit a unit owner to install a natural gas fuel station. A unit owner installing a natural gas fuel station is subject to the same requirements as an owner installing an electric vehicle charging station. The unit owner is responsible for complying with all federal, state, or local laws or regulations applicable to the installation, maintenance, or removal of an electric vehicle charging or natural gas charging station. The unit owner, or his or her successor, who installs a natural gas fuel station, is responsible for the cost for the supply and storage of the natural gas fuel station.

The bill also allows a unit owner to use an embedded meter to separately meter the fuel used on an electric vehicle or natural gas fuel vehicle charging station.

CondominiumAlternative Dispute Resolution

Present Situation

Section 718.1255, F.S., provides an alternative dispute resolution process for certain disputes between unit owners and condominium associations. The division employs full-time arbitrators and may certify private attorneys to conduct mandatory nonbinding arbitration. Section 718.1255, F.S., states that the purpose of mandatory nonbinding arbitration is to provide efficient, equitable, and inexpensive decisions when disputes arise between owners and associations. An arbitrator's final order is not binding unless the parties agree to be bound, or the parties fail to file a petition for a trial de novo in the circuit court within 30 days after the mailing of the arbitrator's final order. A petition for arbitration tolls any applicable statute of limitations for the dispute, and, if there is a trial de novo, an arbitrator's decision is admissible as evidence.[63]

Non-binding arbitration is required for disagreements that involve the authority of the board of directs to require an owner to take any action, or not to take any action, involving that owner's unit or the appurtenance thereto and the authority of the board of directors to alter or add to common areas or elements.[64] Additionally, disputes pertaining to the board of directors' failure to properly conduct elections, give adequate notice of meetings, properly conduct meetings and provide access to association books and records must also be litigated in non-binding arbitration before Florida law grants unit owners access to the court system.[65] These types of disputes can be characterized as enforcement actions because they involve enforcing the terms and conditions of the condominium governing documents.

The division does not have jurisdiction to arbitrate the following disputes between a unit owner and an association that involve: [66]

- Title to any unit or common element;

[63] Section 718.1225(4), F.S.
[64] *Id.*
[65] *Id.*
[66] *Id.*

- The interpretation or enforcement of any warranty;
- The levy of a fee or assessment, or the collection of an assessment levied against a party;
- The eviction or another removal of a tenant from a unit;
- Alleged breaches of fiduciary duty by one or more directors; or
- Claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

The filing fee for an arbitration petition is $50.[67]

As a component of mandatory non-binding arbitration, any party may petition the arbitrator to refer the case to mediation.[68] The purpose of mediation is to present the parties with an opportunity to resolve the underlying dispute in good faith, and with a minimum expenditure of time and resources.[69] The dispute remains in arbitration, but the parties can select a mediator from a list of paid and volunteer mediators provided by the arbitrator.[70] The parties must share equally in the cost of the mediation.[71] If the mediator declares an impasse after a mediation conference has been held, the arbitration proceeding terminates unless all parties agree in writing to continuing the arbitration proceedings, in which case the arbitrator's decision will be binding or nonbinding as the parties have agreed.[72]

Current law also encourages parties to a condominium dispute to participate in voluntary mediation through a Citizen Dispute Settlement Center as provided in s. 44.201, F.S.

Section 720.311, F.S., provides an alternative dispute resolution program for certain homeowner association disputes. An aggrieved party in a homeowners association dispute initiates the mediation proceedings by serving a written petition for mediation to the opposing party. The petition must be in the format provided in s. 720.311, F.S., and must identify the specific nature of the dispute and the basis for the alleged violations. The written offer must include five certified mediators that the aggrieved party believes to be neutral. The serving of the petition tolls the statute of limitations for the dispute. If emergency relief is required, a temporary injunction may be sought in court before the mediation.[73]

The opposing party has 20 days to respond to the petition. If the opposing party fails to respond or refuses to mediate, the aggrieved party may proceed to civil court. If the parties agree to mediation, the mediator must hold the mediation within 90 days after the petition is sent to the opposing parties. The parties share the costs of mediation except for the cost of attorney's fees. Mediation is confidential, and persons who are not parties to the dispute (other than attorneys or a designated representative for the association) may not attend the mediation conference.[74]

[67] Section 718.1255(4)(a), F.S.
[68] Section 718.1255(4)(e), F.S.
[69] Section 718.1255(4)(g), F.S.
[70] Section 718.1255(4)(e), F.S.
[71] Section 718.1255(4)(h), F.S.
[72] *Id.*
[73] *Id.*
[74] Section 720.311(2)(b), F.S.

If mediation is not successful in resolving all the disputed issues between the parties, the parties may proceed to civil court or may elect to enter into binding or non-binding arbitration.[75]

Effect of Proposed Changes

The bill creates s. 718.1255(5), F.S., to authorize a party to a condominium dispute to initiate presuit mediation following the procedure for the mediation of homeowners' association disputes in s. 720.311, F.S. Under the bill, parties in a condominium dispute may use the mediation process to resolve a dispute without first initiating the arbitration process. However, the bill also amends s. 718.1255(4)(a), F.S., to provide that prior to court litigation, a party to a condominium dispute may either initiate presuit mediation as provided above or may petition the division for nonbinding arbitration. This provision also states that arbitration shall be binding on the parties if all parties agree in a writing filed in arbitration.

Under the bill, election and recall disputes are not eligible for presuit mediation and must be arbitrated by the division or filed directly with a court of competent jurisdiction. The bill permits condominium election disputes to proceed directly to court instead of the arbitration process with a division arbitrator.

The bill amends s. 718.112(2)(k), F.S., to require that a condominium association's bylaws provide for mandatory dispute resolution. It deletes the requirement that an association's bylaws must provide for mandatory nonbinding arbitration.

Condominium Developer Sale Deposits Prior to Closing

Present Situation

Under s. 718.202(3), F.S., condominium developers are given the right to withdraw funds from an escrow account for the sale of a unit if the sale contract provides. This subsection provides that the developer may withdraw escrow funds in excess of 10 percent of the purchase price once construction improvement has begun. However, these escrow funds may only be expended in the actual construction and development of condominium property where the unit is located.

On the other hand, this section also provides that no part of escrow funds may be used for salaries, commissions, expenses of salespersons, and advertising purposes.

Effect of Proposed Changes

The bill amends s. 718.202(3), F.S., to clarify what expenses may be considered proper use of escrow funds in the "actual construction and development of the condominium property." The bill provides that escrow funds may be used for the actual costs incurred by the developer, and defines actual costs to include, but not limited to, expenditures for demolition, site clearing, permit fees, impact fees, and utility reservation fees, as well as architectural, engineering, and surveying fees that directly relate to construction and development.

The bill also clarifies that escrow funds may not be spent on marketing, promotional purposes, loan fees, costs or interest, attorney fees, accounting fees, or insurance.

[75] Section 720.311(2)(c), F.S.

Condominium Ombudsman

Present Situation

The office of the ombudsman within the division is an attorney appointed by the Governor to be a neutral resource for unit owners and condominium associations. The ombudsman is authorized to prepare and issue reports and recommendations to the Governor, the division, and the Legislature on any matter or subject within the jurisdiction of the division. Also, the ombudsman may make recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints.[76]

The ombudsman also acts as a liaison among the division, unit owners, and condominium associations and is responsible for developing policies and procedures to help affected parties understand their rights and responsibilities.[77]

The ombudsman is required to maintain his or her principal office in Leon County.[78]

Effect of Proposed Changes

The bill amends s. 718.5014, F.S., to delete the requirement that the condominium ombudsman maintains his or her principal office in Leon County.

Cooperative Property

Present Situation

A corporation owns the building and land comprising a cooperative. A person who buys into a cooperative does not receive title to a unit or any portion of the cooperative's building or land. Instead, the purchaser receives shares of the cooperative association and leases a unit from the association.

An ownership interest in a corporation or cooperative is an interest in personal property, not real property.[79] Generally, personal property is any object or right that is not real property, such as automobiles, clothing, or stocks.[80] Real property is anything permanent, fixed, and immovable, such as land or a building. At common law, a 99-year leasehold was not considered an interest in real property. However, a long-term leasehold interest is taxed in the same manner as a fee interest, so case law commonly declares long-term leaseholds to be an interest in real property for taxation purposes.[81]

In Florida, a cooperative is treated as real property for some homestead purposes. Although the general definition of a homestead, including for taxation purposes, follows the common-law rule

[76] Sections 718.5011 and 718.5012, F.S.
[77] *Id.*
[78] Section 718.5014, F.S.
[79] *Downey v. Surf Club Apartments, Inc.*, 667 So.2d 414 (Fla. 1st DCA 1996)
[80] Am. Jur. 2d Property § 18.
[81] *Williams v. Jones*, 326 So.2d 425, 433 (Fla. 1975); *See* generally, The Florida Bar, *Practice Under Florida Probate Code Chapter 19* (9th ed. 2017).

that requires an interest in real property, the Florida Constitution specifically extends the exemption to a cooperative unit.[82] Florida's homestead laws apply to a cooperative the exemption from forced sale by creditors[83] and the exemption from ad valorem taxation. However, a cooperative is not subject to Florida's homestead protections on devise and descent.[84]

The Condominium Act in ch. 718, F.S., specifically provides that "[a] condominium parcel created by the declaration is a separate parcel of real property, even though the condominium is created on a leasehold." Thus, an ownership interest in a condominium is expressly converted by statute into an interest in real property, but there is no corresponding provision in the Cooperative Act.[85] The Third District Court of Appeal has recognized a need for clarification of this type of ownership interest.[86] In 2019, the Third District Court of Appeal certified a question of great public importance to the Florida Supreme Court concerning homestead protections for devise and descent of cooperative property.[87]

Effect of the Proposed Changes

The bill amends the definition of "unit" in s. 719.103(25), F.S., to provide that an interest in a cooperative unit is an interest in real property.

Cooperative Association Meetings

Present Situation

When a board or committee member of a cooperative association participates in a meeting by telephone conference, that board or committee member's participation by telephone conference may be counted toward obtaining a quorum and may vote by telephone. A telephone speaker must be used so that the conversation of those board or committee members attending by telephone may be heard by the board or committee members attending in person, as well as by unit owners present at a meeting.[88]

Effect of Proposed Changes

The bill amends s. 719.106(1)(b)5., F.S., to provide that a cooperative association board member or committee member who attends a meeting by telephone, real time video conferencing, or similar real-time electronic or video communication counts toward a quorum and may vote as if physically present.[89]

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[82] FLA. CONST. art. VII, s. 6(a) provides: "The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years."
[83] Sections 222.01, and 222.05, F.S.
[84] *Southern Walls, Inc. v. Stilwell Corp.*, 810 So. 2d 566, 572 (Fla. 2nd DCA 2002); *Phillips v. Hirshon*, 958 So. 2d 425, 430 (Fla. 3rd DCA 2007); In re *Estate of Wartels*, 357 So.2d 708 (Fla. 1978).
[85] Section 718.106(1), F.S.
[86] *Phillips*, 958 So.2d 425; *Levine v. Hirshon*, 980 So.2d 1053 (Fla. 2008)
[87] *Walters v. Agency for Health Care Administration*, 2019 WL 6691513, 44 Fla. L. Weekly D2898 (Fla. 3rd DCA 2019)
[88] Section 719.106(1)(b)5., F.S.
[89] Section 718.112(2)(b)5., F.S., provides a comparable provision for condominium associations.

Homeowners' Associations Electronic Meeting Notices

Present Situation

A homeowners' association is required to notify all board members at least 48 hours before the meeting by posting a meeting notice in a conspicuous place on the association's property. Alternatively, the notice may be mailed, hand-delivered, or electronically transmitted at least seven days before the meeting.[90]

Meeting notices must be posted 14 days before any meeting where a nonemergency special assessment or an amendment to the rules regarding unit use is to be considered.[91]

Instead of posting or mailing notices, a homeowners' association with more than 100 members may broadcast notices on a closed-circuit cable television system for at least four times every broadcast hour of each day that a posted notice is otherwise required.[92]

Effect of Proposed Changes

The bill amends s. 720.303(2), F.S., to provide an additional method for homeowners' associations to provide meeting notices by authorizing the board to adopt, by rule, a procedure for conspicuously posting a meeting notice and agenda on a website serving the association. The rule must:

- Require the association to send an electronic notice to members with a hypertext link to the website where the notice is posted; and
- Require the notice on the association's website to be posted for at least as long as the physical posting of a meeting notice is required.[93]

Homeowners' Associations Governing Document Amendments

Present Situation

Section 720.306(1)(b), F.S., requires that, unless otherwise provided in the governing documents or required by law, the governing document of an association may be amended by the affirmative vote of two-thirds of the voting interests of the association. The association is required to provide copies of the amendment to the members within 30 days after recording an amendment to the governing documents. If a copy of the proposed amendment is provided to the members before they vote on the amendment and the proposed amendment is not changed before the vote, the association, in lieu of providing a copy of the amendment, may provide notice to the members that the amendment was adopted.[94]

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[90] Section 720.303(2)(c), F.S. Sections 718.112(2) and 719.106(1), F.S., provide comparable notice requirements for condominium and cooperative associations.
[91] *Id.*
[92] *Id.*
[93] Sections 718.112(2)(c) and 719.106(1)(c), F.S., provide comparable notice requirements for meetings in condominium and cooperative associations, respectively.
[94] *See* s. 720.306(1)(b), F.S. The consent of mortgage holder and assignees is required for any mortgage recorded before July 1, 2013.

A written notice must also be sent to certain mortgage holders or assignees to obtain consent or joinder for the proposed amendment.[95]

Notices related to amendments to the governing documents must be mailed or delivered to the address identified as the parcel owner's mailing address on the property appraiser's website for the county in which the parcel is located.[96]

Effect of Proposed Changes

The bill amends s. 720.306(1)(g), F.S., to require that notices related to amendments to the governing documents must be mailed or delivered to the address identified as the parcel owner's mailing address in the official records of the association. The bill removes the requirement that the address on the property appraiser's website for the county in which the parcel is located is to be used for notices.

Homeowners' Association Developers and Reserve Accounts

Present Situation

Under s. 720.303(6)(a), F.S., homeowners' associations are required to prepare an annual budget that sets out the annual operating expenses and reflects the estimated revenues, expenses, and surplus or deficit associations anticipate for the fiscal year. The annual budget must also set out separately all fees or charges paid for by the association for recreational amenities. The association must provide members with a copy of the annual budget.[97]

In addition to annual operating expenses, the budget may include reserve accounts. The reserve accounts are maintained for capital expenditures and deferred maintenance costs the association is responsible for paying. If reserve accounts are not funded adequately and an association is liable for paying the costs of repair or maintenance of a capital improvement, the deficit may result in a special assessment imposed on members.[98]

During the development of a homeowners' association, the developer may be obligated to pay operating expenses and association assessments on lots the developer owns when the developer controls the association board. However, under s. 720.308(1)(b), F.S., a developer has the right to avoid paying these expenses and assessments if the developer elects to fund the difference between assessments received from lot owners and the operating expenses incurred that exceed the assessment receivable. This is referred to as deficit funding.

In the 2016 case, *Mackenzie v. Centex Homes*,[99] Florida's Fifth District Court of Appeals ruled that it is unclear whether s. 720.308(1)(b), F.S., excuses a developer from paying only its share of association operating expenses and assessments or excuses the developer from paying all other contributions including reserve funds. Although the governing documents of an association

[95] *See* s. 720.306(1)(d), F.S.
[96] Section 720.306(1)(g), F.S.
[97] Section 720. 303(6)(a), F.S.
[98] *Id.* at (b)
[99] *Mackenzie v. Centex Homes*, 208 So.3d 790 (Fla. 5th DCA 2016).

may specify whether reserve funds are included in operating expenses and assessment, the *Centex* court found the developer's governing documents were ambiguous on the matter.

Through cannons of statutory interpretation, the fifth district court of appeals ruled that Centex (the developer) was liable for funding the reserve accounts of the association because the developer-controlled association initially established a reserve account and did not defund or waive the reserve accounts according to the procedure outlined in s. 720.303(6), F.S. To comply with s. 720.303(6), F.S., a developer choosing to provide deficit funding to an association, instead of funding reserve accounts, must waive reserve funding at a proper meeting of homeowners and note the absence of reserve funds in a conspicuous location in the financial reports and annual budgets provided to homeowners and prospective buyers. Here, the intent of the s. 720.303(6) procedural requirements are to keep homeowners aware of association reserve funds and to avoid developers and association boards imposing unexpected assessments on homeowners.

Effect of Proposed Changes

The bill amends ss. 720.303(6)(c) and (d), F.S., to clarify the conditions in which a developer is obligated to fund the reserve accounts of a homeowners' association. The bill removes language that deems an association to have provided for reserve accounts funds if the developer initially establishes the accounts. The bill specifies that if the declaration of covenants, articles, or bylaws of an association do not obligate a developer to create reserve accounts or an association has not provided for reserve accounts by majority vote, the association must include a conspicuous statement about the lack of reserve funding on its financial reports.

Condominium and Homeowners' Associations Fines

Present Situation

Condominium and homeowners' associations may levy fines against an owner, occupant, or a guest of an owner for failing to comply with any provision in the association's declaration, bylaws, or rules. A fine imposed by a condominium association may not exceed $100 per violation, and the total amount of a fine may not exceed $1,000.[100] However, a fine imposed by a homeowners' association may exceed $1,000 in the aggregate if the association's governing documents authorize the fine.[101] A fine imposed by a condominium may not become a lien against the unit.[102] A fine by a homeowners' association of less than $1,000 may not become a lien against the parcel.[103]

An association's board may not impose a fine or suspension unless it gives at least 14 days written notice of the fine or suspension, and an opportunity for a hearing. The hearing must be held before a committee of unit owners who are not board members or residing in a board

[100] Sections 718.303(3), F.S. An identical provision in s. 719.303(3), F.S., applies to fines in cooperative associations.
[101] Section 720.305(2), F.S.
[102] Section 718.303(3), F.S. An identical provision in s. 719.303(3), F.S., applies to fines imposed by cooperative associations.
[103] Section 720.305(2), F.S.

member's household. The role of the committee is to determine whether to confirm or reject the fine or suspension.[104]

A fine approved by the committee is due five days after the date of the committee meeting. The condominium or cooperative must provide written notice of any fine or suspension by mail or hand delivery to the unit owner and, if applicable, to any tenant, licensee, or guest of the unit owner.[105]

Effect of Proposed Changes

The bill amends ss. 718.303(3) and 720.305(2), F.S., to provide that a fine imposed by a condominium or homeowners' associations, respectively, is due five days after notice of an approved fine is sent to the unit or parcel owner and if applicable, to any tenant, licensee, or invitee of the owner. Current law provides that payment of the fine is due five days after the committee meeting at which the fine is approved.

The bill also changes the term "occupant" to "tenant."

Effective Date

The effective date of the bill is July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

[104] Section 718.303(3)(b)and (c), F.S., and s. 720.305(2)(b) and (c) , F.S. An identical provision in ss. 719.303(3)(b) and (c), F.S., applies to fines and suspensions imposed by cooperative associations.
[105] *Id.*

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a fiscal impact on insurance companies that provide coverage for condominium associations and unit owners. Although the extent of this fiscal impact is unknown, the removal of subrogation rights for unit owner insurers may increase the risk of providing coverage to unit owners because an insurer may not file subrogation claims against an association insurer to recoup money paid to unit owners, even if property elements owned by the association causes unit owner property loss (e.g., an association's water pipe leaks and damages a unit owner's kitchen cabinets). In turn, this may increase insurance rates for condominium owners.

Condominium unit owners who sell, mortgage, lease, sublease, or transfer property may realize a negative fiscal impact in proportion to the actual costs an association expends performing background checks or screening.

C. Government Sector Impact:

The DBPR Division of Florida Condominiums, Timeshares, and Mobile Homes, may incur additional costs in adopting rules and requirements for condominium official records checklists.

VI. Technical Deficiencies:

There is a technical error on line 1245. The statutory reference should read "s. 718. 111(12)(c)1."

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.714, 718.111, 718.112, 718.113, 718.1255, 718.202, 718.303, 718.501, 718.5014, 719.103, 719.104, 719.106, 720.303, 720.305, 720.306, and 720.3075.

This bill creates section 712.065 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Community Affairs on February 10, 2020:

The committee substitute:

- Removes the section amending s. 514.0115, F.S., to exempt homeowners' associations and other associations with no more than 32 units or parcels from the Department of Health supervision for public swimming pools, under ch. 514, F.S.
- Introduces amendment to s. 718.111(12)(c)1., F.S., to require the DBPR Division of Condominiums, Timeshares, and Mobile Homes to have additional oversight responsibilities over the manner and format official records of a condominium association are maintained to provide unit owners easy access to these documents for inspection. The amendment includes requirements for condominium associations to create and maintain a checklist of official records that are reviewed by DBPR and must be made available to a unit owner upon request.
- Revises amendments to s. 718.112(2)(i), F.S., to require the actual costs of any background check or screening charged to a unit owner for transfer of a condo unit via sale, mortgage, lease, sublease, or other transfer be supported by an invoice from an independent third party background investigation company used by the association or its agent.
    - Clarifies that an association or its agent may not charge an administrative fee associated with a background check or screening.
- Introduces amendment to s. 718.202(3), F.S., to clarify that the 10% a developer may withdraw from an escrow account in the sale of a unit may be used for actual costs incurred by the developer including, but not limited to, expenditures for demolition, site clearing, permit fees, impact fees, and utility reservation fees, as well as architectural, engineering, and survey fees that directly relate to construction and development.
    - Clarifies that no part of the 10% developers may take from escrow may be used for marketing, or promotional purposes, or loan fees, costs of interest, attorney fees, accounting fees, or insurance.
- Introduces amendment to s. 720.303, F.S., to provide that if the declaration of covenants, articles, or bylaws do not obligate the developer to create reserve accounts, the association may deem budgeted reserve accounts approved upon the affirmative vote of a majority of the total voting interests of the association. This amendment also removes language concerning reserve accounts initially established by a developer.

CS by Innovation, Industry, and Technology on January 27, 2020:

The committee substitute:

- Creates s. 712.065, F.S., to provide a process for the extinguishment of a discriminatory restriction in a recorded title transaction.
- Revises the provisions in ss. 718.112(1)(c), 719.106(3), 720.3075(6), F.S., to authorize condominium, cooperative, and homeowners' associations, respectively, to extinguish a discriminatory restriction pursuant to s. 712.065, F.S.
- Revises s. 718.111(12)(a)17., F.S., which requires a condominium association to keep all records not specifically listed in paragraph (a), to specify that the records required to be kept are written records.
- Amends s. 718.112(8), F.S., to permit a condominium unit owner to install a natural gas fuel station within the boundaries of the owner's limited common element or

exclusive parking area and provides conditions for the installation, maintenance, and removal of the natural gas fuel charging station.

- Amends s. 718.112(2)(k), F.S., to require that a condominium association's bylaws provide for mandatory dispute resolution rather than mandatory nonbinding arbitration.
- Amends s. 718.1255, F.S., to provide a process to allow the parties in a condominium dispute to initiate presuit mediation as an alternative to initiating nonbinding arbitration with the Division of Condominiums, Timeshares, and Mobile Homes.
- Amends s. 718.1255(4)(a), F.S., to permit the parties to agree that the arbitration is binding if all parties to the dispute agree in writing to be bound by the arbitration decision.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
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The Committee on Community Affairs (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 72 - 1430
and insert:
Section 1. Subsection (4) of section 627.714, Florida Statutes, is amended to read:
627.714 Residential condominium unit owner coverage; loss assessment coverage required.—
(4) Every individual unit owner’s residential property policy must contain a provision stating that the coverage

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afforded by such policy is excess coverage over the amount recoverable under any other policy covering the same property. If a condominium association's insurance policy does not provide rights for subrogation against the unit owners in the association, an insurance policy issued to an individual unit owner located in the association may not provide rights of subrogation against the condominium association.

Section 2. Section 712.065, Florida Statutes, is created to read:

712.065 Extinguishment of discriminatory restrictions.—

(1) As used in this section, the term "discriminatory restriction" means a provision in a title transaction recorded in this state which restricts the ownership, occupancy, or use of any real property in this state by any natural person on the basis of a characteristic that has been held, or is held after July 1, 2020, by the United States Supreme Court or the Florida Supreme Court to be protected against discrimination under the Fourteenth Amendment to the United States Constitution or under s. 2, Art. I of the State Constitution, including race, color, national origin, religion, gender, or physical disability.

(2) A discriminatory restriction is not enforceable in this state, and all discriminatory restrictions contained in any title transaction recorded in this state are unlawful, are unenforceable, and are declared null and void. Any discriminatory restriction contained in a previously recorded title transaction is extinguished and severed from the recorded title transaction and the remainder of the title transaction remains enforceable and effective. The recording of any notice preserving or protecting interests or rights pursuant to s.

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712.05 does not reimpose or preserve any discriminatory restriction that is extinguished under this section.

(3) Upon request of a parcel owner, a discriminatory restriction appearing in a covenant or restriction affecting the parcel may be removed from the covenant or restriction by an amendment approved by a majority vote of the board of directors of the respective property owners' association or an owners' association in which all owners may voluntarily join, notwithstanding any other requirements for approval of an amendment of the covenant or restriction. Unless the amendment also changes other provisions of the covenant or restriction, the recording of an amendment removing a discriminatory restriction does not constitute a title transaction occurring after the root of title for purposes of s. 712.03(4).

Section 3. Paragraphs (a), (b), (c), (f) and (g) of subsection (12) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer under ~~pursuant to~~ s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)3.e. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or

destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty under s. 718.501(2)(d) ~~pursuant to s. 718.501(1)(d)~~. The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association or condominium.

d. All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for at least 1 year after receipt of the bid.

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).

13. All rental records if the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described in s. 718.504.

15. ~~All other written records of the association not specifically included in the foregoing which are related to the~~

~~operation of the association.~~

~~16.~~ A copy of the inspection report as described in s. 718.301(4)(p).

16.~~17.~~ Bids for materials, equipment, or services.

17. All other written records of the association not specifically included in subparagraphs 1.-16. which are related to the operation of the association.

(b) The official records specified in subparagraphs (a)1.-6. must be permanently maintained from the inception of the association. Bids for work to be performed or for materials, equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years, unless otherwise provided by general law. All official records must be maintained in a manner and format determined by the division so that the records are easily accessible for inspection. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. However, such distance requirement does not apply to an association governing a timeshare condominium. This paragraph may be complied with by having a copy of the official records of the association available for inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not

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responsible for the use or misuse of the information provided to an association member or his or her authorized representative in ~~pursuant to the~~ compliance with ~~requirements of~~ this chapter unless the association has an affirmative duty not to disclose such information under ~~pursuant to~~ this chapter.

(c)1. The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. A renter of a unit only has a right to inspect and copy the declaration of condominium and association's bylaws and rules. The association must provide a checklist to the member or the authorized representative of such member of all records that are made available for inspection and copying in response to a written request. If any of the association's official records are not available, such records must be identified on the checklist provided to the person requesting the records. The checklist must be signed by a manager licensed pursuant to chapter 468 who certifies that the checklist is accurate to the best of his or her knowledge and belief or the association must provide the person requesting the records with a sworn affidavit attesting to the veracity of the checklist and executed by the person responding to the written request on behalf of the association. The association must maintain a copy of the checklist and affidavit for at least 7 years. Delivery of the checklist and, if required, the sworn affidavit to the person requesting the records creates a rebuttable presumption that the association

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complied with this paragraph. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying, but may not require a member to demonstrate any purpose or state any reason for the inspection. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are $50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records.

2. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty under 718.501(2)(d) ~~pursuant to s. 718.501(1)(d)~~.

3. The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well

as the question and answer sheet as described in s. 718.504 and year-end financial information required under this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records are not accessible to unit owners:

a. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including a record prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

b. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

c. Personnel records of association or management company

employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this sub-subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to unit ~~parcel~~ owners a directory containing the name, unit ~~parcel~~ address, and all telephone numbers of each unit ~~parcel~~ owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

f. Electronic security measures that are used by the

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association to safeguard data, including passwords.

g. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

(f) An outgoing board or committee member must relinquish all official records and property of the association in his or her possession or under his or her control to the incoming board within 5 days after the election. The division shall impose a civil penalty as set forth in s. 718.501(2)(d)6. ~~s. 718.501(1)(d)6.~~ against an outgoing board or committee member who willfully and knowingly fails to relinquish such records and property.

(g)1. By January 1, 2019, an association managing a condominium with 150 or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, ~~or~~ collection of subpages or web portals, or application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application that contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents ~~thereto~~. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the

past year. Summaries of bids for materials, equipment, or services which exceed $500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.436(2)(b)6. and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information

within the document will be considered.

1. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under ~~pursuant to~~ s. 718.112(2)(c).

3. The association shall ensure that the information and records described in paragraph (c), which are not allowed to be accessible to unit owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents ~~online~~. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted under ~~pursuant to~~ this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

Section 4. Paragraphs (d), (i), (k), and (p) of subsection (2) of section 718.112, Florida Statutes, are amended, and paragraph (c) is added to subsection (1) of that section, to read:

718.112 Bylaws.—

(1) GENERALLY.—

(c) The association may extinguish a discriminatory

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restriction, as defined in s. 712.065(1), pursuant to s. 712.065.

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(d) *Unit owner meetings.*—

1. An annual meeting of the unit owners must be held at the location provided in the association bylaws and, if the bylaws are silent as to the location, the meeting must be held within 45 miles of the condominium property. However, such distance requirement does not apply to an association governing a timeshare condominium.

2. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term must be filled by electing a new board member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term "candidate" means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members' terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for reelection unless prohibited by the bylaws. Board members may serve terms longer than 1 year if permitted by the bylaws or articles of incorporation. A board member may not serve more than 8 consecutive years unless approved by an

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affirmative vote of unit owners representing two-thirds of all votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. Only board service that occurs on or after July 1, 2018, may be used when calculating a board member's term limit. If the number of board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the newly constituted board even if the directors constitute less than a quorum or there is only one director. In a residential condominium association of more than 10 units or in a residential condominium association that does not include timeshare units or timeshare interests, co-owners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. A unit owner in a residential condominium desiring to be a candidate for board membership must comply with sub-subparagraph 4.a. and must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board. A person who has been suspended or removed by the division under this chapter, or who is delinquent in the payment of any monetary obligation due to the association, is not eligible to be a candidate for board

membership and may not be listed on the ballot. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony. This subparagraph does not limit the term of a member of the board of a nonresidential or timeshare condominium.

3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice of an annual meeting must include an agenda;~~, must~~ be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting;~~,~~ and ~~must~~ be posted in a conspicuous place on the condominium property at least 14 continuous days before the annual meeting. Written notice of a meeting other than an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property in accordance with the minimum period of time for posting a notice as set forth in the bylaws, or if the bylaws do not provide such notice requirements, at least 14 continuous days before the meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property where all notices of unit owner meetings must be posted. This requirement does not

apply if there is no condominium property for posting notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association’s official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit

owner. Notice for meetings and notice for all other purposes must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association must provide notice to the address that the developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered in accordance with this provision.

4. The members of the board of a residential condominium shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. This subparagraph does not apply to an association governing a timeshare condominium.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must

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give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates, not less than 14 days or more than 34 days before the date of the election. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this sub-subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such

assistance. The regular election must occur on the date of the annual meeting. Notwithstanding this sub-subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

b. Within 90 days after being elected or appointed to the board of an association of a residential condominium, each newly elected or appointed director shall certify in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members. In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved condominium education provider within 1 year before or 90 days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption. A director of an association of a residential condominium who fails to timely file the written certification or educational certificate is suspended from service on the board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary shall cause the association to retain a director's written certification or educational certificate

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for inspection by the members for 5 years after a director's election or the duration of the director's uninterrupted tenure, whichever is longer. Failure to have such written certification or educational certificate on file does not affect the validity of any board action.

c. Any challenge to the election process must be commenced within 60 days after the election results are announced.

5. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), must be made at a duly noticed meeting of unit owners and is subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any law that provides for such action.

6. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any law. Notice of meetings of the board of administration, unit owner meetings, except unit owner meetings called to recall board members under paragraph (j), and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission. A unit owner who consents to receiving notices by electronic transmission is solely responsible for removing or bypassing filters that block receipt of mass e-mails ~~emails~~ sent to members on behalf of the association in the course of giving electronic notices.

7. Unit owners have the right to participate in meetings of

unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

8. A unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

9. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to sub-subparagraph 4.a. unless the association governs 10 units or fewer and has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) and rules adopted by the division.

10. This chapter does not limit the use of general or limited proxies, require the use of general or limited proxies, or require the use of a written ballot or voting machine for any agenda item or election at any meeting of a timeshare condominium association or nonresidential condominium association.

Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an association of 10 or fewer units may, by affirmative vote of a

majority of the total voting interests, provide for different voting and election procedures in its bylaws, which may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(i) *Transfer fees.*—An association may not ~~no~~ charge an applicant any fees, except the actual costs of any background check or screening performed ~~shall be made~~ by the association as supported by an invoice from an independent third party background investigation company used by the association or its authorized agent, ~~or any body thereof~~ in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the declaration, articles, or bylaws. Neither the association, nor its authorized agent may charge an owner, purchaser, mortgagee, lessee, or sublessee any administration fee on such background check or screening. In addition to the actual costs of any background check or screening performed by the association, a transfer ~~any such~~ fee may be preset, but may not ~~in no event may such fee~~ exceed $100 per applicant other than spouses or parent and dependent child, who ~~husband/wife or parent/dependent child, which~~ are considered one applicant. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, a charge may not ~~no charge shall~~ be made. The foregoing notwithstanding, an association may, if the authority to do so appears in the declaration, articles, or bylaws, require that a prospective lessee place a security

deposit, in an amount not to exceed the equivalent of 1 month's rent, into an escrow account maintained by the association. The security deposit shall protect against damages to the common elements or association property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in part II of chapter 83.

(k) *Alternative Dispute Resolution* ~~*Arbitration.*~~— There must ~~shall~~ be a provision for mandatory alternative dispute resolution ~~nonbinding arbitration~~ as provided for in s. 718.1255 for any residential condominium.

~~(p) *Service providers; conflicts of interest.*—An association, which is not a timeshare condominium association, may not employ or contract with any service provider that is owned or operated by a board member or with any person who has a financial relationship with a board member or officer, or a relative within the third degree of consanguinity by blood or marriage of a board member or officer. This paragraph does not apply to a service provider in which a board member or officer, or a relative within the third degree of consanguinity by blood or marriage of a board member or officer, owns less than 1 percent of the equity shares.~~

Section 5. Subsection (8) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters and protection; display of religious decorations.—

(8) The Legislature finds that the use of electric and natural gas fuel vehicles conserves and protects the state's

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environmental resources, provides significant economic savings to drivers, and serves an important public interest. The participation of condominium associations is essential to the state's efforts to conserve and protect the state's environmental resources and provide economic savings to drivers. For purposes of this subsection, the term "natural gas fuel" has the same meaning as in s. 206.9951, and the term "natural gas fuel vehicle" means any motor vehicle, as defined in s. 320.01(1), powered by natural gas fuel. Therefore, the installation of an electric vehicle charging or natural gas fuel station shall be governed as follows:

(a) A declaration of condominium or restrictive covenant may not prohibit or be enforced so as to prohibit any unit owner from installing an electric vehicle charging or natural gas fuel station within the boundaries of the unit owner's limited common element or exclusively designated parking area. The board of administration of a condominium association may not prohibit a unit owner from installing an electric vehicle charging station for an electric vehicle, as defined in s. 320.01, or a natural gas fuel station for a natural gas fuel vehicle within the boundaries of his or her limited common element or exclusively designated parking area. The installation of such charging or fuel stations are subject to the provisions of this subsection.

(b) The installation may not cause irreparable damage to the condominium property.

(c) The electricity for the electric vehicle charging or natural gas fuel station must be separately metered or metered by an embedded meter and payable by the unit owner installing such charging or fuel station or by his or her successor.

(d) The cost for supply and storage of the natural gas fuel must be paid by the unit owner installing the natural gas fuel station or by his or her successor.

(e) ~~(d)~~ The unit owner who is installing an electric vehicle charging or natural gas fuel station is responsible for the costs of installation, operation, maintenance, and repair, including, but not limited to, hazard and liability insurance. The association may enforce payment of such costs under ~~pursuant to~~ s. 718.116.

(f) ~~(e)~~ If the unit owner or his or her successor decides there is no longer a need for the electronic vehicle charging or natural gas fuel station, such person is responsible for the cost of removal of such ~~the electronic vehicle~~ charging or fuel station. The association may enforce payment of such costs under ~~pursuant to~~ s. 718.116.

(g) The unit owner installing, maintaining, or removing the electric vehicle charging or natural gas fuel station is responsible for complying with all federal, state, or local laws and regulations applicable to such installation, maintenance, or removal.

(h) ~~(f)~~ The association may require the unit owner to:

1. Comply with bona fide safety requirements, consistent with applicable building codes or recognized safety standards, for the protection of persons and property.

2. Comply with reasonable architectural standards adopted by the association that govern the dimensions, placement, or external appearance of the electric vehicle charging or natural gas fuel station, provided that such standards may not prohibit the installation of such charging or fuel station or

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substantially increase the cost thereof.

3. Engage the services of a licensed and registered firm ~~electrical contractor or engineer~~ familiar with the installation or removal and core requirements of an electric vehicle charging or natural gas fuel station.

4. Provide a certificate of insurance naming the association as an additional insured on the owner's insurance policy for any claim related to the installation, maintenance, or use of the electric vehicle charging or natural gas fuel station within 14 days after receiving the association's approval to install such charging or fuel station or notice to provide such a certificate.

5. Reimburse the association for the actual cost of any increased insurance premium amount attributable to the electric vehicle charging or natural gas fuel station within 14 days after receiving the association's insurance premium invoice.

(i) ~~(g)~~ The association provides an implied easement across the common elements of the condominium property to the unit owner for purposes of ~~the installation of the~~ electric vehicle charging or natural gas fuel station installation, and the furnishing of electrical power or natural gas fuel supply, including any necessary equipment, to such charging or fuel station, subject to the requirements of this subsection.

Section 6. Section 718.1255, Florida Statutes, is amended to read:

718.1255 Alternative dispute resolution; ~~voluntary~~ mediation; ~~mandatory~~ nonbinding arbitration; legislative findings.—

(1) DEFINITIONS.—As used in this section, the term

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"dispute" means any disagreement between two or more parties that involves:

(a) The authority of the board of directors, under this chapter or association document to:

1. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto.

2. Alter or add to a common area or element.

(b) The failure of a governing body, when required by this chapter or an association document, to:

1. Properly conduct elections.

2. Give adequate notice of meetings or other actions.

3. Properly conduct meetings.

4. Allow inspection of books and records.

(c) A plan of termination pursuant to s. 718.117.

"Dispute" does not include any disagreement that primarily involves: title to any unit or common element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

(2) VOLUNTARY MEDIATION.—Voluntary mediation through Citizen Dispute Settlement Centers as provided for in s. 44.201 is encouraged.

(3) LEGISLATIVE FINDINGS.—

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(a) The Legislature finds that unit owners are frequently at a disadvantage when litigating against an association. Specifically, a condominium association, with its statutory assessment authority, is often more able to bear the costs and expenses of litigation than the unit owner who must rely on his or her own financial resources to satisfy the costs of litigation against the association.

(b) The Legislature finds that alternative dispute resolution has been making progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to court litigation. However, the Legislature also finds that alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.

(c) There exists a need to develop a flexible means of alternative dispute resolution that directs disputes to the most efficient means of resolution.

(d) The high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding arbitration and mediation in appropriate cases, thereby reducing delay and attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law.

(4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation may employ full-time attorneys to act as arbitrators to conduct the arbitration hearings provided by this chapter. The division may also certify attorneys who are not employed by

852 the division to act as arbitrators to conduct the arbitration
853 hearings provided by this chapter. No person may be employed by
854 the department as a full-time arbitrator unless he or she is a
855 member in good standing of The Florida Bar. A person may only be
856 certified by the division to act as an arbitrator if he or she
857 has been a member in good standing of The Florida Bar for at
858 least 5 years and has mediated or arbitrated at least 10
859 disputes involving condominiums in this state during the 3 years
860 immediately preceding the date of application, mediated or
861 arbitrated at least 30 disputes in any subject area in this
862 state during the 3 years immediately preceding the date of
863 application, or attained board certification in real estate law
864 or condominium and planned development law from The Florida Bar.
865 Arbitrator certification is valid for 1 year. An arbitrator who
866 does not maintain the minimum qualifications for initial
867 certification may not have his or her certification renewed. The
868 department may not enter into a legal services contract for an
869 arbitration hearing under this chapter with an attorney who is
870 not a certified arbitrator unless a certified arbitrator is not
871 available within 50 miles of the dispute. The department shall
872 adopt rules of procedure to govern such arbitration hearings
873 including mediation incident thereto. The decision of an
874 arbitrator shall be final; however, a decision shall not be
875 deemed final agency action. Nothing in this provision shall be
876 construed to foreclose parties from proceeding in a trial de
877 novo unless the parties have agreed that the arbitration is
878 binding. If judicial proceedings are initiated, the final
879 decision of the arbitrator shall be admissible in evidence in
880 the trial de novo.

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(a) Prior to the institution of court litigation, a party to a dispute shall either petition the division for nonbinding arbitration or initiate presuit mediation as provided in subsection (5). Arbitration shall be binding on the parties if all parties in arbitration agree to be bound in a writing filed in arbitration. The petition must be accompanied by a filing fee in the amount of $50. Filing fees collected under this section must be used to defray the expenses of the alternative dispute resolution program.

(b) The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;

2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and

3. Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition without prejudice.

(c) Upon receipt, the petition shall be promptly reviewed by the division to determine the existence of a dispute and compliance with the requirements of paragraphs (a) and (b). If emergency relief is required and is not available through arbitration, a motion to stay the arbitration may be filed. The motion must be accompanied by a verified petition alleging facts that, if proven, would support entry of a temporary injunction,

and if an appropriate motion and supporting papers are filed, the division may abate the arbitration pending a court hearing and disposition of a motion for temporary injunction.

(d) Upon determination by the division that a dispute exists and that the petition substantially meets the requirements of paragraphs (a) and (b) and any other applicable rules, the division shall assign or enter into a contract with an arbitrator and serve a copy of the petition upon all respondents. The arbitrator shall conduct a hearing within 30 days after being assigned or entering into a contract unless the petition is withdrawn or a continuance is granted for good cause shown.

(e) Before or after the filing of the respondents' answer to the petition, any party may request that the arbitrator refer the case to mediation under this section and any rules adopted by the division. Upon receipt of a request for mediation, the division shall promptly contact the parties to determine if there is agreement that mediation would be appropriate. If all parties agree, the dispute must be referred to mediation. Notwithstanding a lack of an agreement by all parties, the arbitrator may refer a dispute to mediation at any time.

(f) Upon referral of a case to mediation, the parties must select a mutually acceptable mediator. To assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid mediators that have been certified by the division under s. 718.501. If the parties are unable to agree on a mediator within the time allowed by the arbitrator, the arbitrator shall appoint a mediator from the list of certified mediators. If a case is referred to mediation, the

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parties shall attend a mediation conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noticed mediation conference, without the permission or approval of the arbitrator or mediator, the arbitrator must impose sanctions against the party, including the striking of any pleadings filed, the entry of an order of dismissal or default if appropriate, and the award of costs and attorney fees incurred by the other parties. Unless otherwise agreed to by the parties or as provided by order of the arbitrator, a party is deemed to have appeared at a mediation conference by the physical presence of the party or its representative having full authority to settle without further consultation, provided that an association may comply by having one or more representatives present with full authority to negotiate a settlement and recommend that the board of administration ratify and approve such a settlement within 5 days from the date of the mediation conference. The parties shall share equally the expense of mediation, unless they agree otherwise.

(g) The purpose of mediation as provided for by this section is to present the parties with an opportunity to resolve the underlying dispute in good faith, and with a minimum expenditure of time and resources.

(h) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated

to appear for a party. If the mediator declares an impasse after a mediation conference has been held, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a proceeding to impose sanctions for failure to appear at the mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a court of competent jurisdiction. The parties may seek to recover any costs and attorney fees incurred in connection with arbitration and mediation proceedings under this section as part of the costs and fees that may be recovered by the prevailing party in any subsequent litigation.

(i) Arbitration shall be conducted according to rules adopted by the division. The filing of a petition for arbitration shall toll the applicable statute of limitations.

(j) At the request of any party to the arbitration, the arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure. Rules adopted by the division may authorize any reasonable

sanctions except contempt for a violation of the arbitration procedural rules of the division or for the failure of a party to comply with a reasonable nonfinal order issued by an arbitrator which is not under judicial review.

(k) The arbitration decision shall be rendered within 30 days after the hearing and presented to the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney fees incurred in the arbitration proceeding as well as the costs and reasonable attorney fees incurred in preparing for and attending any scheduled mediation. An arbitrator’s failure to render a written decision within 30 days after the hearing may result in the cancellation of his or her arbitration certification.

(l) The party who files a complaint for a trial de novo shall be assessed the other party’s arbitration costs, court costs, and other reasonable costs, including attorney fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the

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party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney fees.

(m) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, and any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

(5) PRESUIT MEDIATION.—In lieu of the initiation of mandatory nonbinding arbitration set forth in subsections (1)-(4), a party may submit a dispute to presuit mediation in accordance with s. 720.311. Election and recall disputes are not eligible for mediation; such disputes must be arbitrated by the division or filed with a court of competent jurisdiction.

(6) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every arbitration petition received by the division and required to be filed under this section challenging the legality of the election of any director of the board of administration must be handled on an expedited basis in the manner provided by the division's rules for recall arbitration disputes.

(7) ~~(6)~~ APPLICABILITY.—This section does not apply to a

nonresidential condominium unless otherwise specifically provided for in the declaration of the nonresidential condominium.

Section 7. Subsection (3) of section 718.202, Florida Statutes, is amended to read:

718.202 Sales or reservation deposits prior to closing.—

(3) If the contract for sale of the condominium unit so provides, the developer may withdraw escrow funds in excess of 10 percent of the purchase price from the special account required by subsection (2) when the construction of improvements has begun. He or she may use the funds for the actual costs incurred by the developer in the ~~actual~~ construction and development of the condominium property in which the unit to be sold is located. Actual costs include, but are not limited to, expenditures for demolition, site clearing, permit fees, impact fees, and utility reservation fees, as well as architectural, engineering, and surveying fees that directly relate to construction and development. However, no part of these funds may be used for salaries, commissions, or expenses of salespersons; ~~or~~ for advertising, marketing, or promotional purposes; or for loan fees, costs or interest, attorney fees, accounting fees, or insurance. A contract which permits use of the advance payments for these purposes shall include the following legend conspicuously printed or stamped in boldfaced type on the first page of the contract and immediately above the place for the signature of the buyer: ANY PAYMENT IN EXCESS OF 10 PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.

Section 8. Subsection (1) and paragraph (b) of subsection (3) of section 718.303, Florida Statutes, are amended to read:

718.303 Obligations of owners and occupants; remedies.—

(1) Each unit owner, ~~each~~ tenant and other invitee, and ~~each~~ association is governed by, and must comply with the provisions of, this chapter, the declaration, the documents creating the association, and the association bylaws which are ~~shall be deemed~~ expressly incorporated into any lease of a unit. Actions at law or in equity ~~for damages or for injunctive relief~~, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against:

(a) The association.

(b) A unit owner.

(c) Directors designated by the developer, for actions taken by them before control of the association is assumed by unit owners other than the developer.

(d) Any director who willfully and knowingly fails to comply with these provisions.

(e) Any tenant leasing a unit, and any other invitee occupying a unit.

The prevailing party in any such action or in any action in which the purchaser claims a right of voidability based upon contractual provisions as required in s. 718.503(1)(a) is entitled to recover reasonable attorney ~~attorney's~~ fees. A unit owner prevailing in an action between the association and the unit owner under this subsection ~~section~~, in addition to recovering his or her reasonable attorney ~~attorney's~~ fees, may recover additional amounts as determined by the court to be

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necessary to reimburse the unit owner for his or her share of assessments levied by the association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law. Actions arising under this subsection are not considered ~~may not be deemed to be~~ actions for specific performance.

(3) The association may levy reasonable fines for the failure of the owner of the unit or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. A fine may not become a lien against a unit. A fine may be levied by the board on the basis of each day of a continuing violation, with a single notice and opportunity for hearing before a committee as provided in paragraph (b). However, the fine may not exceed $100 per violation, or $1,000 in the aggregate.

(b) A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' written notice to the unit owner and, if applicable, any tenant ~~occupant~~, licensee, or invitee of the unit owner sought to be fined or suspended, and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the committee does not approve the proposed fine or suspension by majority vote, the fine or suspension may not be imposed. If the proposed fine or suspension is approved by the committee,

the fine payment is due 5 days after notice of the approved fine is provided to the unit owner and, if applicable, to any tenant, licensee, or invitee of the unit owner ~~the date of the committee meeting at which the fine is approved~~. The association must provide written notice of such fine or suspension by mail or hand delivery to the unit owner and, if applicable, to any tenant, licensee, or invitee of the unit owner.

Section 9. Present subsections (1) and (2) of section 718.501, Florida Statutes, are redesignated as subsections (2) and (3), respectively, a new subsection (1) is added to that section and paragraphs (h) and (j) of present subsection (1) of that section are amended, to read:

718.501 Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) As used in this section, the term "financial issue" means an issue related to operating budgets; reserve schedules; accounting records under s. 718.111(12)(a)11.; notices of meetings; minutes of meetings discussing budget or financial issues; assessments for common expenses, fees, or fines; the commingling of funds; and any other record necessary to determine the revenues and expenses of the association. The division may adopt rules to further define what a financial issue is under this section and may adopt a rule outlining the requirements of the checklist under s. 718.111(c)1.

(2) The division may enforce and ensure compliance with the provisions of this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has complete jurisdiction to

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investigate complaints and enforce compliance with respect to associations that are still under developer control or the control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. However, after turnover has occurred, the division has jurisdiction to investigate complaints related only to financial issues, elections, and the maintenance of and unit owner access to association records under ~~pursuant to~~ s. 718.111(12).

(h) The division shall furnish each association that pays the fees required by paragraph (3)(a) ~~(2)(a)~~ a copy of this chapter, as amended, and the rules adopted thereto on an annual basis.

(j) The division shall provide training and educational programs for condominium association board members and unit owners. The training may, in the division's discretion, include web-based electronic media, and live training and seminars in various locations throughout the state. The division may review and approve education and training programs for board members and unit owners offered by providers and shall maintain a current list of approved programs and providers and make such list available to board members and unit owners in a reasonable and cost-effective manner. The division may adopt rules to establish requirements for the training and educational programs required in this paragraph.

Section 10. Section 718.5014, Florida Statutes, is amended to read:

718.5014 Ombudsman location.—The ombudsman shall maintain

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his or her principal office in a ~~Leon County on the premises of the division or, if suitable space cannot be provided there, at another~~ place convenient to the offices of the division which will enable the ombudsman to expeditiously carry out the duties and functions of his or her office. The ombudsman may establish branch offices elsewhere in the state upon the concurrence of the Governor.

Section 11. Subsection (25) of section 719.103, Florida Statutes, is amended to read:

719.103 Definitions.—As used in this chapter:

(25) "Unit" means a part of the cooperative property which is subject to exclusive use and possession. A unit may be improvements, land, or land and improvements together, as specified in the cooperative documents. An interest in a unit is an interest in real property.

Section 12. Paragraph (c) of subsection (2) of section 719.104, Florida Statutes, is amended to read:

719.104 Cooperatives; access to units; records; financial reports; assessments; purchase of leases.—

(2) OFFICIAL RECORDS.—

(c) The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying, but may not require a member to demonstrate any purpose or state any reason for the inspection.

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The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A member ~~unit owner~~ who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. The minimum damages are $50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 719.504 and year-end financial information required by the department, on the cooperative property to ensure their availability to members ~~unit owners~~ and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. An association shall allow a member

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or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records shall not be accessible to members ~~unit owners~~:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including any record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

3. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association employee or

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management company, or budgetary or financial records that indicate the compensation paid to an association employee.

4. Medical records of unit owners.

5. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this subparagraph, an association may print and distribute to unit ~~parcel~~ owners a directory containing the name, unit ~~parcel~~ address, and all telephone numbers of each unit ~~parcel~~ owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

6. Electronic security measures that are used by the association to safeguard data, including passwords.

7. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association.

The data is part of the official records of the association.

Section 13. Paragraph (b) of subsection (1) of section 719.106, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

719.106 Bylaws; cooperative ownership.—

(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(b) *Quorum; voting requirements; proxies.*—

1. Unless otherwise provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be a majority of voting interests, and decisions shall be made by owners of a majority of the voting interests. Unless otherwise provided in this chapter, or in the articles of incorporation, bylaws, or other cooperative documents, and except as provided in subparagraph (d)1., decisions shall be made by owners of a majority of the voting interests represented at a meeting at which a quorum is present.

2. Except as specifically otherwise provided herein, after January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (j)2., for votes taken to waive the financial reporting requirements of s. 719.104(4)(b), for votes taken to amend the articles of incorporation or bylaws pursuant to this section, and for any other matter for which this chapter requires or permits a vote

of the unit owners. Except as provided in paragraph (d), after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this section, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare cooperative.

3. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the unit owner executing it.

4. A member of the board of administration or a committee may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

5. A board or committee member participating in a meeting via telephone, real-time video conferencing, or similar real-time electronic or video communication counts toward a quorum, and such member may vote as if physically present ~~When some or all of the board or committee members meet by telephone conference, those board or committee members attending by~~

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~~telephone conference may be counted toward obtaining a quorum and may vote by telephone~~. A ~~telephone~~ speaker must ~~shall~~ be used ~~utilized~~ so that the conversation of such ~~those board or committee~~ members ~~attending by telephone~~ may be heard by the board or committee members attending in person, as well as by any unit owners present at a meeting.

(3) GENERALLY.—The association may extinguish a discriminatory restriction, as defined in s. 712.065(1), pursuant to s. 712.065.

Section 14. Paragraph (l) of subsection (4) of section 720.303, Florida Statutes, is redesignated as paragraph (m), a new paragraph (l) is added to that subsection, and paragraph (c) of subsection (2), present paragraph (l) of subsection (4), and paragraphs (c) and (d) of subsection (6) of that section are amended, to read:

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.—

(2) BOARD MEETINGS.—

(c) The bylaws shall provide the following for giving notice to parcel owners and members of all board meetings and, if they do not do so, shall be deemed to include the following:

1. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for

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communities with more than 100 members, the association bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice, provision of a schedule of board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the homeowners' association. However, if broadcast notice is used in lieu of a notice posted physically in the community, the notice must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may adopt, by rule, a procedure for conspicuously posting the meeting notice and the agenda on the association's website for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the association property. Any such rule must require the association to send to members whose e-mail addresses are included in the association's official records an electronic notice in the same manner as is required for a notice of a meeting of the members. Such notice must include a hyperlink to the website where the notice is posted. The association may provide notice by electronic transmission in a manner authorized by law for meetings of the board of directors, committee meetings requiring notice under this section, and annual and special meetings of the members to any

member who has provided a facsimile number or e-mail address to the association to be used for such purposes; however, a member must consent in writing to receiving notice by electronic transmission.

2. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Written notice of any meeting at which special assessments will be considered or at which amendments to rules regarding parcel use will be considered must be mailed, delivered, or electronically transmitted to the members and parcel owners and posted conspicuously on the property or broadcast on closed-circuit cable television not less than 14 days before the meeting.

3. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of association funds, and to any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community.

(4) OFFICIAL RECORDS.—The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

(l) Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by parcel owners, which must be maintained for at least 1 year after the

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date of the election, vote, or meeting.

(m) ~~(l)~~ All other ~~written~~ records of the association not specifically included in this subsection ~~the foregoing~~ which are related to the operation of the association.

(6) BUDGETS.—

(c)1. If the budget of the association does not provide for reserve accounts pursuant to paragraph (d), or the declaration of covenants, articles, or bylaws do not obligate the developer to create reserves, and the association is responsible for the repair and maintenance of capital improvements that may result in a special assessment if reserves are not provided or not fully funded, then each financial report for the preceding fiscal year required by subsection (7) must contain the following statement in conspicuous type:

THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDING RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS REGARDING THOSE ITEMS. OWNERS MAY ELECT TO PROVIDE FOR FULLY FUNDING RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.

2. If the budget of the association does provide for funding accounts for deferred expenditures, including, but not limited to, funds for capital expenditures and deferred maintenance, but such accounts are not created or established

pursuant to paragraph (d), each financial report for the preceding fiscal year required under subsection (7) must also contain the following statement in conspicuous type:

THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

(d) An association is deemed to have provided for reserve accounts ~~if reserve accounts have been initially established by the developer or if the membership of the association affirmatively elects to provide for reserves. If reserve accounts are established by the developer, the budget must designate the components for which the reserve accounts may be used. If reserve accounts are not initially provided by the developer, the membership of the association may elect to do so~~ upon the affirmative approval of a majority of the total voting interests of the association. Such approval may be obtained by vote of the members at a duly called meeting of the membership or by the written consent of a majority of the total voting interests of the association. The approval action of the membership must state that reserve accounts shall be provided for in the budget and must designate the components for which

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the reserve accounts are to be established. Upon approval by the membership, the board of directors shall include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter. Once established as provided in this subsection, the reserve accounts must be funded or maintained or have their funding waived in the manner provided in paragraph (f).

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

And the title is amended as follows:

Delete lines 3 - 62

and insert:

627.714, F.S.; prohibiting subrogation rights against a condominium association under certain circumstances; creating s. 712.065, F.S.; defining the term "discriminatory restriction"; providing that discriminatory restrictions are unlawful, unenforceable, and declared null and void; providing that certain discriminatory restrictions are extinguished and severed from recorded title transactions; specifying that the recording of certain notices does not reimpose or preserve a discriminatory restriction; providing requirements for a parcel owner to remove a discriminatory restriction from a covenant or restriction; amending s. 718.111, F.S.; requiring that certain records be maintained for a specified time; requiring associations to maintain official records in a specified manner; requiring an association to provide a checklist or affidavit

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relating to certain records to certain persons; providing a timeframe for maintaining such checklist and affidavit; creating a rebuttable presumption; prohibiting an association from requiring certain actions relating to the inspection of records; revising requirements relating to the posting of digital copies of certain documents by certain condominium associations; conforming cross-references; amending s. 718.112, F.S.; authorizing condominium associations to extinguish discriminatory restrictions; specifying that only board service that occurs on or after a specified date may be used for calculating a board member's term limit; providing requirements for certain notices; revising the fees an association may charge for transfers; conforming provisions to changes made by the act; deleting a prohibition against employing or contracting with certain service providers; amending s. 718.113, F.S.; defining the terms "natural gas fuel" and "natural gas fuel vehicle"; revising legislative findings; revising requirements for electric vehicle charging stations; providing requirements for the installation of natural gas fuel stations on property governed by condominium associations; amending s. 718.1255, F.S.; authorizing parties to initiate presuit mediation under certain circumstances; specifying when arbitration is binding on the parties; providing requirements for presuit mediation; amending s. 718.202, F.S.; revising how developers may use certain withdrawn escrow funds;

amending s. 718.303, F.S.; revising requirements for certain actions for failure to comply with specified provisions; revising requirements for certain fines; amending s. 718.501, F.S.; defining the term "financial issue"; authorizing the Division of Condominiums, Timeshares, and Mobile Homes to adopt rules; amending s. 718.5014, F.S.; revising where the principal office of the Office of the Condominium Ombudsman must be maintained; amending s. 719.103, F.S.; revising the definition of the term "unit" to specify that an interest in a cooperative unit is an interest in real property; amending s. 719.104, F.S.; prohibiting an association from requiring certain actions relating to the inspection of records; making technical changes; amending s. 719.106, F.S.; revising provisions relating to a quorum and voting rights for members remotely participating in meetings; authorizing cooperative associations to extinguish discriminatory restrictions; amending s. 720.303, F.S.; authorizing an association to adopt procedures for electronic meeting notices; revising the documents that constitute the official records of an association; revising when a specified statement must be included in an association's financial report for the preceding fiscal year; revising requirements for such statement; revising when an association is deemed to have provided for reserve accounts;

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

1154
Bill Number (if applicable)

Topic Amendment # 318148

318148
Amendment Barcode (if applicable)

Name Mark Anderson

Job Title Lobbyist

Address 110 S Monroe St
Street

Phone 813-205-0656

Tallahassee FL 32301
City *State* *Zip*

Email Mark@Consultantsanderson.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Chief Executive Officers of Management Companies

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

1154
Bill Number (if applicable)

318149
Amendment Barcode (if applicable)

Topic Community Associations

Name Travis Moore

Job Title

Address P.O. Box 2020
Street

St. Petersburg FL 33731
City *State* *Zip*

Phone 727.421.6902

Email travis@moore-relations.com

Speaking: ☑ For ☐ Against ☑ Information

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

Representing Community Associations Institute + FirstService Residential

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-2026
Meeting Date

1154
Bill Number (if applicable)

318148
Amendment Barcode (if applicable)

Topic Community Associations

Name Carol Everhart

Job Title Insurance Agent

Address 1249 McCraff Dr.
Street
St Petersburg FL 33772
City *State* *Zip*

Phone 727-804 2586

Email cloresyntise@aol.com

Speaking: ☒ For ☐ Against ☒ Information

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

Representing Condo Assoc - Commercial Residential Insurance Agent

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/26
Meeting Date

1154
Bill Number (if applicable)

318148
Amendment Barcode (if applicable)

Topic Community Associations

Name Rusty Payton

Job Title CEO

Address 2600 Centenal Pkwy
Street

Tallahassee Fl 32317
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Home Builders Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2-10-2020 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 1154

Meeting Date *Bill Number (if applicable)*

318148

Amendment Barcode (if applicable)

Topic _____

Name Peter Dunbar

Job Title _____

Address 215 S. Monroe Phone 999-4100

Street

Tallahassee FL Email pdunbar@deanmead.com

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against

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

Representing Real Property Section - Fla Bar

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/10/20
Meeting Date

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

SB 1154
Bill Number (if applicable)

Topic Community Associations

Amendment Barcode (if applicable)

Name Laura Pearce

Job Title General Counsel

Address _____ Phone _____
Street

_____ Email lpearce@fiaj.com
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Association of Insurance Agents

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

SB 1154
Bill Number (if applicable)

Topic Community Associations

Amendment Barcode (if applicable)

Name Conner Mann

Job Title Legislative Affairs Coordinator

Address 2601 Blair Stone Rd
Street

Phone 850-717-1723

Tallahassee FL 32301
City *State* *Zip*

Email Conner.Mann@MyFloridaLicense.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Department of Business & Professional Regulation

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-10-20
Meeting Date

1154
Bill Number (if applicable)

Topic SB 1154

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title Lobbyist

Address 110 S Monroe St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 813-205-0658

Email mark@consultanderson.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Chief Executive Officers of Management Companies

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SJR 1502
INTRODUCER:	Senator Diaz
SUBJECT:	Information About Counties and Municipalities
DATE:	February 4, 2020
REVISED:	

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

I. Summary:

SJR 1502 proposes an amendment to the Florida Constitution to require the Chief Financial Officer to provide annual information about counties and municipalities to residents, as prescribed by general law. The required information would allow residents to compare economic and non-economic factors of each local government.

If this joint resolution is agreed to by three-fifths of the membership of each house of the Legislature, the proposed amendment will be placed on the 2020 General Election ballot or at an earlier special election specifically authorized by law for that purpose. If approved by at least 60 percent of the votes cast on the measure, the proposed amendment will take effect on January 5, 2021.

II. Present Situation:

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serving as the chief fiscal officer of the state and the head of the Department of Financial Services (DFS).[1] The CFO is responsible for settling and approving accounts against the state and keeping all state funds and securities.[2] The CFO is also designated as the State Fire Marshal.[3] The office of CFO was created by Amendment 8 in 1998, which merged the offices of state treasurer and state comptroller.[4] In 2002, the Florida Legislature merged the state Departments of Insurance, Treasury and State Fire Marshal with the Department of Banking and Finance to create a new Department of Financial Services.

[1] FLA. CONST., art. IV, s. 4. and s. 20.121, F.S.
[2] FLA. CONST., art. IV, s. 4.
[3] Section 633.104(1), F.S.
[4] Florida Division of Elections, *Restructuring the State Cabinet*, *available at* https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=11&seqnum=4 (last visited Feb. 5, 2020).

Section 20.121, F.S., establishes the following divisions within DFS:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;[5]
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;[6]
- Unclaimed Property;
- Workers' Compensation;
- Administration; and
- Office of the Insurance Consumer Advocate.

DFS is also the parent agency for the Financial Services Commission, which consists of the Governor, Attorney General, CFO, and Commissioner of Agriculture.[7] The Financial Services Commission has two subunits, the Office of Insurance Regulation and the Office of Financial Regulation.[8] Both subunits are managed by directors selected by the commission and must have at least 5 years of relevant experience in the previous 10 years.[9]

Local Government Financial Reporting

Local governments are accountable for the manner in which they spend public funds, and the submission of financial reports required by state law is one method of demonstrating accountability. Section 218.39, F.S., requires the completion of an annual financial audit of accounts and records within nine months after the end of the fiscal year for counties, district school boards, charter schools, and charter technical career centers and certain municipalities and special districts. The statute requires filing of these annual financial audit reports with the State of Florida's Auditor General.

Section 218.32, F.S., requires counties, municipalities, and special districts to complete and submit to DFS a copy of its annual financial report (AFR) for the previous fiscal year no later

[5] The Division of Investigative and Forensic Services is considered a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and may conduct investigations within and outside of the state. The division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.
[6] The Division of Treasury includes the Bureau of Deferred Compensation, which is responsible for administering the Government Employees Deferred Compensation Plan established under s. 112.215, F.S. for state employees.
[7] Section 20.121(3), F.S.
[8] Section 20.121(3)(a), F.S.
[9] Section 20.121(3)(d), F.S.

than nine months after the end of the fiscal year. The AFR is not an audit but rather a unique financial document completed using a format prescribed by the DFS.[10]

The DFS's Bureau of Local Government has created a web-based AFR system called Local Government Electronic Reporting (LOGER) where local government entities complete and electronically submit AFRs.[11] DFS personnel verify an entity's data entered in LOGER by comparing the data to the financial statements included in the submitted audit report, or with other prescribed information from those entities not subject to the audit requirement and contact the entities for clarification when the comparisons yield significant differences.[12]

In addition to the above local government financial reporting, ch. 2019-56, L.O.F., amended ss. 129.03 and 166.241, F.S., to require counties and municipalities respectively to report certain economic status information to the Office of Economic and Demographic Research. This includes information on government spending and debt per resident, median income, average local government employee salary, percentage of budget spent on employee salaries and benefits, and the number of taxing districts.

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to Article IV, section 4 the Florida Constitution to require the Chief Financial Officer to provide annual information about counties and municipalities to residents, as prescribed by general law. The required information would allow residents to compare economic and non-economic factors of each local government.

If this joint resolution is agreed to by three-fifths of the membership of each house of the Legislature, the proposed amendment will be placed on the 2020 General Election ballot or at an earlier special election specifically authorized by law for that purpose. If approved by at least 60 percent of the votes cast on the measure, the proposed amendment will take effect on January 5, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

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[10] See Department of Financial Services Bureau of Financial Reporting, *Uniform Accounting System Manual for Florida Local Governments* (2014), *available at* https://www.myfloridacfo.com/Division/AA/Manuals/2014UASManual-7-31-15_FINAL.pdf (last visited Jan. 6, 2020).
[11] LOGER is *available at* https://apps.fldfs.com/LocalGov/Reports/ (last visited Jan. 6, 2020).
[12] *See* Florida Auditor General, *Local Government Financial Reporting System: Performance Audit Report 2019-028* (Sep. 2019), *available at* https://flauditor.gov/pages/pdf_files/2019-028.pdf (last visited Jan. 6, 2020).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, section 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Section 101.161(1), F.S., requires constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking "first, whether the ballot title and summary 'fairly inform the voter of the chief purpose of the amendment,' and second, 'whether the language of the title and summary, as written, misleads the public.'"

Article XI, section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Division of Elections (division) is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general

circulation in each county before the election in which the amendment shall be submitted to the electors. The division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and in Spanish, in newspapers for the 2018 election cycle was $92.93 per English word of the originating document.[13]

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be, at a minimum, $63,378.26.[14] Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.[15]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends Article IV, section 4 of the Florida Constitution.

IX. Additional Information:

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

None.

B. Amendments:

None.

[13] E-mail from Brittany N. Dover, Legislative Affairs Director, Florida Department of State (Oct. 2, 2019) (on file with the Senate Committee on Community Affairs).
[14] *Id.*
[15] *Id.*

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 1512
INTRODUCER:	Senator Diaz
SUBJECT:	Local Government Reporting
DATE:	February 5, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Ryon	CA	**Favorable**
2.			AEG	
3.			AP	

I. Summary:

SB 1512 removes current statutory requirements that county and municipal budget officers annually report certain economic status data to the Office of Economic and Demographic Research. Instead, the bill requires counties and municipalities to submit similar information to the Department of Financial Services (DFS). Beginning October 15, 2020, and each October 15 thereafter, each county and municipality must submit the following to DFS:

- The government spending per resident, including the per-resident spending for the past 5 fiscal years for the county or municipality.
- The government debt per resident, including the per-resident debt for the previous 5 fiscal years for the county or municipality.
- The average county or municipal employee salary, as applicable.
- The median income for the county or municipality.
- The average school grade for the county or municipality.
- The crime rate for the county.

Beginning January 15, 2021, and each January 15 thereafter, the bill requires DFS to generate and distribute a local government report depicting the fiscal and economic status of each county and municipality in the state and provide a comparative ranking with all other counties and municipalities. The local government report must be mailed to each household containing a registered voter and must be specific to the household's county (and municipality, if applicable). The report must assist the household in making direct comparisons of fiscal and economic metrics, fit on a single page, use colorful graphics, and provide the required information in an easy-to-understand format.

The bill also requires DFS to establish an interactive website, by January 15, 2021, that allows residents to compare information contained in the local government report as well as other specified information about counties and municipalities. DFS may choose one or more contractors to design and distribute the local government report and to create the interactive website through an open request for proposal process.

II. Present Situation:

Department of Financial Services

In 2002, the Legislature merged the state Departments of Insurance, Treasury and State Fire Marshal with the Department of Banking and Finance to create DFS.[1] The Chief Financial Officer (CFO), an elected member of the Cabinet who serves as the chief fiscal officer of the state, is the head of DFS.[2]

Section 20.121, F.S., establishes the following divisions within DFS:
- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;[3]
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;[4]
- Unclaimed Property;
- Workers' Compensation;
- Administration; and
- Office of the Insurance Consumer Advocate.

DFS is also the parent agency for the Financial Services Commission, which consists of the Governor, Attorney General, CFO, and Commissioner of Agriculture.[5] The Financial Services Commission has two subunits, the Office of Insurance Regulation and the Office of Financial Regulation.[6] Both subunits are managed by directors selected by the commission and must have at least 5 years of relevant experience in the previous 10 years.[7]

County Budget Systems and Information

Chapter 129, F.S., establishes a budget system that controls the finances of the boards of county commissioners of Florida counties. Pursuant to s. 129.01, F.S., each county is required to prepare, approve, adopt, and execute an annual budget each fiscal year. The budget must show

[1] Chapter 2002-404, Laws of Fla.
[2] FLA. CONST., art. IV, s. 4. and s. 20.121, F.S.
[3] The Division of Investigative and Forensic Services is considered a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and may conduct investigations within and outside of the state. The division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.
[4] The Division of Treasury includes the Bureau of Deferred Compensation, which is responsible for administering the Government Employees Deferred Compensation Plan established under s. 112.215, F.S. for state employees.
[5] Section 20.121(3), F.S.
[6] Section 20.121(3)(a), F.S.
[7] Section 20.121(3)(d), F.S.

for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit.[8] The budget is approved by the board of county commissioners and must be balanced so that the total of the estimated receipts, including balances brought forward, equals the total of the appropriations and reserves.[9] Notwithstanding other provisions of law, the budgets of all county officers must be in sufficient detail and contain such information as the board of county commissioners may require in furtherance of their powers and responsibilities.[10]

Preparation and Adoption of County Budgets

On or before June 1 of each year, the sheriff, the clerk of the circuit court and county comptroller, the tax collector, and the supervisor of elections each submit to the board of county commissioners a tentative budget for their respective offices for the ensuing fiscal year.[11] Upon receipt of the tentative budgets and any revisions, the board prepares a summary of the adopted tentative budgets.[12] Public hearings are held to explain tentative and final budgets and to entertain community requests and complaints prior to budget adoption.[13] The tentative budget must be posted on the county's official website at least two days before a public hearing. The final budget must be posted on the website within 30 days after adoption. The tentative budgets, adopted tentative budgets, and final budgets are filed in the office of the county auditor as a public record.

Municipal Budget Requirements

The preparation, adoption, and website posting of municipal budgets follows a similar process to that of counties. Section 166.241(2), F.S., provides that each municipality must annually adopt a budget by ordinance or resolution unless the municipality has a charter that specifies another method for adoption. The funds available from taxation and other sources must equal the total appropriations for expenditures and reserves.[14] Officers of a municipal government may not expend funds except according to the budgeted appropriations. The tentative budget must be posted on the municipality's official website at least two days before a public hearing.[15] The final budget must be posted on the website within 30 days after adoption.[16]

[8] Section 129.01(1), F.S. The level of detail for the budget must meet level of detail requirements for annual financial reports under s. 218.32, F.S.
[9] Section 129.01(2), F.S.
[10] Section 129.021, F.S. *See* ss. 125.01(1)(q), (r), and (v), and (6) and 129.01(2)(b), F.S., for more on these county powers and responsibilities.
[11] Section 129.03(2), F.S. Section 195.087(1) F.S., outlines the budget process for property appraisers in the state.
[12] Section 129.03(3)(b), F.S.
[13] Section 129.03(3)(c), F.S., also outlines public hearing practices and subsequent budget website posting and public record requirements.
[14] Section 166.241(2), F.S.
[15] Section 166.241(3), F.S.
[16] *Id.* If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the tentative budget and final budget to the manager or administrator of such county or counties who shall post the budgets on the county's website.

Local Government Financial Reporting

Local governments are accountable for the manner in which they spend public funds, and the submission of financial reports required by state law is one method of demonstrating accountability. Section 218.39, F.S., requires the completion of an annual financial audit of accounts and records within nine months after the end of the fiscal year for counties, district school boards, charter schools, and charter technical career centers and certain municipalities and special districts. The statute requires filing of these annual financial audit reports with the State of Florida's Auditor General.

Section 218.32, F.S., requires counties, municipalities, and special districts to complete and submit to DFS a copy of its annual financial report (AFR) for the previous fiscal year no later than nine months after the end of the fiscal year. The AFR is not an audit but rather a unique financial document completed using a format prescribed by the DFS.[17]

The DFS's Bureau of Local Government has created a web-based AFR system called Local Government Electronic Reporting (LOGER) where local government entities complete and electronically submit AFRs.[18] DFS personnel verify an entity's data entered in LOGER by comparing the data to the financial statements included in the submitted audit report, or with other prescribed information from those entities not subject to the audit requirement and contact the entities for clarification when the comparisons yield significant differences.[19]

Local Government Economic Status Reporting

In addition to the above local government financial reporting, ch. 2019-56, L.O.F., amended ss. 129.03 and 166.241, F.S., to require counties and municipalities respectively to report certain economic status information to the Office of Economic and Demographic Research (EDR). This includes information on:

- Government spending and debt per resident;
- Median income;
- Average local government employee salary;
- Percentage of budget spent on employee salaries and benefits; and
- The number of taxing districts.

III. Effect of Proposed Changes:

Section 1 amends s. 129.03, F.S., to remove counties' required annual economic status reporting submission to EDR as provided by ch. 2019-56 (see Present Situation on economic status reporting). This reporting is captured within the requirements of section 3 of the bill.

[17] See Department of Financial Services Bureau of Financial Reporting, *Uniform Accounting System Manual for Florida Local Governments* (2014), *available at* https://www.myfloridacfo.com/Division/AA/Manuals/2014UASManual-7-31-15_FINAL.pdf (last visited Jan. 6, 2020).
[18] LOGER is *available at* https://apps.fldfs.com/LocalGov/Reports/ (last visited Jan. 6, 2020).
[19] *See* Florida Auditor General, *Local Government Financial Reporting System: Performance Audit Report 2019-028* (Sep. 2019), *available at* https://flauditor.gov/pages/pdf_files/2019-028.pdf (last visited Jan. 6, 2020).

Section 2 amends s. 166.241, F.S., to remove municipalities' required annual economic status reporting submission to EDR as provided by ch. 2019-56 (see Present Situation on economic status reporting). This reporting is captured within the requirements of section 3 of the bill.

Section 3 creates s. 218.323, F.S., to provide county and municipal fiscal and economic reporting requirements featuring an interactive repository of information that enables residents to compare the final budget and economic status of counties and municipalities. By October 15, 2020, and each October 15 thereafter, each county and each municipality shall electronically submit the following information to DFS in the method and format established by department rule:

- The government spending per resident, including the per-resident spending for the past 5 fiscal years for the county or municipality.
- The government debt per resident, including the per-resident debt for the previous 5 fiscal years for the county or municipality.
- The average county or municipal employee salary.
- The median income for the county or municipality.
- The average school grade for the county or municipality.
- The crime rate for the county.

By January 15, 2021, and each January 15 thereafter, DFS must generate and distribute a local government report depicting the fiscal and economic status of each county and municipality and providing a comparative ranking with all other counties and municipalities related to the information data points listed above. The local government report must be mailed to each household with a registered voter at the address and must be specific to the household's municipality and county. Each household not residing within a municipality must receive a local government report specific to the household's county. The local government report must assist the household in making direct comparisons of fiscal and economic metrics, must be a single page and use colorful graphics, and must provide the information in an easy to understand format.

In addition to the local government report, by January 15, 2021, DFS must establish an interactive website that allows residents to compare information about counties and municipalities. The website must include the information provided in local government report as well as the following:

- The population of the county or municipality.
- The unemployment rate for the county or municipality.
- The percent of budget spent on salaries and benefits for county or municipal employees. The website must depict the percent of budget spent on salaries and benefits for the county or municipality and the rank for the county or municipality compared to all counties or municipalities.
- The number of special taxing districts, wholly or partially, within the county or municipality.
- The government revenue per resident for the county or municipality, as applicable, and the rank for the county or municipality compared to all counties or municipalities.

DFS may choose one or more contractors to design and distribute the local government report and to create the interactive website through an open request for proposal process pursuant to ch. 287, F.S., on the procurement of personal property and services.

Section 4 provides that the bill shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18(a) of the Florida Constitution, provides that cities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

Under this bill, cities and counties will likely incur costs for the collection, calculation, and submission of the specified economic information to DFS. However, the mandate requirement does not apply to laws having an insignificant impact,[20] which for Fiscal Year 2020-2021 is forecast at approximately $2.2 million.[21,22]

If such costs are determined to exceed $2.2 million in the aggregate, and no other exemption or exception applies, in order to be binding on the cities and counties, the bill must contain a finding of important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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[20] An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times $0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), *available at:* http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited Feb.5, 2020).

[21] FLA. CONST. art. VII, s. 18(d).

[22] Based on the Florida Demographic Estimating Conference's December 3, 2019 population forecast for 2020 of 21,555,986. The conference packet is *available at*: http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf (last visited Feb. 5, 2020).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Counties and municipalities will likely incur expenses related to the collection and submission of required fiscal and economic reporting data. DFS will incur expenses related to the creation and mailing of required local government reports to registered voters as well as expenses linked to the establishment of the interactive website which would allow resident comparison of data.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 129.03 and 166.241. This bill creates section 218.323 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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

1512
Bill Number (if applicable)

Topic Local Government Reporting

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757
Street

Phone 850-701-3621

Tallahassee, FL 32302
City *State* *Zip*

Email ahughes@flcities.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Cities.com

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

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 1662
INTRODUCER:	Community Affairs Committee and Senators Albritton and Broxson
SUBJECT:	Property Tax Exemption for Disabled Veterans
DATE:	February 10, 2020 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1662 allows a totally and permanently disabled veteran, or his or her surviving spouse, who acquires legal or beneficial title to property between January 1 and November 1, to receive a prorated refund of the ad valorem taxes paid for the newly acquired property as of the date of the property transfer. To receive the refund, the veteran or surviving spouse must have received the homestead exemption for totally and permanently disabled veterans authorized in s. 196.081, F.S., on another homestead property in the previous tax year.

Although current law provides a full property tax exemption for homestead property owned by veterans who sustained a total and permanent service-connected disability, tax-exempt veterans may sustain some tax liabilities when moving homestead property. The bill would allow a veteran or surviving spouse to, in essence, keep their exempt status upon acquiring new homestead property through a rebate process.

Veterans and spouses who qualify for the refund will receive the reimbursement in the tax year following the acquisition of a new property.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of a property as of January 1 of each year.[1] The property appraiser annually determines the "just value"[2] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[3] Property tax bills are mailed in November of each year based on the previous January 1 valuation.[4] If a taxpayer furnishes the outstanding taxes within 30 days after the tax collector mailed the tax notice, the taxpayer will receive a 4 percent discount on the total amount of taxes due.[5] The full amount of taxes is due by March 31 of the following year.[6]

The Florida Constitution prohibits the state from levying ad valorem taxes[7] and limits the Legislature's authority to provide for property valuations at less than just value unless expressly authorized.[8]

Homestead Exemptions

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

Every person having a legal or equitable title to real estate and who maintains a permanent residence on the real estate is deemed to establish homestead property. Homestead property is eligible for a $25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.[12] An additional $25,000 exemption applies to homestead property value between

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[1] Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

[2] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise (FLA. CONST. Art VII, s. 4.). Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler,* 176 So. 2d 81 (Fla. 1965).

[3] *See* ss. 192.001(2) and (16), F.S.

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

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

[6] *Id.*

[7] FLA. CONST. art. VII, s. 1(a).

[8] *See* FLA. CONST. art. VII, s. 4.

[9] FLA. CONST. art. VII, s. 6.

[10] FLA. CONST. art. VII, s. 4.

[11] *Id.* at (c).

[12] FLA. CONST. art VII, s. 6(a).

$50,000 and $75,000. This exemption does not apply to ad valorem taxes levied by school districts.[13]

Annual Application

Each person or organization meeting the criteria for an ad valorem tax exemption may claim the exemption if the claimant held legal title to the real or personal property subject to the exemption on January 1.[14] The application for exemption must be filed with the property appraiser on or before March 1, and failure to make an application constitutes a waiver of the exemption for that year. The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property. The claimant must reapply for the exemption on an annual basis unless the property appraiser (subject to approval by a vote of the governing body of the county) has waived the annual application requirement for a property after an initial application is made and the exemption granted.[15]

Veterans with Total and Permanent Service-Connected Disability

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

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

III. Effect of Proposed Changes:

The bill amends ss. 196.011 and 196.081, F.S., to allow a totally and permanently disabled veteran, or his or her surviving spouse, to receive a prorated refund for homestead property taxes paid on the newly acquired property, if legal or beneficial title to the property is acquired between January 1 and November 1. To qualify for the refund, the veteran or the surviving spouse must have received the homestead exemption for totally and permanently disabled veterans authorized in s. 196.081, F.S., on another property in the previous tax year. This change

[13] *Id.*
[14] Section 196.011(1)(a), F.S.
[15] Section 196.011(5) and (9)(a), F.S.
[16] Section 196.081(1), F.S.
[17] Section 196.081(3), F.S.
[18] Section 196.081(2), F.S.
[19] Section 196.081(5), F.S.

would allow a veteran or surviving spouse to, in essence, keep their exempt status upon acquiring new homestead property through a rebate process.

Upon finding an applicant is entitled to the homestead exemption, a property appraiser shall immediately make entries on the tax rolls of the county to allow the prorated refund of taxes for the previous tax year.

Veterans and spouses who qualify for the refund will receive the reimbursement in the tax year following the acquisition of a new property.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18(b) of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirement does not apply to laws having an insignificant impact,[20] which for the Fiscal Year 2019-2020 is forecast at approximately $2.2 million.[21, 22]

The mandate provision may apply because the bill requires counties to issue a prorated refund of ad valorem tax to qualified disabled veterans under certain circumstances. If the bill does qualify as a mandate, the final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

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

[21] FLA. CONST. art. VII, s. 18(d).

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

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined the bill will reduce local government ad valorem receipts by $5.9 million in the fiscal year 2020-2021, increasing to $8.2 million by the fiscal year 2024-2025.[23]

B. Private Sector Impact:

The bill may generate a positive fiscal impact for qualified disabled veterans by providing these veterans ad valorem tax refunds when moving between homestead properties.

C. Government Sector Impact:

Local governments may realize a reduction in ad valorem tax revenues by refunding qualified disabled veterans for the taxes paid on newly acquired property.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 196.011 and 196.081 of the Florida Statutes.

[23] Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: CS/HB 1249 (Similar SB 1662*), 381-386 (Feb. 7, 2020), *available at*: http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/Impact0207.pdf (last visited February 11, 2020).

IX. Additional Information:

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

CS by Community Affairs February 10, 2020:
The committee substitute alters the mechanics of the homestead exemption "transfer" concept in the bill to allow a qualified veteran, or a surviving spouse, to receive a prorated refund for homestead taxes paid on newly acquired property.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete lines 48 - 62

and insert:

(b) The exemption under paragraph (a) shall be applied to a current tax year if the real estate owned and used as a homestead is acquired by the veteran after January 1 of the current tax year and the veteran received the exemption on another property in the immediately prior tax year. Notwithstanding the exemption filing requirements of s. 196.011,

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

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

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

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

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

197.122 Lien of taxes; application.—

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

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

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

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

2. Acreage;

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

4. Access to usable land;

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

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

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

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

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

And the title is amended as follows:

Delete line 11

and insert:

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

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
	.	
	.	
	.	

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

Senate Substitute for Amendment (166378) (with title amendment)

Delete lines 48 - 62
and insert:
(b) If legal or beneficial title to property is acquired between January 1 and November 1 of any year by a veteran or his or her surviving spouse receiving an exemption under this section on another property for that tax year, the veteran or his or her surviving spouse may receive a refund, prorated as of

the date of transfer, of the ad valorem taxes paid for the newly acquired property if he or she applies for and receives an exemption under this section for the newly acquired property in the next tax year. If the property appraiser finds that the applicant is entitled to an exemption under this section for the newly acquired property, the property appraiser shall immediately make such entries upon the tax rolls of the county as are necessary to allow the prorated refund of taxes for the previous tax year.

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

And the title is amended as follows:

Delete lines 5 - 11

and insert:

amending s. 196.081, F.S.; providing that certain veterans and their surviving spouses receiving a certain homestead tax exemption may apply for and receive a prorated refund on property taxes paid on new homestead property acquired during a certain timeframe; requiring the property appraiser to immediately make certain entries on the tax rolls to allow the prorated refund; providing an effective

THE FLORIDA SENATE

APPEARANCE RECORD

2-10-20
Meeting Date

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

1662
Bill Number (if applicable)

Topic TAX EXEMPTION FOR DISABLED VETERANS
Amendment Barcode (if applicable)

Name JOHN HAYNES

Job Title PAST STATE COMMANDER

Address 424 HIAWATHA FARMS RD.
Street

Phone 850-443-3451

MONTICELLO FL, 32344
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing DISABLED AMERICAN VETERANS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2 10 20
Meeting Date

1662
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Tax Exemption for Disabled Veterans

Name Dan Hendrickson

Job Title president, Tallahassee Veterans Legal Collaborative

Address PO Box 1201
Street

Tallahassee FI 32302
City *State* *Zip*

Phone 850/ 570-1967

Email danbhendrickson@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/26
Meeting Date

1662
Bill Number (if applicable)

Topic Veterans

Amendment Barcode (if applicable)

Name Bill [redacted] Helmich

Job Title

Address 120 S. Monroe St
Street

Tally FL 32301
City *State* *Zip*

Phone 850 251 3120

Email

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

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

Representing VFW / American Legion

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/14/14)

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:	CS/SB 1766
INTRODUCER:	Judiciary Committee and Senators Lee and Perry
SUBJECT:	Growth Management
DATE:	February 11, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	**Fav/CS**
2.	Paglialonga	Ryon	CA	**Favorable**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1766 makes several changes to the Bert J. Harris, Jr., Private Property Rights Protection Act, which will facilitate the ability of property owners to obtain compensation or other relief from a governmental entity when their property is inordinately burdened by a law, rule, ordinance, or regulation.

These changes to the Bert Harris Act:

- Shorten the presuit process that is a prerequisite to a lawsuit under the Bert Harris Act from 150 to 90 days.
- Establish a presumption that a settlement offer made by a governmental entity during the presuit process protects the public interest.
- Give a property owner the option of having compensation for an inordinate burden determined by a judge instead of a jury as under current law.
- Allow a property owner to forego an application for a permit or other relief as a prerequisite to making a Bert Harris claim if a governmental entity acknowledges that a law or regulation limits the uses of the property.

The bill also clarifies the time in which a property owner must provide notice to a governmental entity that it has imposed a prohibited exaction, which is an improper condition on the proposed uses of a property. Finally, the bill requires the Department of Transportation, when disposing of surplus real property, to give the prior owner of the property the right of first refusal to purchase the property.

II. Present Situation:

Bert J. Harris, Jr., Private Property Rights Protection Act

The Bert Harris Act provides a cause of action for relief or compensation when a law, rule, regulation, or ordinance inordinately burdens real property without amounting to a taking.[1] An action of a governmental entity is an inordinate burden if it directly restricts or limits the use of real property in a way that permanently prevents the owner from attaining the reasonable, investment-backed expectation for the existing use of the property or to a specific use of the property.[2] A government act may also constitute an inordinate burden on a property if it causes a property owner to permanently bear "a disproportionate burden imposed for the good of the public, which in fairness should be borne by the public at large."[3]

Presuit Process

"The Act was designed to promote settlement, and a claim under the Act requires a presuit procedure."[4] Under the presuit procedure, a property owner seeking compensation must present a written claim to the governmental entity before filing a lawsuit.[5] For nonagricultural properties, the claim must be presented at least 150 days[6] before filing a lawsuit, and for agricultural properties, the minimum notice period is 90 days. Along with the claim, the property owner must submit a "bona fide, valid appraisal that supports the claim and demonstrates the loss in fair market value to the real property."[7]

Mandatory Settlement Offer

During the notice period, which may be extended by the parties, the governmental entity must make a written settlement offer to effectuate:

1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.
2. Increases or modifications in the density, intensity, or use of areas of development.
3. The transfer of developmental rights.
4. Land swaps or exchanges.
5. Mitigation, including payments in lieu of onsite mitigation.
6. Location on the least sensitive portion of the property.
7. Conditioning the amount of development or use permitted.
8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.
9. Issuance of the development order, a variance, special exception, or other extraordinary relief.

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[1] Section 70.001(1), F.S.
[2] Section 70.001(1)(e), F.S.
[3] *Id.*
[4] *Charlotte County Park of Commerce, LLC v. Charlotte County*, 927 So. 2d 236, 237 (Fla. 2d. DCA 2006).
[5] Section 70.001(4)(a), F.S.
[6] The 150-day notice period was reduced from 180 days beginning on July 1, 2011. Chapter 2011-191, Laws of Fla.
[7] Section 70.001(4)(a), F.S.

10. Purchase of the real property, or interest therein, by an appropriate governmental entity or payment of compensation.
11. No changes to the action of the governmental entity.[8]

Public-Interest Protection

If a settlement agreement results from the governmental entity's settlement offer, the settlement agreement may be implemented by any appropriate method. However, if the settlement agreement has the effect of a modification, variance, or special exception to an otherwise applicable rule, regulation, or ordinance, the agreement must protect the public interest served by the regulations at issue and provide appropriate relief to the property owner.[9]

If the settlement agreement effectively contravenes the application of a statute that would otherwise apply to a property, the parties must jointly file an action in the circuit court for approval of the agreement.[10] The court must "ensure that the relief granted protects the public interest served by the statute at issue and is appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property."[11]

Implicit Public Participation Requirement

The Bert Harris Act does not expressly require or authorize public participation in the resolution of Bert Harris claims. However, the 2016 appellate court opinion in *Rainbow River Conservation, Inc., v. Rainbow River Ranch, LLC,* found that public participation is necessary for the protection of the public interest, at least in some cases.[12] The *Rainbow River* litigation stemmed from a comprehensive plan amendment by the City of Dunnellon which imposed additional restrictions on the future use of property along the Rainbow River.

At the trial-court level, nonparties intervened in the proceedings to oppose the proposed settlement agreement submitted to the court for approval.[13] The intervenors argued that the settlement did not protect the public interests served by a statute and that the settlement provided far more relief to the property owners than necessary. The intervenors also sought an evidentiary hearing to resolve factual issues that were material to the court's decision on the agreement.

The intervenors' request for an evidentiary hearing was unnecessary, according to the property owners, because the court was required to accept the stipulation of the settling parties.[14] The property owners seemed to further argue that the public interest was satisfied by the fact that the other parties, the City of Dunnellon and the Department of Economic Opportunity, agreed to the settlement.

When reversing the trial court's ruling, the appellate court in *Rainbow River*, stated that the Bert Harris Act grants courts "broad power to 'enter any orders necessary to effectuate the purposes'"

[8] Section 70.001(4)(c), F.S.
[9] Section 70.001(4)(d)1., F.S.
[10] Section 70.001(4)(d)2., F.S.
[11] *Id.*
[12] *Rainbow River Conservation, Inc., v. Rainbow River Ranch, LLC*, 189 So. 3d 312 (Fla. 5th DCA 2016).
[13] *Id.* at 314.
[14] *Id.*

of the Act.[15] Expanding on this concept, the court explained that when approving a settlement that contravenes a statute, courts must provide some mechanism for "robust public input" to ensure the protection of the public interests.[16] These mechanisms could include a requirement that a city conducts public hearings and consider the comments from those proceedings, and at least in the *Rainbow River* proceeding, likely requires a trial court to grant an evidentiary hearing to intervenors.

Statements of Allowable Uses

If the presuit process does not result in the settlement of a Bert Harris claim, the government entities involved must provide the property owner with a written statement of allowable uses for the property.[17] Once issued or once the time for the issuance of the statement expires, the property owner may file a claim for compensation in the circuit court.

Trial—Roles of Judges and Juries

At trial, the judge must determine whether an existing use of the real property or a vested right to a specific use of the property existed and whether a governmental entity has inordinately burdened the property, considering any settlement offer or statement of allowable uses.[18] A jury, however, determines the compensation due for a loss in value due to an inordinate burden.[19]

Ripeness—As Applied Challenges

Claims under the Bert Harris Act are limited to "as applied challenges," meaning that some action of the government beyond the mere enactment of new regulation must apply to a parcel of real property.[20] The action of a governmental entity required to ripen a claim typically involves the formal denial of a written request for development or variance. Several appellate court opinions, which are discussed below, show how the as applied requirement works in practice.

The 2008 appellate court opinion in *M & H Profit, Inc., v. City of Panama City* explained that the city's conduct was insufficient action to enable the developer, M & H, to bring an as applied challenge to a new ordinance.[21] The facts of the case involved the developer's purchase of a property that had no height or setback restrictions and on which the developer intended to build a 20-story residential condominium. About 6 weeks after the purchase, however, the city adopted an ordinance imposing a 120 ft. height restriction and additional setback requirements.

A few months after the ordinance was adopted, the developer met with the city planning manager for pre-application informal discussions about its development plans. Shortly after the discussions, the city planning manager stated by letter that it was clear that the proposed

[15] *Id.* at 314. The source of the broad powers of the court under the Bert Harris Act is this statement in s. 70.001(7)(a), F.S.: "The circuit court may enter any orders necessary to effectuate the purposes of this section and to make final determinations to effectuate relief available under this section."
[16] *Id.* at 315.
[17] Section 70.001(5), F.S.
[18] Section 70.001(6)(a), F.S.
[19] Section 70.001(6)(b), F.S.
[20] *M & H Profit, Inc., v. City of Panama City,* 28 So. 3d 71 (Fla. 1st DCA 2009).
[21] *Id.*

condominium would not meet the height and setback requirements.[22] The majority of the appellate court held that the adoption of the ordinance and the city planning manager's letter were insufficient actions to permit an as applied challenge under the Bert Harris Act.[23, 24]

The 2018 appellate court decision in *GSK Hollywood Development Group, LLC, v. City of Hollywood*[25] has some similarities to the *M & H* decision on the issue of ripeness and as applied challenges. In *GSK*, a developer contacted the director of planning and zoning for the City of Hollywood before purchasing property to confirm the zoning regulations on the property. The director orally confirmed that the zoning was consistent with the developer's plan to build a 15-story condominium. The developer then purchased the property in 2002.

In 2004, the developer began discussing its conceptual development plans with city leaders. Shortly afterward, residents of a nearby condominium association voiced their opposition to the proposed condominium to the mayor.[26] The mayor, in emails, affirmed her support for the residents of the nearby condominium. Ultimately, the mayor was successful in having the city commission reduce the maximum heights of new buildings to 65 ft.

In response to the new height restrictions, the developer filed a lawsuit against the city under the Bert Harris Act.[27] The city argued that the developer's failure to submit an application to develop the property precluded its claim for compensation. The appellate court agreed, concluding that the developer's claim for compensation was not ripe because it did not seek a permit, variance, or other formal relief before filing its Bert Harris claim.[28] However, the court advised that "[i]f the Legislature intended to allow a claim in such a circumstance, it is for the Legislature to do so."[29]

In another 2018 appellate court opinion on the issue of ripeness, *Golfrock v. Lee County*, Golfrock, a property owner, asked a court to enter a declaratory judgment that its Bert Harris claim was ripe because any further pursuit of its zoning request was futile as a matter of law.[30] Golfrock alleged that it would have been prohibitively expensive to pursue the zoning application further and that the denial of the application was "fait accompli," or inevitable.[31]

The court explained that the "final decision requirement [in the context of regulatory takings claims] 'responds to the high degree of discretion characteristically possessed by land-use boards in softening the strictures of the general regulations they administer.'"[32] Moreover, the court indicated that economic losses in these types of cases "cannot be resolved in definitive terms

[22] *Id.* at 73.
[23] *Id.* at 78.
[24] Justice Thomas in his dissenting opinion stated that he "would hold that the City's enactment of the ordinance, and the informal conceptual denial of the building plan, can form the basis of a cause of action under the Bert Harris Act." *Id.*
[25] *GSK Hollywood Development Group, LLC, v. City of Hollywood*, 246 So. 3d 501 (Fla. 4th DCA 2018).
[26] *Id.* at 503.
[27] *Id.*
[28] *Id.* at 506.
[29] *Id.*
[30] *Golfrock v. Lee County*, 247 So. 3d (Fla. 2d DCA 2018).
[31] *Id.* at 39.
[32] *Id.* (quoting *Palazzolo v. Rhode Island*, 533 U.S. 606, 620 (2001)).

until a court knows 'the extent of permitted development' on the land in question."[33] The futility exception to the final decision requirement, according to the court, applies only once it is clear that the permitting agency lacks any discretion.[34] The court ultimately dismissed Golfrock's complaint for declaratory relief because it did not state a cause of action.[35]

Governmental Exactions

In 2015, the Legislature enacted s. 70.45, F.S., which created an action for injunctive relief and damages caused by a prohibited exaction. A prohibited exaction is a "condition imposed by a governmental entity on a property owner's proposed use of real property that lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the governmental entity seeks to avoid, minimize, or mitigate."[36]

The statute was a response to the U.S. Supreme Court's decision in *Koontz v. St. Johns River Water Management District*,[37] "to address uncertainty over whether Florida provides a cause of action for monetary damages for unconstitutional exactions."[38] In *Koontz*, the water management district denied a property owner's application for the permits to develop his land because he refused to agree to the district's conditions. The conditions required the property owner to:

- Limit development on his 14.9 acre parcel to 1 acre and deed the district a conservation easement on the remaining 13.9 acres and add other costly improvements, or
- Develop 3.7 acres as planned and deed a conservation easement to the government on the remaining property and hire a contractor to improve district-owned land miles away.

The U.S. Supreme Court held that a governmental entity may not deny a land-use permit for failing to agree to the entity's conditions unless there is an essential nexus and rough proportionality between the conditions and the proposed land use.

The *Koontz* Court further stated that the availability of monetary damages for an excessive demand when no taking has occurred is determined by the statutory cause of action on which the property owner relies, not on federal constitutional law.[39]

When a property owner seeks damages under s. 70.45, F.S., for a prohibited exaction, the owner must comply with presuit procedures.[40] These procedures require the owner to submit a written notice to the relevant governmental entity of the intent to seek damages for a prohibited exaction. This notice must also identify the prohibited exaction, briefly explain why the owner believes the exaction is prohibited, and provide an estimate of the damages. The property owner must provide the notice to the relevant governmental entity within a short window:

[33] *Id.* (quoting *Palazzolo* at 618).
[34] *Id.*
[35] *Id.* at 38.
[36] Section 70.45(1)(c), F.S.
[37] *Koontz. v. St. Johns River Water Management District*, 570 U.S. 595 (2013).
[38] Margaret L. Cooper, Ronald L. Weaver, Jonne M. Connor, The Florida Bar, *Statutory Property Rights Protection*, RPL FL CLE 13-1 (9th ed. 2018).
[39] *Id.* at 609.
[40] Section 70.45(3), F.S.

> At least 90 days before filing an action under this section, but no later than 180 days after imposition of the prohibited exaction.[41]

The statute, however, does not further explain how to identify the point in time at which the exaction is imposed.

At trial, "the governmental entity has the burden of proving that the exaction has an essential nexus to a legitimate public purpose and is roughly proportionate to the impacts of the proposed use that the governmental entity is seeking to avoid, minimize, or mitigate."[42] The property owner must prove its damages. Damages from a prohibited exaction are the reduction in the fair market value of the real property or the amount of the fee or infrastructure costs that exceed what is permissible.[43]

Acquisition and Disposition of Surplus Property

The Department of Transportation is authorized to dispose of property it has held for longer than 10 years if the property is not needed for the construction, operation, and maintenance of a transportation facility or is not located within a transportation corridor.[44] If the department decides to dispose of property, it may be disposed of through negotiations, sealed competitive bids, auctions, or any other means the department deems to be in its best interest. However, the property may not be sold for less than the department's estimated value.

The statute authorizing the department to dispose of surplus property, further places some individuals higher in priority to receive or to be offered the property for purchase.[45] For example, the statute places a higher priority on returning a donated property to the original donor or the donor's heirs than on offering the property to a local government in which the property is located.

Chapter 73, F.S., relating to eminent domain, also provides limitations on how property taken by eminent domain may be transferred or sold. Under s. 73.013(1)(f), F.S., for example, property taken by eminent domain and held less than 10 years must be offered to the prior owner for the amount the condemning authority paid for it before it can be offered to others.

III. Effect of Proposed Changes:

Bert Harris Act Revisions

This bill makes several changes to the Bert Harris Act which will facilitate the recovery of compensation or other relief resulting from laws, rules, regulations, and ordinances that are an inordinate burden on real property.

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[41] *Id.*
[42] Section 70.45(4), F.S.
[43] Section 70.45(1)(a), F.S.
[44] Section 337.25(3) and (4).
[45] Section 337.25(4), F.S.

Presuit Notice Period

The Bert Harris Act requires a property owner to provide notice of the intent to seek compensation under the Act to the relevant governmental entity at least 150 days before filing a lawsuit if the property is nonagricultural. For agricultural properties, the presuit notice period is 90 days.

The bill sets 90 days as the presuit period for all properties, whether agricultural or nonagricultural.

Settlement Offers in the Public Interest

The Bert Harris Act requires a governmental entity receiving a claim to make a written settlement offer to the claimant to resolve the claim before a lawsuit is filed. The Act further requires that any settlement agreement both protect the public interests served by the underlying rules, regulations, or statutes and provide appropriate relief to the property owner from inordinate burdens.

The bill creates a presumption that settlement offers made by a governmental entity to resolve a Bert Harris claim protect the public interest. This change appears likely to limit the ability of nonparties to intervene or participate in the resolution of Bert Harris claims except in compelling circumstances.

Compensation Calculations

Currently, under the Bert Harris Act, a judge determines whether an action of a governmental entity is an inordinate burden on the existing use of real property or a vested right to a specific use of the property. A jury determines compensation for the loss in value due to the inordinate burden.

The bill gives a claimant the option of having compensation determined by the judge.

Ripeness of Claims

The Bert Harris Act, according to case law, provides relief to property owners after a government action has been applied to and has inordinately burdened a property. To initiate an applied challenge, a property owner typically must apply for and be denied a permit, variance, or other relief by a governmental entity.

The bill requires governmental entities, within 45 days after receipt of notice from a property owner, to explain in writing whether a particular law or regulation applies to the owner's property and to describe further the limitations imposed on the property by the law or regulation. If the governmental entity acknowledges that the law or regulation applies to the property and imposes new limitations on the uses of the property, an application for a development order, development permit, or building permit is deemed a waste of resources and unnecessary to bring a claim for compensation. However, a property owner has only 1 year after the receipt of the explanation from the governmental entity to pursue a Bert Harris claim.

Prohibited Exactions

Existing s. 70.45, F.S., allows a property owner to seek injunctive relief and damages when a governmental entity imposes a prohibited exaction on the owner's property. However, there is a small window of time during which the property owner must submit a notice of intent to seek relief from the exaction. This notice must be submitted "[a]t least 90 days before filing an action [for relief], but no later than 180 days after imposition of the prohibited exaction."

The bill defines the time of imposition of the exaction as the "time at which the property owner must comply with the prohibited exaction or condition of approval." This change appears likely to add some clarity as to when the time to submit a notice of intent ends.

Prospective Application of Changes to Chapter 70, F.S.

The bill provides that the changes relating to the Bert Harris Act and s. 70.45, F.S., relating to prohibited exactions, apply to claims from government actions occurring on or after July 1, 2020, the effective date of the bill.

Right of First Refusal for Surplus Property

The bill requires the Department of Transportation to offer surplus real property to its prior owner for the property's estimated value before offering the property to others. The prior owner must have at least 15 days to exercise this right of first refusal. After accepting the offer, the prior owner must be given at least 60 days to close on the property. Additionally, if the department intends to offer the property at better terms to others than the terms in the first offer to the prior owner, the property must be reoffered to the prior owner under the new terms.

This concept of giving a prior owner the right of first refusal to purchase property is somewhat similar to that required under s. 73.013, F.S., for property acquired by eminent domain and held for less than 10 years.

Effective Date

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill will facilitate compensation or other relief to the owner of real property that is inordinately burdened by a law, rule, regulation, or ordinance. Moreover, property owners may be able to avoid the expenses of applying for a permit or other relief that is almost certain to be denied.

C. Government Sector Impact:

Local governments will likely exercise caution when imposing new rules, regulations, and ordinances that affect real property. Local governments must also work more quickly to resolve Bert Harris claims during the shortened presuit process. By obviating the need for the denial or other relief as a prerequisite to a Bert Harris claim, more claims will likely be submitted. These claims will need to be resolved by local governments and other state permitting authorities.

VI. Technical Deficiencies:

To effectuate the removal of the 150-day-notice period, the bill should also strike the references to 150 days on lines 196, 208, and 209.

VII. Related Issues:

It is unclear what kind of governmental entity settlement offers are presumed to protect the public interest. The Legislature may wish to clarify which settlement offers are presumed to protect the public interest and whether the involvement of a circuit court is needed before the presumption applies.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 70.001, 70.45, and 337.25.

IX. Additional Information:

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

CS by Judiciary on February 4, 2020:
The committee substitute does not include the provisions of the original bill which would have entitled property owners to compensation or other relief when an owner of a similarly situated residential property becomes entitled to relief due to the same regulation or ordinance.

B. Amendments:

None.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

1706
Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 701-3676

Email DCruz@flcities.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/10/20
Meeting Date

SB 1766
Bill Number (if applicable)

Topic Bret Harris / Property Rights

Amendment Barcode (if applicable)

Name Lara Reynolds

Job Title Policy Analyst

Address 1176 S Dixie Hwy #232
Street

Phone 786-543-1926

Miami FL 33156
City *State* *Zip*

Email lreynolds@conservationconcepts.llc

Speaking: ☐ For ☒ Against ☐ Information

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

Representing 1000 Friends of Florida, Friends of the Everglades

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

CA 301

THE FLORIDA SENATE

APPEARANCE RECORD

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3/10/20
Meeting Date

1766
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 1004-2 Crest St
Street

Phone 941-323-3404

Tallahassee FL 32301
City *State* *Zip*

Email cullenasea@aol.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/10/20
Meeting Date

CS/SB 1760
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Attorney

Address 119 S. Monroe St Suite 300
Street

Phone 222-7500

Tallahassee 32301
City *State* *Zip*

Email gary h@hgslaw.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Association of Florida Community Developers

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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02.10.2020
Meeting Date

SB 1766
Bill Number (if applicable)

Topic PRIVATE PROPERTY RIGHTS

Amendment Barcode (if applicable)

Name MIKE MILLER

Job Title VICE MAYOR, CITY OF COCOA BEACH

Address 461 COUNTRY CLUB ROAD
Street

Phone 678-467-9989

COCOA BEACH FL 32931
City *State* *Zip*

Email MMILLER3443@BELLSOUTH.NET

Speaking: ☐ For ☐ Against ☐ Information

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

Representing CITY OF COCOA BEACH

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/10/2020
Meeting Date

SB-1766
Bill Number (if applicable)

Topic BEAT HARRIS

Amendment Barcode (if applicable)

Name DOMINICK MONTANARO

Job Title COUNCILMAN

Address 565 CASSIA BLVD
Street

Phone 321-501-4316

SATELLITE BEACH FL 32937
City *State* *Zip*

Email DMONTANARO@SATELLITEBEACH.ORG

Speaking: ☐ For ☒ Against ☐ Information

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

Representing CITY OF SATELLITE BEACH

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

1766
Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name Lindsay Cross

Job Title Government Relations Director

Address 1700 N Monroe 11-286
Street

Phone

32303
City *State* *Zip*

Email lindsay@fcvoters.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida conservation voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/10/20
Meeting Date

1766
Bill Number (if applicable)

Topic GROWTH MANAGEMENT

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title CHAIRMAN - FLORIDA AG COALITION

Address
Street

Phone 850 445 1607

Tallahassee FL
City *State* *Zip*

Email nancy@ustephens.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA AG COALITION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No VOLUNTEER FOR THIS

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/10/16
Meeting Date

1760
Bill Number (if applicable)

Topic Growth Mgmt / Bert Harris

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO

Address 2600 Centennial Pkwy
Street

Tallahassee FL 32317
City *State* *Zip*

Phone 5617073

Email rpayton@fhba.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Home Builders Assn

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10
Meeting Date

1766
Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name Dan Peterson

Job Title President

Address BY 1875
Street

Phone 407-758-2491

Email danpeterson@cpr-fl.org

Minneola FL 34755
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Coalition for Property Rights

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20
Meeting Date

1766
Bill Number (if applicable)

Topic Growth Management

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City *State* *Zip*

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/1

CourtSmart Tag Report

Room: SB 301 **Case No.:** **Type:**
Caption: Senate Community Affairs Committee **Judge:**

Started: 2/10/2020 4:03:48 PM
Ends: 2/10/2020 6:00:07 PM **Length: 01:56:20**

4:03:54 PM Committee begins
4:03:59 PM Roll is called
4:04:05 PM Sen. Rouson explains CS/SB 368
4:05:50 PM Kaitlyn Bailey waives in support
4:06:04 PM Roll is called
4:06:14 PM CS/SB 368 passes
4:06:40 PM Sen. Brandes explains CS/SB 1148
4:06:57 PM Jeff Branch, League of Cities, waives in support
4:07:22 PM Harry van den Berg speaks against bill
4:16:34 PM Sen. Simmons has question
4:19:17 PM Sen. Brandes answers
4:19:25 PM Sen. Simmons has follow up question
4:19:56 PM Sen. Brandes answers
4:21:03 PM Sen. Simmons has follow up question
4:22:24 PM Sen. Brandes waives close
4:23:24 PM Roll is called
4:23:28 PM CS/SB 1148 passes
4:23:36 PM Sen. Diaz CS/SB 538
4:24:14 PM Sen. Diaz explains CS/SB 538
4:24:23 PM Amendment 274454 is explained
4:25:08 PM Jared Rosenstein, FDEM, waives in support
4:26:07 PM Amednment 274454 passes
4:26:21 PM Back on the bill as amended
4:26:33 PM Sen. Diaz waives close
4:26:42 PM Roll is called
4:26:48 PM CS/SB 538 passes favorably
4:27:01 PM Sen. Diaz explains SJR 1502
4:27:53 PM Sen. Diaz waives close
4:28:13 PM Roll called
4:28:17 PM SJR 1502 passes
4:28:30 PM Sen. Diaz explains SJR 1512
4:28:55 PM Amber Hughes, League of Cities, Speaks against SJR 1512
4:32:29 PM Sen. Diaz closes
4:33:29 PM Roll is called
4:34:06 PM SB 1512 passes
4:34:23 PM Sen. Baxely explains CS/SB 1154
4:34:56 PM Amendment 318148 is explained by Sen. Baxley
4:38:43 PM Sen. Pizzo has question
4:39:44 PM Sen. Baxley responds
4:40:31 PM Mark Anderson, CEO, Officers of Management Companies, speaks in support
4:44:18 PM Sen. Pizzo has question
4:45:55 PM Mark Anderson responds
4:48:23 PM Travis Moore, Community Assoc. Instit & First Serv Residential, speaks in support
4:50:03 PM Carol Everhart, Condo Assoc - Commercial Residential Insur. agent, speaks in support
4:52:49 PM Rusty Payton and Pete Dunbar, Lobbyiests, wiave in support
4:53:50 PM Amendment passes
4:54:02 PM Laura Pearce, Conner Mann and Carol Everhart waive in support
4:54:35 PM Sen. Baxely closes
4:54:55 PM Roll is called
4:55:41 PM CS/SB 1154 passes
4:56:00 PM Sen. Gruters explains SB 1066
4:56:35 PM Amendment 977602 is explained

4:57:03 PM Sen. Farmer has question
4:57:17 PM Amendment adopted
4:57:38 PM Marco Paredes, M/I Homes of Tampa waives in support
4:57:50 PM Louis Rotundo, City of Altamonte Sprgs. speaks in favor
4:59:23 PM Debbie Mcdowell speaks against the bill
5:01:51 PM kari Hebrank speaks in support
5:03:34 PM Eric Poole speaks against bill
5:04:47 PM David Cruz speaks in support
5:05:47 PM Back on bill as amended
5:06:13 PM Sen. Pizzo in debate
5:06:18 PM Sen. Gruters replies
5:06:46 PM Sen. Gruters closes
5:07:18 PM Roll is called
5:07:35 PM SB 1066 passes
5:07:42 PM Sen. Gruters explains 1102
5:07:56 PM Sen. Gruters explains SB 1102
5:08:06 PM Sen. Pizzo has question
5:09:05 PM Sen. Gruters replies
5:09:14 PM Sen. Pizzo has follow up
5:09:40 PM Sen. Gruters replies
5:10:07 PM Amendment 166916 is explained
5:10:56 PM Amendment adopted
5:11:12 PM Kari Hebrank, FL Home Builders Assoc. waives in support
5:11:31 PM Paul Lowell waives in support
5:11:39 PM Sen. Gruters closes
5:12:05 PM Roll called
5:12:26 PM SB 1102 passes
5:12:36 PM Sen. Bean explains CS/SB 752 and Amendment 399324
5:13:24 PM Jared Rosenstein waives in support of amendment
5:14:25 PM Back on bill as amended
5:14:36 PM Dorene Barker, Tonnette Graham, Chris Doolin, Kate Macfall, Jennifer Hobgood all waive in
5:15:10 PM Sen. Bean closes
5:15:15 PM Roll is called
5:15:19 PM CS/SB 752 passes
5:15:25 PM Sen. Lee explains CS/SB 1766
5:19:37 PM David Cruz speaks against bill 1766
5:21:10 PM Laura Reynolds speaks against bill
5:22:49 PM David Cullen waives in oposition
5:23:53 PM Sen. Pizzo has question
5:25:24 PM Sen. Simmons has question
5:31:24 PM Chair Flores in debate
5:32:23 PM Sen. Lee closes
5:34:47 PM Roll called
5:34:51 PM CS/SB 1766 passes
5:34:59 PM Sen. Pizzo explains 122
5:35:28 PM Sen. Pizzo explains SB 1122
5:35:41 PM Taylor Bienl waives in support
5:35:55 PM Roll is called
5:35:59 PM SB 1122 passes
5:36:07 PM Sen. Broxson explains SB 1662
5:36:40 PM Amendment substitute 9722868 explained
5:37:14 PM Dan Hendrick, John Haynes, and Bill Helmich waive in support of bill
5:37:32 PM Back on bill as adopted
5:37:37 PM Roll is called
5:37:40 PM SB 1622 passes
5:37:45 PM Sen. Farmer explains SB 906
5:38:02 PM Amendment 852402 is explained and passed
5:38:43 PM Back on bill as amended
5:39:35 PM Curt Harbsmeier speaks against bill
5:41:06 PM Phil Goss speaks in opposition
5:42:07 PM Micheal Van Wost Rand speaks in opposition
5:43:49 PM Austin Harris waive in opposition

5:44:48 PM Rian Gittman waives in opposition
5:46:18 PM Robert Reamlian waive in oppostion
5:47:18 PM Jeanne Rodsky waives speaks in opposition
5:48:42 PM Micheal Vinzant speaks in opposition
5:49:56 PM William Vincent waives in support
5:50:55 PM David Cullen speaks in support of the bill
5:51:31 PM David Cullen speaks against the bill
5:58:16 PM Sen. Farmer closes
5:59:15 PM Roll called
5:59:23 PM SB 906 passes
5:59:32 PM Committee Meeting Adjourned