

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

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

**MEETING DATE:** Tuesday, March 17, 2015  
**TIME:** 9:00 —10:30 a.m.  
**PLACE:** 301 Senate Office Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 420</b> Grimsley (Similar CS/H 627)	Animal Control; Providing a procedure for adopting or humanely disposing of impounded livestock as an alternative to sale or auction; requiring a designated impounder to establish fees and to be responsible for damages caused while impounding livestock; authorizing specified municipalities to appoint agents for the purpose of investigating violations of certain laws; clarifying that certain provisions relating to local animal control are not the exclusive means of enforcing animal control laws, etc.  AG 02/16/2015 Favorable CA 03/04/2015 Temporarily Postponed CA 03/17/2015 Fav/CS FP	Fav/CS Yeas 6 Nays 0
2	<b>SB 168</b> Negron (Identical H 97, Compare H 709, S 500)	Mobile Home Parks; Revising the definition of the term "mobile home park" to clarify that it includes certain lots or spaces regardless of the rental or lease term's length or person liable for ad valorem taxes; providing that the act is remedial and intended to clarify existing law and to abrogate an interpretation of such law by the Department of Business and Professional Regulation; providing for retroactive application, etc.  RI 02/18/2015 Favorable CA 03/17/2015 Favorable JU	Favorable Yeas 6 Nays 0
3	<b>SB 824</b> Evers (Identical CS/H 63, Compare CS/H 65, Link S 826)	Public-private Partnerships; Deleting provisions creating the Public-Private Partnership Guidelines Task Force; deleting a provision that requires approval of the local governing body before a school board enters into a comprehensive agreement; revising the conditions necessary for a responsible public entity to approve a comprehensive agreement; deleting provisions relating to notice to affected local jurisdictions, etc.  CA 03/17/2015 Fav/CS GO FP	Fav/CS Yeas 6 Nays 0

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Community Affairs

Tuesday, March 17, 2015, 9:00 —10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 826</b> Evers (Identical CS/H 65, Compare CS/H 63, Link S 824)	Public Records and Public Meetings/Public-private Project Proposals; Transferring, renumbering, and amending provisions relating to qualifying public-private projects for public facilities and infrastructure; providing an exemption from public records requirements for unsolicited proposals received by a responsible public entity for a specified period; providing an exemption from public meeting requirements for any portion of a meeting of a responsible public entity during which exempt proposals are discussed; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc.  CA 03/17/2015 Favorable GO FP	Favorable Yeas 5 Nays 1
5	<b>SB 782</b> Montford (Identical H 423)	County Officers; Providing that the salaries of a clerk of circuit court, county comptroller, sheriff, supervisor of elections, property appraiser, tax collector, and district school superintendent may not be decreased under specific circumstances as the county population increases, etc.  CA 03/10/2015 Temporarily Postponed CA 03/17/2015 Fav/CS GO FP	Fav/CS Yeas 6 Nays 0
6	<b>CS/SB 466</b> Regulated Industries / Flores (Similar CS/H 413)	Low-voltage Alarm Systems; Revising the definition of the term "low-voltage alarm system project" and adding the definition of the term "wireless alarm system"; providing that a permit is not required to install, maintain, inspect, replace, or service a wireless alarm system and its ancillary components; prohibiting a local enforcement agency from requiring the payment of any additional fees, charges, or expenses associated with the installation or replacement of a new or existing alarm system, etc.  RI 03/04/2015 Fav/CS CA 03/17/2015 Favorable RC	Favorable Yeas 6 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 972</b> Flores (Identical H 695)	Value Adjustment Boards; Establishing deadlines for value adjustment boards to complete final tax roll certifications; revising the interest rate upon which unpaid and overpaid ad valorem taxes accrue; authorizing the district school board and district county commission to audit certain expenses of the value adjustment board; revising the entities that may represent a taxpayer before the value adjustment board, etc.  CA 03/17/2015 Favorable FT AP	Favorable Yeas 6 Nays 0
8	<b>SB 1114</b> Stargel (Similar CS/H 549)	Membership Associations that Receive Public Funds; Requiring a membership association that receives more than a specified percentage of its budget from public funds to file a report with the Legislature; prohibiting a membership association whose membership dues are paid for by public funds from expending such funds on litigation against the state, etc.  CA 03/17/2015 Fav/CS AP	Fav/CS Yeas 3 Nays 2
9	<b>SB 962</b> Legg (Similar H 537)	Public Records/Surveillance Recordings ; Providing an exemption from public records requirements for certain surveillance recordings held by a community development district; providing exceptions; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  CA 03/17/2015 Fav/CS GO RC	Fav/CS Yeas 5 Nays 1
10	<b>SB 286</b> Diaz de la Portilla (Similar H 323)	Classified Advertisement Websites; Requiring a specified number of safe-haven facilities to be designated in each county based upon population size; authorizing state buildings, or alternatively, local governmental buildings, to serve as safe-haven facilities; limiting the liability of an entity that provides a safe-haven facility; limiting actions against the state or local government related to transactions taking place at a safe-haven facility, etc.  CA 03/17/2015 Fav/CS JU AGG FP	Fav/CS Yeas 6 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	<b>SB 1216</b> Simpson (Similar H 1159)	Connected-city Corridors; Requiring plan amendments that qualify as connected-city corridor amendments to be reviewed by the local government; providing legislative intent; authorizing local governments to adopt connected-city corridor plan amendments; requiring community development districts located within a connected-city corridor plan amendment to be established pursuant to a county ordinance; providing a statutory exemption from the development of regional impact review process for any development within the geographic boundaries of a connected-city corridor plan, etc.  CA 03/17/2015 Fav/CS ATD FP	Fav/CS Yeas 6 Nays 0

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Other Related Meeting Documents

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

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

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

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BILL: CS/SB 420

INTRODUCER: Community Affairs Committee and Senator Grimsley

SUBJECT: Animal Control

DATE: March 17, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 420 provides a procedure for adopting or humanely disposing of impounded livestock (excluding cattle), as an alternative to sale or auction, which are not always the best options for the health and safety of the animals. Notice of the impounded livestock must be provided in specified methods by county sheriffs or animal control centers. The bill requires the sheriff or animal control center to establish fees and to be responsible for damages caused while impounding the livestock. It provides cities with lawfully sanctioned animal control officers the same powers as counties for the purpose of investigating animal cruelty cases and seizing animals or petitioning for custody. The bill provides additional, supplemental, and alternative laws for enforcing county or municipal codes or ordinances, but clarifies that it does not prohibit a county or municipality from enforcing its own codes or ordinances by any other means.

**II. Present Situation:**

***Florida Fence Law***

Before the enactment of fencing laws, Florida was an open-range state. In the 1949 Legislative Session, Governor Fuller Warren approved Senate Bill 34, which required owners of livestock to prevent their animals from “running at large or straying upon public roads.” The act encouraged

ranchers to build fences and contain wandering livestock. Sometimes known as “the fence law,” historians consider Senate Bill 34 the final measure in closing the open range.<sup>1</sup>

Under the provisions of ch. 588, F.S., every owner who intentionally, willfully, carelessly, or negligently suffers or permits their livestock to run at large or stray upon Florida public roads is liable for any resulting injuries or property damage and may be guilty of a second degree misdemeanor.<sup>2</sup> Criminal penalties may include a term of imprisonment not exceeding 60 days and/or a fine of as much as \$500.<sup>3</sup>

### *Auctions*

Current law requires animal control agencies to auction impounded livestock regardless of the circumstances. Often, this is not financially feasible and it may prevent more timely solutions that would result in better conditions for the animals. The auction process does not allow the agency to control the quality of the animals’ placement. Known animal abusers have purchased animals at auction because current law does not prevent this. If the animals are adopted, there are quality control mechanisms available.<sup>4</sup>

### *Municipal Issues*

Some powers are reserved under current animal control statutes for counties and judicially appointed animal control officers because those officers are required to receive training. City animal control officers are not given the same powers because they are not required to be trained. These powers are related to the authority to seize or petition for custody of animals in criminal animal cruelty cases.

### *Civil Citation Procedures*

Section 828.27, F.S., outlines the procedures for processing and collecting on animal control citations. However, the statute may not provide the same flexibility that local governments have in other code enforcement situations. It is unclear whether the more flexible procedures authorized in ch. 162, F.S., apply to animal control.<sup>5</sup>

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

**Section 1** amends s. 588.17, F.S., to authorize adoption and humane disposal as options for dealing with impounded livestock (excluding cattle), in addition to the currently authorized options of sale or auction. The bill also provides the county animal control center with notification requirements in an effort to identify the owner of the impounded livestock. The bill provides that impounded livestock may not be auctioned or disposed of until at least 3 days after impounding.

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<sup>1</sup> *Stray Livestock Liability Laws*, <http://www.floridamemory.com/blog/2012/06/07/stray-livestock-liability-laws/> (last visited on Feb. 20, 2015).

<sup>2</sup> Sections 588.15 and 588.24, F.S.

<sup>3</sup> Section 588.24, F.S., citing sections 775.082 and 775.083, F.S.

<sup>4</sup> Florida Animal Control Association interview February 9, 2015 conducted by the Agriculture Committee.

<sup>5</sup> *Id.*

**Section 2** amends s. 588.18, F.S., to require a county animal control center to establish fees and to be responsible for damages caused while impounding the livestock.

**Section 3** conforms s. 588.23, F.S., to changes made in the previous sections of the bill.

**Section 4** amends s. 828.073, F.S., to conform to changes made in previous sections of the bill. It also authorizes a municipality with certified animal control officers to issue an order to provide care for an animal found to be neglected or mistreated. It authorizes certified municipal animal control officers to take custody of an animal or to order an owner to provide certain care at the owner's expense.

**Section 5** amends s. 828.27, F.S., to require that any certified animal control officer must complete four hours of post-certification continuing education training every two years in order to maintain certification. It also deletes obsolete provisions relating to the proceeds collected for civil penalties imposed for violation of an ordinance relating to animal control or cruelty. It also provides that this section provides additional, supplemental and alternative means of enforcing county or municipal codes or ordinances and it does not prohibit a county or municipality from enforcing its codes or ordinances, including, but not limited to, the procedures provided in ch. 162, F.S.

**Section 6** provides that this act shall take effect July 1, 2015.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 588.17, 588.18, 588.20, 588.23, 828.03, 828.073, and 828.27.

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 March 17, 2015:**

- Authorizes the sheriff or animal control center to offer for adoption or humanely dispose of stray livestock, excluding cattle. Provides notice requirements.
- Authorizes the county animal control center to determine fees for impounding and caring for livestock at large.
- Authorizes certain municipalities to issue orders to provide care or to protect or to humanely dispose of abused or neglected animals.
- Authorizes certain municipalities to take custody of any animal found neglected or cruelly treated or order the owner to provide certain care to the animal.
- Removes the requirement that animals taken from unfit owners be put up for sale prior to being remanded to the custody of certain organizations.
- Provides that proceeds of a sale of an animal go to cover the care and provision costs of certain entities (after covering the cost of the sale).
- Provides training requirements for certified animal control officers.
- Provides that the powers granted by s. 828.27, F.S., are supplemental to county and municipal codes and the section does not prohibit local governments from enforcing such codes.

B. Amendments:

None.





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LEGISLATIVE ACTION

Senate

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House

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 588.17, Florida Statutes, is amended to  
read:

588.17 Disposition of impounded livestock.—

(1) Upon the impounding of any livestock by the sheriff or  
his or her deputies or designees, or any other law enforcement  
officers of the county, the county animal control center, or



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11 state highway patrol officers, the sheriff shall ~~forthwith~~ serve  
12 written notice upon the owner, ~~advising~~ the ~~such~~ owner of the  
13 location or place where the livestock is being held and  
14 impounded, of the amount due by reason of the ~~such~~ impounding,  
15 and that unless the ~~such~~ livestock is ~~be~~ redeemed within 3 days  
16 after the date of the notice, ~~from date thereof that~~ the  
17 livestock will ~~same shall~~ be offered for sale.

18 (2) ~~If In the event~~ the owner of the ~~such~~ livestock is  
19 unknown or cannot be found, service upon the owner shall be  
20 obtained by ~~once~~ publishing a notice once in a newspaper of  
21 general circulation in the county where the livestock is  
22 impounded, excluding ~~(Sundays and holidays excluded)~~. If there  
23 is ~~be~~ no such newspaper, ~~then by posting of~~ the notice shall be  
24 posted at the courthouse door and at two other conspicuous  
25 places in the ~~within said~~ county.

26 Such notice shall be in substantially the following form:

27

28 "To Whom It May Concern:

29 You are hereby notified that the following described  
30 livestock ...(giving full and accurate description of same,  
31 including marks and brands)... is now impounded at ...(giving  
32 location where livestock is impounded)... and the amount due by  
33 reason of such impounding is .... dollars. The above described  
34 livestock will, unless redeemed within 3 days after the date of  
35 this notice ~~from date hereof~~, be offered for sale at public  
36 auction to the highest and best bidder for cash.

37 ...(Date)...

...(Sheriff)...

38 of .... County, Florida"

39



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40 (3) Unless the ~~impounded~~ livestock is redeemed within 3  
41 days after the ~~from date of~~ notice, the sheriff shall ~~forthwith~~  
42 give notice of sale, thereof which shall be held at least ~~not~~  
43 ~~less than~~ 5 days but not ~~nor~~ more than 10 days, ~~(excluding~~  
44 Sundays and holidays, after) ~~from~~ the first publication of the  
45 notice of sale. The ~~Said~~ notice of sale shall be published in a  
46 newspaper of general circulation in the ~~said~~ county, ~~(excluding~~  
47 Sundays and holidays, ) and ~~by posting~~ a copy of the ~~such~~ notice  
48 shall be posted at the courthouse door. If there is ~~be~~ no such  
49 newspaper, the notice of sale shall be posted ~~then by posting~~  
50 ~~such copy~~ at the courthouse door and at two other conspicuous  
51 places in the ~~said~~ county.

52 Such notice of sale shall be in substantially the following  
53 form:

54  
55 "... (Name of owner, if known, otherwise 'To Whom It May  
56 Concern') ... you are hereby notified that I will offer for sale  
57 and sell at public sale to the highest and best bidder for cash  
58 the following described livestock ... (giving full and accurate  
59 description of each head of livestock) ... at .... o'clock, ....  
60 m. (the hour of sale will ~~to~~ be between 11 a.m. and 2 p.m.  
61 Eastern Standard Time) on the .... day of .... at the following  
62 place .... (which place shall be where the livestock is  
63 impounded or at the place provided by the county commissioners  
64 for the taking up and keeping of such livestock) to satisfy a  
65 claim in the sum of .... for fees, expenses for feeding and  
66 care, and other related costs ~~hereof~~.

67 ... (Date) ...

... (Sheriff) ...

of .... County, Florida"



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69 (4) Notwithstanding the requirements in subsections (1)  
70 through (3), the sheriff or county animal control center may  
71 offer for adoption or humanely dispose of stray livestock,  
72 excluding cattle. If the livestock is to be offered for adoption  
73 or humanely disposed of, the sheriff or county animal control  
74 center shall:

75 (a) Provide written notice to the owner, if known, advising  
76 the owner of the location where the livestock is impounded, of  
77 the amount due by reason of the impounding, and that unless the  
78 livestock is redeemed within a timeframe to be established by  
79 the sheriff or county animal control center, which shall be a  
80 period of at least 3 business days, the livestock will be  
81 offered for adoption or disposed of humanely; or

82 (b) If the owner is unknown or cannot be located, obtain  
83 service upon the owner by publishing a notice on the sheriff's  
84 or county animal control center's website. If the livestock is  
85 not redeemed within a timeframe to be established by the  
86 authorized agency, which shall be a period of at least 3  
87 business days, the livestock will be offered for adoption or  
88 disposed of humanely.

89 Section 2. Section 588.18, Florida Statutes, is amended to  
90 read:

91 588.18 Livestock at large; fees.—The fees allowed for  
92 impounding, serving notice, care and feeding, advertising, and  
93 disposing of impounded animals shall be determined by the  
94 sheriff or the county animal control center of each county.  
95 Damages caused ~~done~~ by the sheriff or the county animal control  
96 center, sheriff's designees, or any other law enforcement  
97 officer in pursuit, or in the capture, handling, or care of the



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98 livestock are the sole responsibility of the sheriff or the  
99 county animal control center ~~other law enforcement agency~~.

100 Section 3. Section 588.23, Florida Statutes, is amended to  
101 read:

102 588.23 Right of owner.—The owner of any impounded livestock  
103 has ~~shall have~~ the right at any time before the disposition sale  
104 thereof to redeem the livestock ~~same~~ by paying to the sheriff or  
105 the county animal control center all impounding expenses,  
106 including fees, keeping charges, advertising, or other costs  
107 incurred therewith, which sum shall be deposited by the sheriff  
108 or the county animal control center with the clerk of the  
109 circuit court who shall pay all fees and costs as allowed in s.  
110 588.18. ~~If In the event~~ there is a dispute as to the amount of  
111 such costs and expenses, the owner may give bond with sufficient  
112 sureties to be approved by the sheriff or the county animal  
113 control center, in an amount to be determined by the sheriff or  
114 the county animal control center, but not exceeding the fair  
115 cash value of such livestock, conditioned to pay such costs and  
116 damages; thereafter, within 10 days, the owner shall institute  
117 suit in equity to have the damage adjudicated by a court of  
118 equity or referred to a jury if requested by either party to  
119 such suit.

120 Section 4. Section 828.073, Florida Statutes, is amended to  
121 read:

122 828.073 Animals found in distress; when entities ~~agent~~ may  
123 take custody ~~charge~~; hearing; disposition; sale.—

124 (1) The purpose of this section is to provide a means by  
125 which a neglected or mistreated animal may ~~can~~ be:

126 (a) Removed from its present custody, or



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127 (b) Made the subject of an order to provide care, issued to  
128 its owner by a the county court, a any law enforcement officer,  
129 or a any agent of the county, a municipality with animal control  
130 officers certified pursuant to s. 828.27, a or of any society or  
131 association for the prevention of cruelty to animals, or an  
132 agency appointed under s. 828.03,

133  
134 and protected given protection and disposed of appropriately and  
135 humanely an appropriate and humane disposition made.

136 (2) A Any law enforcement officer, a or any agent of any  
137 county, a municipality with animal control officers certified  
138 pursuant to s. 828.27, a or of any society or an association for  
139 the prevention of cruelty to animals, or an agent appointed  
140 under the provisions of s. 828.03 may:

141 (a) Lawfully take custody of any animal found neglected or  
142 cruelly treated by removing the animal from its present  
143 location, or

144 (b) Order the owner of any animal found neglected or  
145 cruelly treated to provide certain care to the animal at the  
146 owner's expense without removal of the animal from its present  
147 location,

148  
149 and shall file a petition seeking relief under this section in  
150 the county court of the county in which the animal is found  
151 within 10 days after the animal is seized or an order to provide  
152 care is issued. The court shall schedule and commence a hearing  
153 on the petition within 30 days after the petition is filed to  
154 determine whether the owner, if known, is able to adequately  
155 provide ~~adequately~~ for the animal and is fit to have custody of



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156 the animal. The hearing shall be concluded and the court order  
157 entered thereon within 60 days after the date the hearing is  
158 commenced. The timeframes set forth in this subsection are not  
159 jurisdictional. However, if a failure to meet such timeframes is  
160 attributable to the officer, county, municipality, society or  
161 association, or agent, the owner is not required to pay the  
162 officer, county, municipality, society or association, or agent  
163 for care of the animal during any period of delay caused by the  
164 officer, county, municipality, society or association, or agent.  
165 A fee may not be charged for filing the petition. This  
166 subsection does not require court action for the taking into  
167 custody and properly disposing ~~making proper disposition~~ of  
168 stray or abandoned animals as lawfully performed by animal  
169 control agents.

170 (3) A law enforcement officer ~~The officer, a or agent of~~  
171 ~~any county, a municipality with animal control officers~~  
172 certified pursuant to s. 828.27, a or of any society or an  
173 association for the prevention of cruelty to animals, or an  
174 agent appointed under s. 828.03 taking custody charge of an any  
175 animal pursuant to the provisions of this section shall have  
176 written notice served, at least 3 days before the hearing  
177 scheduled under subsection (2), upon the owner of the animal, if  
178 he or she is known and is residing in the county where the  
179 animal was taken, in accordance conformance with the provisions  
180 of chapter 48 relating to service of process. The sheriff of the  
181 county may shall not charge a fee for service of such notice.

182 (4) (a) A law enforcement ~~The officer, a or agent of any~~  
183 county, a municipality with animal control officers certified  
184 pursuant to s. 828.27, a or of any society or an association for



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185 the prevention of cruelty to animals, or an agent appointed  
186 under s. 828.03 taking custody charge of an animal pursuant to  
187 ~~as provided for in~~ this section shall provide for the animal  
188 until either:

189 1. The owner is adjudged by the court to be able to  
190 adequately provide adequately for, and have custody of, the  
191 animal, in which case the animal shall be returned to the owner  
192 upon payment by the owner for the care and provision for the  
193 animal while in ~~the agent's or officer's~~ custody of the officer,  
194 county, municipality, society or association, or agent; or

195 2. The animal is turned over to the officer, county,  
196 municipality, society or association, or agent pursuant to ~~as~~  
197 ~~provided in~~ paragraph (c) and disposed of humanely ~~a humane~~  
198 ~~disposition of the animal is made.~~

199 (b) If the court determines that the owner is able to  
200 provide adequately for, and have custody of, the animal, the  
201 order shall provide that the animal in the possession of the  
202 officer, county, municipality, society or association, or agent  
203 be claimed and removed by the owner within 7 days after the date  
204 of the order.

205 (c) Upon the court's judgment that the owner of the animal  
206 is unable or unfit to adequately provide for the animal:

207 1. The court may:

208 a. Order that the current owner have no further custody of  
209 the animal and that the animal be sold by the sheriff at public  
210 auction ~~or, that the current owner have no further custody of~~  
211 ~~the animal, and that any animal not bid upon~~ be remanded to the  
212 custody of the Society for the Prevention of Cruelty to Animals,  
213 the Humane Society, the county, the municipality with animal





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214 control officers certified pursuant to s. 828.27, the agent  
215 appointed under s. 828.03 or any agency or person the judge  
216 deems appropriate, to be disposed of as the agency or person  
217 sees fit; or

218       b. Order that the animal be destroyed or remanded directly  
219 to the custody of the Society for the Prevention of Cruelty to  
220 Animals, the Humane Society, the county, the municipality with  
221 animal control officers certified pursuant to s. 828.27, the  
222 agent appointed under s. 828.03, or any agency or person the  
223 judge deems appropriate, to be disposed of as the agency or  
224 person sees fit.

225       2. The court, upon proof of costs incurred by the officer,  
226 county, municipality, society or association, or agent, may  
227 require that the owner pay for the care of the animal while in  
228 the custody of the officer, county, municipality, society or  
229 association, or agent. A separate hearing may be held.

230       3. The court may order that other animals that are in the  
231 custody of the owner and that were not seized by the officer,  
232 county, municipality, society or association, or agent be turned  
233 over to the officer, county, municipality, society or  
234 association, or agent, if the court determines that the owner is  
235 unable or unfit to adequately provide for the animals. The court  
236 may enjoin the owner's further possession or custody of other  
237 animals.

238       (5) In determining the person's fitness to have custody of  
239 an animal ~~under the provisions of this act,~~ the court may  
240 consider, among other matters:

241       (a) Testimony from the law enforcement officer, the county,  
242 the municipality with animal control officers certified pursuant



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243 to s. 828.27, the society or association for the prevention of  
244 cruelty to animals, or the agent appointed under s. 828.03 ~~or~~  
245 ~~officer~~ who seized the animal and other witnesses as to the  
246 condition of the animal when seized and as to the conditions  
247 under which the animal was kept.

248 (b) Testimony and evidence as to the veterinary care  
249 provided to the animal.

250 (c) Testimony and evidence as to the type and amount of  
251 care provided to the animal.

252 (d) Expert testimony as to the community standards for  
253 proper and reasonable care of the same type of animal.

254 (e) Testimony from any witnesses as to prior treatment or  
255 condition of this or other animals in the same custody.

256 (f) The owner's past record of judgments under pursuant to  
257 ~~the provisions of~~ this chapter.

258 (g) Convictions pursuant to applicable ~~under the~~ statutes  
259 prohibiting cruelty to animals.

260 (h) ~~Any~~ Other evidence the court considers to be material  
261 or relevant.

262 (6) If the evidence indicates a lack of proper and  
263 reasonable care of the animal, the burden is on the owner to  
264 demonstrate by clear and convincing evidence that he or she is  
265 able and fit to have custody of and adequately provide  
266 ~~adequately~~ for the animal.

267 (7) In any case in which an animal is offered for auction  
268 under ~~the provisions of~~ this section, the proceeds shall be:

269 (a) Applied, first, to the cost of the sale.

270 (b) Applied, secondly, to the care and provision for the  
271 animal by the ~~officer or agent of any~~ county, the municipality



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272 with animal control officers certified pursuant to s. 828.27,  
273 the ~~or of any~~ society or association for the prevention of  
274 cruelty to animals, or the agent appointed under s. 828.03  
275 taking charge.

276 (c) Applied, thirdly, to the payment of the owner for the  
277 sale of the animal.

278 (d) Paid over to the court if the owner is not known.

279 Section 5. Subsection (4) of section 828.27, Florida  
280 Statutes, is amended, and subsection (8) is added to that  
281 section, to read:

282 828.27 Local animal control or cruelty ordinances;  
283 penalty.-

284 (4) (a) 1. County-employed animal control officers must  
285 ~~shall~~, and municipally employed animal control officers may,  
286 successfully complete a 40-hour minimum standards training  
287 course. Such course must ~~shall~~ include, but is not limited to,  
288 training for: animal cruelty investigations, search and seizure,  
289 animal handling, courtroom demeanor, and civil citations. The  
290 course curriculum must be approved by the Florida Animal Control  
291 Association. An animal control officer who successfully  
292 completes such course shall be issued a certificate indicating  
293 that he or she has received a passing grade.

294 2. Any animal control officer who is authorized before  
295 ~~prior to~~ January 1, 1990, by a county or municipality to issue  
296 citations is not required to complete the minimum standards  
297 training course.

298 3. In order to maintain valid certification, every 2 years  
299 each certified ~~county-employed~~ animal control officer must ~~shall~~  
300 complete 4 hours of postcertification continuing education



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301 training. Such training may include, but is not limited to,  
302 training for: animal cruelty investigations, search and seizure,  
303 animal handling, courtroom demeanor, and civil citations.

304 (b)~~1~~. The governing body of a county or municipality may  
305 impose and collect a surcharge of up to \$5 upon each civil  
306 penalty imposed for violation of an ordinance relating to animal  
307 control or cruelty. The proceeds from such surcharges shall be  
308 used to pay the costs of training for animal control officers.

309 ~~2. In addition to the uses set forth in subparagraph 1., a~~  
310 ~~county, as defined in s. 125.011, may use the proceeds specified~~  
311 ~~in that subparagraph and any carryover or fund balance from such~~  
312 ~~proceeds for animal shelter operating expenses. This~~  
313 ~~subparagraph expires July 1, 2014.~~

314 (8) This section is an additional, supplemental, and  
315 alternative means of enforcing county or municipal codes or  
316 ordinances. This section does not prohibit a county or  
317 municipality from enforcing its codes or ordinances by any other  
318 means, including, but not limited to, the procedures provided in  
319 chapter 162.

320 Section 6. This act shall take effect July 1, 2015.

321  
322 ===== T I T L E A M E N D M E N T =====

323 And the title is amended as follows:

324 Delete everything before the enacting clause  
325 and insert:

326 A bill to be entitled  
327 An act relating to animal control; amending s. 588.17,  
328 F.S.; providing a procedure for adopting or humanely  
329 disposing of impounded stray livestock, excluding



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330 cattle, as an alternative to sale or auction; amending  
331 s. 588.18, F.S.; requiring a sheriff or county animal  
332 control center to establish fees and be responsible  
333 for damages caused while impounding livestock;  
334 amending s. 588.23, F.S.; conforming provisions to  
335 changes made by the act; amending s. 828.073, F.S.;  
336 conforming provisions; authorizing certain  
337 municipalities to take custody of an animal found  
338 neglected or cruelly treated or to order the owner of  
339 such animal to provide certain care at the owner's  
340 expense; authorizing county courts to remand animals  
341 to the custody of certain municipalities; authorizing  
342 courts to require the owner of an animal to pay for  
343 the care of the animal while in certain custody;  
344 authorizing the allocation of auction proceeds to  
345 certain municipalities; amending s. 828.27, F.S.;  
346 deleting obsolete provisions; clarifying that certain  
347 provisions relating to local animal control are not  
348 the exclusive means of enforcing animal control laws;  
349 providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
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	.	
	.	

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

1       **Senate Substitute for Amendment (560196) (with title**  
2 **amendment)**

3  
4       Delete everything after the enacting clause  
5 and insert:

6       Section 1. Subsection (4) is added to section 588.17,  
7 Florida Statutes, to read:

8       588.17 Disposition of impounded livestock.—

9       (4) Notwithstanding the requirements of subsections (1)-  
10 (3), the sheriff or the county animal control center may offer



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11 for adoption or humanely dispose of stray livestock, excluding  
12 cattle. If the livestock is to be offered for adoption or  
13 humanely disposed of, the sheriff or the county animal control  
14 center shall:

15 (a) Provide written notice to the owner, if known, advising  
16 the owner of the location where the livestock is impounded and  
17 of the amount due by reason of the impounding, and that unless  
18 the livestock is redeemed within a timeframe to be established  
19 by the sheriff or the county animal control center, which shall  
20 be a period of at least 3 business days, the livestock will be  
21 offered for adoption or humanely disposed of; or

22 (b) If the owner is unknown or cannot be located, obtain  
23 service upon the owner by publishing a notice on the sheriff's  
24 or the county animal control center's website. If the livestock  
25 is not redeemed within a timeframe to be established by the  
26 authorized agency, which shall be a period of at least 3  
27 business days, the livestock will be offered for adoption or  
28 humanely disposed of.

29 Section 2. Section 588.18, Florida Statutes, is amended to  
30 read:

31 588.18 Livestock at large; fees.—The fees allowed for  
32 impounding, serving notice, care and feeding, advertising, and  
33 disposing of impounded animals shall be determined by the  
34 sheriff or the county animal control center of each county.  
35 Damages done by the sheriff or the county animal control center,  
36 ~~sheriff's designees, or any other law enforcement officer~~ in  
37 pursuit, or in the capture, handling, or care of the livestock  
38 are the sole responsibility of the sheriff or the county animal  
39 control center ~~other law enforcement agency.~~



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40 Section 3. Section 588.23, Florida Statutes, is amended to  
41 read:

42 588.23 Right of owner.—The owner of any impounded livestock  
43 has ~~shall have~~ the right at any time before the disposition ~~sale~~  
44 thereof to redeem the livestock ~~same~~ by paying to the sheriff or  
45 the county animal control center all impounding expenses,  
46 including fees, keeping charges, advertising, or other costs  
47 incurred therewith which sum shall be deposited by the sheriff  
48 or the county animal control center with the clerk of the  
49 circuit court who shall pay all fees and costs as allowed in s.  
50 588.18. If ~~In the event~~ there is a dispute as to the amount of  
51 such costs and expenses, the owner may give bond with sufficient  
52 sureties to be approved by the sheriff or the county animal  
53 control center, in an amount to be determined by the sheriff or  
54 the county animal control center, but not exceeding the fair  
55 cash value of such livestock, conditioned to pay such costs and  
56 damages; thereafter, within 10 days, the owner shall institute  
57 suit in equity to have the damage adjudicated by a court of  
58 equity or referred to a jury if requested by either party to  
59 such suit.

60 Section 4. Paragraph (b) of subsection (1), subsections (2)  
61 and (3), paragraphs (a) and (c) of subsection (4), and  
62 subsections (5) and (7) of section 828.073, Florida Statutes,  
63 are amended to read:

64 828.073 Animals found in distress; when agent may take  
65 charge; hearing; disposition; sale.—

66 (1) The purpose of this section is to provide a means by  
67 which a neglected or mistreated animal can be:

68 (b) Made the subject of an order to provide care, issued to





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69 its owner by the county court, any law enforcement officer, ~~or~~  
70 ~~any agent of the county,~~ a municipality with animal control  
71 officers certified pursuant to s. 828.27, or ~~a~~ ~~of any society or~~  
72 association for the prevention of cruelty to animals appointed  
73 under s. 828.03,

74  
75 and given protection and an appropriate and humane disposition  
76 made.

77 (2) A Any law enforcement officer, a ~~or any agent of any~~  
78 county, a municipality with animal control officers certified  
79 pursuant to s. 828.27, or ~~of~~ any society or association for the  
80 prevention of cruelty to animals appointed under the provisions  
81 of s. 828.03 may:

82 (a) Lawfully take custody of any animal found neglected or  
83 cruelly treated by removing the animal from its present  
84 location, or

85 (b) Order the owner of any animal found neglected or  
86 cruelly treated to provide certain care to the animal at the  
87 owner's expense without removal of the animal from its present  
88 location,

89  
90 and shall file a petition seeking relief under this section in  
91 the county court of the county in which the animal is found  
92 within 10 days after the animal is seized or an order to provide  
93 care is issued. The court shall schedule and commence a hearing  
94 on the petition within 30 days after the petition is filed to  
95 determine whether the owner, if known, is able to provide  
96 adequately for the animal and is fit to have custody of the  
97 animal. The hearing shall be concluded and the court order



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98 entered thereon within 60 days after the date the hearing is  
99 commenced. The timeframes set forth in this subsection are not  
100 jurisdictional. However, if a failure to meet such timeframes is  
101 attributable to the officer or agent, the owner is not required  
102 to pay the officer or agent for care of the animal during any  
103 period of delay caused by the officer or agent. A fee may not be  
104 charged for filing the petition. This subsection does not  
105 require court action for the taking into custody and making  
106 proper disposition of stray or abandoned animals as lawfully  
107 performed by animal control agents.

108 (3) Any ~~The officer or agent of any county, any~~  
109 municipality with animal control officers certified pursuant to  
110 s. 828.27, or of any society or association for the prevention  
111 of cruelty to animals taking charge of any animal pursuant to  
112 the provisions of this section shall have written notice served,  
113 at least 3 days before the hearing scheduled under subsection  
114 (2), upon the owner of the animal, if he or she is known and is  
115 residing in the county where the animal was taken, in  
116 conformance with the provisions of chapter 48 relating to  
117 service of process. The sheriff of the county may shall not  
118 charge a fee for service of such notice.

119 (4) (a) Any ~~The officer or agent of any county, any~~  
120 municipality with animal control officers certified pursuant to  
121 s. 828.27, or of any society or association for the prevention  
122 of cruelty to animals taking charge of an animal as provided for  
123 in this section shall provide for the animal until either:

124 1. The owner is adjudged by the court to be able to provide  
125 adequately for, and have custody of, the animal, in which case  
126 the animal shall be returned to the owner upon payment by the



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127 owner for the care and provision for the animal while in the  
128 agent's or officer's custody; or

129 2. The animal is turned over to the officer or agent as  
130 provided in paragraph (c) and a humane disposition of the animal  
131 is made.

132 (c) Upon the court's judgment that the owner of the animal  
133 is unable or unfit to adequately provide for the animal:

134 1. The court may:

135 a. Order that the current owner have no further custody of  
136 the animal and that the animal be sold by the sheriff at public  
137 auction or, that the current owner have no further custody of  
138 the animal, and that any animal not bid upon be remanded to the  
139 custody of the Society for the Prevention of Cruelty to Animals,  
140 the Humane Society, the county, the municipality with animal  
141 control officers certified pursuant to s. 828.27, or any agency  
142 or person the judge deems appropriate, to be disposed of as the  
143 agency or person sees fit; or

144 b. Order that the animal be destroyed or remanded directly  
145 to the custody of the Society for the Prevention of Cruelty to  
146 Animals, the Humane Society, the county, the municipality with  
147 animal control officers certified pursuant to s. 828.27, or any  
148 agency or person the judge deems appropriate, to be disposed of  
149 as the agency or person sees fit.

150 2. The court, upon proof of costs incurred by the officer  
151 or agent, may require that the owner pay for the care of the  
152 animal while in the custody of the officer or agent. A separate  
153 hearing may be held.

154 3. The court may order that other animals that are in the  
155 custody of the owner and that were not seized by the officer or



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156 agent be turned over to the officer or agent, if the court  
157 determines that the owner is unable or unfit to adequately  
158 provide for the animals. The court may enjoin the owner's  
159 further possession or custody of other animals.

160 (5) In determining the person's fitness to have custody of  
161 an animal ~~under the provisions of this act~~, the court may  
162 consider, among other matters:

163 (a) Testimony from the agent or officer who seized the  
164 animal and other witnesses as to the condition of the animal  
165 when seized and as to the conditions under which the animal was  
166 kept.

167 (b) Testimony and evidence as to the veterinary care  
168 provided to the animal.

169 (c) Testimony and evidence as to the type and amount of  
170 care provided to the animal.

171 (d) Expert testimony as to the community standards for  
172 proper and reasonable care of the same type of animal.

173 (e) Testimony from any witnesses as to prior treatment or  
174 condition of this or other animals in the same custody.

175 (f) The owner's past record of judgments pursuant to ~~under~~  
176 ~~the provisions of~~ this chapter.

177 (g) Convictions pursuant to ~~under~~ the statutes prohibiting  
178 cruelty to animals.

179 (h) Other ~~Any other~~ evidence the court considers to be  
180 material or relevant.

181 (7) In any case in which an animal is offered for auction  
182 under ~~the provisions of~~ this section, the proceeds shall be:

183 (a) Applied, first, to the cost of the sale.

184 (b) Applied, secondly, to the care of and provision for the



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185 animal by ~~the officer or agent of~~ any county, any municipality  
186 with animal control officers certified pursuant to s. 828.27, or  
187 ~~of~~ any society or association for the prevention of cruelty to  
188 animals taking charge.

189 (c) Applied, thirdly, to the payment of the owner for the  
190 sale of the animal.

191 (d) Paid over to the court if the owner is not known.

192 Section 5. Subsection (4) of section 828.27, Florida  
193 Statutes, is amended, and subsection (8) is added to that  
194 section, to read:

195 828.27 Local animal control or cruelty ordinances;  
196 penalty.—

197 (4) (a) 1. County-employed animal control officers must  
198 ~~shall~~, and municipally employed animal control officers may,  
199 successfully complete a 40-hour minimum standards training  
200 course. Such course must ~~shall~~ include, but is not limited to,  
201 training for: animal cruelty investigations, search and seizure,  
202 animal handling, courtroom demeanor, and civil citations. The  
203 course curriculum must be approved by the Florida Animal Control  
204 Association. An animal control officer who successfully  
205 completes such course shall be issued a certificate indicating  
206 that he or she has received a passing grade.

207 2. Any animal control officer who is authorized before  
208 ~~prior to~~ January 1, 1990, by a county or municipality to issue  
209 citations is not required to complete the minimum standards  
210 training course.

211 3. In order to maintain valid certification, every 2 years  
212 each certified ~~county-employed~~ animal control officer must ~~shall~~  
213 complete 4 hours of postcertification continuing education



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214 training. Such training may include, but is not limited to,  
215 training for: animal cruelty investigations, search and seizure,  
216 animal handling, courtroom demeanor, and civil citations.

217 (b)~~1~~. The governing body of a county or municipality may  
218 impose and collect a surcharge of up to \$5 upon each civil  
219 penalty imposed for violation of an ordinance relating to animal  
220 control or cruelty. The proceeds from such surcharges shall be  
221 used to pay the costs of training for animal control officers.

222 ~~2. In addition to the uses set forth in subparagraph 1., a~~  
223 ~~county, as defined in s. 125.011, may use the proceeds specified~~  
224 ~~in that subparagraph and any carryover or fund balance from such~~  
225 ~~proceeds for animal shelter operating expenses. This~~  
226 ~~subparagraph expires July 1, 2014.~~

227 (8) This section is an additional, supplemental, and  
228 alternative means of enforcing county or municipal codes or  
229 ordinances. This section does not prohibit a county or  
230 municipality from enforcing its codes or ordinances by any other  
231 means, including, but not limited to, the procedures provided in  
232 chapter 162.

233 Section 6. This act shall take effect July 1, 2015.

234  
235 ===== T I T L E A M E N D M E N T =====

236 And the title is amended as follows:

237 Delete everything before the enacting clause  
238 and insert:

239 A bill to be entitled  
240 An act relating to animal control; amending s. 588.17,  
241 F.S.; providing a procedure for adopting or humanely  
242 disposing of impounded stray livestock, except cattle,



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243 as an alternative to sale or auction; amending s.  
244 588.18, F.S.; requiring a county animal control center  
245 to establish fees and be responsible for damages  
246 caused while impounding livestock; amending s. 588.23,  
247 F.S.; conforming provisions to changes made by the  
248 act; amending s. 828.073, F.S.; authorizing certain  
249 municipalities to take custody of an animal found  
250 neglected or cruelly treated or to order the owner of  
251 such an animal to provide certain care at the owner's  
252 expense; authorizing county courts to remand animals  
253 to the custody of certain municipalities; authorizing  
254 the allocation of auction proceeds to certain  
255 municipalities; conforming provisions to changes made  
256 by the act; amending s. 828.27, F.S.; deleting  
257 obsolete provisions; clarifying that certain  
258 provisions relating to local animal control are not  
259 the exclusive means of enforcing animal control laws;  
260 providing an effective date.

By Senator Grimsley

21-00276A-15

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1                                   A bill to be entitled  
2       An act relating to animal control; amending s. 588.17,  
3       F.S.; providing a procedure for adopting or humanely  
4       disposing of impounded livestock as an alternative to  
5       sale or auction; amending s. 588.18, F.S.; requiring a  
6       designated impounder to establish fees and to be  
7       responsible for damages caused while impounding  
8       livestock; amending s. 588.20, F.S.; clarifying that  
9       the requirements for reporting a sale or disposition  
10      apply only if the impounded livestock is offered for  
11      sale; amending s. 588.23, F.S.; conforming provisions  
12      to changes made by this act; amending s. 828.03, F.S.;  
13      authorizing specified municipalities to appoint agents  
14      for the purpose of investigating violations of certain  
15      laws; amending s. 828.073, F.S.; conforming provisions  
16      to changes made by the act; authorizing agents  
17      appointed by specified municipalities to take charge  
18      of certain animals; authorizing certain municipalities  
19      to take custody of an animal found neglected or  
20      cruelly treated or to order the owner of such an  
21      animal to provide certain care at the owner's expense;  
22      authorizing county courts to remand animals to the  
23      custody of certain municipalities; authorizing courts  
24      to require the owner of an animal to pay for the care  
25      of the animal while in the care of an officer's  
26      designee; authorizing the allocation of auction  
27      proceeds to certain municipalities; amending s.  
28      828.27, F.S.; deleting obsolete provisions; clarifying  
29      that certain provisions relating to local animal



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30 control are not the exclusive means of enforcing  
31 animal control laws; providing an effective date.

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

34  
35 Section 1. Section 588.17, Florida Statutes, is amended to  
36 read:

37 588.17 Disposition of impounded livestock.-

38 ~~(1) Upon the impounding of any Livestock impounded pursuant~~  
39 ~~to this chapter shall be disposed of by sale or auction,~~  
40 ~~adoption, or humane disposition. by the sheriff or his or her~~  
41 ~~deputies or designees, or any other law enforcement officers of~~  
42 ~~the county, the county animal control center, or state highway~~  
43 ~~patrol officers,~~

44 (1) If the livestock is to be offered for sale, the sheriff  
45 shall ~~forthwith~~ serve written notice upon the owner, advising  
46 the such owner of the location or place where the livestock is  
47 being held and impounded, of the amount due by reason of the  
48 ~~such~~ impounding, and that unless the such livestock is ~~be~~  
49 redeemed within 3 days from date thereof ~~that~~ the livestock will  
50 ~~same~~ shall be offered for sale.

51 ~~(a)(2) If in the event~~ the owner of the such livestock is  
52 unknown or cannot be found, service upon the owner shall be  
53 obtained by once publishing a notice in a newspaper of general  
54 circulation where the livestock is impounded (Sundays and  
55 holidays excluded). If there is ~~be~~ no such newspaper, ~~then by~~  
56 ~~posting of~~ the notice shall be posted at the courthouse door and  
57 at two other conspicuous places within the said county.

58 Such notice shall be in substantially the following form:

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"TO WHOM IT MAY CONCERN:

YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING DESCRIBED LIVESTOCK ... (GIVING FULL AND ACCURATE DESCRIPTION OF SAME, INCLUDING MARKS AND BRANDS)... IS NOW IMPOUNDED AT ... (GIVING LOCATION WHERE LIVESTOCK IS IMPOUNDED)... AND THE AMOUNT DUE BY REASON OF SUCH IMPOUNDING IS .... DOLLARS. THE ABOVE DESCRIBED LIVESTOCK WILL, UNLESS REDEEMED WITHIN 3 DAYS FROM DATE HEREOF, BE OFFERED FOR SALE AT PUBLIC AUCTION TO THE HIGHEST AND BEST BIDDER FOR CASH.

... (DATE) ... (SHERIFF) ... OF .... COUNTY, FLORIDA"

(b) (3) Unless the ~~impounded~~ livestock is redeemed within 3 days ~~after from date of notice~~, the sheriff shall ~~forthwith~~ give notice of sale, thereof which shall be held at least not less than 5 days but not nor more than 10 days (excluding Sundays and holidays) ~~after from~~ the first publication of the notice of sale. ~~The said~~ notice of sale shall be published in a newspaper of general circulation in the ~~said~~ county (excluding Sundays and holidays) and by posting a copy of the such notice at the courthouse door. If there ~~is be~~ no such newspaper, the then by ~~posting such~~ copy shall be posted at the courthouse door and at two other conspicuous places in the said county.

Such notice of sale shall be in substantially the following form:

"... (NAME OF OWNER, IF KNOWN, OTHERWISE 'TO WHOM IT MAY CONCERN')... YOU ARE HEREBY NOTIFIED THAT I WILL OFFER FOR SALE

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88 AND SELL AT PUBLIC SALE TO THE HIGHEST AND BEST BIDDER FOR CASH  
 89 THE FOLLOWING DESCRIBED LIVESTOCK ... (GIVING FULL AND ACCURATE  
 90 DESCRIPTION OF EACH HEAD OF LIVESTOCK)... AT .... O'CLOCK, ....  
 91 M. (THE HOUR OF SALE TO BE BETWEEN 11 A.M. AND 2 P.M. EASTERN  
 92 STANDARD TIME) ON THE .... DAY OF .... AT THE FOLLOWING PLACE  
 93 .... (WHICH PLACE SHALL BE WHERE THE LIVESTOCK IS IMPOUNDED OR  
 94 AT THE PLACE PROVIDED BY THE COUNTY COMMISSIONERS FOR THE TAKING  
 95 UP AND KEEPING OF SUCH LIVESTOCK) TO SATISFY A CLAIM IN THE SUM  
 96 OF .... FOR FEES, EXPENSES FOR FEEDING AND CARE AND COSTS  
 97 HEREOF.  
 98 ... (DATE) ... (SHERIFF) ...  
 99 OF .... COUNTY, FLORIDA"

101 (2) If the livestock is to be offered for adoption or  
 102 humanely disposed of, the designated impounder shall:

103 (a) Provide written notice to the owner, if known, advising  
 104 the owner of the location where the livestock is impounded, of  
 105 the amount due by reason of the impounding, and that unless the  
 106 livestock is redeemed within a timeframe to be established by  
 107 the impounder, a period of at least 3 days, the livestock will  
 108 be offered for adoption or disposed of humanely; or

109 (b) If the owner is unknown or cannot be located, obtain  
 110 service upon the owner by publishing a notice on the impounder's  
 111 website. If the livestock is not redeemed within a timeframe to  
 112 be established by the impounder, a period of at least 3 days,  
 113 the livestock will be offered for adoption or disposed of  
 114 humanely.

115 Section 2. Section 588.18, Florida Statutes, is amended to  
 116 read:

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117           588.18 Livestock at large; fees.—The fees allowed for  
118 impounding, serving notice, care and feeding, advertising, and  
119 disposing of impounded animals shall be determined by the  
120 sheriff of each county or the designated impounder. Damages done  
121 by the sheriff, sheriff's designees, or any other law  
122 enforcement officer or designated impounder in pursuit, or in  
123 the capture, handling, or care of the livestock are the sole  
124 responsibility of the sheriff, ~~or other~~ law enforcement agency,  
125 or designated impounder.

126           Section 3. Subsection (1) of section 588.20, Florida  
127 Statutes, is amended to read:

128           588.20 Report of sale and disposition of proceeds.—

129           (1) The sheriff, upon making a sale or ~~other~~ disposal  
130 pursuant to s. 588.19 as herein provided, shall forthwith make a  
131 written return thereof to the clerk of the circuit court of such  
132 county, with a full and accurate description of the livestock  
133 sold or disposed of by her or him, to whom, and the sale price  
134 thereof, which report shall be filed by said clerk.

135           Section 4. Section 588.23, Florida Statutes, is amended to  
136 read:

137           588.23 Right of owner.—The owner of any impounded livestock  
138 ~~has shall have~~ the right at any time before the disposition sale  
139 thereof to redeem the livestock same by paying to the sheriff or  
140 designated impounder all impounding expenses, including fees,  
141 keeping charges, advertising, or other costs incurred therewith  
142 which sum shall be deposited by the sheriff or designated  
143 impounder with the clerk of the circuit court who shall pay all  
144 fees and costs as allowed in s. 588.18. ~~If In the event~~ there is  
145 a dispute as to the amount of such costs and expenses, the owner

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146 may give bond with sufficient sureties to be approved by the  
147 sheriff or designated impounder, in an amount to be determined  
148 by the sheriff or designated impounder, but not exceeding the  
149 fair cash value of such livestock, conditioned to pay such costs  
150 and damages; thereafter, within 10 days, the owner shall  
151 institute suit in equity to have the damage adjudicated by a  
152 court of equity or referred to a jury if requested by either  
153 party to such suit.

154 Section 5. Section 828.03, Florida Statutes, is amended to  
155 read:

156 828.03 Agents of counties, municipalities, societies, etc.,  
157 may prosecute violators.—

158 (1) Any county, any municipality with animal control  
159 officers certified pursuant to s. 828.27, or any society or  
160 association for the prevention of cruelty to children or  
161 animals, organized under the laws of this state, may appoint  
162 agents for the purpose of investigating violations of ~~any of the~~  
163 ~~provisions of~~ this chapter or any other law of the state for the  
164 purpose of protecting children and animals or preventing any act  
165 of cruelty thereto.

166 (2) All appointments of such agents by such society  
167 ~~societies~~ or association ~~corporations~~ must have the approval of  
168 the mayor of the municipality ~~city~~ in which the society or  
169 association exists, and if the society or association exists or  
170 works outside a municipality ~~of any city~~, the appointment must  
171 be approved by the county court judge or the judge of the  
172 circuit court for the county, and the mayor or judge shall keep  
173 a record of such appointment. The approval of the appointment of  
174 any agent by a county for either the incorporated or

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175 unincorporated areas of such county shall be by the county  
176 commission.

177 Section 6. Section 828.073, Florida Statutes, is amended to  
178 read:

179 828.073 Animals found in distress; when agent may take  
180 charge; hearing; disposition; sale.—

181 (1) The purpose of this section is to provide a means by  
182 which a neglected or mistreated animal can be:

183 (a) Removed from its present custody, or

184 (b) Made the subject of an order to provide care, issued to  
185 its owner by the county court, any law enforcement officer, ~~or~~  
186 any agent of the county, any agent of a municipality with animal  
187 control officers certified pursuant to s. 828.27, or any agent  
188 of a ~~any~~ society or association for the prevention of cruelty to  
189 animals appointed under s. 828.03,

190  
191 and given protection and an appropriate and humane disposition  
192 can be made.

193 (2) A ~~Any~~ law enforcement officer, an ~~or any~~ agent of any  
194 county, any agent of a municipality with animal control officers  
195 certified pursuant to s. 828.27, or an agent of any society or  
196 association for the prevention of cruelty to animals appointed  
197 under the provisions of s. 828.03 may:

198 (a) Lawfully take custody of any animal found neglected or  
199 cruelly treated by removing the animal from its present  
200 location, or

201 (b) Order the owner of any animal found neglected or  
202 cruelly treated to provide certain care to the animal at the  
203 owner's expense without removal of the animal from its present

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204 location,

205  
206 and shall file a petition seeking relief under this section in  
207 the county court of the county in which the animal is found  
208 within 10 days after the animal is seized or an order to provide  
209 care is issued. The court shall schedule and commence a hearing  
210 on the petition within 30 days after the petition is filed to  
211 determine whether the owner, if known, is able to provide  
212 adequately for the animal and is fit to have custody of the  
213 animal. The hearing shall be concluded and the court order  
214 entered thereon within 60 days after the date the hearing is  
215 commenced. The timeframes set forth in this subsection are not  
216 jurisdictional. However, if a failure to meet such timeframes is  
217 attributable to the officer or agent, the owner is not required  
218 to pay the officer or agent for care of the animal during any  
219 period of delay caused by the officer or agent. A fee may not be  
220 charged for filing the petition. This subsection does not  
221 require court action for the taking into custody and making  
222 proper disposition of stray or abandoned animals as lawfully  
223 performed by animal control agents.

224 (3) The officer or agent of any county, any municipality  
225 with animal control officers certified pursuant to s. 828.27, or  
226 ~~of~~ any society or association for the prevention of cruelty to  
227 animals taking charge of any animal pursuant to the provisions  
228 of this section shall have written notice served, at least 3  
229 days before the hearing scheduled under subsection (2), upon the  
230 owner of the animal, if he or she is known and is residing in  
231 the county where the animal was taken, in conformance with the  
232 provisions of chapter 48 relating to service of process. The

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233 sheriff of the county may ~~shall~~ not charge a fee for service of  
234 such notice.

235 (4) (a) The officer or agent of any county, any municipality  
236 with animal control officers certified pursuant to s. 828.27, or  
237 ~~of~~ any society or association for the prevention of cruelty to  
238 animals taking charge of an animal as provided for in this  
239 section shall provide for the animal until either:

240 1. The owner is adjudged by the court to be able to provide  
241 adequately for, and have custody of, the animal, in which case  
242 the animal shall be returned to the owner upon payment by the  
243 owner for the care and provision for the animal while in the  
244 agent's or officer's custody; or

245 2. The animal is turned over to the officer or agent as  
246 provided in paragraph (c) and a humane disposition of the animal  
247 is made.

248 (b) If the court determines that the owner is able to  
249 provide adequately for, and have custody of, the animal, the  
250 order shall provide that the animal in the possession of the  
251 officer or agent be claimed and removed by the owner within 7  
252 days after the date of the order.

253 (c) Upon the court's judgment that the owner of the animal  
254 is unable or unfit to adequately provide for the animal:

255 1. The court may:

256 a. Order that the current owner have no further custody of  
257 the animal and that the animal be sold by the sheriff at public  
258 auction or, ~~that the current owner have no further custody of~~  
259 ~~the animal, and that any animal not bid upon be~~ remanded to the  
260 custody of the Society for the Prevention of Cruelty to Animals,  
261 the Humane Society, the county, the municipality with animal



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262 control officers certified pursuant to s. 828.27, or any agency  
263 or person the judge deems appropriate, to be disposed of as the  
264 agency or person sees fit; or

265 b. Order that the animal be destroyed or remanded directly  
266 to the custody of the Society for the Prevention of Cruelty to  
267 Animals, the Humane Society, the county, the municipality with  
268 animal control officers certified pursuant to s. 828.27, or any  
269 agency or person the judge deems appropriate, to be disposed of  
270 as the agency or person sees fit.

271 2. The court, upon proof of costs incurred by the officer,  
272 the officer's designee, or the agent, may require that the owner  
273 pay for the care of the animal while in the custody of the  
274 officer, the officer's designee, or the agent. A separate  
275 hearing may be held.

276 3. The court may order that other animals that are in the  
277 custody of the owner and that were not seized by the officer or  
278 agent be turned over to the officer or agent, if the court  
279 determines that the owner is unable or unfit to adequately  
280 provide for the animals. The court may enjoin the owner's  
281 further possession or custody of other animals.

282 (5) In determining the person's fitness to have custody of  
283 an animal ~~under the provisions of this act,~~ the court may  
284 consider, among other matters:

285 (a) Testimony from the agent or officer who seized the  
286 animal and other witnesses as to the condition of the animal  
287 when seized and as to the conditions under which the animal was  
288 kept.

289 (b) Testimony and evidence as to the veterinary care  
290 provided to the animal.

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291 (c) Testimony and evidence as to the type and amount of  
292 care provided to the animal.

293 (d) Expert testimony as to the community standards for  
294 proper and reasonable care of the same type of animal.

295 (e) Testimony from any witnesses as to prior treatment or  
296 condition of this or other animals in the same custody.

297 (f) The owner's past record of judgments pursuant to ~~under~~  
298 ~~the provisions of~~ this chapter.

299 (g) Convictions pursuant to ~~under~~ the statutes prohibiting  
300 cruelty to animals.

301 (h) ~~Any~~ Other evidence the court considers to be material  
302 or relevant.

303 (6) If the evidence indicates a lack of proper and  
304 reasonable care of the animal, the burden is on the owner to  
305 demonstrate by clear and convincing evidence that he or she is  
306 able and fit to have custody of and provide adequately for the  
307 animal.

308 (7) In any case in which an animal is offered for auction  
309 ~~under the provisions of~~ this section, the proceeds shall be:

310 (a) Applied, first, to the cost of the sale.

311 (b) Applied, secondly, to the care and provision for the  
312 animal by the officer or agent of any county, any municipality  
313 with animal control officers certified pursuant to s. 828.27, or  
314 ~~of~~ any society or association for the prevention of cruelty to  
315 animals taking charge.

316 (c) Applied, thirdly, to the payment of the owner for the  
317 sale of the animal.

318 (d) Paid over to the court if the owner is not known.

319 Section 7. Subsection (4) of section 828.27, Florida

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320 Statutes, is amended, and subsection (8) is added to that  
321 section, to read:

322 828.27 Local animal control or cruelty ordinances;  
323 penalty.—

324 (4) (a) 1. County-employed animal control officers must  
325 ~~shall~~, and municipally employed animal control officers may,  
326 successfully complete a 40-hour minimum standards training  
327 course. Such course must ~~shall~~ include, but is not limited to,  
328 training for: animal cruelty investigations, search and seizure,  
329 animal handling, courtroom demeanor, and civil citations. The  
330 course curriculum must be approved by the Florida Animal Control  
331 Association. An animal control officer who successfully  
332 completes such course shall be issued a certificate indicating  
333 that he or she has received a passing grade.

334 2. Any animal control officer who is authorized before  
335 ~~prior to~~ January 1, 1990, by a county or municipality to issue  
336 citations is not required to complete the minimum standards  
337 training course.

338 3. In order to maintain valid certification, every 2 years  
339 each certified ~~county-employed~~ animal control officer must ~~shall~~  
340 complete 4 hours of postcertification continuing education  
341 training. Such training may include, but is not limited to,  
342 training for: animal cruelty investigations, search and seizure,  
343 animal handling, courtroom demeanor, and civil citations.

344 (b) ~~1.~~ The governing body of a county or municipality may  
345 impose and collect a surcharge of up to \$5 upon each civil  
346 penalty imposed for violation of an ordinance relating to animal  
347 control or cruelty. The proceeds from such surcharges shall be  
348 used to pay the costs of training for animal control officers.

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349       ~~2. In addition to the uses set forth in subparagraph 1., a~~  
350 ~~county, as defined in s. 125.011, may use the proceeds specified~~  
351 ~~in that subparagraph and any carryover or fund balance from such~~  
352 ~~proceeds for animal shelter operating expenses. This~~  
353 ~~subparagraph expires July 1, 2014.~~

354       (8) This section is an additional, supplemental, and  
355 alternative means of enforcing county or municipal codes or  
356 ordinances. This section does not prohibit a county or  
357 municipality from enforcing its codes or ordinances by any other  
358 means, including, but not limited to, the procedures provided in  
359 chapter 162.

360       Section 8. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3.17.15

Meeting Date

420

Bill Number (if applicable)

Topic ANIMAL CONTROL

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title ADVOCATE

Address 100 N. MONROE ST

Phone 294-1838

Street

TAL

City

FL

State

32301

Zip

Email L.YOUMANS@FL-COUNTIES.

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.

**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)

3/17/15  
Meeting Date

420  
Bill Number (if applicable)

Topic ANIMAL CONTROL

Amendment Barcode (if applicable)

Name SCOTT TREBATOSKI

Job Title DIRECTOR, HILLSBOROUGH COUNTY PET RESOURCES

Address 440 N FALLENBURG RD  
Street

Phone 813-612-8443

TAMPA FL 33619  
City State Zip

Email TREBATOSKIS@HILLSBOROUGH COUNTY.ORG

Speaking:  For  Against  Information

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

Representing FLORIDA ANIMAL CONTROL ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-17-15

Meeting Date

SB 420

Bill Number (if applicable)

SA 195728

Amendment Barcode (if applicable)

Support

Topic Animal Control

Name Pat Nixon

Job Title Governmental Consultant

Address 4119 E. Park Ave

Street

Phone 528-4442

Tallahassee FL 32301

City

State

Zip

Email pat@nixonandassociates.com

Speaking:  For  Against  Information

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

Representing Florida Veterinary Medical Ass. and Equine Practitioners

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Communications, Energy, and Public Utilities, *Chair*  
Agriculture  
Appropriations  
Appropriations Subcommittee on Health  
and Human Services  
Health Policy  
Transportation

### JOINT COMMITTEES:

Joint Administrative Procedures Committee  
Joint Legislative Budget Commission

### SENATOR DENISE GRIMSLEY

*Deputy Majority Leader*  
21st District

March 16, 2015

The Honorable Wilton Simpson, Chair  
Senate Committee on Community Affairs  
Room 315 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Simpson:

I have SB 420 relating to Animal Control scheduled before your Committee at 9:00 a.m. in the morning, 3/17/2015. I've asked a member of my staff to present this bill, since I have a Health Policy Committee meeting. Staff member presenting will be Anne Bell.

Thank you for hearing my bill.

Sincerely,

A handwritten signature in cursive script that reads "Denise Grimsley".

Denise Grimsley  
Senator, District 21

DG/ab

#### REPLY TO:

- 205 South Commerce Avenue, Suite A, Sebring, Florida 33870 (863) 386-6016
- 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore





The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** February 18, 2015

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I respectfully request that **Senate Bill #420**, relating to Animal Control, be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

\_\_\_\_\_  
Senator Denise Grimsley  
Florida Senate, District 21

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

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

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

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BILL: SB 168

INTRODUCER: Senator Negrón

SUBJECT: Mobile Home Parks

DATE: March 3, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<b>Favorable</b>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
3.	_____	_____	<u>JU</u>	_____

---

**I. Summary:**

SB 168 revises the definition of the term “mobile home park” or “park” to include rented or leased lots or spaces without regard to rental or lease term or the person liable for the payment of the ad valorem taxes on the lot or space. The bill would subject mobile home lots or spaces that are held under long term leases, i.e., 99-year leases, to the mobile home park requirements in ch. 723, F.S., which includes procedures and limitations on rent amount increases for mobile home lots or spaces.

The bill is intended to apply the amendment retroactively to the enactment of s. 723.003, F.S., on June 4, 1984. It provides that the amendment is remedial in nature and intended to clarify existing law. It is intended to abrogate a prior interpretation of the definition of the term “mobile home park” by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) in which the division concluded that a subdivision consisting of lots subject to 99-year leases could not be considered a “mobile home park” because the lots or spaces are offered for rent or lease under 99-year leases with an automatic renewal clause and that is the equivalent of an equitable interest and not a leasehold interest. The bill also provides that the amendment is not intended to affect assessments or liability for, or exemptions from, ad valorem taxation on a lot or space upon which a mobile home is placed.

**II. Present Situation:**

**Mobile Home Act**

Chapter 723, F.S., is known as the “Florida Mobile Home Act” (act) and provides for the regulation of mobile homes by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (department).

The Florida Mobile Home Act was enacted in 1984.<sup>1</sup> The act was created to address the unique relationship between a mobile home owner and a mobile home park owner. The act provides, in part:

Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.<sup>2</sup>

The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.<sup>3</sup>

Section 723.003(6), F.S., defines the term “mobile home park” or “park” to mean:

a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.

Section 723.003(8), F.S., defines the term “mobile home subdivision” to mean:

a subdivision of mobile homes where individual lots are owned by owners and where a portion of the subdivision or the amenities exclusively serving the subdivision are retained by the subdivision developer.

The terms “mobile home park,” “park,” and “mobile home subdivision” have remained unchanged since the enactment of the Florida Mobile Home Act in 1984.<sup>4</sup>

### **Savanna Club Litigation Memorandum**

The department issued a “Litigation Memo” dated September 18, 2013, regarding whether the Savanna Club community in Port St. Lucie, Florida, was a mobile home park as defined in s. 723.003(6), F.S. It also considered whether the community was a “mobile home subdivision” as defined by s. 723.003(8), F.S. The division concluded that the community was not a “mobile home park” or a “mobile home subdivision.”<sup>5</sup>

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<sup>1</sup> Chapter 84-80, L.O.F. Formerly ch. 720, F.S.

<sup>2</sup> Section 723.004(1), F.S.; *see also Mobile Home Relocation*, Interim Report No. 2007-106, Florida Senate Committee on Community Affairs, October 2006.

<sup>3</sup> Section 723.002(1), F.S.

<sup>4</sup> *See* ch. 84-80, L.O.F. The definitions in s. 723.003, were formerly in s. 720.103, F.S. (1984).

<sup>5</sup> *See* Litigation Memo re: Savanna Club, Case No. 2007065818, Sept. 18, 2013. (on file with the Regulated Industries Committee).

The Savanna Club is a residential mobile home subdivision consisting of approximately 2,560 mobile homes and a recreation complex. An unspecified number of the lots were sold in fee simple and the remainder were sold with 99-year leases that have an automatic renewal clause. All of the lots held in fee simple or through a 99-year lease are subject to a declaration of covenants and restrictions that requires membership in the homeowners' association. All members of the association, including members whose lots are held through a 99-year lease, have one vote in the association with no distinction in membership rights or obligations. The developer has transferred the deed for the common areas and recreational areas to the homeowners' association.

The 99-year leases provide the terms for rent increases. The adjusted monthly rental of the previous lease year is used as a base for the current lease year, plus the greater of a percentage increase based on the U.S. Consumer Price Index or three percent. When an original tenant transfers his or her interest in a lot subject to a 99-year lease, the new rent is based on the fair market value as determined by the landlord, i.e., the developer.

The division found that the subdivision did not meet the definition of “mobile home subdivision” in s. 723.003(8), F.S., because the developer had not retained an interest in any common areas in the subdivision and because the 99-year leaseholders were the equitable owners of the lots.

Leaseholders of 99-year leases are considered equitable owners and the leased property is not exempt from the payment of property taxes.<sup>6</sup> Leaseholders of leases of 98 or more years are also entitled to claim a homestead exemption from ad valorem property taxes.<sup>7</sup>

The division also found that Savanna Club could not be considered a “mobile home park” under s. 723.003(6), F.S., because the lots or spaces are not offered for rent or lease in the way that this provision contemplates. It noted that 99-year leases with an automatic renewal clause are the equivalent of an equitable interest and not a leasehold interest.

### **Prospectus or Offering Circular**

The prospectus in a mobile home park is the document that governs the landlord-tenant relationship between the park owner and the mobile home owner. The prospectus or offering circular, together with its attached exhibits, is a disclosure document intended to afford protection to the homeowners and prospective homeowners in the mobile home park. The purpose of the document is to disclose the representations of the mobile home park owner concerning the operations of the mobile home park.<sup>8</sup>

In a mobile home park containing 26 or more lots, the park owner must file a prospectus with the division for approval. Prior to entering into an enforceable rental agreement for a mobile home lot, the park owner must deliver to the homeowner a prospectus that has been approved by the division.<sup>9</sup> The division maintains copies of each prospectus and all amendments to each

---

<sup>6</sup> *Ward v. Brown*, 919 So.2d 462 (Fla. 1<sup>st</sup> DCA 2005).

<sup>7</sup> See s. 196.041(1), F.S.

<sup>8</sup> Section 723.011(3), F.S.

<sup>9</sup> Section 723.011(1)(a), F.S.

prospectus that it has approved. The division must also provide copies of documents within 10 days of receipt of a written request.<sup>10</sup>

The park owner must furnish a copy of the prospectus with all the attached exhibits to each prospective lessee prior to the execution of the lot rental agreement or at the time of occupancy, whichever occurs first. Upon delivery of a prospectus to a prospective lessee, the lot rental agreement is voidable by the lessee for a period of 15 days.<sup>11</sup>

If a prospectus is not provided to the prospective lessee before the execution of a lot agreement or prior to occupancy, the rental agreement is voidable by the lessee until 15 days after the lessee receives the prospectus.<sup>12</sup> If the homeowner cancels the rental agreement, he or she is entitled to a refund of any deposit together with relocation costs for the mobile home, or the market value thereof including any appurtenances thereto paid for by the mobile home owner, from the park owner.<sup>13</sup>

The prospectus distributed to a home owner or prospective home owner is binding for the length of the tenancy, including any assumptions of that tenancy, and may not be changed except in the specified circumstances.<sup>14</sup>

### **Written Notification in the Absence of a Prospectus**

Section 723.013, F.S., provides that when a park owner does not give a prospectus prior to the execution of a rental agreement or prior to the purchaser's occupancy, the park owner must give written notification of specified information prior to the purchaser's occupancy, including zoning information, the name and address of the mobile home park owner or a person authorized to receive notices and demands on his or her behalf, and all fees and charges, assessments, or other financial obligations not included in the rental agreement and a copy of the rules and regulations in effect.

This provision only applies to mobile home parks containing at least 10 lots but no more than 25 lots. Section 723.011, F.S., requires mobile home park owners to provide a prospectus to all prospective lessees in mobile home parks containing 26 lots or more.

### **Mobile Home Park Rent Increases**

Section 723.059(4), F.S., provides that the mobile home park owner has the right to increase rents "in an amount deemed appropriate by the mobile home park owner." The park owner must give mobile home lot tenants 90-day notice of a lot rental increase.<sup>15</sup>

However, the park owner must disclose the increase to the purchaser prior to his or her occupancy and the increase must be imposed in a manner consistent with the initial offering

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<sup>10</sup> Section 723.011(1)(d), F.S.

<sup>11</sup> Section 723.011(2), F.S.

<sup>12</sup> Section 723.014(1), F.S.

<sup>13</sup> Section 723.014(2), F.S.

<sup>14</sup> See rule 61B-31.001, F.A.C.

<sup>15</sup> Section 723.037(1), F.S.

circular or prospectus. The homeowners also have the right to have a meeting with the park owner at which the park owner must explain the factors that led to the increase.<sup>16</sup>

Unreasonable lot rental agreements and unreasonable rent increases are unenforceable.<sup>17</sup> A lot rental amount that exceeds market rent shall be considered unreasonable.<sup>18</sup> Market rent is defined as rent which would result from market forces absent an unequal bargaining position between mobile home park owners and mobile home owners.<sup>19</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 723.003(6), F.S., to revise the definition of the term “mobile home park” or “park” to include rented or leased lots or spaces without regard to rental or lease term or the person liable for the payment of the ad valorem taxes on the lot or space. The bill would subject mobile home lots or spaces that are held under 99-year leases to the requirements of ch. 723, F.S.

**Section 2** amends s. 73.072, F.S., which relates to compensation for permanent improvements by mobile home owners after the eminent domain taking of real property, to incorporate the amendment to s. 723.003, F.S.

**Section 3** specifies that the bill applies retroactively to the enactment of s. 723.003, F.S., on June 4, 1984. It provides that the amendment is remedial in nature and intended to clarify existing law. It provides that the amendment is intended to abrogate the division’s interpretation of law provided in the litigation memorandum dated September 18, 2013. It also provides that the amendment is not intended to affect assessments or liability for, or exemptions from, ad valorem taxation on a lot or space upon which a mobile home is placed.

The effect of this bill is unclear in a circumstance in which mobile home lots are subject to the terms of a long-standing, 99-year lease, i.e., as described in the division’s litigation memo regarding the Savanna Club subdivision. Specifically, it is not clear whether the amendment to s. 723.003(6), F.S., would subject lots that are under a preexisting, long-term lease agreement to the rent increase provision in ch. 723, F.S., for any past or future rent increases, particularly when there is no division-approved prospectus.

**Section 4** provides that the bill will take effect upon becoming law.

### IV. Constitutional Issues:

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

None.

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<sup>16</sup> Section 723.037, F.S.

<sup>17</sup> Section 723.033(1), F.S.

<sup>18</sup> Section 723.033(5), F.S.

<sup>19</sup> Section 723.033(4), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill amends s. 723.003(6), F.S., to revise the definition of the term “mobile home park” or “park” to include rented or leased lots or spaces without regard to rental or lease term or the person liable for the payment of the ad valorem taxes on the lot or space. The bill retroactively applies the requirements of ch. 723, F.S., to mobile home lots or spaces that are held under a long-term lease, i.e., 99-year leases. To the extent the retroactive or prospective application of the requirements of ch. 723, F.S., conflict with the terms and conditions of affected long-term leases, including rent increase requirements, these provisions appear to implicate constitutional concerns relating to the impairment of contract.

The retroactive application of these provisions may violate the Contract Clause,<sup>20</sup> the prohibition against ex post facto laws,<sup>21</sup> and the Due Process clauses<sup>22</sup> of the U.S. Constitution. The common law also provides that the government, through rule or legislation, cannot adversely affect substantive rights once such rights have vested.<sup>23</sup> Generally, courts will refuse to apply a statute retroactively if it “impairs vested rights, creates new obligations, or imposes new penalties.”<sup>24</sup>

The Contract Clause prohibits states from passing laws which impair contract rights. It only prevents substantial impairments of contracts.<sup>25</sup> The courts use a balancing test to determine whether a particular regulation violates the Contract Clause. The courts measure the severity of the contractual impairment against the importance of the state interest advanced by the regulation. Also, courts look at whether the regulation is a reasonable and narrowly tailored means of promoting the state’s interest.<sup>26</sup> Generally, courts accord considerable deference to legislative determinations relating to the need for laws which impair private obligations.<sup>27</sup> However, courts scrutinize the impairment of public contracts in a stricter fashion, exhibiting less deference to findings of the Legislature, because the Legislature may stand to gain from the outcome.<sup>28</sup>

<sup>20</sup> Article I, s. 10, U.S. Constitution.

<sup>21</sup> Article I, s. 9, U.S. Constitution.

<sup>22</sup> Fifth and Fourteenth Amendments, U.S. Constitution.

<sup>23</sup> *Bitterman v. Bitterman*, 714 So.2d 356 (Fla. 1998).

<sup>24</sup> *Essex Insurance, Co. v. Integrated Drainage Solutions, Inc.*, 124 So.3d 947 at 951 (Fla. 2<sup>nd</sup> DCA 2013), quoting *State Farm Mut. Auto. Ins., Co. v. Laforet*, 658 So.2d 55 at 61 (Fla. 1995).

<sup>25</sup> *Home Building & Loan Ass’n v. Blaisdell*, 290 U.S. 398 (1923).

<sup>26</sup> *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234 (1978).

<sup>27</sup> *East New York Savings Bank v. Hahn*, 326 U.S. 230 (1945).

<sup>28</sup> *United States Trust Co. v. New Jersey*, 431 U.S. 1 (1977). See generally, Leo Clark, *The Contract Clause: A Basis for Limited Judicial Review of State Economic Regulation*, 39 U. MIAMI L. REV. 183 (1985).

Although the retroactive application of condominium laws to preexisting lease agreements between condominium associations and third parties may be constitutionally applied,<sup>29</sup> it is not clear whether mobile home park laws may be retroactively applied to pre-existing, long-term lease agreements between a homeowner lessee and the developer lessor.

In *Pomponio v. Claridge of Pompano Condominium, Inc.*,<sup>30</sup> the court stated that some degree of flexibility has developed over the last century in interpreting the Contract Clause in order to ameliorate the harshness of the original rigid application used by the United States Supreme Court. The Florida Supreme Court invalidated as an unconstitutional impairment of contract a statute that provided for the deposit of rent into a court registry during litigation involving obligations under a contract lease. In *Pomponio*, the court set forth several factors in balancing whether the state law has in fact operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear. The court stated that if there is minimal alteration of contractual obligations the inquiry can end at its first stage. Severe impairment can push the inquiry to a careful examination of the nature and purpose of the state legislation. The factors to be considered are:

- Whether the law was enacted to deal with a broad, generalized, economic or social problem;
- Whether the law operates in an area that was already subject to state regulation at the time the contract was entered into; and
- Whether the effect on the contractual relationships is temporary or whether it is severe, permanent, immediate, and retroactive.<sup>31</sup>

In *United States Fidelity & Guaranty Co.*,<sup>32</sup> the U.S. Supreme Court adopted the method used in *Pomponio*. The court stated that the method required a balancing of a person's interest not to have his contracts impaired with the state's interest in exercising its legitimate police power. The court outlined the main factors to be considered in applying this balancing test.

- The threshold inquiry is “whether the state law has, in fact, operated as a substantial impairment of a contractual relationship.”<sup>33</sup> The severity of the impairment increases the level of scrutiny.
- In determining the extent of the impairment, the court considered whether the industry the complaining party entered has been regulated in the past. This is a consideration because if the party was already subject to regulation at the time the contract was entered, then it is understood that it would be subject to further regulation upon the same topic.<sup>34</sup>

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<sup>29</sup> *Century Village, Inc. v. Wellington*, 361 So.2d 128 (Fla. 1978).

<sup>30</sup> *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774, 776 (Fla. 1979).

<sup>31</sup> *Id.* at 779.

<sup>32</sup> *United States Fidelity & Guaranty Co. v. Department of Insurance*, 453 So. 2d 1355 (Fla. 1984).

<sup>33</sup> *Id.* at 1360 (quoting *Allied Structural Steel Co., v. Spannaus*, 438 U.S. 234, 244 (1978)).

<sup>34</sup> *Id.* (citing *Allied Structural Steel Co.*, 438 U.S. at 242, n. 13).



- If the state regulation constitutes a substantial impairment, the state needs a significant and legitimate public purpose behind the regulation.<sup>35</sup>
- Once the legitimate public purpose is identified, the next inquiry is whether the adjustment of the rights and responsibilities of the contracting parties is appropriate to the public purpose justifying the legislation.<sup>36</sup>

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Homeowners with a long-term lease on a lot or space in a community with 10 or more leased mobile home lots or spaces may be entitled to utilize the rent increase procedures in ch. 723, F.S., which limits lot increases to market rent. If the market rent is less than the percentage increase stated in the long-term lease agreement, the homeowner may incur a savings. However, if the market rate is greater than the percentage increase stated in the long-term lease agreement, the homeowner's rent cost may be greater.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 723.003 and 73.072.

This bill creates an undesignated section of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

<sup>35</sup> *Id.* at 1360 (citing *U.S. Trust Co. of New York v. New Jersey*, 431 U.S. 1, 22 (1977)).

<sup>36</sup> *Id.*

B. Amendments:

None.

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

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By Senator Negrón

32-00229A-15

2015168\_\_

1                                   A bill to be entitled  
2       An act relating to mobile home parks; amending s.  
3       723.003, F.S.; revising the definition of the term  
4       "mobile home park" to clarify that it includes certain  
5       lots or spaces regardless of the rental or lease  
6       term's length or person liable for ad valorem taxes;  
7       reenacting and amending s. 73.072, F.S., to  
8       incorporate the amendment made to s. 723.003, F.S., in  
9       a reference thereto; providing that the act is  
10      remedial and intended to clarify existing law and to  
11      abrogate an interpretation of such law by the  
12      Department of Business and Professional Regulation;  
13      providing for retroactive application; providing that  
14      the act does not affect specified ad valorem taxation  
15      issues; providing an effective date.

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

18  
19       Section 1. Subsection (6) of section 723.003, Florida  
20       Statutes, is amended to read:

21       723.003 Definitions.—As used in this chapter, the following  
22       words and terms have the following meanings unless clearly  
23       indicated otherwise:

24       (6) The term "mobile home park" or "park" means a use of  
25       land in which lots or spaces are offered for rent or lease for  
26       the placement of mobile homes, regardless of the length of the  
27       rental or lease term or the person liable for the payment of ad  
28       valorem taxes on the lot or space, and in which the primary use  
29       of the park is residential.

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2015168\_\_

30 Section 2. For the purpose of incorporating the amendment  
31 made by this act to section 723.003, Florida Statutes, in a  
32 reference thereto, subsection (1) of section 73.072, Florida  
33 Statutes, is reenacted and amended to read:

34 73.072 Mobile home parks; compensation for permanent  
35 improvements by mobile home owners.—

36 (1) ~~If~~ When all or a portion of a mobile home park as  
37 defined in s. 723.003~~(6)~~ is appropriated under this chapter, the  
38 condemning authority shall separately determine the compensation  
39 for any permanent improvements made to each site. This  
40 compensation shall be awarded to the mobile home owner leasing  
41 the site if:

42 (a) The effect of the taking includes a requirement that  
43 the mobile home owner remove or relocate his or her mobile home  
44 from the site;

45 (b) The mobile home owner currently leasing the site has  
46 paid for the permanent improvements to the site; and

47 (c) The value of the permanent improvements on the site  
48 exceeds \$1,000 as of the date of taking.

49 Section 3. The amendment made by this act to s. 723.003,  
50 Florida Statutes, is remedial in nature and is intended to  
51 clarify existing law and to abrogate the interpretation of law  
52 set forth by the Department of Business and Professional  
53 Regulation in a litigation memo dated September 18, 2013, which  
54 misclassified certain long-term leases of mobile home lots and  
55 spaces as equitable ownership interests for purposes of the  
56 statutory definition of "mobile home park." The amendment  
57 applies retroactively to the enactment of s. 723.003, Florida  
58 Statutes, on June 4, 1984, and is not intended to affect

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59 assessments or liability for, or exemptions from, ad valorem  
60 taxation on a lot or space upon which a mobile home is placed.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-17-15

Meeting Date

16 F

Bill Number (if applicable)

Topic Mobile Home Parks

Amendment Barcode (if applicable)

Name Lori Killinger

Job Title Attorney/Lobbyist

Address 315 S. Calhoun St.

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FL

State

32308

Zip

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Speaking:  For  Against  Information

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

Representing Florida Manufactured Housing Assn.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

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

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BILL: CS/SB 824

INTRODUCER: Community Affairs Committee and Senator Evers

SUBJECT: Public-private Partnerships

DATE: March 17, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	<b>Fav/CS</b>
2.			GO	
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 824 implements many of the recommendations of the statutorily created Partnership for Public Facilities and Infrastructure Act Guidelines Task Force to create a uniform, improved process for engaging in public-private partnerships (P3s) across the state. The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, district, or municipal hospital or health care system. It also provides that the P3 process is an alternative method that may be used.

The bill expands the list of entities authorized to conduct P3s, to include state universities. It clarifies that the list includes special districts, school districts rather than school boards, and Florida College System institutions.

The bill provides increased flexibility to the responsible public entity by permitting a responsible public entity to deviate from the provided procurement timeframes if approved by majority vote of the entity's governing body.

The bill provides that an unsolicited proposal must be submitted concurrently with an initial application fee, which may be established by the responsible public entity. The bill authorizes a responsible public entity to request additional funds if the initial fee does not cover the costs to evaluate the unsolicited proposal. It also requires the responsible public entity to return the initial application fee if the responsible public entity does not review the unsolicited proposal.

The bill authorizes the Department of Management Services to accept and maintain copies of comprehensive agreements received from responsible public entities.

## II. Present Situation:

### Background

Public-private partnerships (P3s) are contractual agreements formed between public entities and private sector entities that allow for greater private sector participation in the delivery and financing of public building and infrastructure projects.<sup>1</sup> Through these agreements, the skills and assets of each sector, public and private, are shared in delivering a service or facility for use by the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service or facility.<sup>2</sup>

Section 287.05712, F.S., governs the procurement process for P3s for public purpose projects. It authorizes a responsible public entity to enter into a P3 for a specified qualifying project if the responsible public entity determines the project is in the public's best interest.<sup>3</sup>

Section 287.05712(1)(j), F.S., defines "responsible public entity" as a county, municipality, school board, or any other political subdivision of the state; a public body politic and corporate; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.

Section 287.05712(1)(i), F.S., defines "qualifying project" as:

- A facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;
- An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
- A water, wastewater, or surface water management facility or other related infrastructure; or
- For projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.

### Procurement Procedures

Responsible public entities may receive unsolicited proposals or may solicit proposals for qualifying projects and may, thereafter, enter into a comprehensive agreement with a private

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<sup>1</sup> See The Federal Highway Administration, United State Department of Transportation, Innovative Program Delivery website, available at: <http://www.fhwa.dot.gov/ipd/p3/defined/index.htm> (last visited on March 12, 2015).

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

<sup>3</sup> Section 287.05712(4)(d), F.S.



entity for the building, upgrading, operation, ownership, or financing of facilities.<sup>4</sup> Responsible public entities may establish a reasonable fee to accompany unsolicited proposals. The fee must be sufficient to pay the costs of evaluating the proposals.<sup>5</sup>

Unsolicited proposals from private entities must be accompanied by the following material and information, unless waived by the responsible public entity:<sup>6</sup>

- A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.
- A description of the method by which the private entity proposes to secure any necessary property interests that are required for the qualifying project.
- A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.
- The name and address of the person who may be contacted for further information concerning the proposal.
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time.
- Any additional material or information the responsible public entity reasonably requests.

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the qualifying project, the responsible public entity must publish a notice in the Florida Administrative Register (FAR) and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals.<sup>7</sup> The responsible public entity must establish a timeframe in which to accept other proposals; however, the timeframe for allowing other proposals must be at least 21 days, but not more than 120 days after the initial date of publication.<sup>8</sup>

After the notification period has expired, the responsible public entity must rank the proposals received in order of preference.<sup>9</sup> If negotiations with the first ranked firm are unsuccessful, the responsible public entity may begin negotiations with the second ranked firm.<sup>10</sup> The responsible public entity may reject all proposals at any point in the process.<sup>11</sup>

The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the requests, including, but not limited to, reasonable attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors and consultants.<sup>12</sup>

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<sup>4</sup> Section 287.05712(4), F.S.

<sup>5</sup> Section 287.05712(4)(a), F.S.

<sup>6</sup> Section 287.05712(5), F.S.

<sup>7</sup> Section 287.05712(4)(b), F.S.

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

<sup>9</sup> Section 287.05712(6)(c), F.S.

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

<sup>11</sup> *Id.*

<sup>12</sup> Section 287.05712(6)(f), F.S.

The responsible public entity may approve a qualifying project if:<sup>13</sup>

- There is a public need for or benefit derived from the project that the private entity proposes.
- The estimated cost of the qualifying project is reasonable in relation to similar facilities.
- The private entity's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.

### **Notice to Affected Local Jurisdictions**

A responsible public entity must notify each affected local jurisdiction when considering a qualifying project by furnishing a copy of the proposal to each affected local jurisdiction.<sup>14</sup> The affected local jurisdictions may, within 60 days, submit written comments to the responsible public entity. The responsible public entity is required to consider the comments submitted by the affected local jurisdiction. In addition, a responsible public entity must mail a copy of the notice that is published in the FAR to each local government in the affected area.<sup>15</sup>

### **Agreements**

#### *Interim Agreement*

Before entering into a comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity, which does not obligate the responsible public entity to enter into a comprehensive agreement.<sup>16</sup> Interim agreements must be limited to provisions that:

- Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project.
- Establish the process and timing of the negotiation of the comprehensive agreement.
- Contain any other provision related to any aspect of the development or operation of a qualifying project.

#### *Comprehensive Agreement*

The responsible public entity and private entity must enter into a comprehensive agreement prior to developing or operating a qualifying project.<sup>17</sup> The comprehensive agreement must provide for:<sup>18</sup>

- Delivery of performance and payment bonds, letters of credit, and other security in connection with the development or operation of the qualifying project.
- Review of plans and specifications for the project by the public entity. This does not require the private entity to complete the design of the project prior to executing the comprehensive agreement.
- Inspection of the qualifying project by the responsible public entity.
- Maintenance of a policy or policies of public liability insurance.

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<sup>13</sup> Section 287.05712(6)(e), F.S.

<sup>14</sup> Section 287.05712(7), F.S.

<sup>15</sup> Section 287.05712(4)(b), F.S.

<sup>16</sup> Section 287.05712(8), F.S.

<sup>17</sup> Section 287.05712(9), F.S.

<sup>18</sup> Section 287.05712(9)(a), F.S.

- Monitoring the practices of the private entity to ensure the qualifying project is properly maintained.
- Filing of financial statements on a periodic basis.
- Policies and procedures governing the rights and responsibilities of the public and private entity in the event of a termination of the comprehensive agreement or a material default.
- User fees, lease payments, or service payments as may be established.
- Duties of the private entity, including terms and conditions that the responsible public entity determines serve the public purpose of the qualifying project.

The comprehensive agreement may include the following:<sup>19</sup>

- An agreement by the responsible public entity to make grants or loans to the private entity from amounts received from federal, state, or local government or any agency or instrumentality thereof.
- A provision under which each entity agrees to provide notice of default and cure rights for the benefit of the other entity.
- A provision that terminates the authority and duties of the private entity and dedicates the qualifying project to the responsible public entity.

### **Fees**

The comprehensive agreement may authorize the private entity to impose fees to the public for use of the facility.<sup>20</sup>

### **Financing**

Section 287.05712(11), F.S., authorizes the use of multiple financing options for P3s. The options include the private entity obtaining private-source financing, the responsible public entity lending funds to the private entity, or the use of other innovative finance techniques associated with P3s.

### **Powers and Duties of the Private Entity**

The private entity must develop, operate, and maintain the qualifying project in accordance with the comprehensive agreement.<sup>21</sup> The private entity must cooperate with the responsible public entity in making best efforts to establish interconnection between the qualifying project and other facilities and infrastructure. The private entity must comply with the terms of the comprehensive agreement and any other lease or contract.

### **Expiration or Termination of Agreements**

Upon the expiration or termination of a comprehensive agreement, the responsible public entity may use revenues from the qualifying project to pay the current operation and maintenance costs of the qualifying project.<sup>22</sup> If the private entity materially defaults, the compensation that is

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<sup>19</sup> Section 287.05712(9)(b), F.S.

<sup>20</sup> Section 287.05712(10), F.S.

<sup>21</sup> Section 287.05712(12), F.S.

<sup>22</sup> Section 287.05712(13), F.S.

otherwise due to the private entity is payable to satisfy all financial obligations to investors and lenders on the qualifying project in the same way that is provided in the comprehensive agreement or any other agreement involving the qualifying project, if the costs of operating and maintaining the project are paid in the normal course. The full faith and credit of the responsible public entity may not be pledged to secure the financing of the private entity.

### **Partnership for Public Facilities and Infrastructure Act Guidelines Task Force**

Section 287.05712(3), F.S., creates the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force (task force). The task force was created to recommend guidelines for the Legislature to consider for purposes of creating a uniform P3 process across the state.<sup>23</sup> The seven-member task force was comprised of the Secretary of the Department of Management Services (department) and six members appointed by the Governor representing county government, municipal government, district school boards, and the business community. The department provided administrative and technical support to the task force.

In July 2014, the task force completed its duties and submitted a final report of its recommendations.<sup>24</sup> The task force was disbanded on December 31, 2014.<sup>25</sup>

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

**Section 1** transfers s. 287.05712, F.S., and renumbers it as s. 255.065, F.S., to incorporate many of the recommendations contained in the task force report, which include best practice recommendations as well as recommendations relating to needed clarification of s. 287.05712, F.S., which may facilitate the implementation of P3s.

#### **Responsible Public Entity Definition**

The bill expands the definition of “responsible public entity” to include state universities,<sup>26</sup> and clarifies that it includes special districts, school districts rather than school boards, and Florida College System institutions.<sup>27</sup>

#### **Task Force**

The bill deletes the task force provisions, as the task force was disbanded on December 31, 2014.

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<sup>23</sup> Section 287.05712(3)(a), F.S.

<sup>24</sup> The task force report can be found online at:

[http://www.dms.myflorida.com/agency\\_administration/communications/partnership\\_for\\_public\\_facilities\\_infrastructure\\_act](http://www.dms.myflorida.com/agency_administration/communications/partnership_for_public_facilities_infrastructure_act) (last visited March 12, 2015).

<sup>25</sup> Section 287.05712(3)(f), F.S.

<sup>26</sup> Partnership for Public Facilities and Infrastructure Act Guidelines Task Force, *Final Report and Recommendations* (July 2014), at 16. The task force recommended adding state universities to the list of entities that are included in the definition of “responsible public entity.”

<sup>27</sup> *Id.* at 18. The task force recommended amending the definition of “responsible public entity” to reference school district, rather than board, as the district is the unit that provides public primary education. It also recommended clarifying that the definition includes both special districts and the Florida College System.

### **Application Fees**

The bill provides that when a private entity submits an unsolicited proposal, the private entity must concurrently submit the initial application fee.<sup>28</sup> The application fee must be paid by cash, cashier's check, or other noncancelable instrument. The bill provides that if the initial fee, as determined by the responsible public entity, is not sufficient to cover the costs associated with evaluating the unsolicited proposal, the responsible public entity must request in writing the additional amount required. If the private entity fails to pay the additional amount requested within 30 days of the notice, the responsible public entity may stop reviewing the proposal. The bill requires the responsible public entity to return the application fee if the responsible public entity does not evaluate the unsolicited proposal.

### **Solicitation Timeframes**

The bill provides flexibility to the responsible public entity for accepting proposals if an alternative timeframe is approved by majority vote of the entity's governing body.<sup>29</sup> It also removes the provision that required a school board to obtain the approval of the local governing body.<sup>30</sup>

### **Contents of Solicitation – Design Criteria Package**

The bill requires a solicitation to include a design criteria package prepared by an architect or engineer licensed in Florida that is sufficient to allow private entities to prepare a bid or a response to the solicitation. The design criteria package must specify performance-based criteria for the project, including:

- The legal description of the site, with survey information;
- Interior space requirements;
- Material quality standards;
- Schematic layouts and conceptual design criteria for the project, with budget estimates;
- Design and construction schedules; and
- Site and utility requirements.

### **Ownership by the Responsible Public Entity**

The bill clarifies that the project must be owned by the responsible public entity upon expiration of the comprehensive agreement, rather than solely upon completion or termination of the agreement.<sup>31</sup>

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<sup>28</sup> *Id.* at 9. The task force recommended amending the fee provisions to ensure that the fees were related to actual, reasonable costs associated with reviewing an unsolicited proposal and not revenue generation.

<sup>29</sup> *Id.* at 7. The task force discussed that increased flexibility may be necessary when dealing with complex proposals to ensure sufficient time is allowed for the receipt of competing proposals.

<sup>30</sup> *Id.* at 18. The task force recommended striking this provision because school boards are not subject to governance by a local governing body.

<sup>31</sup> *Id.* at 13.

### **Unsolicited Proposal**

The bill clarifies that any pricing or financial terms included in an unsolicited proposal must be specific as to when the pricing or terms expire.<sup>32</sup>

### **Project Qualification**

The bill alters the parties that must meet the minimum standards contained in the responsible public entity's guidelines for qualifying professional services and contracts for traditional procurement projects to allow the applicable party (or parties) of the private entity's team to be a qualifying entity, rather than just the private entity itself.<sup>33</sup>

The bill deletes a requirement that a responsible public entity ensure that provision is made for the transfer of a private entity's obligations if the comprehensive agreement is terminated and replaces it with a requirement that the responsible public entity ensure that the comprehensive agreement addresses termination upon a material default.<sup>34</sup>

### **Notice to Affected Local Jurisdictions**

The bill deletes the requirement that a responsible public entity notify each affected local jurisdiction of an unsolicited proposal by furnishing a copy of the proposal to each affected local jurisdiction when considering it.<sup>35</sup> The responsible public entity must still provide each affected local jurisdiction a copy of the notice published in the FAR concerning solicitations for a qualifying project.

### **Financing**

The bill clarifies that a financing agreement may not require the responsible public entity to secure financing by a mortgage on, or security interest in, the real or tangible personal property of the responsible public entity in a manner that could result in the loss of the fee ownership of the property by the responsible public entity.<sup>36</sup>

The bill also deletes a provision that provides for the responsible public entity to appropriate on a priority basis a contractual payment obligation from the government fund from which the qualifying project will be funded.<sup>37</sup> Current law raised concerns regarding infringement upon a responsible public entity's appropriation powers. Additionally, had the provision remained in current law, it is unclear how this provision would apply to state universities or Florida College System institutions.

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<sup>32</sup> *Id.* at 7.

<sup>33</sup> *Id.* at 21.

<sup>34</sup> *Id.* at 14.

<sup>35</sup> *Id.* at 12. The report provided a discussion on the notice that is already provided to affected local jurisdictions through the permitting process and stated a mandatory P3 notice process could delay project timelines.

<sup>36</sup> *Id.* at 20.

<sup>37</sup> *Id.* at 14.

## Department of Management Services

The bill provides that the department may accept and maintain copies of comprehensive agreements received from responsible public entities for the purpose of sharing the comprehensive agreements with other responsible public entities.<sup>38</sup> Responsible public entities are not required to provide copies to the department; however, if a responsible public entity provides a copy, the responsible public entity must first redact any confidential or exempt information from the comprehensive agreement.

## Construction

The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, district, or municipal hospital or health care system. The bill provides that the P3 process is an alternative method that may be used, but that it does not limit a county, municipality, special district, or other political subdivision of the state in the procurement or operation of a qualifying project pursuant to other statutory or constitutional authority.<sup>39</sup>

## Miscellaneous

The bill transfers and renumbers s. 287.05712, F.S., as s. 255.065, F.S., because chapter 255, F.S., relates to procurement of construction services and P3s are primarily construction related projects.

The bill also makes other changes to provide for the consistent use of terminology and to provide clarity.

**Section 2** provides an effective date of July 1, 2015.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

None.

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

None.

### C. Trust Funds Restrictions:

None.

---

<sup>38</sup> *Id.* at 11. The report recommended authorizing a state agency to provide assistance to responsible public entities concerning P3s.

<sup>39</sup> *Id.* at 19. The report discussed the need for flexibility in the creation of P3s and noted that clarification is needed to ensure that the process is considered supplemental and alternative to any other applicable statutory authority.

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

None.

**B. Private Sector Impact:**

This bill may provide more opportunities for the private sector to enter into contracts for construction services with state universities and local governments.

**C. Government Sector Impact:**

The bill will have an insignificant negative fiscal impact on the Department of Management Services for the purpose of receiving comprehensive agreements and acting as a depository for such comprehensive agreements. According to the department, the costs should be absorbed within current resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 287.05712 of the Florida Statutes and transfers and renumbers it as section 255.065 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 by Community Affairs on March 17, 2015:**

Requires a solicitation to include a design criteria package prepared by an architect or engineer licensed in Florida that is sufficient to allow private entities to prepare a bid or a response to the solicitation. The bill provides a number of performance-based criteria that must be included in the design criteria package.

**B. Amendments:**

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 270 - 300

and insert:

(c) If the responsible public entity solicits proposals under this section, the solicitation must include a design criteria package prepared by an architect or engineer licensed in this state which is sufficient to allow private entities to prepare a bid or a response. The design criteria package must specify performance-based criteria for the project, including



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11 the legal description of the site, with survey information;  
12 interior space requirements; material quality standards;  
13 schematic layouts and conceptual design criteria for the  
14 project, with budget estimates; design and construction  
15 schedules; and site and utility requirements ~~A responsible~~  
16 ~~public entity that is a school board may enter into a~~  
17 ~~comprehensive agreement only with the approval of the local~~  
18 ~~governing body.~~

19 (d) Before approving a comprehensive agreement ~~approval~~,  
20 the responsible public entity must determine that the proposed  
21 project:

22 1. Is in the public's best interest.

23 2. Is for a facility that is owned by the responsible  
24 public entity or for a facility for which ownership will be  
25 conveyed to the responsible public entity.

26 3. Has adequate safeguards in place to ensure that  
27 additional costs or service disruptions are not imposed on the  
28 public in the event of material default or cancellation of the  
29 comprehensive agreement by the responsible public entity.

30 4. Has adequate safeguards in place to ensure that the  
31 responsible public entity or private entity has the opportunity  
32 to add capacity to the proposed project or other facilities  
33 serving similar predominantly public purposes.

34 5. Will be owned by the responsible public entity upon  
35 completion, expiration, or termination of the comprehensive  
36 agreement and upon payment of the amounts financed.

37 (e) Before signing a comprehensive agreement, the  
38 responsible public entity must consider a reasonable finance  
39 plan that is consistent with subsection (9) ~~(11)~~; the qualifying



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40 project cost; revenues by source; available financing; major  
41 assumptions; internal rate of return on private investments, if  
42 governmental funds are assumed in order to deliver a cost-  
43 feasible project; and a total cash-flow analysis beginning with  
44 the implementation of the project and extending for the term of  
45 the comprehensive agreement.

46 (f) In considering an unsolicited proposal, the

47  
48 ===== T I T L E A M E N D M E N T =====

49 And the title is amended as follows:

50 Delete line 15

51 and insert:

52 comprehensive agreement; requiring a responsible  
53 public entity to include a design criteria package in  
54 a solicitation; specifying requirements for the design  
55 criteria package; revising the conditions

By Senator Evers

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1                                   A bill to be entitled  
2       An act relating to public-private partnerships;  
3       transferring, renumbering, and amending s. 287.05712,  
4       F.S.; revising definitions; deleting provisions  
5       creating the Public-Private Partnership Guidelines  
6       Task Force; requiring a private entity that submits an  
7       unsolicited proposal to pay an initial application fee  
8       and additional amounts if the fee does not cover  
9       certain costs; specifying payment methods; authorizing  
10      a responsible public entity to alter the statutory  
11      timeframe for accepting proposals for a qualifying  
12      project under certain circumstances; deleting a  
13      provision that requires approval of the local  
14      governing body before a school board enters into a  
15      comprehensive agreement; revising the conditions  
16      necessary for a responsible public entity to approve a  
17      comprehensive agreement; deleting provisions relating  
18      to notice to affected local jurisdictions; providing  
19      that fees imposed by a private entity must be applied  
20      as set forth in the comprehensive agreement;  
21      restricting provisions in financing agreements that  
22      could result in a responsible public entity's losing  
23      ownership of real or tangible personal property;  
24      deleting a provision that required a responsible  
25      public entity to comply with specific financial  
26      obligations; providing duties of the Department of  
27      Management Services; revising provisions relating to  
28      construction of the act; providing an effective date.  
29

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

31  
32 Section 1. Section 287.05712, Florida Statutes, is  
33 transferred, renumbered as section 255.065, Florida Statutes,  
34 and amended to read:

35 255.065 ~~287.05712~~ Public-private partnerships.—

36 (1) DEFINITIONS.—As used in this section, the term:

37 (a) "Affected local jurisdiction" means a county,  
38 municipality, or special district in which all or a portion of a  
39 qualifying project is located.

40 (b) "Develop" means to plan, design, finance, lease,  
41 acquire, install, construct, or expand.

42 (c) "Fees" means charges imposed by the private entity of a  
43 qualifying project for use of all or a portion of such  
44 qualifying project pursuant to a comprehensive agreement.

45 (d) "Lease payment" means any form of payment, including a  
46 land lease, by a public entity to the private entity of a  
47 qualifying project for the use of the project.

48 (e) "Material default" means a nonperformance of its duties  
49 by the private entity of a qualifying project which jeopardizes  
50 adequate service to the public from the project.

51 (f) "Operate" means to finance, maintain, improve, equip,  
52 modify, or repair.

53 (g) "Private entity" means any natural person, corporation,  
54 general partnership, limited liability company, limited  
55 partnership, joint venture, business trust, public benefit  
56 corporation, nonprofit entity, or other private business entity.

57 (h) "Proposal" means a plan for a qualifying project with  
58 detail beyond a conceptual level for which terms such as fixing

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59 costs, payment schedules, financing, deliverables, and project  
60 schedule are defined.

61 (i) "Qualifying project" means:

62 1. A facility or project that serves a public purpose,  
63 including, but not limited to, any ferry or mass transit  
64 facility, vehicle parking facility, airport or seaport facility,  
65 rail facility or project, fuel supply facility, oil or gas  
66 pipeline, medical or nursing care facility, recreational  
67 facility, sporting or cultural facility, or educational facility  
68 or other building or facility that is used or will be used by a  
69 public educational institution, or any other public facility or  
70 infrastructure that is used or will be used by the public at  
71 large or in support of an accepted public purpose or activity;

72 2. An improvement, including equipment, of a building that  
73 will be principally used by a public entity or the public at  
74 large or that supports a service delivery system in the public  
75 sector;

76 3. A water, wastewater, or surface water management  
77 facility or other related infrastructure; or

78 4. Notwithstanding any provision of this section, for  
79 projects that involve a facility owned or operated by the  
80 governing board of a county, district, or municipal hospital or  
81 health care system, or projects that involve a facility owned or  
82 operated by a municipal electric utility, only those projects  
83 that the governing board designates as qualifying projects  
84 pursuant to this section.

85 (j) "Responsible public entity" means a county,  
86 municipality, school district, special district, Florida College  
87 System institution, or state university ~~board~~, or any other

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88 political subdivision of the state; a public body corporate and  
89 politic; or a regional entity that serves a public purpose and  
90 is authorized to develop or operate a qualifying project.

91 (k) "Revenues" means the income, earnings, user fees, lease  
92 payments, or other service payments relating to the development  
93 or operation of a qualifying project, including, but not limited  
94 to, money received as grants or otherwise from the Federal  
95 Government, a public entity, or an agency or instrumentality  
96 thereof in aid of the qualifying project.

97 (l) "Service contract" means a contract between a  
98 responsible public entity and the private entity which defines  
99 the terms of the services to be provided with respect to a  
100 qualifying project.

101 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
102 that there is a public need for the construction or upgrade of  
103 facilities that are used predominantly for public purposes and  
104 that it is in the public's interest to provide for the  
105 construction or upgrade of such facilities.

106 (a) The Legislature also finds that:

107 1. There is a public need for timely and cost-effective  
108 acquisition, design, construction, improvement, renovation,  
109 expansion, equipping, maintenance, operation, implementation, or  
110 installation of projects serving a public purpose, including  
111 educational facilities, transportation facilities, water or  
112 wastewater management facilities and infrastructure, technology  
113 infrastructure, roads, highways, bridges, and other public  
114 infrastructure and government facilities within the state which  
115 serve a public need and purpose, and that such public need may  
116 not be wholly satisfied by existing procurement methods.

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117           2. There are inadequate resources to develop new  
118 educational facilities, transportation facilities, water or  
119 wastewater management facilities and infrastructure, technology  
120 infrastructure, roads, highways, bridges, and other public  
121 infrastructure and government facilities for the benefit of  
122 residents of this state, and that a public-private partnership  
123 has demonstrated that it can meet the needs by improving the  
124 schedule for delivery, lowering the cost, and providing other  
125 benefits to the public.

126           3. There may be state and federal tax incentives that  
127 promote partnerships between public and private entities to  
128 develop and operate qualifying projects.

129           4. A procurement under this section serves the public  
130 purpose of this section if such procurement facilitates the  
131 timely development or operation of a qualifying project.

132           (b) It is the intent of the Legislature to encourage  
133 investment in the state by private entities; to facilitate  
134 various bond financing mechanisms, private capital, and other  
135 funding sources for the development and operation of qualifying  
136 projects, including expansion and acceleration of such financing  
137 to meet the public need; and to provide the greatest possible  
138 flexibility to public and private entities contracting for the  
139 provision of public services.

140           ~~(3) PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.—~~

141           ~~(a) There is created the Partnership for Public Facilities~~  
142 ~~and Infrastructure Act Guidelines Task Force for the purpose of~~  
143 ~~recommending guidelines for the Legislature to consider for~~  
144 ~~purposes of creating a uniform process for establishing public-~~  
145 ~~private partnerships, including the types of factors responsible~~



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146 ~~public entities should review and consider when processing~~  
147 ~~requests for public-private partnership projects pursuant to~~  
148 ~~this section.~~

149 ~~(b) The task force shall be composed of seven members, as~~  
150 ~~follows:~~

151 ~~1. The Secretary of Management Services or his or her~~  
152 ~~designee, who shall serve as chair of the task force.~~

153 ~~2. Six members appointed by the Governor, as follows:~~

154 ~~a. One county government official.~~

155 ~~b. One municipal government official.~~

156 ~~c. One district school board member.~~

157 ~~d. Three representatives of the business community.~~

158 ~~(c) Task force members must be appointed by July 31, 2013.~~

159 ~~By August 31, 2013, the task force shall meet to establish~~  
160 ~~procedures for the conduct of its business and to elect a vice~~  
161 ~~chair. The task force shall meet at the call of the chair. A~~  
162 ~~majority of the members of the task force constitutes a quorum,~~  
163 ~~and a quorum is necessary for the purpose of voting on any~~  
164 ~~action or recommendation of the task force. All meetings shall~~  
165 ~~be held in Tallahassee, unless otherwise decided by the task~~  
166 ~~force, and then no more than two such meetings may be held in~~  
167 ~~other locations for the purpose of taking public testimony.~~  
168 ~~Administrative and technical support shall be provided by the~~  
169 ~~department. Task force members shall serve without compensation~~  
170 ~~and are not entitled to reimbursement for per diem or travel~~  
171 ~~expenses.~~

172 ~~(d) In reviewing public-private partnerships and developing~~  
173 ~~recommendations, the task force must consider:~~

174 ~~1. Opportunities for competition through public notice and~~

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175 ~~the availability of representatives of the responsible public~~  
176 ~~entity to meet with private entities considering a proposal.~~

177 ~~2. Reasonable criteria for choosing among competing~~  
178 ~~proposals.~~

179 ~~3. Suggested timelines for selecting proposals and~~  
180 ~~negotiating an interim or comprehensive agreement.~~

181 ~~4. If an accelerated selection and review and documentation~~  
182 ~~timelines should be considered for proposals involving a~~  
183 ~~qualifying project that the responsible public entity deems a~~  
184 ~~priority.~~

185 ~~5. Procedures for financial review and analysis which, at a~~  
186 ~~minimum, include a cost-benefit analysis, an assessment of~~  
187 ~~opportunity cost, and consideration of the results of all~~  
188 ~~studies and analyses related to the proposed qualifying project.~~

189 ~~6. The adequacy of the information released when seeking~~  
190 ~~competing proposals and providing for the enhancement of that~~  
191 ~~information, if deemed necessary, to encourage competition.~~

192 ~~7. Current exemptions from public records and public~~  
193 ~~meetings requirements, if any changes to those exemptions are~~  
194 ~~necessary, or if any new exemptions should be created in order~~  
195 ~~to maintain the confidentiality of financial and proprietary~~  
196 ~~information received as part of an unsolicited proposal.~~

197 ~~8. Recommendations regarding the authority of the~~  
198 ~~responsible public entity to engage the services of qualified~~  
199 ~~professionals, which may include a Florida-registered~~  
200 ~~professional or a certified public accountant, not otherwise~~  
201 ~~employed by the responsible public entity, to provide an~~  
202 ~~independent analysis regarding the specifics, advantages,~~  
203 ~~disadvantages, and long-term and short-term costs of a request~~

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204 ~~by a private entity for approval of a qualifying project, unless~~  
205 ~~the governing body of the public entity determines that such~~  
206 ~~analysis should be performed by employees of the public entity.~~

207 ~~(e) The task force must submit a final report of its~~  
208 ~~recommendations to the Governor, the President of the Senate,~~  
209 ~~and the Speaker of the House of Representatives by July 1, 2014.~~

210 ~~(f) The task force is terminated December 31, 2014. The~~  
211 ~~establishment of guidelines pursuant to this section or the~~  
212 ~~adoption of such guidelines by a responsible public entity is~~  
213 ~~not required for such entity to request or receive proposals for~~  
214 ~~a qualifying project or to enter into a comprehensive agreement~~  
215 ~~for a qualifying project. A responsible public entity may adopt~~  
216 ~~guidelines so long as such guidelines are not inconsistent with~~  
217 ~~this section.~~

218 (3)(4) PROCUREMENT PROCEDURES.—A responsible public entity  
219 may receive unsolicited proposals or may solicit proposals for  
220 qualifying projects and may thereafter enter into a  
221 comprehensive ~~an~~ agreement with a private entity, or a  
222 consortium of private entities, for the building, upgrading,  
223 operating, ownership, or financing of facilities.

224 (a)1. The responsible public entity may establish a  
225 reasonable application fee for the submission of an unsolicited  
226 proposal under this section.

227 2. A private entity that submits an unsolicited proposal to  
228 a responsible public entity must concurrently pay an initial  
229 application fee, as determined by the responsible public entity.  
230 Payment must be made by cash, cashier's check, or other  
231 noncancelable instrument. Personal checks may not be accepted.

232 3. If the initial application fee does not cover the

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233 responsible public entity's costs to evaluate the unsolicited  
234 proposal, the responsible public entity must request in writing  
235 the additional amounts required. The private entity must pay the  
236 requested additional amounts within 30 days after receipt of the  
237 notice. The responsible public entity may stop its review of the  
238 unsolicited proposal if the private entity fails to pay the  
239 additional fee.

240 4. If the responsible public entity does not evaluate the  
241 unsolicited proposal, the responsible public entity must return  
242 the application fee ~~The fee must be sufficient to pay the costs~~  
243 ~~of evaluating the proposal. The responsible public entity may~~  
244 ~~engage the services of a private consultant to assist in the~~  
245 ~~evaluation.~~

246 (b) The responsible public entity may request a proposal  
247 from private entities for a qualifying public-private project  
248 or, if the responsible public entity receives an unsolicited  
249 proposal for a qualifying public-private project and the  
250 responsible public entity intends to enter into a comprehensive  
251 agreement for the project described in the ~~such~~ unsolicited  
252 proposal, the responsible public entity shall publish notice in  
253 the Florida Administrative Register and a newspaper of general  
254 circulation at least once a week for 2 weeks stating that the  
255 responsible public entity has received a proposal and will  
256 accept other proposals for the same project. The timeframe  
257 within which the responsible public entity may accept other  
258 proposals shall be determined by the responsible public entity  
259 on a project-by-project basis based upon the complexity of the  
260 qualifying project and the public benefit to be gained by  
261 allowing a longer or shorter period of time within which other

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262 proposals may be received; however, the timeframe for allowing  
263 other proposals must be at least 21 days, but no more than 120  
264 days, after the initial date of publication. If approved by a  
265 majority vote of the responsible public entity's governing body,  
266 the responsible public entity may alter the timeframe for  
267 accepting proposals to more adequately suit the needs of the  
268 qualifying project. A copy of the notice must be mailed to each  
269 local government in the affected area.

270 ~~(c) A responsible public entity that is a school board may~~  
271 ~~enter into a comprehensive agreement only with the approval of~~  
272 ~~the local governing body.~~

273 (c) ~~(d)~~ Before approving a comprehensive agreement ~~approval,~~  
274 the responsible public entity must determine that the proposed  
275 project:

- 276 1. Is in the public's best interest.
- 277 2. Is for a facility that is owned by the responsible  
278 public entity or for a facility for which ownership will be  
279 conveyed to the responsible public entity.
- 280 3. Has adequate safeguards in place to ensure that  
281 additional costs or service disruptions are not imposed on the  
282 public in the event of material default or cancellation of the  
283 comprehensive agreement by the responsible public entity.
- 284 4. Has adequate safeguards in place to ensure that the  
285 responsible public entity or private entity has the opportunity  
286 to add capacity to the proposed project or other facilities  
287 serving similar predominantly public purposes.
- 288 5. Will be owned by the responsible public entity upon  
289 completion, expiration, or termination of the comprehensive  
290 agreement and upon payment of the amounts financed.

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291        (d)~~(e)~~ Before signing a comprehensive agreement, the  
292 responsible public entity must consider a reasonable finance  
293 plan that is consistent with subsection (9) ~~(11)~~; the qualifying  
294 project cost; revenues by source; available financing; major  
295 assumptions; internal rate of return on private investments, if  
296 governmental funds are assumed in order to deliver a cost-  
297 feasible project; and a total cash-flow analysis beginning with  
298 the implementation of the project and extending for the term of  
299 the comprehensive agreement.

300        (e)~~(f)~~ In considering an unsolicited proposal, the  
301 responsible public entity may require from the private entity a  
302 technical study prepared by a nationally recognized expert with  
303 experience in preparing analysis for bond rating agencies. In  
304 evaluating the technical study, the responsible public entity  
305 may rely upon internal staff reports prepared by personnel  
306 familiar with the operation of similar facilities or the advice  
307 of external advisors or consultants who have relevant  
308 experience.

309        (4)~~(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited  
310 proposal from a private entity for approval of a qualifying  
311 project must be accompanied by the following material and  
312 information, unless waived by the responsible public entity:

313            (a) A description of the qualifying project, including the  
314 conceptual design of the facilities or a conceptual plan for the  
315 provision of services, and a schedule for the initiation and  
316 completion of the qualifying project.

317            (b) A description of the method by which the private entity  
318 proposes to secure the necessary property interests that are  
319 required for the qualifying project.

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320 (c) A description of the private entity's general plans for  
321 financing the qualifying project, including the sources of the  
322 private entity's funds and the identity of any dedicated revenue  
323 source or proposed debt or equity investment on behalf of the  
324 private entity.

325 (d) The name and address of a person who may be contacted  
326 for additional information concerning the proposal.

327 (e) The proposed user fees, lease payments, or other  
328 service payments over the term of a comprehensive agreement, and  
329 the methodology for and circumstances that would allow changes  
330 to the user fees, lease payments, and other service payments  
331 over time.

332 (f) Additional material or information that the responsible  
333 public entity reasonably requests.

334

335 Any pricing or financial terms included in an unsolicited  
336 proposal must be specific as to when the pricing or terms  
337 expire.

338 (5)~~(6)~~ PROJECT QUALIFICATION AND PROCESS.-

339 (a) The private entity, or the applicable party or parties  
340 of the private entity's team, must meet the minimum standards  
341 contained in the responsible public entity's guidelines for  
342 qualifying professional services and contracts for traditional  
343 procurement projects.

344 (b) The responsible public entity must:

345 1. Ensure that provision is made for the private entity's  
346 performance and payment of subcontractors, including, but not  
347 limited to, surety bonds, letters of credit, parent company  
348 guarantees, and lender and equity partner guarantees. For the

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349 components of the qualifying project which involve construction  
350 performance and payment, bonds are required and are subject to  
351 the recordation, notice, suit limitation, and other requirements  
352 of s. 255.05.

353 2. Ensure the most efficient pricing of the security  
354 package that provides for the performance and payment of  
355 subcontractors.

356 3. Ensure that ~~provision is made for the transfer of the~~  
357 ~~private entity's obligations if the comprehensive agreement~~  
358 addresses termination upon is terminated or a material default  
359 of the comprehensive agreement occurs.

360 (c) After the public notification period has expired in the  
361 case of an unsolicited proposal, the responsible public entity  
362 shall rank the proposals received in order of preference. In  
363 ranking the proposals, the responsible public entity may  
364 consider factors that include, but are not limited to,  
365 professional qualifications, general business terms, innovative  
366 design techniques or cost-reduction terms, and finance plans.  
367 The responsible public entity may then begin negotiations for a  
368 comprehensive agreement with the highest-ranked firm. If the  
369 responsible public entity is not satisfied with the results of  
370 the negotiations, the responsible public entity may terminate  
371 negotiations with the proposer and negotiate with the second-  
372 ranked or subsequent-ranked firms, in the order consistent with  
373 this procedure. If only one proposal is received, the  
374 responsible public entity may negotiate in good faith, and if  
375 the responsible public entity is not satisfied with the results  
376 of the negotiations, the responsible public entity may terminate  
377 negotiations with the proposer. Notwithstanding this paragraph,



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378 the responsible public entity may reject all proposals at any  
379 point in the process until a contract with the proposer is  
380 executed.

381 (d) The responsible public entity shall perform an  
382 independent analysis of the proposed public-private partnership  
383 which demonstrates the cost-effectiveness and overall public  
384 benefit before the procurement process is initiated or before  
385 the contract is awarded.

386 (e) The responsible public entity may approve the  
387 development or operation of an educational facility, a  
388 transportation facility, a water or wastewater management  
389 facility or related infrastructure, a technology infrastructure  
390 or other public infrastructure, or a government facility needed  
391 by the responsible public entity as a qualifying project, or the  
392 design or equipping of a qualifying project that is developed or  
393 operated, if:

394 1. There is a public need for or benefit derived from a  
395 project of the type that the private entity proposes as the  
396 qualifying project.

397 2. The estimated cost of the qualifying project is  
398 reasonable in relation to similar facilities.

399 3. The private entity's plans will result in the timely  
400 acquisition, design, construction, improvement, renovation,  
401 expansion, equipping, maintenance, or operation of the  
402 qualifying project.

403 (f) The responsible public entity may charge a reasonable  
404 fee to cover the costs of processing, reviewing, and evaluating  
405 the request, including, but not limited to, reasonable attorney  
406 fees and fees for financial and technical advisors or

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407 consultants and for other necessary advisors or consultants.

408 (g) Upon approval of a qualifying project, the responsible  
409 public entity shall establish a date for the commencement of  
410 activities related to the qualifying project. The responsible  
411 public entity may extend the commencement date.

412 (h) Approval of a qualifying project by the responsible  
413 public entity is subject to entering into a comprehensive  
414 agreement with the private entity.

415 ~~(7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.~~

416 ~~(a) The responsible public entity must notify each affected  
417 local jurisdiction by furnishing a copy of the proposal to each  
418 affected local jurisdiction when considering a proposal for a  
419 qualifying project.~~

420 ~~(b) Each affected local jurisdiction that is not a  
421 responsible public entity for the respective qualifying project  
422 may, within 60 days after receiving the notice, submit in  
423 writing any comments to the responsible public entity and  
424 indicate whether the facility is incompatible with the local  
425 comprehensive plan, the local infrastructure development plan,  
426 the capital improvements budget, any development of regional  
427 impact processes or timelines, or other governmental spending  
428 plan. The responsible public entity shall consider the comments  
429 of the affected local jurisdiction before entering into a  
430 comprehensive agreement with a private entity. If an affected  
431 local jurisdiction fails to respond to the responsible public  
432 entity within the time provided in this paragraph, the  
433 nonresponse is deemed an acknowledgment by the affected local  
434 jurisdiction that the qualifying project is compatible with the  
435 local comprehensive plan, the local infrastructure development~~

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436 ~~plan, the capital improvements budget, or other governmental~~  
437 ~~spending plan.~~

438 (6)~~(8)~~ INTERIM AGREEMENT.—Before or in connection with the  
439 negotiation of a comprehensive agreement, the responsible public  
440 entity may enter into an interim agreement with the private  
441 entity proposing the development or operation of the qualifying  
442 project. An interim agreement does not obligate the responsible  
443 public entity to enter into a comprehensive agreement. The  
444 interim agreement is discretionary with the parties and is not  
445 required on a qualifying project for which the parties may  
446 proceed directly to a comprehensive agreement without the need  
447 for an interim agreement. An interim agreement must be limited  
448 to provisions that:

449 (a) Authorize the private entity to commence activities for  
450 which it may be compensated related to the proposed qualifying  
451 project, including, but not limited to, project planning and  
452 development, design, environmental analysis and mitigation,  
453 survey, other activities concerning any part of the proposed  
454 qualifying project, and ascertaining the availability of  
455 financing for the proposed facility or facilities.

456 (b) Establish the process and timing of the negotiation of  
457 the comprehensive agreement.

458 (c) Contain such other provisions related to an aspect of  
459 the development or operation of a qualifying project that the  
460 responsible public entity and the private entity deem  
461 appropriate.

462 (7)~~(9)~~ COMPREHENSIVE AGREEMENT.—

463 (a) Before developing or operating the qualifying project,  
464 the private entity must enter into a comprehensive agreement

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465 with the responsible public entity. The comprehensive agreement  
466 must provide for:

467 1. Delivery of performance and payment bonds, letters of  
468 credit, or other security acceptable to the responsible public  
469 entity in connection with the development or operation of the  
470 qualifying project in the form and amount satisfactory to the  
471 responsible public entity. For the components of the qualifying  
472 project which involve construction, the form and amount of the  
473 bonds must comply with s. 255.05.

474 2. Review of the design for the qualifying project by the  
475 responsible public entity and, if the design conforms to  
476 standards acceptable to the responsible public entity, the  
477 approval of the responsible public entity. This subparagraph  
478 does not require the private entity to complete the design of  
479 the qualifying project before the execution of the comprehensive  
480 agreement.

481 3. Inspection of the qualifying project by the responsible  
482 public entity to ensure that the private entity's activities are  
483 acceptable to the responsible public entity in accordance with  
484 the comprehensive agreement.

485 4. Maintenance of a policy of public liability insurance, a  
486 copy of which must be filed with the responsible public entity  
487 and accompanied by proofs of coverage, or self-insurance, each  
488 in the form and amount satisfactory to the responsible public  
489 entity and reasonably sufficient to ensure coverage of tort  
490 liability to the public and employees and to enable the  
491 continued operation of the qualifying project.

492 5. Monitoring by the responsible public entity of the  
493 maintenance practices to be performed by the private entity to

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494 ensure that the qualifying project is properly maintained.

495 6. Periodic filing by the private entity of the appropriate  
496 financial statements that pertain to the qualifying project.

497 7. Procedures that govern the rights and responsibilities  
498 of the responsible public entity and the private entity in the  
499 course of the construction and operation of the qualifying  
500 project and in the event of the termination of the comprehensive  
501 agreement or a material default by the private entity. The  
502 procedures must include conditions that govern the assumption of  
503 the duties and responsibilities of the private entity by an  
504 entity that funded, in whole or part, the qualifying project or  
505 by the responsible public entity, and must provide for the  
506 transfer or purchase of property or other interests of the  
507 private entity by the responsible public entity.

508 8. Fees, lease payments, or service payments. In  
509 negotiating user fees, the fees must be the same for persons  
510 using the facility under like conditions and must not materially  
511 discourage use of the qualifying project. The execution of the  
512 comprehensive agreement or a subsequent amendment is conclusive  
513 evidence that the fees, lease payments, or service payments  
514 provided for in the comprehensive agreement comply with this  
515 section. Fees or lease payments established in the comprehensive  
516 agreement as a source of revenue may be in addition to, or in  
517 lieu of, service payments.

518 9. Duties of the private entity, including the terms and  
519 conditions that the responsible public entity determines serve  
520 the public purpose of this section.

521 (b) The comprehensive agreement may include:

522 1. An agreement by the responsible public entity to make

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523 grants or loans to the private entity from amounts received from  
524 the federal, state, or local government or an agency or  
525 instrumentality thereof.

526 2. A provision under which each entity agrees to provide  
527 notice of default and cure rights for the benefit of the other  
528 entity, including, but not limited to, a provision regarding  
529 unavoidable delays.

530 3. A provision that terminates the authority and duties of  
531 the private entity under this section and dedicates the  
532 qualifying project to the responsible public entity or, if the  
533 qualifying project was initially dedicated by an affected local  
534 jurisdiction, to the affected local jurisdiction for public use.

535 (8) (10) FEES.—A comprehensive ~~An~~ agreement entered into  
536 pursuant to this section may authorize the private entity to  
537 impose fees to members of the public for the use of the  
538 facility. The following provisions apply to the comprehensive  
539 agreement:

540 (a) The responsible public entity may develop new  
541 facilities or increase capacity in existing facilities through a  
542 comprehensive agreement with a private entity ~~agreements with~~  
543 ~~public-private partnerships.~~

544 (b) The comprehensive ~~public-private partnership~~ agreement  
545 must ensure that the facility is properly operated, maintained,  
546 or improved in accordance with standards set forth in the  
547 comprehensive agreement.

548 (c) The responsible public entity may lease existing fee-  
549 for-use facilities through a comprehensive ~~public-private~~  
550 ~~partnership~~ agreement.

551 (d) Any revenues must be authorized by and applied in the

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552 manner set forth in ~~regulated by the responsible public entity~~  
553 ~~pursuant to~~ the comprehensive agreement.

554 (e) A negotiated portion of revenues from fee-generating  
555 uses may ~~must~~ be returned to the responsible public entity over  
556 the life of the comprehensive agreement.

557 (9) ~~(11)~~ FINANCING.—

558 (a) A private entity may enter into a private-source  
559 financing agreement between financing sources and the private  
560 entity. A financing agreement and any liens on the property or  
561 facility must be paid in full at the applicable closing that  
562 transfers ownership or operation of the facility to the  
563 responsible public entity at the conclusion of the term of the  
564 comprehensive agreement.

565 (b) The responsible public entity may lend funds to private  
566 entities that construct projects containing facilities that are  
567 approved under this section.

568 (c) The responsible public entity may use innovative  
569 finance techniques associated with a public-private partnership  
570 under this section, including, but not limited to, federal loans  
571 as provided in Titles 23 and 49 C.F.R., commercial bank loans,  
572 and hedges against inflation from commercial banks or other  
573 private sources. In addition, the responsible public entity may  
574 provide its own capital or operating budget to support a  
575 qualifying project. The budget may be from any legally  
576 permissible funding sources of the responsible public entity,  
577 including the proceeds of debt issuances. A responsible public  
578 entity may use the model financing agreement provided in s.  
579 489.145(6) for its financing of a facility owned by a  
580 responsible public entity. A financing agreement may not require

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581 the responsible public entity to indemnify the financing source,  
582 subject the responsible public entity's facility to liens in  
583 violation of s. 11.066(5), or secure financing of ~~by~~ the  
584 responsible public entity by a mortgage on, or security interest  
585 in, the real or tangible personal property of the responsible  
586 public entity in a manner that could result in the loss of the  
587 fee ownership of the property by the responsible public entity  
588 ~~with a pledge of security interest, and any such provision is~~  
589 void.

590 ~~(d) A responsible public entity shall appropriate on a~~  
591 ~~priority basis as required by the comprehensive agreement a~~  
592 ~~contractual payment obligation, annual or otherwise, from the~~  
593 ~~enterprise or other government fund from which the qualifying~~  
594 ~~projects will be funded. This required payment obligation must~~  
595 ~~be appropriated before other noncontractual obligations payable~~  
596 ~~from the same enterprise or other government fund.~~

597 (10) ~~(12)~~ POWERS AND DUTIES OF THE PRIVATE ENTITY.—

598 (a) The private entity shall:

599 1. Develop or operate the qualifying project in a manner  
600 that is acceptable to the responsible public entity in  
601 accordance with the provisions of the comprehensive agreement.

602 2. Maintain, or provide by contract for the maintenance or  
603 improvement of, the qualifying project if required by the  
604 comprehensive agreement.

605 3. Cooperate with the responsible public entity in making  
606 best efforts to establish interconnection between the qualifying  
607 project and any other facility or infrastructure as requested by  
608 the responsible public entity in accordance with the provisions  
609 of the comprehensive agreement.



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610 4. Comply with the comprehensive agreement and any lease or  
611 service contract.

612 (b) Each private facility that is constructed pursuant to  
613 this section must comply with the requirements of federal,  
614 state, and local laws; state, regional, and local comprehensive  
615 plans; the responsible public entity's rules, procedures, and  
616 standards for facilities; and such other conditions that the  
617 responsible public entity determines to be in the public's best  
618 interest and that are included in the comprehensive agreement.

619 (c) The responsible public entity may provide services to  
620 the private entity. An agreement for maintenance and other  
621 services entered into pursuant to this section must provide for  
622 full reimbursement for services rendered for qualifying  
623 projects.

624 (d) A private entity of a qualifying project may provide  
625 additional services for the qualifying project to the public or  
626 to other private entities if the provision of additional  
627 services does not impair the private entity's ability to meet  
628 its commitments to the responsible public entity pursuant to the  
629 comprehensive agreement.

630 (11)~~(13)~~ EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the  
631 expiration or termination of a comprehensive agreement, the  
632 responsible public entity may use revenues from the qualifying  
633 project to pay current operation and maintenance costs of the  
634 qualifying project. If the private entity materially defaults  
635 under the comprehensive agreement, the compensation that is  
636 otherwise due to the private entity is payable to satisfy all  
637 financial obligations to investors and lenders on the qualifying  
638 project in the same way that is provided in the comprehensive

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639 agreement or any other agreement involving the qualifying  
640 project, if the costs of operating and maintaining the  
641 qualifying project are paid in the normal course. Revenues in  
642 excess of the costs for operation and maintenance costs may be  
643 paid to the investors and lenders to satisfy payment obligations  
644 under their respective agreements. A responsible public entity  
645 may terminate with cause and without prejudice a comprehensive  
646 agreement and may exercise any other rights or remedies that may  
647 be available to it in accordance with the provisions of the  
648 comprehensive agreement. The full faith and credit of the  
649 responsible public entity may not be pledged to secure the  
650 financing of the private entity. The assumption of the  
651 development or operation of the qualifying project does not  
652 obligate the responsible public entity to pay any obligation of  
653 the private entity from sources other than revenues from the  
654 qualifying project unless stated otherwise in the comprehensive  
655 agreement.

656 (12)~~(14)~~ SOVEREIGN IMMUNITY.—This section does not waive  
657 the sovereign immunity of a responsible public entity, an  
658 affected local jurisdiction, or an officer or employee thereof  
659 with respect to participation in, or approval of, any part of a  
660 qualifying project or its operation, including, but not limited  
661 to, interconnection of the qualifying project with any other  
662 infrastructure or project. A county or municipality in which a  
663 qualifying project is located possesses sovereign immunity with  
664 respect to the project, including, but not limited to, its  
665 design, construction, and operation.

666 (13) DEPARTMENT OF MANAGEMENT SERVICES.—

667 (a) A responsible public entity may provide a copy of its

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668 comprehensive agreement to the Department of Management  
669 Services. A responsible public entity must redact any  
670 confidential or exempt information from the copy of the  
671 comprehensive agreement before providing it to the Department of  
672 Management Services.

673 (b) The Department of Management Services may accept and  
674 maintain copies of comprehensive agreements received from  
675 responsible public entities for the purpose of sharing  
676 comprehensive agreements with other responsible public entities.

677 (c) This subsection does not require a responsible public  
678 entity to provide a copy of its comprehensive agreement to the  
679 Department of Management Services.

680 (14) ~~(15)~~ CONSTRUCTION.—

681 (a) This section shall be liberally construed to effectuate  
682 the purposes of this section.

683 (b) This section shall be construed as cumulative and  
684 supplemental to any other authority or power vested in or  
685 exercised by the governing ~~body board~~ of a county, municipality,  
686 special district, or municipal hospital or health care system  
687 including those contained in acts of the Legislature  
688 ~~establishing such public hospital boards or s. 155.40.~~

689 (c) This section does not affect any agreement or existing  
690 relationship with a supporting organization involving such  
691 governing ~~body board~~ or system in effect as of January 1, 2013.

692 (d) ~~(a)~~ This section provides an alternative method and does  
693 not limit a county, municipality, special district, or other  
694 political subdivision of the state in the procurement or  
695 operation of a qualifying project ~~acquisition, design, or~~  
696 ~~construction of a public project~~ pursuant to other statutory or

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697 constitutional authority.

698 (e)~~(b)~~ Except as otherwise provided in this section, this  
699 section does not amend existing laws by granting additional  
700 powers to, or further restricting, a local governmental entity  
701 from regulating and entering into cooperative arrangements with  
702 the private sector for the planning, construction, or operation  
703 of a facility.

704 (f)~~(e)~~ This section does not waive any requirement of s.  
705 287.055.

706 Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/15

Meeting Date

SB 824

Bill Number (if applicable)

759076

Amendment Barcode (if applicable)

Topic PPP

Name MIKE HUEY

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

Address 1125 CARRIAGE RD  
Street

Phone 251-0101

TLH FL 32312  
City State Zip

Email MHUEY@GARY-ROBINSON.COM

Speaking:  For  Against  Information

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

Representing FL ASSN. OF THE AM. INSTITUTE OF ARCHITECTS & ABC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/17/2015

*Meeting Date*

SB 824

*Bill Number (if applicable)*

Topic SB 824 - Relating to Public-private Partnerships

*Amendment Barcode (if applicable)*

Name Greg Black

Job Title Lobbyist

Address 215 S. Monroe Street | Suite 505

Phone (850) 205-9000

*Street*

Tallahassee

Florida

32301

Email Greg.black@metzlaw.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Associated General Contractors

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)

3/17/15

Meeting Date

SB 824

Bill Number (if applicable)

Topic Public Private Partnership

Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. Box 1757

Phone 701-3676

Street

Tallahassee

FL

32302

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  
**APPEARANCE RECORD**

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

3/17/15

Meeting Date

824

Bill Number (if applicable)

Topic PPP

Amendment Barcode (if applicable)

Name Richard Watson

Job Title Legislative Counsel

Address P.O. Box 10038

Phone (850) 222-0000

Tallahassee, FL 32302

Email rick@rwatsonandassociates.com

City State Zip

Speaking:  For  Against  Information

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

Representing Associated Builders and Contractors of 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.





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Subcommittee on Criminal and Civil Justice  
Communications, Energy, and Public Utilities  
Environmental Preservation and Conservation  
Military and Veterans Affairs, Space, and Domestic Security  
Transportation

**SENATOR GREG EVERS**

2nd District

March 16, 2015

Dear Chair Simpson,

Senator Evers has to be in Military and Veteran's Affairs tomorrow during the Committee on Community Affairs meeting, so Dave Murzin will present SB 824 for him, with your kind permission.

Thank you.

Sharon Brooks  
Legislative Assistant

*Greg Evers*

REPLY TO:

- 209 East Zaragoza Street, Pensacola, Florida 32502-6048 (850) 595-0213 FAX: (888) 263-0013
- 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- 5234 Willing Street, Milton, FL 32570 (850) 564-1026 FAX: (850) 564-1170

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



The Florida Senate

## Committee Agenda Request

**To:** Senator Simpson  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** March 4, 2015

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I respectfully request that **Senate Bill #824**, relating to Public Private Partnerships, be placed on the:

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

A handwritten signature in cursive script that reads "Greg Evers".

---

Senator Greg Evers  
Florida Senate, District 2

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

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

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

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BILL: SB 826

INTRODUCER: Senator Evers

SUBJECT: Public Records and Public Meetings/Public-private Project Proposals

DATE: March 16, 2015

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

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

---

**I. Summary:**

SB 826, which is linked to the passage of SB 824, creates an exemption from public record and public meeting requirements for unsolicited proposals for public-private partnership (P3) projects for public facilities and infrastructure.

**II. Present Situation:**

**Public Records and Open Meetings Requirements**

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.<sup>1</sup> The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.<sup>2</sup> The Legislature's meetings must also be open and noticed to the public, unless there is an exemption provided for by the Constitution.<sup>3</sup>

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act<sup>4</sup> guarantees every person's right to inspect and copy any state or local government public record.<sup>5</sup>

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

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

<sup>3</sup> FLA. CONST., art. I, s. 24(b).

<sup>4</sup> Chapter 119, F.S.

<sup>5</sup> Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law

The Sunshine Law<sup>6</sup> requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.<sup>7</sup>

The Legislature may create an exemption to public records or open meetings requirements.<sup>8</sup> An exemption must specifically state the public necessity justifying the exemption<sup>9</sup> and must be tailored to accomplish the stated purpose of the law.<sup>10</sup>

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

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>11</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>12</sup>

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>13</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>14</sup>

---

including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.” The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature’s records are public pursuant to section 11.0431, F.S.

<sup>6</sup> Section 286.011, F.S.

<sup>7</sup> Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, section 4(e) of the Florida Constitution provides that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

<sup>8</sup> FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released, to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

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

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

<sup>11</sup> Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to section 119.15(2), F.S.

<sup>12</sup> Section 119.15(3), F.S.

<sup>13</sup> Section 119.15(6)(b), F.S.

<sup>14</sup> Section 119.15(6)(b)1., F.S.

- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>15</sup> or
- It protects trade or business secrets.<sup>16</sup>

The OGSR also requires specified questions to be considered during the review process.<sup>17</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

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

### **Public-Private Partnerships**

Section 287.05712, F.S., governs the procurement process for public-private partnerships (P3s) for public purpose projects. It authorizes a responsible public entity<sup>20</sup> to enter into a P3 for specified qualifying projects<sup>21</sup> if the responsible public entity determines the project is in the public's best interest.<sup>22</sup>

Responsible public entities may receive unsolicited proposals or may solicit proposals for qualifying projects and may, thereafter, enter into an agreement with a private entity for the

<sup>15</sup> Section 119.15(6)(b)2., F.S.

<sup>16</sup> Section 119.15(6)(b)3., F.S.

<sup>17</sup> Section 119.15(6)(a), F.S. The specified questions are:

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

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

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

<sup>20</sup> Section 287.05712(1)(j), F.S., defines "responsible public entity" as a county, municipality, school board, or any other political subdivision of the state; a public body politic and corporate; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.

<sup>21</sup> Section 287.05712(1)(i), F.S., defines the term "qualifying project" as a facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity; an improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector; a water, wastewater, or surface water management facility or other related infrastructure; or for projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.

<sup>22</sup> Section 287.05712(4)(d), F.S.

building, upgrading, operation, ownership, or financing of facilities. Unsolicited proposals from private entities must be accompanied by the following material and information, unless waived by the responsible public entity:<sup>23</sup>

- A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.
- A description of the method by which the private entity proposes to secure any necessary property interests that are required for the qualifying project.
- A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.
- The name and address of the person who may be contacted for further information concerning the proposal.
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time.
- Any additional material or information the responsible public entity reasonably requests.

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the project, the responsible public entity must publish a notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals.<sup>24</sup> The responsible public entity must establish a timeframe in which to accept other proposals.<sup>25</sup>

After the notification period has expired, the responsible public entity must rank the proposals received in order of preference.<sup>26</sup> If negotiations with the first ranked firm are unsuccessful, the responsible public entity may begin negotiations with the second ranked firm.<sup>27</sup> The responsible public entity may reject all proposals at any point in the process.<sup>28</sup>

### **Public Record and Public Meeting Exemptions**

Current law does not provide a public record exemption for unsolicited proposals. However, sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt<sup>29</sup> from public record requirements until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is

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<sup>23</sup> Section 287.05712(5), F.S.

<sup>24</sup> Section 287.05712(4)(b), F.S.

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

<sup>26</sup> Section 287.05712(6)(c), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

earlier.<sup>30</sup> If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt until the agency provides notice of its intended decision or withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.<sup>31</sup>

Current law does not provide a public meeting exemption for meetings during which an unsolicited proposal is discussed. However, public meetings in which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation are exempt from public meeting requirements.<sup>32</sup> A complete recording of the closed meeting must be made and no portion of the exempt meeting may be held off the record.<sup>33</sup>

The recording of, and any records presented at, the exempt meeting are exempt from public record requirements until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever occurs earlier.<sup>34</sup> If the agency rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue a competitive solicitation, the recording and any records presented at the exempt meeting remain exempt from public record requirements until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation.<sup>35</sup> A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.<sup>36</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 287.05712(15), F.S., and transfers and renumbers it as s. 255.065(15), F.S., to create an exemption from public record and public meeting requirements for unsolicited proposals for P3 projects for public facilities and infrastructure.

Under the bill, unsolicited proposals held by a responsible public entity are exempt until the responsible public entity provides notice of its intended decision. If the responsible public entity rejects all proposals and concurrently provides notice of its intent to seek additional proposals, the unsolicited proposal remains exempt until such time that the responsible public entity provides notice of an intended decision concerning the reissued competitive solicitation or until the responsible public entity withdraws the reissued competitive solicitation for the project. An unsolicited proposal is not exempt for more than 90 days after the responsible public entity initially rejects all proposals received for the project described in the unsolicited proposal.

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<sup>30</sup> Section 119.071(1)(b), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> Section 286.0113(2)(b), F.S.

<sup>33</sup> Section 286.0113(2)(c), F.S.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

If the responsible public entity does not issue a competitive solicitation, the unsolicited proposal is not exempt for more than 180 days after it is received by the responsible public entity.

The bill creates a public meeting exemption for any portion of a meeting during which the exempt unsolicited proposal is discussed. A recording must be made of the closed portion of the meeting. The recording, and any records generated during the closed meeting, are exempt from public record requirements until such time as the underlying public record exemption expires.

The public record and public meeting exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.

**Section 2** states the bill becomes effective on the same date that SB 824 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

#### **IV. Constitutional Issues:**

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

None.

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

This bill creates new public record and public meeting exemptions. Therefore the following constitutional requirements apply.

##### **Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

##### **Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it includes a public necessity statement.

##### **Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates public record and public meeting exemptions for unsolicited proposals for P3 projects that expire after a certain time. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.



C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may create a minimal fiscal impact on local governments that receive unsolicited P3 proposals because staff responsible for complying with public record requests could require training related to the public record exemption. Local governments could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the local government. In addition, local governments may incur minimal fiscal costs associated with recording that portion of a closed meeting during which an unsolicited proposal that is exempt is discussed.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 287.05712(15) of the Florida Statutes and transfers and renumbers it as section 255.065(15) of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

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By Senator Evers

2-00510A-15

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1                   A bill to be entitled  
2           An act relating to public records and public meetings;  
3           transferring, renumbering, and amending s. 287.05712,  
4           F.S., relating to qualifying public-private projects  
5           for public facilities and infrastructure; providing a  
6           definition; providing an exemption from public records  
7           requirements for unsolicited proposals received by a  
8           responsible public entity for a specified period;  
9           providing an exemption from public meeting  
10          requirements for any portion of a meeting of a  
11          responsible public entity during which exempt  
12          proposals are discussed; requiring that a recording be  
13          made of the closed meeting; providing an exemption  
14          from public records requirements for the recording of,  
15          and any records generated during, a closed meeting for  
16          a specified period; providing for future legislative  
17          review and repeal of the exemptions; providing a  
18          statement of public necessity; providing a contingent  
19          effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Subsection (15) is added to section 287.05712,  
24           Florida Statutes, as transferred, renumbered, and amended by SB  
25           \_\_\_, to read:

26           255.065 ~~287.05712~~ Public-private partnerships; public  
27           records and public meetings exemptions.-

28           (15) PUBLIC RECORDS AND PUBLIC MEETINGS EXEMPTIONS.-

29           (a) As used in this subsection, the term "competitive

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30 solicitation” has the same meaning as provided in s. 119.071(1).

31 (b)1. An unsolicited proposal received by a responsible  
32 public entity is exempt from s. 119.07(1) and s. 24(a), Art. I  
33 of the State Constitution until such time as the responsible  
34 public entity provides notice of an intended decision for a  
35 qualifying project.

36 2. If the responsible public entity rejects all proposals  
37 submitted pursuant to a competitive solicitation for a  
38 qualifying project and such entity concurrently provides notice  
39 of its intent to seek additional proposals for such project, the  
40 unsolicited proposal remains exempt until the responsible public  
41 entity provides notice of an intended decision concerning the  
42 reissued competitive solicitation for the qualifying project or  
43 until the responsible public entity withdraws the reissued  
44 competitive solicitation for such project.

45 3. An unsolicited proposal is not exempt for longer than 90  
46 days after the initial notice by the responsible public entity  
47 rejecting all proposals.

48 (c) If the responsible public entity does not issue a  
49 competitive solicitation for a qualifying project, the  
50 unsolicited proposal ceases to be exempt 180 days after receipt  
51 of the unsolicited proposal by such entity.

52 (d)1. Any portion of a meeting of a responsible public  
53 entity during which an unsolicited proposal that is exempt is  
54 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the  
55 State Constitution.

56 2.a. A complete recording must be made of any portion of an  
57 exempt meeting. No portion of the exempt meeting may be held off  
58 the record.

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59        b. The recording of, and any records generated during, the  
60 exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I  
61 of the State Constitution until such time as the responsible  
62 public entity provides notice of an intended decision for a  
63 qualifying project or 180 days after receipt of the unsolicited  
64 proposal by the responsible public entity if such entity does  
65 not issue a competitive solicitation for the project.

66        c. If the responsible public entity rejects all proposals  
67 and concurrently provides notice of its intent to reissue a  
68 competitive solicitation, the recording and any records  
69 generated at the exempt meeting remain exempt from s. 119.07(1)  
70 and s. 24(a), Art. I of the State Constitution until such time  
71 as the responsible public entity provides notice of an intended  
72 decision concerning the reissued competitive solicitation or  
73 until the responsible public entity withdraws the reissued  
74 competitive solicitation for such project.

75        d. A recording and any records generated during an exempt  
76 meeting are not exempt for longer than 90 days after the initial  
77 notice by the responsible public entity rejecting all proposals.

78        (e) This subsection is subject to the Open Government  
79 Sunset Review Act in accordance with s. 119.15 and shall stand  
80 repealed on October 2, 2020, unless reviewed and saved from  
81 repeal through reenactment by the Legislature.

82        Section 2. (1) The Legislature finds that it is a public  
83 necessity that an unsolicited proposal received by a responsible  
84 public entity pursuant to s. 287.05712, Florida Statutes, be  
85 made exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
86 Article I of the State Constitution until a time certain.  
87 Prohibiting the public release of unsolicited proposals until a

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88 time certain ensures the effective and efficient administration  
89 of the public-private partnership process established in s.  
90 287.05712, Florida Statutes. Temporarily protecting unsolicited  
91 proposals protects the public-private partnership process by  
92 encouraging private entities to submit such proposals, which  
93 will facilitate the timely development and operation of a  
94 qualifying project. Protecting such information ensures that  
95 other private entities do not gain an unfair competitive  
96 advantage. The public records exemption preserves public  
97 oversight of the public-private partnership process by providing  
98 for disclosure of the unsolicited proposal when the responsible  
99 public entity provides notice of an intended decision; no longer  
100 than 90 days after the responsible public entity rejects all  
101 proposals received in a competitive solicitation for a  
102 qualifying project; or 180 days after receipt of an unsolicited  
103 proposal if such entity does not issue a competitive  
104 solicitation for a qualifying project related to the proposal.

105 (2) The Legislature further finds that it is a public  
106 necessity that any portion of a meeting of the responsible  
107 public entity during which an unsolicited proposal that is  
108 exempt from public records requirements is discussed be made  
109 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article  
110 I of the State Constitution. The Legislature also finds that it  
111 is a public necessity that the recording of, and any records  
112 generated during, a closed meeting be made temporarily exempt  
113 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of  
114 the State Constitution. Failure to close any portion of a  
115 meeting during which such unsolicited proposal is discussed, and  
116 failure to protect the release of the recording and records

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117 generated during that closed meeting, would defeat the purpose  
118 of the public records exemption. In addition, the Legislature  
119 finds that public oversight is maintained because the public  
120 records exemption for the recording and records generated during  
121 any closed portion of a meeting of the responsible public entity  
122 are subject to public disclosure when such entity provides  
123 notice of an intended decision; no longer than 90 days after the  
124 responsible public entity rejects all proposals received in a  
125 competitive solicitation for a qualifying project; or 180 days  
126 after receipt of an unsolicited proposal if the responsible  
127 public entity does not issue a competitive solicitation for a  
128 qualifying project related to the proposal.

129 Section 3. This act shall take effect on the same date that  
130 SB \_\_\_ or similar legislation takes effect, if such legislation  
131 is adopted in the same legislative session or an extension  
132 thereof and becomes a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17/15

Meeting Date

826

Bill Number (if applicable)

Topic PPP Public Records Exemption

Amendment Barcode (if applicable)

Name Richard Watson

Job Title Legislative Counsel

Address P.O. Box 10638

Phone 858 222-0000

Street

City

State

Zip

Tallahassee, FL 32302

Email rick@rwatsonandassociates.com

Speaking:  For  Against  Information

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

Representing Associated Builders & Contractors of 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.





The Florida Senate

## Committee Agenda Request

**To:** Senator Simpson  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** March 4, 2015

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I respectfully request that **Senate Bill #826**, relating to Public Records and Public Meetings, be placed on the:

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

A handwritten signature in cursive script that reads "Greg Evers".

---

Senator Greg Evers  
Florida Senate, District 2

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

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

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

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BILL: CS/SB 782

INTRODUCER: Community Affairs Committee and Senator Montford

SUBJECT: County Officers

DATE: March 17, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	Fav/CS
2.			GO	
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 782 provides that the salaries of county constitutional officers and school district officials will not decrease under specific circumstances related to an increase in county population. When a county's population increases, such that the county falls into a new population group, the bill would prevent a salary decrease that could be caused by a decreased group rate. The officials' salaries would remain the same as their last year's salaries when this happens. Subsequently, when the population or the annual factors increase enough to offset the effect of the decreased group rate, the overall salary will go up as normal.

The bill provides an effective date of July 1, 2015.

**II. Present Situation:**

**Salaries of Elected County Constitutional Officers and School District Officials**

From the time of the State Constitution of 1885 until 1973, the compensation of Florida's county constitutional officers had been determined by a host of local laws, special laws, and general laws of local application. After decades of frequent and sporadic legislative action, the Legislature deemed necessary the enactment of a uniform salary law to replace the previous local law method of determining compensation.<sup>1</sup> Thus, the Legislature repealed all local or special

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<sup>1</sup> The original method was described as "haphazard, preferential, inequitable, and probably unconstitutional." See s. 145.011(2), F.S.

laws, or general laws of local application, that related to compensation of county officials;<sup>2</sup> provided that any such laws are prohibited;<sup>3</sup> and authorized a salary compensation formula for determining compensation.<sup>4</sup> In doing so, the Legislature created a uniform system of compensation for county officers having substantially equal duties and responsibilities, with salary schedules based on countywide populations.

The current methodology for calculating compensation for elected county officers and school district officials, while based on population, also involves five other components. County governments and school district officials are tasked with making their own calculations of these salaries, and the Florida Legislature's Office of Economic and Demographic Research (EDR) also reports its computations.<sup>5</sup> Pursuant to s. 145.19(2), F.S., elected county and school officers' salaries are adjusted annually, but no effective date of these annual changes is specified in general law. Florida's county governments operate on a fiscal year that ranges from October 1 to September 30, while Florida's school districts operate on the July 1 to June 30 state fiscal year. Florida's Attorney General opined that salary increases are effective October 1 for the elected county officers and July 1 for the elected school district officials.<sup>6</sup>

Supplemental compensation for elected county officials, that is not the sole and exclusive compensation provided in ch. 145, F.S., is a misdemeanor of the first degree.<sup>7</sup> If, after paying office personnel and expenses, a county officer has insufficient revenue from the income of their office to pay his or her total annual salary, the board of county commissioners is obligated to pay any deficiency from the general revenue fund.<sup>8</sup>

### **Components of the Salary Formula**

The current salary formula methodology specifies six components used for the salary computation:

- Population figures, based on the latest official population census counts, or intercensal estimates for the years between decennial censuses;
- Base salary and group rate components for the separate officers;<sup>9</sup>
- An initial factor component that is currently set in law as a constant numerical value;<sup>10</sup> and
- The annual factor and cumulative annual factor, which are certified by The Florida Department of Management Services (DMS).<sup>11</sup>

“Population” as used for the salary determination means the latest annual determination of population of local governments produced by the EDR. The EDR provides the population

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<sup>2</sup> Sections 145.131 and 145.132, F.S.

<sup>3</sup> Section 145.16, F.S.

<sup>4</sup> Chapter 73-173, Laws of Fla.

<sup>5</sup> The Florida Legislature's Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2014-15* (Sep. 2014).

<sup>6</sup> Op. Att'y Gen. Fla. 79-87 (1979).

<sup>7</sup> Section 145.17, F.S.

<sup>8</sup> Section 145.141, F.S.

<sup>9</sup> Sections 145.031, 145.051, 145.071, 145.09, 145.10, and 145.11, F.S., for elected county officers. Sections 1001.395, and 1001.47, F.S., for elected school district officials.

<sup>10</sup> Section 145.19(1)(c), F.S.

<sup>11</sup> Section 145.19(2), F.S.

determination to the Governor's Office in accordance with s. 186.901, F.S.<sup>12</sup> For the years between decennial censuses, the University of Florida's Bureau of Economic and Business Research generates annual population estimates for local governments, in accordance with a contract administered by the EDR.

"Salary" means the total annual compensation, payable under the schedules set forth in ch. 145, F.S., to be paid to an officer as personal income.<sup>13</sup>

"Initial Factor" means a factor of 1.292. This numerical value is the product, rounded to the nearest thousandth, of an earlier cost-of-living increase factor authorized by ch. 73-173, L.O.F., and intended by the Legislature to be preserved in adjustments to salaries made prior to the enactment of ch. 76-80, L.O.F., multiplied by the annual increase factor authorized by ch. 79-327, L.O.F.<sup>14</sup>

"Annual Factor" means 1 plus the lesser of either:<sup>15</sup>

- the average percentage increase in the salaries of state career service employees for the current fiscal year as determined by the DMS or as provided in the General Appropriations Act; or
- 7 percent.

"Cumulative Annual Factor" means the product of all annual factors certified under this act prior to the fiscal year for which salaries are being calculated.<sup>16</sup>

### **Salary Computation Methodology**

The salary computation to obtain "the adjusted salary rate" involves three steps.<sup>17</sup> First, county government and school district officials determine the relevant population group number for the elected officer based on the countywide population.<sup>18</sup> Two sets of countywide population ranges are used to determine the salaries of the elected officers. One set applies to the clerk of circuit court, county comptroller, tax collector, property appraiser, supervisor of elections, sheriff, and school superintendent. The second set applies only to county commissioners and school board members. Each population range has an assigned population group number. Step 2 of the salary computation involves the determination of the relevant base salary and group rate that corresponds to the population group number determined in the first step. In step 3, county government and school district officials calculate the salaries of elected county officers using the following formula:

Salary = [Base Salary + (Population Above Group Minimum x Group Rate)] x Initial Factor x Certified Annual Factor x Certified Cumulative Annual Factor.

<sup>12</sup> Section 145.021(1), F.S.

<sup>13</sup> Section 145.021(2), F.S.

<sup>14</sup> See, Section 145.19(1)(c), F.S.

<sup>15</sup> Section 145.19(1)(a), F.S.

<sup>16</sup> Section 145.19(1)(b), F.S.

<sup>17</sup> EDR, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2014-15* (Sep. 2014).

<sup>18</sup> *Id.* at 8.

**Relationship Between County Population, Group Rate, and Adjusted Salary Rate**

As indicated by Table 1 below, when a county grows in population such that it would enter into a higher population group number, the base salary number goes up, while the group rate multiplier goes down. The use of the new, smaller group rate creates the peculiar possibility for a county officer of a county that has just barely crossed the threshold of a new population group to receive a smaller salary than if the population of the county had not grown. For example, in 2013, the population of Jackson County was estimated at 50,166, just over the 50,000 threshold, placing it within population group II.<sup>19</sup> As a result, for fiscal year 2014-2015, the salaries of the Clerk of Circuit Court, the Property Appraiser, and the Tax Collector declined by \$2,966 to \$103,915, a change of -2.8 percent.<sup>20</sup> For that same year, the salary of the Supervisor of Elections declined by \$2,860 to \$86,152; the salary of the Sheriff declined by \$2,942 to \$112,854; and the salary of the School Superintendent declined by \$2,966 to \$103,915. If the population of a county decreases, such that the county falls into a new smaller population group with a higher group rate, the salaries of county officers and school district officials might still increase significantly, as happened in Jackson County for fiscal year 2011-2012.

**Table 1. Population Groups for Clerks of Court, Property Appraisers, and Tax Collectors<sup>21</sup>**

<b>Pop. Group</b>	<b>Min. Pop.</b>	<b>Max. Pop.</b>	<b>Base Salary</b>	<b>Group Rate</b>
<b>I</b>	<b>0</b>	<b>49,999</b>	<b>\$21,250</b>	<b>0.07875</b>
<b>II</b>	<b>50,000</b>	<b>99,999</b>	<b>\$24,400</b>	<b>0.06300</b>
<b>III</b>	<b>100,000</b>	<b>199,999</b>	<b>\$27,550</b>	<b>0.02625</b>
<b>IV</b>	<b>200,000</b>	<b>399,999</b>	<b>\$30,175</b>	<b>0.01575</b>
<b>V</b>	<b>400,000</b>	<b>999,999</b>	<b>\$33,325</b>	<b>0.00525</b>
<b>VI</b>	<b>1,000,000</b>	<b>-</b>	<b>\$36,475</b>	<b>0.00400</b>

**Additional Compensation Tied to Completion of Certificate Programs**

Upon successful completion of a certification program, certain county constitutional officers are eligible to receive a special qualification salary of up to \$2,000 added to their formula-based salary.<sup>22</sup> Relevant state agencies offer certification programs for clerks of circuit court, sheriffs, supervisors of elections, property appraisers, tax collectors, and elected school superintendents.<sup>23</sup> The officer is required to complete a course of continuing education to remain certified.<sup>24</sup> An officer who becomes certified receives a pro rata share of the special qualification salary based on the remaining period of the year. Any special qualification salary is added after the calculation of the formula-based salary.

<sup>19</sup> *Id.* at 7.

<sup>20</sup> EDR, *Salaries of Elected County Constitutional Officers and School District Officials by County*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/countysalaryhistory.pdf> (last visited Mar. 3, 2015).

<sup>21</sup> Reproduced from ss. 145.051(1), 145.10(1), and 145.11(1), F.S.

<sup>22</sup> Section 145.19(2), F.S.

<sup>23</sup> Sections 145.051(2), 145.071(2), 145.09(3), 145.10(2), 145.11(2), and 1001.47(4), F.S.

<sup>24</sup> *Id.* The following state agencies prescribe the courses of continuing education: the Supreme Court for clerks of circuit court; the Department of Law Enforcement for sheriffs; the Department of State’s Division of Elections for supervisors of elections; the Department of Revenue for property appraisers and tax collectors; and the Department of Education for elected school superintendents.

In addition to the special qualification salary for elected school superintendents, the Department of Education (DOE) provides a leadership development and performance compensation program, which consists of two phases.<sup>25</sup> Upon successful completion of both phases and demonstrated successful performance, the DOE issues the school superintendent a Chief Executive Officer Leadership Development Certificate and pays an annual performance salary incentive in an amount between \$3,000 and \$7,500, based upon the performance evaluation.<sup>26</sup> For elected school superintendents, current law also provides that a district school board may approve, by majority vote, a salary in excess of the formula-based amount.<sup>27</sup>

### **Applicability of Salary Computation Method**

Notwithstanding the Legislature's stated intent for uniformity, county officers may voluntarily reduce their salary below that established by law.<sup>28</sup> Additionally, the formula-based salaries of supervisors of elections are based upon a five-day workweek; however, if a supervisor does not keep his or her office open five days per week then the salary is prorated accordingly.<sup>29</sup>

Furthermore, the adoption of a county home rule charter provides the county's electors with a mechanism to alter the status of constitutional officers, such that their salaries are not subject to being set by the Legislature. Specifically, the statutory salary provisions do not apply to officials whose salaries are not subject to being set by the Legislature due to the provisions of a county home rule charter, as well as officials of counties that have a chartered consolidated form of government as provided in ch. 67-1320, L.O.F.<sup>30</sup>

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

**Section 1** amends s. 145.19, F.S., to prevent the salaries of elected county officers and school district officials from decreasing due to a population increase that puts the county into a new population group. Beginning in the 2015-2016 fiscal year, the adjusted salary rate of county officials will remain the same as in the prior fiscal year, when a county's shift to a new, higher population group would have otherwise decreased the adjusted salary rate. This salary protection extends to county commissioners, school board members, clerks of the circuit court, sheriffs, supervisors of election, property appraisers, tax collectors, and school superintendents.

**Section 2** provides an effective date of July 1, 2015.

### **IV. Constitutional Issues:**

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

None.

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<sup>25</sup> Section 1001.47(5)(a), F.S.

<sup>26</sup> Section 1001.47(5)(b), F.S.

<sup>27</sup> Section 1001.47(1), F.S.

<sup>28</sup> See Chapters 2009-3 and 2009-59, Laws of Fla. (district school board members and elected school superintendents); Chapter 2011-158, Laws of Fla. (county commissioners, clerks of circuit court, county comptrollers, sheriffs, supervisors of elections, property appraisers, and tax collectors).

<sup>29</sup> Section 145.09(2), F.S.

<sup>30</sup> Section 145.012, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Beginning in the 2015-2016 fiscal year, elected county officers and school district officials will not experience salary decreases due to any population growth that puts a county into a new population group.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

If the population of a county decreases, such that the county falls into a new smaller population group with a higher group rate, the salaries of county officers and school district officials might still increase, as happened in Jackson County for fiscal year 2011-2012.

**VIII. Statutes Affected:**

This bill substantially amends section 145.19 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 March 17, 2015:**

Clarifies that, in the event that an increase to county population would cause a decrease to county officials' salaries, the county officials would receive the same salary as the previous fiscal year. This salary safeguard is extended to county commissioners, and school board members, in addition to clerks of the circuit court, sheriffs, supervisors of election, property appraisers, tax collectors, and school superintendents.

B. Amendments:

None.

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

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441076

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (3) is added to section 145.19,  
Florida Statutes, to read:

145.19 Annual percentage increases based on increase for  
state career service employees; limitation.—

(3) Notwithstanding subsection (2), s. 1001.395, s.  
1001.47, or any other provision of this chapter to the contrary,



441076

11 beginning in the 2015-2016 fiscal year and continuing each  
12 fiscal year thereafter, a county official's adjusted salary rate  
13 shall be identical to the official's adjusted salary rate in the  
14 prior fiscal year if the official's adjusted salary rate would  
15 otherwise be less than the prior fiscal year's adjusted salary  
16 rate due to the county's shift to a new population group as a  
17 result of a population increase.

18 Section 2. This act shall take effect July 1, 2015.

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

21 And the title is amended as follows:

22 Delete everything before the enacting clause  
23 and insert:

24 A bill to be entitled

25 An act relating to county officials; amending s.  
26 145.19, F.S.; requiring, beginning in a specified  
27 fiscal year, that a county official's adjusted salary  
28 rate be identical to the official's adjusted salary  
29 rate in the prior fiscal year if the official's  
30 adjusted salary rate would otherwise be less than the  
31 prior fiscal year's adjusted salary rate due to  
32 certain circumstances; providing an effective date.

By Senator Montford

3-00926-15

2015782\_\_

1                   A bill to be entitled  
2       An act relating to county officers; amending ss.  
3       145.051, 145.071, 145.09, 145.10, 145.11, and 1001.47,  
4       F.S.; providing that the salaries of a clerk of  
5       circuit court, county comptroller, sheriff, supervisor  
6       of elections, property appraiser, tax collector, and  
7       district school superintendent may not be decreased  
8       under specific circumstances as the county population  
9       increases; amending s. 1001.50, F.S.; conforming a  
10      cross-reference; providing an effective date.

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

13  
14       Section 1. Present subsection (3) of section 145.051,  
15       Florida Statutes, is renumbered as subsection (4), and a new  
16       subsection (3) is added to that section, to read:

17       145.051 Clerk of circuit court; county comptroller.-

18       (3) Notwithstanding any other provision of this section,  
19       the current salary of a clerk of the circuit court or a county  
20       comptroller may not be decreased because the county falls into a  
21       new population group as a result of an increase in the county  
22       population. Once in a new population group, as the population  
23       increases, the salary for such clerk or comptroller shall be  
24       adjusted by the group rate that applies to the new population  
25       group.

26       Section 2. Present subsection (3) of section 145.071,  
27       Florida Statutes, is renumbered as subsection (4), and a new  
28       subsection (3) is added to that section, to read:

29       145.071 Sheriff.-

3-00926-15

2015782\_\_

30       (3) Notwithstanding any other provision of this section,  
31 the current salary of a sheriff may not be decreased because the  
32 county falls into a new population group as a result of an  
33 increase in the county population. Once in a new population  
34 group, as the population increases, the salary for such sheriff  
35 shall be adjusted by the group rate that applies to the new  
36 population group.

37       Section 3. Present subsections (3) and (4) of section  
38 145.09, Florida Statutes, are renumbered as subsections (4) and  
39 (5), respectively, and a new subsection (3) is added to that  
40 section, to read:

41       145.09 Supervisor of elections.—

42       (3) Notwithstanding any other provision of this section,  
43 the existing salary of a supervisor of elections may not be  
44 decreased because the county falls into a new population group  
45 as a result of an increase in the county population. Once in a  
46 new population group, as the population increases, the salary  
47 for such supervisor of elections shall be adjusted by the group  
48 rate that applies to the new population group.

49       Section 4. Present subsection (3) of section 145.10,  
50 Florida Statutes, is renumbered as subsection (4), and a new  
51 subsection (3) is added to that section, to read:

52       145.10 Property appraiser.—

53       (3) Notwithstanding any other provision of this section,  
54 the current salary of a property appraiser may not be decreased  
55 because the county falls into a new population group as a result  
56 of an increase in the county population. Once in a new  
57 population group, as the population increases, the salary for  
58 such property appraiser shall be adjusted by the group rate that

3-00926-15

2015782\_\_

59 applies to the new population group.

60 Section 5. Present subsection (3) of section 145.11,  
61 Florida Statutes, is renumbered as subsection (4), and a new  
62 subsection (3) is added to that section, to read:

63 145.11 Tax collector.—

64 (3) Notwithstanding any other provision of this section,  
65 the current salary of a tax collector may not be decreased  
66 because the county falls into a new population group as a result  
67 of an increase in the county population. Once in a new  
68 population group, as the population increases, the salary for  
69 such tax collector shall be adjusted by the group rate that  
70 applies to the new population group.

71 Section 6. Present subsections (5) and (6) of section  
72 1001.47, Florida Statutes, are renumbered as subsections (6) and  
73 (7), respectively, and a new subsection (5) is added to that  
74 section, to read:

75 1001.47 District school superintendent; salary.—

76 (5) Notwithstanding any other provision of this section,  
77 the current salary of a district school superintendent may not  
78 be decreased because the county falls into a new population  
79 group as a result of an increase in the county population. Once  
80 in a new population group, as the population increases, the  
81 salary for such district school superintendent shall be adjusted  
82 by the group rate that applies to the new population group.

83 Section 7. Present subsection (4) of section 1001.50,  
84 Florida Statutes, is amended to read:

85 1001.50 Superintendents employed under Art. IX of the State  
86 Constitution.—

87 (4) A district school superintendent employed under the

3-00926-15

2015782\_\_

88 terms of this section may participate in the courses of  
89 continuing professional education provided in the special  
90 qualification certification program pursuant to s. 1001.47(4)  
91 and the leadership development and performance compensation  
92 program pursuant to s. 1001.47(6) ~~1001.47(5)~~, as established by  
93 the department. Upon successful completion of the certification  
94 requirements for one or both of these programs, the district  
95 school board may use such certification or certifications as a  
96 factor in determining the amount of compensation to be paid.

97 Section 8. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-17-15  
Meeting Date

782  
Bill Number (if applicable)

Topic County Officers

Amendment Barcode (if applicable)

Name Dale Rabon Guthrie

Job Title Jackson County Clerk of Courts

Address 4445 Lafayette St

Phone 482-9552

Marianna, FL 32446  
City State Zip

Email dguthrie@jacksonclerk.com

Speaking:  For  Against  Information

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

Representing Jackson County Constitutionals + School Superintendent

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

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

**SENATOR BILL MONTFORD**

3rd District

February 20, 2015

Senator Wilton Simpson,  
Chair  
Senate Committee on Community Affairs  
315 Knott Building  
Tallahassee, Florida 32399-1100

Dear Senator Simpson:

I respectfully request that SB 782, a bill relating to County Officers, be scheduled for a hearing before the Senate Community Affairs Committee.

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

Sincerely,

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

William "Bill" Montford  
Senate District 3

WM/md

Cc: Tom Yeatman, Staff Director

REPLY TO:

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

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



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

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

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

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BILL: CS/SB 466

INTRODUCER: Regulated Industries Committee and Senator Flores

SUBJECT: Low-voltage Alarm Systems

DATE: March 17, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 466 amends the definition of Low-voltage Alarm Systems, reduces the maximum permit fee for those systems, and eliminates permit requirements for wireless burglar alarms and smoke detectors. Any electrical device or signaling device used to signal or detect a burglary, fire, robbery, or medical emergency is an alarm system. A system that is hardwired and operates at low voltage (with or without home-automation equipment, thermostats, and video cameras) is a low-voltage alarm system. The bill excludes wireless alarm systems (burglar alarms and smoke detectors) from all permitting requirements of any local enforcement agency with jurisdiction over building inspections and code enforcement, such as a local government, school board, community college, or university.

In addition to providing that permits may not be required in order to install, maintain, inspect, replace or service wireless alarm systems, the bill reduces the maximum charge for a uniform basic permit for a hardwired, low-voltage alarm system from \$55 to \$40. The bill deletes permit fee provisions that expired on January 1, 2015. The bill prohibits a local enforcement agency from requiring the payment of any additional amount associated with the installation or replacement of a hardwire, low-voltage alarm system. The bill authorizes local enforcement agencies to coordinate inspections with the owner or customer of low-voltage alarm system projects to ensure compliance with applicable codes and standards. However, the obligation to take corrective action if a project fails an inspection remains with the alarm system contractor.

The bill provides a July 1, 2015, effective date.

## II. Present Situation:

Part II of ch. 489, F.S., regulates electrical and alarm system contracting. An alarm system is any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.<sup>1</sup> Licensure of electrical and alarm systems contractors is required, and applicants must have sufficient technical experience and be tested on technical and business matters.

Section 489.505, F.S., contains references to various types of contractors that may lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace or service alarm systems. An alarm system contractor means a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to conduct all alarm services for compensation, for all types of alarm systems for all purposes.<sup>2</sup> The term also means any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.<sup>3</sup>

An alarm system contractor whose business includes all types of alarm systems for all purposes is designated as an alarm system contractor I; the business of an alarm system contractor II is identical except that it does not include fire alarm systems.<sup>4</sup>

Alarm system contractors may also hold certificates of competency from the Department of Business and Professional Regulation, which are geographically unlimited.<sup>5</sup> Holders of those certificates are certified alarm system contractors, and the scope of certification is limited to specific alarm circuits and equipment.<sup>6</sup> There is no mandatory licensure requirement created by the availability of certification.<sup>7</sup>

A certified electrical contractor, a certified fire alarm system contractor, a registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, or an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, is not required to complete the training required for fire alarm system agents. A registered electrical contractor is not required to complete the training, provided he or she is only doing electrical work up to the alarm panel.<sup>8</sup>

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<sup>1</sup> See s. 489.505(1), F.S.

<sup>2</sup> See s. 489.505(2), F.S.

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

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

<sup>5</sup> See ss. 489.505(4) and 489.505(5), F.S.

<sup>6</sup> Section 489.505(7), F.S., describes the limitations as those circuits originating in alarm control panels, equipment governed by the Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, as well as the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks.

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

<sup>8</sup> See s. 489.5185(2), F.S.

Part II of ch. 553, F.S., constitutes the Florida Building Codes Act (act). The act provides a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of the Florida Building Code, consisting of a single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities, and to the enforcement of such requirements, for effective and reasonable protection for public safety, health, and general welfare at the most reasonable cost to the consumer.<sup>9</sup>

Pursuant to s. 553.88, F.S., the current edition of the following standards are in effect for the purpose of establishing minimum electrical and alarm standards in Florida:

- National Electrical Code, NFPA<sup>10</sup> No. 70;
- Underwriters' Laboratories, Inc. (UL), Standards for Safety, Electrical Lighting Fixtures, and Portable Lamps, UL 57 and UL 153;
- Underwriters' Laboratories, Inc., Standard for Electric Signs, UL 48;
- The provisions of the following which prescribe minimum electrical and alarm standards:
  - NFPA No. 56A, Inhalation Anesthetics;
  - NFPA No. 56B, Respiratory Therapy;
  - NFPA No. 56C, Laboratories in Health-related Institutions;
  - NFPA No. 56D, Hyperbaric Facilities;
  - NFPA No. 56F, Nonflammable Medical Gas Systems;
  - NFPA No. 72, National Fire Alarm Code;
  - NFPA No. 76A, Essential Electrical Systems for Health Care Facilities;
- The rules and regulations of the Department of Health, entitled "Nursing Homes and Related Facilities Licensure; and
- The minimum standards for grounding of portable electric equipment, ch. 8C-27, F.A.C., as recommended by the Division of Workers' Compensation, Department of Financial Services.

Section 553.71(5), F.S., provides that a local enforcement agency<sup>11</sup> is an agency with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities. A number of local governments require permitting or registration of burglar alarm systems, often to address the volume of false alarms reported to law enforcement. Local governments that may have permit requirements for burglar alarm systems include:

- The counties of Alachua, Lee, Martin, Palm Beach, and St. Lucie; and

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<sup>9</sup> See s. 553.72(1), F.S.

<sup>10</sup> NFPA is the acronym for the National Fire Protection Association, which is an international nonprofit organization established in 1896. Its mission is to reduce the worldwide burden of fire and other hazards on the quality of life by providing and advocating consensus codes, standards, research, training and education. NFPA develops, publishes, and disseminates more than 300 consensus codes and standards intended to minimize the possibility and effects of fire and other risks. See <http://www.nfpa.org/about-nfpa> (last visited Mar. 13, 2015).

<sup>11</sup> Section 553.71(5), F.S., of the Florida Building Codes Act defines local enforcement agency as an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.

- The cities of Boca Raton, Cape Coral, Clearwater, Cutler Bay, Deerfield Beach, Doral, Gainesville, Hollywood, Largo, Miami, Miami Beach, Miami Gardens, Miramar, North Lauderdale, North Miami Beach, Palatka, Palm Bay, Pembroke Pines, Plantation, Pompano Beach, Riviera Beach, St. Petersburg, Sarasota, Sunny Isles, and West Palm Beach.<sup>12</sup>

Many of these local governments require a permit to be submitted to the local law enforcement agency. For example, the County of Palm Beach requires a permit to be submitted to the Palm Beach County Sheriff's Office with a \$25 application fee. The permit must be renewed annually. Failure to submit an application for a permit results in a "no response" to the alarm system and a fine of \$260.00 per "incident."<sup>13</sup> The purpose of these types of permits is to:

In concert with the county sheriff's office commitment to problem solving policing, the purpose of this article is to prevent false alarm activations that require the sheriff's office to respond. Deputies responding to false alarms are more wisely utilized preventing crime and solving neighborhood crime problems. This article is a cooperative effort among the board of county commissioners, the Alarm Association of Florida and the county sheriff's office to prevent false alarm activations in the most effective manner.<sup>14</sup>

One industry company report on fees for basic hardwire installation reflected that as of 2013, permitting fees ranged from \$25 to fees of several thousand dollars.<sup>15</sup> In accordance with the provisions of ch. 2013-203, Laws of Florida, as of October 1, 2013, the charges that could be made for low-voltage alarm system permits were limited. For local enforcement agencies that charged:<sup>16</sup>

- More than \$55 for those permits before January 1, 2013, the same amount could still be charged but only until January 1, 2015; and
- More than \$175 for those permits before January 1, 2013, only a maximum of \$175 could still be charged, but only until January 1, 2015.

After January 1, 2015, the maximum charge that may be imposed by any local enforcement agency is \$55.<sup>17</sup>

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<sup>12</sup> For a longer list, compiled by an alarm system industry merchant, see Geoarm, *Florida Alarm Monitoring Permits for Emergency Dispatch Services*, available at <http://www.geoarm.com/florida-alarm-monitoring-permits.html> (last visited Mar. 13, 2015).

<sup>13</sup> See [http://www.pbso.org/documents/Burglar\\_Alarm\\_Permit\\_Form.pdf](http://www.pbso.org/documents/Burglar_Alarm_Permit_Form.pdf) (Last visited Mar. 13, 2015) and Palm Beach County Ordinance 2008-038, codified at art. III, s. 16-51 et seq., Code of Ordinances, Palm Beach County, at [https://www.municode.com/library/fl/palm\\_beach\\_county/codes/code\\_of\\_ordinances?searchRequest=%7B%22searchText%22:%22part%20III,%20section%2016%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=PABECOCO\\_CH16LAEN\\_ARTIII.A](https://www.municode.com/library/fl/palm_beach_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22part%20III,%20section%2016%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=PABECOCO_CH16LAEN_ARTIII.A). (Last visited Mar. 13, 2015).

<sup>14</sup> Section 16-52, Purpose, Code of Ordinances, Palm Beach County.

<sup>15</sup> E-mail from Jorge Chamizo, Floridian Partners, LLC to B. Imhof, Staff Director (Apr. 7, 2013) (on file with the Senate Committee on Regulated Industries).

<sup>16</sup> See s. 553.793(4), F.S.

<sup>17</sup> *Id.*

### III. Effect of Proposed Changes:

The definition of a low-voltage alarm system project is amended to exclude wireless burglar alarm and smoke detector systems. The bill amends the requirements for permitting by a local enforcement agency, by providing that permits for the installation, maintenance, inspection, replacement or servicing of wireless burglar alarm and smoke detector systems are not required. Local enforcement agencies may not charge more than \$40 for a permit, and may not require any other charge, for installation or replacement of new or existing hardwired, low-voltage alarm system. The bill deletes permit fee provisions that expired on January 1, 2015.

The bill provides that a local enforcement agency may not request “any” information for issuance of labels for purchase by a contractor other than identification information and proof of registration or licensure as a contractor. Existing law states that local enforcement agencies may not require “the submission of information other than,” but the meaning of the phrase has been disputed, according to industry representatives.

The bill provides that a local enforcement agency may coordinate with the owner or customer to inspect a low-voltage alarm system project to ensure compliance with applicable codes and standards, but leaves intact the requirement that if the project fails inspections, corrective action must be undertaken by the alarm system contractor.

The bill provides that a municipality, county, district, or other entity of local government may not adopt or maintain in effect “any” ordinance or rule regarding a low-voltage alarm system project inconsistent with s. 553.793, F.S. Existing law states that those entities may not adopt or maintain in effect “an” ordinance or rule inconsistent with s. 553.793, F.S., but the meaning of the phrase has also been disputed, according to industry representatives.

### IV. Constitutional Issues:

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

The bill reduces the authority that counties have to raise revenues. Article VII, section 18(b) of the Florida Constitution requires any general law that reduces a local government’s authority to raise revenues in the aggregate to be passed by a two-thirds vote of the membership of each house of the Legislature unless certain exemptions apply.<sup>18</sup>

If the fiscal impact of the bill is insignificant, the bill would be exempt under Art. VII, s. 18(d) of the Florida Constitution. Although the Revenue Estimating Commission has not yet estimated the impact of this bill on local revenues, the impact of the bill may be insignificant. An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year,<sup>19</sup> which equals approximately \$1.95 million.<sup>20</sup>

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<sup>18</sup> FLA. CONST. art. VII, s. 18(b).

<sup>19</sup> FLA. CONST. art. VII, s. 18(d)

<sup>20</sup> The population of Florida is reported as 19,507,369. University of Florida Bureau of Economic and Business Research, Population Studies Program, available at <http://www.bebr.ufl.edu/population> (last visited Mar. 13, 2015).

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

The bill reduces the maximum amount that may be charged for a permit for a hardwired, low-voltage alarm system by \$15 (from \$55 to \$40), and prohibits any other charges for installation or replacement of such systems. The bill provides that no permits are required for burglar alarm systems or smoke detectors that are not hardwired (wireless alarms and detectors). This will reduce or eliminate permitting costs associated with these systems and detectors.

**C. Government Sector Impact:**

Revenues of local enforcement agencies may be impacted by the elimination of permitting fees for wireless alarm systems (burglar alarms and smoke detectors), and the reduction in the maximum charge (from \$55 to \$40 each) that may be made for a permit for a hardwired low-voltage alarm system. The Department of Business and Professional Regulation estimates no fiscal impact to state government.<sup>21</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

A possible conflict with the requirements of the Florida Building Code regarding smoke detectors has been noted by the Department of Business and Professional Regulation.<sup>22</sup> The Florida Building Code, 5th Edition (2014) (the 2014 Florida Building Code), as updated by the Florida Building Commission on November 13, 2014, has been adopted as the building code for the State of Florida, with an effective date of June 30, 2015.<sup>23</sup> The 2014 Florida Building Code is copyrighted, but is available for public inspection and examination at the Department of State.<sup>24</sup>

<sup>21</sup> See Department of Business and Professional Regulation, *Legislative Bill Analysis for HB 413* (Feb. 9, 2015), at page 3.

<sup>22</sup> *Id.* at page 2, referencing the “2010 Florida Building Code, Residential.”

<sup>23</sup> See Rule 61G20-1.001, F.A.C., at <https://www.flrules.org/gateway/ruleNo.asp?id=61G20-1.001> (last visited Mar. 13, 2015).

<sup>24</sup> *Id.* A draft of the 2014 Florida Building Code has been made available in a read-only format by the International Code Council, Inc. (ICC) at [http://ecodes.biz/ecodes\\_support/free\\_resources/14FloridaDraft/Building/14FL\\_Building\\_Draft.html](http://ecodes.biz/ecodes_support/free_resources/14FloridaDraft/Building/14FL_Building_Draft.html)

Part IV of ch. 553, F.S., is titled as the Florida Building Codes Act.<sup>25</sup> The bill does not eliminate the requirements set forth in the current or forthcoming 2014 Florida Building Code regarding smoke alarms, as to whether they must be hardwired or may be powered by battery. In the event that a wireless alarm system is installed by an alarm systems contractor, no permit fee may be imposed by the local enforcement agency. However, the local enforcement agency has jurisdiction to regulate building construction and may determine that a wireless alarm system does not meet the requirements of the Florida Building Code in effect.<sup>26</sup>

#### **VIII. Statutes Affected:**

This bill substantially amends section 553.793 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 Regulated Industries on March 4, 2015:**

Prohibits a local enforcement agency from requiring the payment of any additional amount associated with the installation or replacement of a hardwire, low-voltage alarm system.

- B. **Amendments:**

None.

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

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(last visited Mar. 13, 2015). The ICC was founded in 1994 by the Building Officials and Code Administrators International, Inc. (BOCA), International Conference of Building Officials (ICBO), and Southern Building Code Congress International, Inc. (SBCCI). As regional building codes began to lose their usefulness in a national context, the ICC developed International Codes, which are a set of comprehensive, coordinated building safety and fire prevention codes.

<sup>25</sup> See ss. 553.70 through 553.898, F.S.

<sup>26</sup> See s. 553.80, F.S.

By the Committee on Regulated Industries; and Senator Flores

580-01940-15

2015466c1

1                   A bill to be entitled  
2           An act relating to low-voltage alarm systems; amending  
3           s. 553.793, F.S.; revising the definition of the term  
4           "low-voltage alarm system project" and adding the  
5           definition of the term "wireless alarm system";  
6           providing that a permit is not required to install,  
7           maintain, inspect, replace, or service a wireless  
8           alarm system and its ancillary components; reducing  
9           the maximum price for permit labels for alarm systems;  
10          prohibiting a local enforcement agency from requiring  
11          the payment of any additional fees, charges, or  
12          expenses associated with the installation or  
13          replacement of a new or existing alarm system;  
14          authorizing a local enforcement agency to coordinate  
15          the inspection of certain alarm system projects;  
16          providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20           Section 1. Subsections (1), (2), (4), (8), and (9) of  
21           section 553.793, Florida Statutes, are amended to read:

22           553.793 Streamlined low-voltage alarm system installation  
23           permitting.—

24           (1) As used in this section, the term:

25           (a) "Contractor" means a person who is qualified to engage  
26           in the business of electrical or alarm system contracting  
27           pursuant to a certificate or registration issued by the  
28           department under part II of chapter 489.

29           (b) "Low-voltage alarm system project" means a project



580-01940-15

2015466c1

30 related to the installation, maintenance, inspection,  
31 replacement, or service of a new or existing alarm system, as  
32 defined in s. 489.505, that is hardwired and operating at low  
33 voltage, as defined in the National Electrical Code Standard 70,  
34 Current Edition, and ancillary components or equipment attached  
35 to such a system, including, but not limited to, home-automation  
36 equipment, thermostats, and video cameras.

37 (c) "Wireless alarm system" means a burglar alarm system or  
38 smoke detector that is not hardwired.

39 (2) Notwithstanding any provision of law, this section  
40 applies to all low-voltage alarm system projects for which a  
41 permit is required by a local enforcement agency. However, a  
42 permit is not required to install, maintain, inspect, replace,  
43 or service a wireless alarm system, including any ancillary  
44 components or equipment attached to the system.

45 (4) A local enforcement agency shall make uniform basic  
46 permit labels available for purchase by a contractor to be used  
47 for the installation or replacement of a new or existing alarm  
48 system at a cost of not more than \$40 ~~\$55~~ per label per project  
49 per unit. The local enforcement agency may not require the  
50 payment of any additional fees, charges, or expenses associated  
51 with the installation or replacement of a new or existing alarm  
52 system. ~~However, a local enforcement agency charging more than~~  
53 ~~\$55, but less than \$175, for such a permit as of January 1,~~  
54 ~~2013, may continue to charge the same amount for a uniform basic~~  
55 ~~permit label until January 1, 2015. A local enforcement agency~~  
56 ~~charging more than \$175 for such a permit as of January 1, 2013,~~  
57 ~~may charge a maximum of \$175 for a uniform basic permit label~~  
58 ~~until January 1, 2015.~~

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59 (a) A local enforcement agency may not require a  
60 contractor, as a condition of purchasing a label, to submit any  
61 information other than identification information of the  
62 licensee and proof of registration or certification as a  
63 contractor.

64 (b) A label is valid for 1 year after the date of purchase  
65 and may only be used within the jurisdiction of the local  
66 enforcement agency that issued the label. A contractor may  
67 purchase labels in bulk for one or more unspecified current or  
68 future projects.

69 (8) A local enforcement agency may coordinate directly with  
70 the owner or customer to inspect a low-voltage alarm system  
71 ~~project may be inspected by the local enforcement agency to~~  
72 ensure compliance with applicable codes and standards. If a low-  
73 voltage alarm system project fails an inspection, the contractor  
74 must take corrective action as necessary to pass inspection.

75 (9) A municipality, county, district, or other entity of  
76 local government may not adopt or maintain in effect any ~~an~~  
77 ordinance or rule regarding a low-voltage alarm system project  
78 that is inconsistent with this section.

79 Section 2. This act shall take effect July 1, 2015.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/17/15

*Meeting Date*

SB 466

*Bill Number (if applicable)*

Topic Low-voltage Alarm Systems

*Amendment Barcode (if applicable)*

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St.

Phone 224-7173

*Street*

Tallahassee

FL

32301

Email bbevis@aif.com

*City*

*State*

*Zip*

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17/15

Meeting Date

466

Bill Number (if applicable)

Topic Low Voltage Alarm

Amendment Barcode (if applicable)

Name Casey Reed

Job Title State Director - Leg. Affairs

Address 150 E College Ave

Phone 850 591-6002

Street

Tallahassee FL 32301

Email CR8243@ATT.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing AT & T

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17/2015

Meeting Date

466

Bill Number (if applicable)

Topic Low Voltage Alarm Permits

Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 South Monroe Street

Phone (850) 681-0024

Street

Tallahassee FL 32301

Email jorge@flapartners.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing ADT & The Florida Cable Telecom. 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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THE FLORIDA SENATE

APPEARANCE RECORD

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

3.17.15  
Meeting Date

SB 464  
Bill Number (if applicable)

Topic LOW VOLTAGE ALARMS

Amendment Barcode (if applicable)

Name MEGAN SIRJANE-SAMPLES

Job Title LEGISLATIVE ADVOCATE

Address P.O. BOX 1757

Phone 850.701.3655

Street

TALLAHASSEE FL 32301

City

State

Zip

Email MSIRJANESAMPLES@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.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/15

Meeting Date

0466

Bill Number (if applicable)

Low-voltage Alarm Systems

Amendment Barcode (if applicable)

Stefanie Bowden

Sr. Government Affairs Specialist

3760 Hartsfield Rd.  
Street

Phone 850-574-41069

Tall FL 32303  
City State Zip

Email Stefanie-Bowden@comcast.com

Speaking:  For  Against  Information

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

Representing Comcast

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** March 9, 2015

---

I respectfully request that **Senate Bill #466**, relating to Low-Voltage Alarm Systems, be placed on the:

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

A handwritten signature in cursive script that reads "Anitere Flores".

---

Senator Anitere Flores  
Florida Senate, District 37



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

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

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

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BILL: SB 972

INTRODUCER: Senator Flores

SUBJECT: Value Adjustment Boards

DATE: March 17, 2015

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

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

---

**I. Summary:**

SB 972 makes several changes to value adjustment board (VAB) proceedings. The bill:

- Requires a petition to be signed by the taxpayer, or be accompanied by the taxpayer's written authorization for representation which is only valid for one tax year;
- Specifies which agents may represent petitioners before the board, limiting representation to certain professionals;
- Requires the property appraiser to notify the petitioner when the property record card is available online;
- Limits a petitioner's one-time ability to reschedule a hearing, for good cause only;
- Fixes a new percentage rate for accrual of interest, that may be due to either unpaid amounts or for overpayments that lead to refunds;
- Allows district school boards and district county commissions to audit expenses related to the VAB process;
- Specifies an ending date of June 1 for the hearing process, requiring the board to hear all petitions, complaints, appeals, and disputes, unless the board of county commissioners extends the assessment roll;
- Requires VABs to submit final assessment rolls, with attached certificates, to the property appraiser by June 1 following the tax roll year;
- Establishes an enhanced review process by which the Department of Revenue may conduct a review of value adjustment board proceedings for counties that receive 10,000 or more petitions objecting to assessments in any one tax year.

The bill provides an effective date of July 1, 2015.

## II. Present Situation:

### Overview of the Ad Valorem Process

Article VII, s. 4 of the Florida Constitution reserves ad valorem taxation to local governments, stating that “[b]y general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation...”<sup>1</sup> County property appraisers establish each property’s just,<sup>2</sup> or market, value as of January 1 of each year and apply any valid exemptions, classifications, or assessment limitations to determine the parcel’s taxable value. Local taxing authorities set a millage rate (i.e., tax rate) that is levied on the property’s taxable value. Each August, county property appraisers send property owners a Notice of Proposed Property Taxes (TRIM Notice), which identifies the just, assessed, and taxable value of the parcel and the tax that will be due based on the millage rates proposed by local governments.<sup>3</sup> Property owners who disagree with the county property appraiser assessment of their property’s valuation or who have been denied an exemption or property classification may:

- Request an informal meeting with the property appraiser;<sup>4</sup>
- Appeal to the county value adjustment board;<sup>5</sup> or
- Challenge the assessment in circuit court.<sup>6</sup>

Tax collectors collect all ad valorem taxes levied by the county, school district, municipalities, and any special taxing districts within the county, and then distribute the taxes to each taxing authority.<sup>7</sup> Property taxes are due November 1 or as soon thereafter as the certified tax roll is received by the tax collector.<sup>8</sup> Pending any appeals, unpaid taxes are delinquent after March 31 of the following year.

### Value Adjustment Boards

Chapter 194, F.S., provides for administrative and judicial review of tax assessments. Each county in Florida has a value adjustment board (VAB) composed of five members<sup>9</sup> that reviews appeals of the ad valorem tax decisions made by county property appraisers.<sup>10</sup> A property owner may petition the VAB to review the property appraiser’s assessment of real or tangible personal property or the denial of an exemption or classification. The VAB hears evidence from both

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<sup>1</sup> Article VII, s. 4, Fla. Const. and Article IX, s. 1, Fla. Const. of 1885 (“The Legislature shall provide for a uniform and equal rate of taxation, and shall prescribe such regulations as shall secure a just valuation of all property...”).

<sup>2</sup> In arriving at just valuation, the county property appraiser takes into consideration the eight factors enumerated in s. 193.011, F.S. In 1965, the Supreme Court in *Walter v. Shuler* made the oft-quoted statement that just valuation is legally synonymous with market value and that it “may be established by the classic formula that it is the amount ‘a purchaser willing but not obliged to buy, would pay to one willing but not obliged to sell.’” 176 So. 2d 81, 86 (Fla. 1965); see also *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973); *Holly Ridge Ltd. Partnership v. Pritchett*, 936 So. 2d 694 (Fla. 5th DCA 2006).

<sup>3</sup> Section 200.069, F.S.

<sup>4</sup> Section 194.011(2), F.S.

<sup>5</sup> Section 194.011(3), F.S.

<sup>6</sup> Section 194.171, F.S.

<sup>7</sup> Section 197.383, F.S.

<sup>8</sup> Section 197.333, F.S.

<sup>9</sup> Section 194.015, F.S.

<sup>10</sup> Section 194.011, F.S.

petitioners and property appraisers as to whether properties are appraised at their fair market value, as well as issues related to tax exemptions, deferments, and portability.<sup>11</sup>

### **Composition of Value Adjustment Boards**

Section 194.015, F.S., requires that each county have a VAB consisting of five members as follows:

- Two members of the governing body of the county.
- One member of the school board elected by membership of the school board.
- One citizen appointed by the governing body of the county. The citizen must own homestead property within the county.
- One citizen appointed by the school board. This person must own a business occupying commercial space within the school district.

The statute provides that a quorum of three members of the board must include at least:

- One member of the governing body of the county.
- One member of the school board.
- One citizen member.

In addition, s. 194.035, F.S., requires counties with a population greater than 75,000 to hire special magistrates to conduct valuation hearings. Before conducting hearings, a board must hold an organizational meeting to appoint special magistrates and legal counsel and to perform other administrative functions.<sup>12</sup> Special magistrates must meet the following qualifications:

- A special magistrate appointed to hear issues of exemptions and classifications shall be a member of The Florida Bar with not less than 5 years experience in the area of ad valorem taxation.
- A special magistrate appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than 5 years experience in real property valuation.
- A special magistrate appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than 5 years experience in tangible personal property valuation.

Section 194.015, F.S., provides in part that the board shall appoint private counsel who has practiced law for over 5 years and who shall receive such compensation as may be established by the board. The private counsel may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes. No meeting of the board shall take place unless counsel to the board is present.

### **Petition Process for VAB Hearing**

Property appraisers establish the value of taxable property by January 1 each year, and review and apply exemptions, assessment limitations, and classifications that may reduce a property's

---

<sup>11</sup> Additionally, VABs appoint special magistrates, who are qualified real estate appraisers, personal property appraisers or attorneys, to act as impartial agents in conducting hearings and making recommendations on all petitions.

<sup>12</sup> Section 194.011(5)(a)2., F.S.

taxable value.<sup>13</sup> VABs have no authority to review, by their own motion, the determinations of the property appraiser.<sup>14</sup> Rather, the property owner files a petition to initiate a review, which may cost up to \$15 per petition.<sup>15</sup>

The Florida Department of Revenue (DOR), in their property tax oversight role, maintains a calendar indicating when the petition process begins (early March), and when petitions must be received by (mid-September), each year.<sup>16</sup> VAB petitions may be found at the DOR website,<sup>17</sup> the County Property Appraiser's office, and in most counties at the office or website of the VAB Clerk. The clerk of the value adjustment board<sup>18</sup> is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling appearances before the value adjustment board.

Prior to the hearing, an exchange of evidence can take place between the petitioner and the property appraiser, if so requested in writing. Regardless of whether petitioners initiate an evidence exchange, the property appraiser is required to provide the property record card<sup>19</sup> to petitioners on receipt of the petition, unless the property record card is available online from the property appraiser.<sup>20</sup>

### **Property Record Cards**

Property appraisers maintain records of assessment information for assessed properties. A property's record of information is often referred to as the "property record card." On a petition to the VAB, a petitioner may elect to receive a copy of the property record card. Prior to 2013, the clerk of the VAB was required to provide a copy of the card when the petitioner made the election on the petition. Section 8, ch. 2013-109, Laws of Florida, shifted this responsibility from the clerk of the VAB to the property appraiser; however, the law did not conform s. 194.011(4)(b), F.S., to recognize this change.

### **Interest Collected on Unpaid Amounts and Paid as a Refund**

Section 194.014, F.S., provides a fixed percentage rate for interest on amounts the petitioner owes or has overpaid. If the VAB determines that the petitioner owes ad valorem taxes in excess of the amount paid, the unpaid amount accrues interest at the rate of 12 percent per year from the date the taxes became delinquent until the unpaid amount is paid. If the VAB determines a refund is due, the overpaid amount similarly accrues interest at the rate of 12 percent per year from the date the taxes became delinquent until a refund is paid. Interest does not accrue on amounts paid in excess of 100 percent of the current taxes due as provided on the tax notice issued.

---

<sup>13</sup> For timeframes and instructions on filing, see Dep't of Revenue, *Petitions to the Value Adjustment Board*, <http://dor.myflorida.com/dor/property/brochures/pt101.pdf> (last visited Mar. 11, 2015).

<sup>14</sup> See Chapter 2013-95, ss. 1-4, Laws of Fla. (CS/HB 1193).

<sup>15</sup> Section 190.013, F.S.

<sup>16</sup> See the most recent calendar for exact dates. Dep't of Revenue, *Value Adjustment Board Calendar*, <http://dor.myflorida.com/dor/property/cofficials/pdf/pt902020.pdf> (last visited Mar. 11, 2015).

<sup>17</sup> See Florida Administrative Code (FAC) 12D-9.015; Dep't of Revenue, *Value Adjustment Board Forms and Calendar*, <http://dor.myflorida.com/dor/property/forms/index.html#11> (last visited Mar. 11, 2015) (listed as Form DR-486).

<sup>18</sup> The county clerk usually serves as the clerk of the value adjustment board. Section 194.015, F.S.

<sup>19</sup> A property record card contains relevant information used in computing the petitioner's current assessment.

<sup>20</sup> Section 194.032(2)(a), F.S.; see Chapter 2013-109, s. 8, Laws of Fla. (SB 556).

## Department of Revenue Oversight

The DOR supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.<sup>21</sup> Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.<sup>22</sup>

Assessment rolls must be submitted to the DOR on or before July 1.<sup>23</sup> By definition, “complete submission of the rolls” includes, but is not limited to:

- Accurate tabular summaries of valuations as prescribed by DOR rule;
- An electronic copy of the real property assessment roll including for each parcel total value of improvements, land value, the recorded selling prices, other ownership transfer data required for an assessment roll, the value of any improvement made to the parcel in the 12 months preceding the valuation date, the type and amount of any exemption granted, and such other information as may be required by DOR rule;
- An accurate tabular summary by property class of any adjustments made to recorded selling prices or fair market value in arriving at assessed value, as prescribed by DOR rule;
- An electronic copy of the tangible personal property assessment roll, including for each entry a unique account number and such other information as may be required by DOR rule; and
- An accurate tabular summary of per-acre land valuations used for each class of agricultural property in preparing the assessment roll, as prescribed by DOR rule.<sup>24</sup>

The DOR uses Form DR-493, promulgated through rule 12D-8.002(4), F.A.C., to track the adjustments made to fair market value.

Section 194.011, F.S., provides in part that the DOR is required to develop:

- Uniform procedures for hearings before the value adjustment board, and
- A policies and procedures manual for value adjustment boards, special magistrates, and property owners to use in proceedings before the value adjustment board.

In addition, s. 194.035(3), F.S., provides that the DOR shall provide and conduct training for special magistrates at least once each state fiscal year in at least five locations throughout the state. Such training emphasizes the DOR standard measures of value, including the guidelines for real and tangible personal property. A person who has three years of relevant experience and who has completed the training provided by the DOR may be appointed as a special magistrate. The training is open to the public.

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<sup>21</sup> Section 195.002, F.S.

<sup>22</sup> Chapter 195, F.S.

<sup>23</sup> Section 193.1142, F.S.

<sup>24</sup> Section 192.001(18), F.S.

## **Review of Value Adjustment Boards by the Department of Revenue**

Section 194.036(1)(c), F.S., relating to appeals of decisions of the VAB provides that the property appraiser may appeal a decision to the circuit court. However, first, the property appraiser must notify the DOR that he or she believes that there exists a “consistent and continuous violation of the intent of the law or administrative rules by the value adjustment board in its decisions” and provide the DOR with certain supporting information. If the DOR finds upon investigation that a consistent and continuous violation of the intent of the law or administrative rules by the board has occurred, it informs the property appraiser, who may then bring suit in circuit court against the VAB for injunctive relief to prohibit continuation of the violation of the law or administrative rules and for a mandatory injunction to restore the tax roll to its just value in such amount as determined by judicial proceeding. Effected taxpayers have 60 days from the date of the final judicial decision to file an action to contest any altered or changed assessment.

## **Recommendations Concerning the VAB Process**

In a December 2010 report,<sup>25</sup> the Office of Program Policy Analysis and Government Accountability found that counties and other participants in the VAB process were likely incurring increased costs, and the time county boards take to complete the process varies, but has increased in recent years due to factors such as:

- Growing numbers of petitions,
- Recent changes in state law and administrative rules, and
- Involvement of property tax representatives.

The Office of Program Policy Analysis and Government Accountability recommended that “if the Legislature wishes to make additional changes to the value adjustment board process, it could consider options to (1) shorten the process; (2) address costs and other fiscal implications; and (3) increase accountability.”

In its March 2015 internal audit report,<sup>26</sup> the Miami-Dade County Public Schools Office of Management and Compliance Audits makes 11 recommendations concerning the VAB process. The audit explains that delays to the final certification of the county’s tax roll negatively and significantly affect the school district’s ability to fund its operations. The Miami-Dade audit notes that the number of days between the first and last hearing date by the VAB was 802 days in tax year 2009, 535 days in tax year 2010, 492 days in tax year 2011, and 519 days in tax year 2012. Having such a lag in reporting the final tax roll to DOR restricts the school district’s revenue, and may affect its ability to receive full funding in the appropriations bill in the year appropriated by the Florida Legislature. The audit found:

- Inconsistencies between rules and statute, particularly as it pertains to DOR rules on rescheduling hearings;
- Lack of compliance with statutes and rules, such as petitions presented by unlicensed agents without signed or written authorization from the taxpayer; and

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<sup>25</sup> The Florida Legislature Office of Program Policy Analysis and Government Accountability, *Time and Costs Are Increasing for Counties to Complete the Value Adjustment Board Process*, Report No. 10-64 (Dec. 2010).

<sup>26</sup> Miami-Dade County Public Schools Office of Management and Compliance Audits, *Audit of the Miami-Dade County Value Adjustment Board (VAB) Appeals Process – Phase 1* (March 2015).

- Internal control weakness, with one example being no limitation placed on the incentive to overpay and collect interest at 12 percent annual percentage rate.

### **Taxpayer Bill of Rights**

The Florida Statutes set forth a general taxpayer bill of rights in s. 213.015, F.S., and a property tax specific taxpayer bill of rights in s. 192.0105, F.S. The Florida Taxpayer's Bill of Rights for property taxes and assessments was created to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. These rights are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the DOR. Section 192.0105, F.S., sets forth the taxpayer rights along with cross references to where those rights are effectuated. The rights are categorized as follows: the right to know, the right to due process, the right to redress, and the right to confidentiality.

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

**Section 1** conforms provisions in s. 192.0105, F.S., the Taxpayer Bill of Rights, to changes made in Section 7 of the bill, specifying the types of agents that may represent a petitioner before a VAB.

**Section 2** amends s. 193.122, F.S., to provide a date certain that VABs must submit final assessment rolls, with attached certificates, to the property appraiser. The bill provides a date of "June 1 following the tax roll year" to do so.

**Section 3** amends s. 194.011, F.S., to provide an additional requirement for what constitutes a valid petition. The bill requires a petition to be signed by the taxpayer or be accompanied by the taxpayer's written authorization for representation. A new written authorization for representation is required yearly, as it is only valid for one tax year.

**Section 4** amends s. 194.014, F.S., to fix a new percentage rate for accrual of interest due to either unpaid amounts or for overpayments that lead to refunds. By fixing the interest rate to "an annual percentage rate equal to the prime rate as published in the Wall Street Journal on July 1 of the tax roll," instead of a flat 12 percent, payments on delinquent accounts, and refunds will become responsive to market changes.

**Section 5** amends s. 194.015, F.S., to allow district school boards and district county commissions to audit expenses related to the VAB process.

**Section 6** amends s. 194.032, F.S., to specify an ending date for the hearing process. The bill requires the board to hear all petitions, complaints, appeals, and disputes, and submit the certified assessment roll to the property appraiser by June 1, unless the board of county commissioners extends the assessment roll. Additionally, the property appraiser must notify the petitioner when the property record card is available online, and a petitioner may only reschedule a hearing one time, for good cause.

**Section 7** amends s. 194.034, F.S., to specify which agents may represent petitioners before the board, limiting representation to these professionals: a corporate representative of the taxpayer, an attorney, a licensed property appraiser, a licensed realtor, a certified public accountant, or a certified tax specialist retained by the taxpayer.

**Section 8** creates s. 194.038, F.S., which elaborates the process by which the DOR may conduct a review of VAB proceedings for certain counties. Upon receiving 10,000 or more petitions objecting to assessments under s. 194.011, F.S., in any one tax year, a county must notify DOR.<sup>27</sup> If DOR conducts a review, it has 9 months to do so from the time that it receives notification. The review would involve:

- A determination of whether the values derived by the board comply with s. 193.011, F.S., and professionally accepted appraisal practices. The county must submit a verbatim copy of proceedings.
- A statistical sampling of petitions that requested a change in the assessment for each classification of property set forth in s. 194.037(2), F.S.
- Adherence, by the DOR, to all standards that VABs are required to adhere.<sup>28</sup>
- Cooperation between the DOR and the VAB in conducting the review, such that each makes available all matters and records bearing on the review. The VAB must provide data requested by the DOR, including documentary evidence presented during the proceedings and written decisions rendered.

The DOR must publish results of its review online and notify relevant governmental entities. Publication on the DOR website would include the following for each parcel:

- Owner's name;
- Property address;
- Identification number of the property as used by the VAB clerk;
- Name of the special magistrate who heard the petition;
- Initial just value derived by the property appraiser; and
- Any change to just value made by the VAB.

Whereas, a property appraiser may currently bring suit in circuit court against the VAB for injunctive relief when DOR finds that a "consistent and continuous violation of the intent of the law or administrative rules by the board" has occurred,<sup>29</sup> the review process contemplated by this section of the bill would also provide a definition of a "continuous" violation. A VAB is in continuous violation of the intent of the law if DOR determines that less than 90 percent of the petitions randomly sampled comply with the criteria in s. 193.011, F.S., and professionally accepted appraisal practices.

The bill provides the DOR with rule-making authority to administer the reviews described in this section.

**Section 9** conforms provisions in s. 195.002, F.S., related to DOR's supervisory role, to include the "administrative review of value adjustment boards."

<sup>27</sup> Based on petition count reports, only Miami-Dade and Broward have exceeded 10,000 petitions in the last three years.

<sup>28</sup> The VABs must follow requirements in Chapter 194, F.S., and Chapter 12D-9, F.A.C.

<sup>29</sup> Section 194.036(1)(c), F.S.



**Section 10** provides an effective date of July 1, 2015.

#### **IV. Constitutional Issues:**

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. Other Constitutional Issues**

The Florida Supreme Court has interpreted the separation of powers requirement found in Article II, section 3 of the Florida Constitution, as having two facets: first, that “no branch of government may encroach on another branch’s power,” and second, that no branch may delegate its constitutionally assigned powers to another branch.

The second of these prohibitions is known as the nondelegation doctrine. While the Legislature may transfer subordinate functions to executive branch agencies without violating the nondelegation doctrine, it may not transfer the power to enact a law or the right to exercise unrestricted discretion in applying the law. Furthermore, the Legislature may not delegate its authority “absent ascertainable minimal standards and guidelines.”

Section 8 of the bill affords DOR the discretion to initiate reviews, and also provides DOR a general grant of rulemaking power. It is unclear what will trigger DOR’s review of the VAB, or guidelines for how they should implement a rule regarding whether to begin the review process. Lines 258-259, simply state that: “the DOR may conduct a review of the value adjustment board proceedings.” It is unclear whether this bill language provides DOR a right to exercise unrestricted discretion in applying the law in violation of the nondelegation doctrine.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

By shortening the VAB process, addressing costs, and increasing accountability, the bill may allow tax collectors to distribute ad valorem taxes more quickly to counties, school districts, municipalities, and any special taxing districts.

**B. Private Sector Impact:**

By increasing accountability of the VAB process, the bill may make the VAB process more efficient and easier to navigate for petitioners and their authorized agents.

**C. Government Sector Impact:**

DOR has analyzed the bill and commented on the enhanced review process for counties receiving 10,000 or more petitions objecting to assessments in a single tax year.<sup>30</sup> Since the petition filing deadline generally occurs in late September, the DOR will likely receive these notifications in October, and must complete the review no later than 9 months after receiving the notification. Therefore, DOR will likely complete most reviews in July of the following year.

Based on petition count reports, only Miami-Dade and Broward have exceeded 10,000 petitions in the last three years. The total number of samples required for reviews of these counties are estimated by DOR to be approximately 1,078 for Broward and 1,749 for Miami-Dade.<sup>31</sup> There will be a fiscal impact for the DOR if they choose to initiate reviews, which they estimate as \$860,039 in fiscal year 2014-2015, and \$813,455, recurring.<sup>32</sup>

**VI. Technical Deficiencies:**

In limiting representation before the VAB in Section 7 of the bill, licensed professionals should be referred to by their definition in statute.

The term “property appraiser” is generally used in Florida to refer to the elected constitutional officer. A revision of “licensed property appraiser” on line 240 could instead read “licensed real estate appraiser.” Real estate appraiser licensure is found in s. 475.611(1)(h), F.S.

The term “realtor” means a member of the National Association of Realtors. The license they hold in Florida is “real estate broker.” A revision of “licensed realtor” on line 240 could instead read “licensed real estate broker” which is defined in s. 475.01(1)(a), F.S.

The term “licensed attorney” is defined in ch. 454, F.S.

The term “certified public accountant” is defined in s. 473.302(4), F.S.

The bill also uses the term “certified tax specialist” on line 241. Florida Statutes do not include a designation or definition of “certified tax specialist.”

For clarification, on page 10, line 256, “county” should be changed to “value adjustment board.”

<sup>30</sup> DOR, *Analysis of SB 972*, at 8 (Mar. 2015).

<sup>31</sup> *Id.*

<sup>32</sup> DOR, *Fiscal Impact Analysis of SB 972* (Mar. 13, 2015).

**VII. Related Issues:**

The bill creates s. 194.032(4), F.S., which appears to require counties that certify the tax roll by November 1 to certify the tax roll by June 1. The date of June 1 appears to refer to June 1 of the next year, which is seven months after these rolls are currently being certified for collection. As drafted, the new language in s. 194.032(4), F.S., does not support the language being added to s. 193.122, F.S., in lines 79-81 of this bill.

Lines 150 and 156 of this bill directly refer to the Wall Street Journal. This language will be obsolete if at any time the Wall Street Journal ceases operations or simply changes its name. A more generic reference would address this issue.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 192.0105, 193.122, 194.011, 194.014, 194.015, 194.032, 194.034, and 195.002.

This bill creates section 194.038 of the Florida Statutes.

**IX. Additional Information:**

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

None.

B. **Amendments:**

None.

By Senator Flores

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1                                   A bill to be entitled  
2       An act relating to value adjustment boards; amending  
3       s. 192.0105, F.S.; conforming provisions to changes  
4       made by the act; amending s. 193.122, F.S.;  
5       establishing deadlines for value adjustment boards to  
6       complete final tax roll certifications; amending s.  
7       194.011, F.S.; specifying procedures for filing  
8       petitions to the value adjustment board; amending s.  
9       194.014, F.S.; revising the interest rate upon which  
10      unpaid and overpaid ad valorem taxes accrue; amending  
11      s. 194.015, F.S.; authorizing the district school  
12      board and district county commission to audit certain  
13      expenses of the value adjustment board; amending s.  
14      194.032, F.S.; requiring a property appraiser to  
15      notify a petitioner when property record cards are  
16      available online; requiring a petitioner to show good  
17      cause to reschedule a hearing related to an  
18      assessment; requiring county commissioners to address  
19      issues concerning assessment rolls by a time certain;  
20      amending s. 194.034, F.S.; revising the entities that  
21      may represent a taxpayer before the value adjustment  
22      board; creating s. 194.038, F.S.; requiring counties,  
23      under certain circumstances, to notify the Department  
24      of Revenue of petitions contesting tax assessments;  
25      requiring the department to conduct reviews of value  
26      adjustment board proceedings under certain  
27      circumstances; providing review procedures; requiring  
28      the department to publish review results; requiring  
29      notification to the Legislature of publication of

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30 review data and findings; requiring the department to  
31 find a value adjustment board to be in violation of  
32 the law if certain criteria are met; authorizing a  
33 property appraiser to file suit under certain  
34 circumstances; requiring the department to adopt  
35 rules; amending s. 195.002, F.S.; providing that the  
36 department has administrative review powers over value  
37 adjustment boards; providing an effective date.

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

40  
41 Section 1. Paragraph (f) of subsection (2) of section  
42 192.0105, Florida Statutes, is amended to read:

43 192.0105 Taxpayer rights.—There is created a Florida  
44 Taxpayer's Bill of Rights for property taxes and assessments to  
45 guarantee that the rights, privacy, and property of the  
46 taxpayers of this state are adequately safeguarded and protected  
47 during tax levy, assessment, collection, and enforcement  
48 processes administered under the revenue laws of this state. The  
49 Taxpayer's Bill of Rights compiles, in one document, brief but  
50 comprehensive statements that summarize the rights and  
51 obligations of the property appraisers, tax collectors, clerks  
52 of the court, local governing boards, the Department of Revenue,  
53 and taxpayers. Additional rights afforded to payors of taxes and  
54 assessments imposed under the revenue laws of this state are  
55 provided in s. 213.015. The rights afforded taxpayers to assure  
56 that their privacy and property are safeguarded and protected  
57 during tax levy, assessment, and collection are available only  
58 insofar as they are implemented in other parts of the Florida

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59 Statutes or rules of the Department of Revenue. The rights so  
60 guaranteed to state taxpayers in the Florida Statutes and the  
61 departmental rules include:

62 (2) THE RIGHT TO DUE PROCESS.—

63 (f) The right, in value adjustment board proceedings, to  
64 have all evidence presented and considered at a public hearing  
65 at the scheduled time, to be represented by a person specified  
66 in s. 194.034(1)(a) an attorney or agent, to have witnesses  
67 sworn and cross-examined, and to examine property appraisers or  
68 evaluators employed by the board who present testimony (see ss.  
69 194.034(1)(a) and (c) and (4), and 194.035(2)).

70 Section 2. Subsection (1) of section 193.122, Florida  
71 Statutes, is amended to read:

72 193.122 Certificates of value adjustment board and property  
73 appraiser; extensions on the assessment rolls.—

74 (1) The value adjustment board shall certify each  
75 assessment roll upon order of the board of county commissioners  
76 pursuant to s. 197.323, if applicable, and again after all  
77 hearings required by s. 194.032 have been held. These  
78 certificates shall be attached to each roll as required by the  
79 Department of Revenue. The value adjustment board must complete  
80 the certification and submit each final assessment roll to the  
81 property appraiser by June 1 following the tax roll year.

82 Section 3. Subsection (3) of section 194.011, Florida  
83 Statutes, is amended to read:

84 194.011 Assessment notice; objections to assessments.—

85 (3) A petition to the value adjustment board must be in  
86 substantially the form prescribed by the department.

87 Notwithstanding s. 195.022, a county officer may not refuse to

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88 accept a form provided by the department for this purpose if the  
89 taxpayer chooses to use it. A petition to the value adjustment  
90 board must be signed by the taxpayer or be accompanied by the  
91 taxpayer's written authorization for representation by a person  
92 specified in s. 194.034(1)(a). A written authorization is valid  
93 for 1 tax year, and a new written authorization by the taxpayer  
94 shall be required for each subsequent tax year. A petition shall  
95 also describe the property by parcel number and shall be filed  
96 as follows:

97 (a) The property appraiser shall have available and shall  
98 distribute forms prescribed by the Department of Revenue on  
99 which the petition shall be made. Such petition shall be sworn  
100 to by the petitioner.

101 (b) The completed petition shall be filed with the clerk of  
102 the value adjustment board of the county, who shall acknowledge  
103 receipt thereof and promptly furnish a copy thereof to the  
104 property appraiser.

105 (c) The petition shall state the approximate time  
106 anticipated by the taxpayer to present and argue his or her  
107 petition before the board.

108 (d) The petition may be filed, as to valuation issues, at  
109 any time during the taxable year on or before the 25th day  
110 following the mailing of notice by the property appraiser as  
111 provided in subsection (1). With respect to an issue involving  
112 the denial of an exemption, an agricultural or high-water  
113 recharge classification application, an application for  
114 classification as historic property used for commercial or  
115 certain nonprofit purposes, or a deferral, the petition must be  
116 filed at any time during the taxable year on or before the 30th

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117 day following the mailing of the notice by the property  
118 appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173,  
119 or s. 196.193 or notice by the tax collector under s. 197.2425.

120 (e) A condominium association, cooperative association, or  
121 any homeowners' association as defined in s. 723.075, with  
122 approval of its board of administration or directors, may file  
123 with the value adjustment board a single joint petition on  
124 behalf of any association members who own parcels of property  
125 which the property appraiser determines are substantially  
126 similar with respect to location, proximity to amenities, number  
127 of rooms, living area, and condition. The condominium  
128 association, cooperative association, or homeowners' association  
129 as defined in s. 723.075 shall provide the unit owners with  
130 notice of its intent to petition the value adjustment board and  
131 shall provide at least 20 days for a unit owner to elect, in  
132 writing, that his or her unit not be included in the petition.

133 (f) An owner of contiguous, undeveloped parcels may file  
134 with the value adjustment board a single joint petition if the  
135 property appraiser determines such parcels are substantially  
136 similar in nature.

137 (g) The individual, agent, or legal entity that signs the  
138 petition becomes an agent of the taxpayer for the purpose of  
139 serving process to obtain personal jurisdiction over the  
140 taxpayer for the entire value adjustment board proceedings,  
141 including any appeals of a board decision by the property  
142 appraiser pursuant to s. 194.036.

143 Section 4. Subsection (2) of section 194.014, Florida  
144 Statutes, is amended to read:

145 194.014 Partial payment of ad valorem taxes; proceedings



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146 before value adjustment board.—

147 (2) If the value adjustment board determines that the  
148 petitioner owes ad valorem taxes in excess of the amount paid,  
149 the unpaid amount accrues interest at an annual percentage rate  
150 equal to the prime rate as published in the Wall Street Journal  
151 on July 1 of the tax roll ~~the rate of 12 percent per year,~~  
152 beginning on ~~from~~ the date the taxes became delinquent pursuant  
153 to s. 197.333 until the unpaid amount is paid. If the value  
154 adjustment board determines that a refund is due, the overpaid  
155 amount accrues interest at an annual percentage rate equal to  
156 the prime rate as published in the Wall Street Journal on July 1  
157 of the tax roll ~~the rate of 12 percent per year,~~ beginning on  
158 ~~from~~ the date the taxes became delinquent pursuant to s. 197.333  
159 until a refund is paid. Interest does not accrue on amounts paid  
160 in excess of 100 percent of the current taxes due as provided on  
161 the tax notice issued pursuant to s. 197.322.

162 Section 5. Section 194.015, Florida Statutes, is amended to  
163 read:

164 194.015 Value adjustment board.—There is hereby created a  
165 value adjustment board for each county, which shall consist of  
166 two members of the governing body of the county as elected from  
167 the membership of the board of said governing body, one of whom  
168 shall be elected chairperson, and one member of the school board  
169 as elected from the membership of the school board, and two  
170 citizen members, one of whom shall be appointed by the governing  
171 body of the county and must own homestead property within the  
172 county and one of whom must be appointed by the school board and  
173 must own a business occupying commercial space located within  
174 the school district. A citizen member may not be a member or an

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175 employee of any taxing authority, and may not be a person who  
176 represents property owners in any administrative or judicial  
177 review of property taxes. The members of the board may be  
178 temporarily replaced by other members of the respective boards  
179 on appointment by their respective chairpersons. Any three  
180 members shall constitute a quorum of the board, except that each  
181 quorum must include at least one member of said governing board,  
182 at least one member of the school board, and at least one  
183 citizen member and no meeting of the board shall take place  
184 unless a quorum is present. Members of the board may receive  
185 such per diem compensation as is allowed by law for state  
186 employees if both bodies elect to allow such compensation. The  
187 clerk of the governing body of the county shall be the clerk of  
188 the value adjustment board. The board shall appoint private  
189 counsel who has practiced law for over 5 years and who shall  
190 receive such compensation as may be established by the board.  
191 The private counsel may not represent the property appraiser,  
192 the tax collector, any taxing authority, or any property owner  
193 in any administrative or judicial review of property taxes. No  
194 meeting of the board shall take place unless counsel to the  
195 board is present. Two-fifths of the expenses of the board shall  
196 be borne by the district school board and three-fifths by the  
197 district county commission. The district school board and  
198 district county commission may audit the expenses related to the  
199 value adjustment board process.

200 Section 6. Paragraph (a) of subsection (2) of section  
201 194.032, Florida Statutes, is amended, and subsection (4) is  
202 added to that section, to read:

203 194.032 Hearing purposes; timetable.-

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204 (2) (a) The clerk of the governing body of the county shall  
205 prepare a schedule of appearances before the board based on  
206 petitions timely filed with him or her. The clerk shall notify  
207 each petitioner of the scheduled time of his or her appearance  
208 at least 25 calendar days before the day of the scheduled  
209 appearance. The notice must indicate whether the petition has  
210 been scheduled to be heard at a particular time or during a  
211 block of time. If the petition has been scheduled to be heard  
212 within a block of time, the beginning and ending of that block  
213 of time must be indicated on the notice; however, as provided in  
214 paragraph (b), a petitioner may not be required to wait for more  
215 than a reasonable time, not to exceed 2 hours, after the  
216 beginning of the block of time. If the petitioner checked the  
217 appropriate box on the petition form to request a copy of the  
218 property record card containing relevant information used in  
219 computing the current assessment, the property appraiser must  
220 provide the copy to the petitioner upon receipt of the petition  
221 from the clerk regardless of whether the petitioner initiates  
222 evidence exchange, unless the property record card is available  
223 online from the property appraiser, in which case the property  
224 appraiser must notify the petitioner that the property record  
225 card is available online. Upon receipt of the notice, the  
226 petitioner, for good cause, may reschedule the hearing a single  
227 time by submitting to the clerk a written request to reschedule,  
228 at least 5 calendar days before the day of the originally  
229 scheduled hearing.

230 (4) Unless the board of county commissioners extends the  
231 assessment roll as set forth in s. 197.323, the board must hear  
232 all petitions, complaints, appeals, and disputes and must submit

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233 the certified assessment roll as required under s. 193.122 to  
234 the property appraiser by June 1 annually.

235 Section 7. Paragraph (a) of subsection (1) of section  
236 194.034, Florida Statutes, is amended to read:

237 194.034 Hearing procedures; rules.—

238 (1) (a) Petitioners before the board may be represented by a  
239 corporate representative of the taxpayer, an attorney, a  
240 licensed property appraiser, a licensed realtor, a certified  
241 public accountant, or a certified tax specialist retained by the  
242 taxpayer ~~an attorney or agent~~ and may present testimony and  
243 other evidence. The property appraiser or his or her authorized  
244 representatives may be represented by an attorney in defending  
245 the property appraiser's assessment or opposing an exemption and  
246 may present testimony and other evidence. The property  
247 appraiser, each petitioner, and all witnesses shall be required,  
248 upon the request of either party, to testify under oath as  
249 administered by the chairperson of the board. Hearings shall be  
250 conducted in the manner prescribed by rules of the department,  
251 which rules shall include the right of cross-examination of any  
252 witness.

253 Section 8. Section 194.038, Florida Statutes, is created to  
254 read:

255 194.038 Review of value adjustment board proceedings.—

256 (1) A county that receives 10,000 or more petitions  
257 objecting to assessments under s. 194.011 in any one tax year,  
258 must notify the department. After notification, the department  
259 may conduct a review of the value adjustment board proceedings  
260 as follows:

261 (a) The department shall determine whether the values

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262 derived by the board comply with s. 193.011 and professionally  
263 accepted appraisal practices. A verbatim copy of the proceedings  
264 must be submitted to the department in the manner and form  
265 prescribed by the department following the final tax roll  
266 certification pursuant to s. 193.122.

267 (b) The department shall statistically sample petitions  
268 heard by the value adjustment board requesting a change in the  
269 assessment for each classification of property set forth in s.  
270 194.037(2).

271 (c) The department shall adhere to all the standards to  
272 which the value adjustment boards are required to adhere.

273 (d) The department and the value adjustment board shall  
274 cooperate in conducting these reviews, and each shall make  
275 available to the other all matters and records bearing on the  
276 reviews. The value adjustment board must provide the data  
277 requested by the department, including documentary evidence  
278 presented during the proceedings and written decisions rendered.

279 (2) The department shall complete its review no later than  
280 9 months after the department receives notification from the  
281 county pursuant to subsection (1). The department shall publish  
282 the results of each review on the department's website and shall  
283 include the following with regard to every parcel for which a  
284 petition was filed:

285 (a) The name of the owner.

286 (b) The address of the property.

287 (c) The identification number of the property as used by  
288 the value adjustment board clerk, such as the parcel  
289 identification number, strap number, alternate key number, or  
290 other number.

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291 (d) The name of the special magistrate who heard the  
292 petition, if applicable.

293 (e) The initial just value derived by the property  
294 appraiser.

295 (f) Any change made by the value adjustment board that  
296 increased or decreased the just value of the parcel.

297 (3) Upon publication of the data and findings, the  
298 department shall notify the committees of the Senate and of the  
299 House of Representatives having oversight responsibility for  
300 taxation, the appropriate value adjustment board, the property  
301 appraiser, and the county commission chair or corresponding  
302 official under a consolidated charter. Copies of the data and  
303 findings shall be provided upon request.

304 (4) The department shall find the value adjustment board to  
305 be in continuous violation of the intent of the law if the  
306 department, in its review, determines that less than 90 percent  
307 of the petitions randomly sampled comply with the criteria in s.  
308 193.011 and professionally accepted appraisal practices. A  
309 property appraiser may file suit in circuit court against the  
310 value adjustment board pursuant to s. 194.036(1)(c).

311 (5) The department shall adopt rules to administer this  
312 section.

313 Section 9. Subsection (1) of section 195.002, Florida  
314 Statutes, is amended to read:

315 195.002 Supervision by Department of Revenue.—

316 (1) The Department of Revenue shall have general  
317 supervision of:

318 (a) The assessment and valuation of property so that all  
319 property will be placed on the tax rolls and shall be valued

37-00705-15

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320 according to its just valuation, as required by the  
321 constitution.

322 (b) Administrative review of value adjustment boards.

323 (c) ~~It shall also have supervision over~~ Tax collection and  
324 all other aspects of the administration of such taxes.

325

326 The supervision of the department shall consist primarily of  
327 aiding and assisting county officers and value adjustment boards  
328 in the assessing, reviewing, and collection functions, with  
329 particular emphasis on the more technical aspects. In this  
330 regard, the department shall conduct schools to upgrade  
331 assessment skills of both state and local assessment personnel.

332 Section 10. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/15

Meeting Date

972

Bill Number (if applicable)

Topic VALUE ADJUSTMENT BOARDS

Amendment Barcode (if applicable)

Name DIANA RAGREER

Job Title DIRECTOR PUBLIC POLICY

Address 3150 SW 3RD AVE, 8TH FLOOR

Street

Phone 305 571 5700  
~~305 301 9205~~

MIAMI

City

FL 33129

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing THE CHILDREN'S TRUST

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE

APPEARANCE RECORD

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

5/17/15

8B972

Meeting Date

Bill Number (if applicable)

Topic Value Adjustment Board

Amendment Barcode (if applicable)

Name Tom Conra

Job Title Executive Director

Address 9320 NW 50 Doral Circle N

Phone (3) 513-6995

Street

Miami

FL

33178

Email tomconra@gmail.com

City

State

Zip

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

Waive Speaking: [X] In Support [ ] Against

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

Representing Greater Florida Consortium of School Boards

Representing 12 school districts

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-17-15  
Meeting Date

972  
Bill Number (if applicable)

Topic VAB

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 1ST ST 2810  
Street  
MIAMI 33128  
City State Zip

Phone 305-979-7110

Email JMM2@MIAMDADOF.GOV

Speaking:  For  Against  Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17/15

Meeting Date

SB 972

Bill Number (if applicable)

Topic Value Adjustment Board

Amendment Barcode (if applicable)

Name Iraida Mendez-Curtaya

Job Title Associate Superintendent

Address 1450 NE 2nd Ave Rm 931

Phone (3) 995-1497

Street

Miami FL 33130

City

State

Zip

Email imendez@dadeschools

Speaking:  For  Against  Information

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

Representing Miami Dade County Public Schools

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/15  
Meeting Date

972  
Bill Number (if applicable)

Topic VAB

Amendment Barcode (if applicable)

Name Jessica Scher

Job Title Director, Public Policy

Address 3250 SW 3rd Ave

Phone 305-322-6143

City MIAMI State FL Zip 33129

Email schjerj@unitedwaymiami.org

Speaking:  For  Against  Information

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

Representing United Way of MIAMI-DADE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Wilton Simpson, Chair  
Committee on Community Affairs

**Subject:** Committee Agenda Request

**Date:** March 4, 2015

---

I respectfully request that **Senate Bill #972**, relating to Value Adjustment Boards, be placed on the:

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

*Anitere Flores*

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Senator Anitere Flores  
Florida Senate, District 37

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

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

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

---

BILL: CS/SB 1114

INTRODUCER: Community Affairs Committee and Senator Stargel

SUBJECT: Membership Associations that Receive Public Funds

DATE: March 17, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	Fav/CS
2.			AP	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1114 prohibits a not for profit corporation whose membership includes a majority of elected or appointed public officers and which receives 25 percent or more of its annual revenue from public funds from expending any money received from public funds on litigation against the state. It also requires such organizations to file an annual report with the Legislature.

**II. Present Situation:**

In Florida, not for profit corporations are regulated by the Florida Not For Profit Corporation Act (Act), which outlines the requirements for creating and managing a not for profit corporation as well as the powers and duties of the corporation.<sup>1</sup> The Act authorizes not for profit corporations to be created for any lawful purpose or purposes that are not for pecuniary profit and that are not specifically prohibited to corporations by other state laws.<sup>2</sup> The Act specifies that such purposes include charitable, benevolent, eleemosynary, educational, historical, civic, patriotic, political, religious, social, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional, commercial, industrial, or trade association purposes.<sup>3</sup>

Florida law authorizes not for profit corporations to operate with the same degree of power provided to for profit corporations in the state, including the power to appoint officers, adopt

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<sup>1</sup> Chapter 90-179, L.O.F.

<sup>2</sup> Section 617.0301, F.S.

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

bylaws, enter into contracts, sue and be sued, and own and convey property.<sup>4</sup> Officers and directors of certain not for profit corporations also are protected by the same immunity from civil liability provided to directors of for profit corporations.<sup>5</sup> Unlike for profit corporations, certain not for profit corporations may apply for exemptions from federal, state, and local taxes.<sup>6</sup>

Not for profit corporations are required to submit an annual report to the Department of State that contains the following information:

- The name of the corporation and the state or country under the law of which it is incorporated;
- The date of incorporation or, if a foreign corporation, the date on which it was admitted to conduct its affairs in the state;
- The address of the principal office and the mailing address of the corporation;
- The corporation's federal employer identification number, if any, or, if none, whether one has been applied for;
- The names and business street addresses of its directors and principal officers;
- The street address of its registered office in the state and the name of its registered agent at that office; and
- Such additional information as may be necessary or appropriate to enable the Department of State to carry out the provisions of the Act.<sup>7</sup>

A not for profit corporation may receive public funds from the state or a local government in certain situations. Public funds are defined as “moneys under the jurisdiction or control of the state, a county, or a municipality, including any district, authority, commission, board, or agency thereof and the judicial branch, and includes all manner of pension and retirement funds and all other funds held, as trust funds or otherwise, for any public purpose.”<sup>8</sup> The state or a local government may provide public funds to a not for profit corporation through a grant or through payment of membership dues authorized for governmental employees and entities who are members of certain types of not for profit corporations.<sup>9</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 617.221, F.S., to prohibit certain membership associations from expending any money received from public funds on litigation against the state. The bill also requires the membership associations to file an annual report with the Legislature covering the following topics:

- The name and address of the membership association and any parent association, or a state, national or international association with which it is affiliated.

<sup>4</sup> See ss. 617.0302 and 607.0302, F.S.

<sup>5</sup> See ss. 617.0834 and 607.0831, F.S.

<sup>6</sup> See 26 U.S.C. s. 501; Section 212.08(7)(p), F.S.

<sup>7</sup> Section 617.1622, F.S.

<sup>8</sup> Section 215.85(3)(b), F.S.

<sup>9</sup> See, e.g., Section 2-103(a), Pinellas County Code (authorizing the board of county commissioners to expend monies from the county general fund for membership fees and dues for county employees and officials for professional associations); Section 120-65(a)(2), South Florida Water Management District Administrative Policies (authorizing the district to pay for an employee's membership in a professional organization not required by his or her job).

- The names, titles, telephone numbers, and addresses of the principal officers and all representatives of the association.
- The fee required to become a member of the membership association, if any, and the annual dues that each member must pay.
- The latest annual financial statements of the membership association as described in s. 617,1605, F.S.
- A copy of the current constitution and bylaws of the association.
- The assets and liabilities of the association at the beginning and end of the preceding fiscal year.
- The salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and to each employee who, during the preceding fiscal year, received more than \$10,000 total from the association and any other state, national, or international membership association affiliate.
- The annual dollar amount of the following benefit packages paid to each of the principal officers of the association:
  - Health, major medical, vision, dental, and life insurance.
  - Retirement plans.
  - Automobile allowances.
- The amount of annual dues per member sent from the association to each state, national, or international affiliate.
- The total amount of direct or indirect disbursements for lobbying activity at the federal, state, or local level incurred by the membership association, listed by the full name and address of each person who received a disbursement.
- The total amount of direct or indirect disbursements for litigation expenses incurred by the membership association, listed by case citation.

The bill defines a membership association for purposes of this section as “a corporation not for profit, including a department or division of such corporation, whose membership includes a majority of elected or appointed public officers, as defined in s. 112.313(1), and which receives 25 percent or more of its annual revenue from public funds, as defined in s. 215.85(3). The term does not include a labor organization as defined in s. 447.02.”

**Section 2** provides an effective date of July 1, 2015.

#### **IV. Constitutional Issues:**

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.



**D. Other Constitutional Issues:**

Article I, section 2 of the Florida Constitution states that all persons are equal before the law and have inalienable rights. As a result, the state may not enact a law that treats similarly situated persons differently unless that disparate treatment is rationally related to a legitimate state interest.<sup>10</sup> The bill applies to membership associations organized as a corporation not for profit but does not apply to membership associations organized as a corporation for profit. As such, it may violate the constitutional right of equal protection.

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

None.

**B. Private Sector Impact:**

The bill may have an indeterminate negative fiscal impact on membership associations because they would be required to file an annual report with the Legislature.

**C. Government Sector Impact:**

The bill may have an indeterminate positive fiscal impact on state government as a result of reducing litigation against the state by prohibiting membership associations from using monies received from public funds to pay for such litigation. The bill may have an indeterminate negative fiscal impact on the state as a result of the Legislature having to receive and process the required annual reports from membership associations.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 617.221 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 March 17, 2015:**

Defines a membership association for purposes of this section as “a corporation not for profit, including a department or division of such corporation, whose membership

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<sup>10</sup> Section 468, Florida Jurisprudence 2d.

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includes a majority of elected or appointed public officers, as defined in s. 112.313(1), and which receives 25 percent or more of its annual revenue from public funds, as defined in s. 215.85(3). The term does not include a labor organization as defined in s. 447.02.”

Requires the association to file a report that includes the total amount of direct or indirect disbursements made by the association for lobbying activity and the total amount of direct or indirect disbursements for litigation expenses, in addition to all of the requirements in the original bill.

**B. Amendments:**

None.



336962

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 617.221, Florida Statutes, is created to  
read:

617.221 Membership associations that receive public funds;  
reporting requirements; restriction on use of funds.-

(1) As used in this section, the term "membership  
association" means a corporation not for profit, including a



336962

11 department or division of such corporation, whose membership  
12 includes a majority of elected or appointed public officers, as  
13 defined in s. 112.313(1), and which receives 25 percent or more  
14 of its annual revenue from public funds, as defined in s.  
15 215.85(3). The term does not include a labor organization as  
16 defined in s. 447.02.

17 (2) A membership association shall file a report with the  
18 President of the Senate and the Speaker of the House of  
19 Representatives by January 1 of each year. The report must  
20 include:

21 (a) The name and address of the membership association and  
22 any parent membership association or any state, national, or  
23 international membership association affiliate.

24 (b) The names, titles, telephone numbers, and addresses of  
25 the principal officers and all representatives of the membership  
26 association.

27 (c) The fee required to become a member of the membership  
28 association, if any, and the annual dues that each member must  
29 pay.

30 (d) The latest annual financial statements of the  
31 membership association as described in s. 617.1605.

32 (e) A copy of the current constitution and bylaws of the  
33 membership association.

34 (f) The assets and liabilities of the membership  
35 association at the beginning and end of the preceding fiscal  
36 year.

37 (g) The salary, allowances, and other direct or indirect  
38 disbursements, including reimbursed expenses, to each officer  
39 and to each employee who, during the preceding fiscal year,



336962

40 received more than \$10,000 total from the membership association  
41 and any other state, national, or international membership  
42 association affiliate.

43 (h) The annual dollar amount of the following benefit  
44 packages paid to each of the principal officers of the  
45 membership association:

46 1. Health, major medical, vision, dental, and life  
47 insurance.

48 2. Retirement plans.

49 3. Automobile allowances.

50 (i) The amount of annual dues for each member sent from the  
51 membership association to each state, national, or international  
52 affiliate.

53 (j) The total amount of direct or indirect disbursements  
54 for lobbying activity at the federal, state, or local level  
55 incurred by the membership association, listed by the full name  
56 and address of each person who received a disbursement.

57 (k) The total amount of direct or indirect disbursements  
58 for litigation expenses incurred by the membership association,  
59 listed by case citation.

60 (3) A membership association may not expend moneys received  
61 from public funds on litigation against the state.

62 Section 2. This act shall take effect July 1, 2015.

63  
64 ===== T I T L E A M E N D M E N T =====

65 And the title is amended as follows:

66 Delete everything before the enacting clause  
67 and insert:

68 A bill to be entitled



336962

69 An act relating to membership associations that  
70 receive public funds; creating s. 617.221, F.S.;  
71 defining the term "membership association"; requiring  
72 a membership association that receives a specified  
73 percentage of its budget from public funds to file an  
74 annual report with the Legislature; requiring that  
75 such a report provide specified information;  
76 prohibiting a membership association from expending  
77 public funds on litigation against the state;  
78 providing an effective date.

By Senator Stargel

15-00733-15

20151114\_\_

1                   A bill to be entitled  
2       An act relating to membership associations that  
3       receive public funds; creating s. 617.221, F.S.;  
4       requiring a membership association that receives more  
5       than a specified percentage of its budget from public  
6       funds to file a report with the Legislature; requiring  
7       that such report provide specified information;  
8       prohibiting a membership association whose membership  
9       dues are paid for by public funds from expending such  
10      funds on litigation against the state; providing an  
11      effective date.

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

14  
15       Section 1. Section 617.221, Florida Statutes, is created to  
16      read:

17       617.221 Restrictions on membership associations that  
18      receive public funds.—

19       (1) A membership association that receives more than 25  
20      percent of its budget from public funds shall file a report with  
21      the President of the Senate and the Speaker of the House of  
22      Representatives by January 1 of each year. The report must  
23      provide:

24       (a) The name and address of the membership association and  
25      any parent association, or a state, national, or international  
26      association with which it is affiliated.

27       (b) The names, titles, telephone numbers, and addresses of  
28      the principal officers and all representatives of the  
29      association.

15-00733-15

20151114\_\_

30 (c) The amount of the initiation fee, if any, and the  
31 amount of the annual dues that each member must pay.

32 (d) The current annual financial statement of the  
33 association.

34 (e) A copy of the current constitution and bylaws of the  
35 association.

36 (f) The assets and liabilities at the beginning and end of  
37 the fiscal year.

38 (g) The salary, allowances, and other direct or indirect  
39 disbursements, including reimbursed expenses, to each officer  
40 and to each employee who, during such fiscal year, received more  
41 than \$10,000 in the aggregate from the association or any parent  
42 or affiliated association.

43 (h) The annual dollar amount of the following benefit  
44 packages paid to each of the principal officers of the  
45 association, including:

46 1. Health, major medical, vision, dental, or life  
47 insurance.

48 2. Retirement plans.

49 3. Automobile allowances.

50 (i) Separately, the amount of annual dues per member sent  
51 from the association to each state, national, or international  
52 affiliate.

53 (2) Any membership association whose membership dues are  
54 paid for by public funds may not expend such funds on litigation  
55 against the state.

56 Section 2. This act shall take effect July 1, 2015.



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/15  
Meeting Date

SB 1114  
Bill Number (if applicable)

Topic Member Associations

Amendment Barcode (if applicable)

Name David Cruz

Job Title Assistant General Counsel

Address P.O. BOX 1757  
Street

Phone 701-3076

Tallahassee FL 32302  
City State Zip

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.*

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/17/15  
Meeting Date

SB 1114  
Bill Number (if applicable)

Topic Membership Associations

Amendment Barcode (if applicable)

Name Skyler Zander

Job Title Deputy State Director

Address 200 W College Ave  
Street

Phone 850-728-4522

Tallahassee FL 32301  
City State Zip

Email

Speaking:  For  Against  Information

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

Representing Americans for Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

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

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

### SENATOR KELLI STARGEL

15th District

February 27, 2015

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

Dear Chair Simpson:

I am respectfully requesting that SB 1114, related to *Membership Associations that Receive Public Funds*, be placed on the committee agenda at your earliest convenience.

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

Sincerely,

A handwritten signature in cursive script that reads "Kelli Stargel".

Kelli Stargel  
State Senator, District 15

Cc: Tom Yeatman/ Staff Director  
Ann Whittaker/ AA

#### REPLY TO:

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

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**The Florida Senate**  
**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 962

INTRODUCER: Community Affairs Committee and Senator Legg

SUBJECT: Public Records/Surveillance Recordings

DATE: March 17, 2015

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

---

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	<b>Fav/CS</b>
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 962 creates a public records exemption for community development district (CDD) surveillance recordings. Specifically, the bill provides that any surveillance recording created to monitor activities occurring inside or outside of a public building or on public property that is held by a CDD is confidential and exempt from public records requirements. The bill allows a CDD to disclose surveillance recordings to a law enforcement agency in the furtherance of its official duties and responsibilities, or pursuant to a court order, or to specified residents of the CDD that can establish proof of residency in certain enumerated ways.

The bill provides that the public records exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

The bill has an effective date of July 1, 2015.

The bill creates a new public records exemption. Thus, it requires a two-thirds vote for final passage, in accordance with Article I, section 24(c) of the Florida Constitution.

## II. Present Situation:

### Public Records Law

Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public records of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal records.

### Public Records Exemptions

The Legislature may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.<sup>1</sup>

The Open Government Sunset Review Act<sup>2</sup> provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:<sup>3</sup>

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2, of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>4</sup>

### Exempt versus Confidential and Exempt

There is a difference between records the Legislature has determined to be exempt and those which have been determined to be confidential and exempt.<sup>5</sup> If the Legislature has determined the information to be confidential then the information is not subject to inspection by the public.<sup>6</sup> In addition, if the information is deemed to be confidential it may be released only to those

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<sup>1</sup> Art. I, s. 24(c), Fla. Const.

<sup>2</sup> See s. 119.15, F.S.

<sup>3</sup> Section 119.15(6)(b), F.S.

<sup>4</sup> Section 119.15(3), F.S.

<sup>5</sup> *WFTV, Inc. v. Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5<sup>th</sup> DCA 2004), *review den.*, 892 So. 2d 1015 (Fla. 2004).

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

persons and entities designated in statute.<sup>7</sup> However, the agency is not prohibited from disclosing the records in all circumstances where the records are exempt only.<sup>8</sup>

### **Community Development Districts**

Community development districts (CDDs) are special districts that are local units of special purpose government, created pursuant to ch. 190, F.S., the Uniform Community Development District Act of 1980, and limited to the authority provided in that act. CDDs are governed by a five-member board of supervisors,<sup>9</sup> and have governmental authority to manage and finance infrastructure for planned developments.<sup>10</sup> They are, in effect, a means by which private entities secure development capital through bond sales repaid by assessments on public improvements and community facilities.

Some CDDs utilize video cameras to provide security and surveillance within their community.<sup>11</sup> The security cameras are set up at fixed locations in public areas such as community roadway entrances, pool areas, and clubhouses. The video is used to provide a CDD board or law enforcement with leads in the event of a crime on CDD property, or violations regarding the misuse of CDD property or rules.<sup>12</sup>

The Florida Department of State records retention schedule for state and local agencies requires surveillance recordings to be retained for at least 30 days.<sup>13</sup> After 30 days, the recordings may be deleted or written over, or stored for longer periods. This includes CDD surveillance recordings.

A CDD is considered an “agency”<sup>14</sup> pursuant to Florida’s public records requirements, and unless a specific public records exemption exists that would protect the recordings from public access, a CDD is required to allow access to the records to anyone for inspection or copying.<sup>15</sup>

Currently, a public records exemption does not exist that would specifically protect CDD surveillance recordings from public records requirements. As a result, unless a CDD chooses to

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

<sup>8</sup> See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5<sup>th</sup> DCA 1991), *review den.*, 589 So. 2d 289 (Fla. 1991).

<sup>9</sup> See s. 190.006, F.S.

<sup>10</sup> See s. 190.002(1)(a), F.S.

<sup>11</sup> Pursuant to s. 190.012(2)(d), F.S., CDDs have “the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain . . . systems and facilities for: . . . [s]ecurity, including, but not limited to, guard-houses, fences and gates, electronic intrusion-detection systems, and patrol cars. . . .”

<sup>12</sup> For more information on CDD surveillance cameras, see Jim Flateau, “Let’s increase residents’ privacy,” *The Ballantrae Communicator*, Vol. 6, No. 4 (April-June 2014), p. 4, at [ballantraecdd.org/other\\_docs/communicator/apr-jun-2014.pdf](http://ballantraecdd.org/other_docs/communicator/apr-jun-2014.pdf) (last visited Mar. 13, 2015).

<sup>13</sup> According to the State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, effective February 19, 2015, at page 37 Item #302, surveillance recordings are only required to be maintained for 30 days. This document can be viewed at <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/> (Last viewed Mar. 13, 2015).

<sup>14</sup> Section 119.011(2), F.S., defines agency as any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

<sup>15</sup> Section 119.07(1), F.S.

discard or record over the recordings after 30 days, they must be disclosed to anyone who makes a request.

### III. Effect of Proposed Changes:

**Section 1** creates s. 190.0121, F.S., relating to the creation of a public records exemption for surveillance recordings held by a community development district. Specifically, the bill provides that any surveillance recording created to monitor activities occurring inside or outside of a public building or on public property that is held by a CDD is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The bill provides that a CDD may disclose such recordings to a law enforcement agency in the furtherance of its official duties and responsibilities, or pursuant to a court order. Additionally, the CDD may disclose such recordings to a resident of the CDD if the resident is:

- A member of the United States Armed Forces stationed in the CDD;
- A family member residing with a member of the United States Armed Forces stationed in the CDD; or
- A person who has declared the CDD as his or her only residence as evidenced by:
  - A valid state driver license or identification card that has both an address within the CDD and a residence verified by the Department of Highway Safety and Motor Vehicles;
  - A current voter information card registered with an address within the CDD;
  - A sworn statement manifesting and evidencing domicile in the CDD;
  - Proof of a current homestead exemption with an address in the CDD; or
  - For a child under 18 years of age, a student identification card from a school zoned to include the CDD, or their parent's proof of residency within the CDD.

The bill provides that the public records exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

**Section 2** provides a statement of public necessity as required by the State Constitution.

**Section 3** provides an effective date of July 1, 2015.

### IV. Constitutional Issues:

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

None.

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

Article I, s. 24(c) of the Florida Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records or public meeting exemption. The bill creates a new public records exemption; thus, it requires a two-thirds vote for final passage.

Article I, s. 24(c) of the Florida Constitution, requires a public necessity statement for a newly created or expanded public records or public meeting exemption. The bill creates a new public records exemption; thus, it includes a public necessity statement.

Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public records or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates the public records exemption to protect from public disclosure surveillance recordings captured by a CDD.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CDD staff responsible for complying with public records requests could require training related to the new public records exemption. Any associated cost, however, would be absorbed, as they are part of the day-to-day responsibilities of CDDs.

The Department of Economic Opportunity has reviewed the bill and determined it has no impact on their operations.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 190.0121 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 March 17, 2015:**

Allows a CDD to disclose recordings to CDD residents who have proof of residency.

- B. **Amendments:**

None.

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

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945426

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
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The Committee on Community Affairs (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 25 - 26

and insert:

agency's official duties and responsibilities;

(b) Pursuant to a court order; or

(c) To a resident of the community development district.

For the purpose of this paragraph, the term "resident" of a community development district means:

1. A member of the United States Armed Forces who is



945426

11 stationed in the community development district and his or her  
12 family members residing with such member; or

13 2. A person who has declared the community development  
14 district as his or her only residence as evidenced by a valid  
15 state driver license or identification card that has both an  
16 address within the community development district and a  
17 residence verified by the Department of Highway Safety and Motor  
18 Vehicles, or, in the absence thereof, one of the following:

19 a. A current voter information card registered to an  
20 individual with an address within the community development  
21 district;

22 b. A sworn statement manifesting and evidencing domicile in  
23 the community development district;

24 c. Proof of a current homestead exemption with an address  
25 in the community development district; or

26 d. For a child younger than 18 years of age, a student  
27 identification card from a school zoned to include the child of  
28 the community development district or, if accompanied by his or  
29 her parent or guardian at the time, the parent's proof of  
30 residency within the community development district.

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

32 And the title is amended as follows:

33 Delete line 6

34 and insert:

35 providing exceptions; defining the term "resident" of  
36 a community development district; providing for future  
37 legislative

By Senator Legg

17-00154A-15

2015962\_\_

1                   A bill to be entitled  
2       An act relating to public records; creating s.  
3       190.0121, F.S.; providing an exemption from public  
4       records requirements for certain surveillance  
5       recordings held by a community development district;  
6       providing exceptions; providing for future legislative  
7       review and repeal of the exemption; providing a  
8       statement of public necessity; providing an effective  
9       date.

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

12  
13       Section 1. Section 190.0121, Florida Statutes, is created  
14 to read:

15       190.0121 Public records exemption; surveillance  
16 recordings.-

17       (1) A surveillance recording created by monitoring  
18 activities occurring inside or outside a public building or on  
19 public property which is held by a community development  
20 district is confidential and exempt from s. 119.07(1) and s.  
21 24(a), Art. I of the State Constitution.

22       (2) A community development district may disclose such a  
23 recording:

24       (a) To a law enforcement agency in the furtherance of the  
25 agency's official duties and responsibilities; or

26       (b) Pursuant to a court order.

27       (3) This section is subject to the Open Government Sunset  
28 Review Act in accordance with s. 119.15 and shall stand repealed  
29 on October 2, 2020, unless reviewed and saved from repeal

17-00154A-15

2015962\_\_

30 through reenactment by the Legislature.

31       Section 2. The Legislature finds that it is a public  
32 necessity that any surveillance recording created by monitoring  
33 activities occurring inside or outside a public building or on  
34 public property which is held by a community development  
35 district be made confidential and exempt from s. 119.07(1),  
36 Florida Statutes, and s. 24(a), Article I of the State  
37 Constitution. Community development districts provide  
38 surveillance of public areas in order to monitor activities  
39 occurring within the districts and to ensure the security of the  
40 district residents. The exemption for surveillance recordings  
41 allows community development districts to effectively and  
42 efficiently provide security and surveillance while maintaining  
43 the privacy of the residents and the guests of the residents,  
44 including those who use community facilities. Without the public  
45 records exemption, coverage and other technical aspects of the  
46 surveillance system would be revealed and would make it easier  
47 for individuals who wish to evade detection by the surveillance  
48 systems to do so. As such, the Legislature finds that it is a  
49 public necessity to prohibit the disclosure of such surveillance  
50 recordings held by a community development district.

51       Section 3. This act shall take effect July 1, 2015.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Education Pre-K - 12, Chair  
Ethics and Elections, Vice Chair  
Appropriations Subcommittee on Education  
Fiscal Policy  
Government Oversight and Accountability  
Higher Education

**SENATOR JOHN LEGG**

17th District

Legg.John.web@FLSenate.gov

March 11, 2015

The Honorable Wilton Simpson  
Senate Committee on Community Affairs, Chair  
315 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Simpson

Senate Bill 962, related to Public Records/Surveillance Recordings, is on the Committee on Community Affairs agenda March 12, 2015. I will be at the Committee on Governmental Oversight and Accountability meeting and I will be unable to attend.

Please recognize my Legislative Assistant, Rich Reidy, to present SB 962 on my behalf. Please feel free to contact me if you have any questions.

Sincerely,

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

John Legg  
State Senator, District 17

cc: Tom Yeatman, Staff Director  
Ann Whittaker, Administrative Assistant

JL/jdb

**REPLY TO:**

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Education Pre-K - 12, Chair  
Ethics and Elections, Vice Chair  
Appropriations Subcommittee on Education  
Fiscal Policy  
Government Oversight and Accountability  
Higher Education

**SENATOR JOHN LEGG**

17th District

Legg.John.web@FLSenate.gov

March 5, 2015

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

**RE: SB 0962 - Public Records/Surveillance Recordings**

Dear Chair Simpson:

SB 0962 - Public Records/Surveillance Recordings has been referred to your committee. I respectfully request that it be placed on the Committee on Community Affairs Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg".

John Legg  
State Senator, District 17

cc: Tom Yeatman, Staff Director

JL/jb

REPLY TO:

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

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

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

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

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BILL: CS/SB 286

INTRODUCER: Community Affairs Committee and Senator Diaz de la Portilla

SUBJECT: Classified Advertisement Websites

DATE: March 17, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	Fav/CS
2.			JU	
3.			AGG	
4.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 286 encourages the Department of Management Services to designate a certain number of safe-haven facilities in each county to provide a safe place for the execution of transactions related to classified advertisement websites, such as Craigslist. It also encourages local governments to establish local safe-haven facilities. The bill provides immunity from liability related to a sales transaction for governmental entities providing safe-haven facilities and their employees and agents.

**II. Present Situation:**

**Baby Safe-Haven Laws**

In 1999, the Texas Legislature enacted the first “safe-haven law” in the United States.<sup>1</sup> The law allowed a parent of a newborn to anonymously surrender the child to the state at designated locations, including police stations, hospitals and fire stations, without fear of criminal prosecution for abandonment or neglect.<sup>2</sup> Since then, every state has enacted a baby safe-haven law.<sup>3</sup>

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<sup>1</sup> *Baby Safe Haven – Abandoned Infant Protection Laws*, National Safehaven Alliance, available at <http://www.nationalsafehavenalliance.org/law.php> (last visited March 11, 2015).

<sup>2</sup> *Safe-haven law*, Wikipedia, available at [http://en.wikipedia.org/wiki/Safe-haven\\_law](http://en.wikipedia.org/wiki/Safe-haven_law) (last visited March 11, 2015).

<sup>3</sup> *Baby Safe-Haven*.



Florida's law provides immunity from criminal or civil liability for an organization and its employees that accept a surrendered infant and transport it to a hospital.<sup>4</sup> However, the law does not limit liability for negligence related to such actions.

### **Online Transaction Safe-Haven Laws**

Perhaps inspired by baby safe-haven laws and motivated by a continuing trend of crimes stemming from transactions related to online classified advertisement websites, such as Craigslist, a number of police departments around the nation have begun opening their lobbies and parking lots to citizens to complete such transactions. Conducting transactions in police lobbies or parking lots strongly deters crimes for obvious reasons, including the proximity of police officers and the likelihood of surveillance by security cameras.

In May 2014, after a series of robberies related to Craigslist transactions, the East Chicago Police Department began "Operation Safe Sale," and offered the use of its headquarters parking lot and lobby to conduct transactions.<sup>5</sup> The parties may request an officer oversee a transaction in the lobby if it is conducted between 9 a.m. and 7 p.m. on weekdays or between 11 a.m. and 3 p.m. on Saturdays.<sup>6</sup> If no officer is desired, the parking lot and police lobby are available for use for transactions any time.<sup>7</sup>

In January 2015, the Virginia Beach, Virginia, Police Department launched the "Find a Safe Place" initiative, in which it offered the police lobby for use to conduct transactions arranged through classified advertisement websites.<sup>8</sup> Police lobbies are available for use from 9 a.m. to 9 p.m., seven days a week.<sup>9</sup> However, the lobby may not be used for transactions involving "large, cumbersome household items, appliances and landscape care equipment," or "the sale of any contraband, stolen property or other illegal items."<sup>10</sup>

In February 2015, the Toledo, Ohio, Police Department announced it would be making designated parking spots in front of one of its stations available for anyone to consummate an online sales transaction.<sup>11</sup>

Florida police departments have also begun creating safe havens at their facilities. In July 2014, the Boca Raton Police Department, in response to "at least three cases in June where people were ripped off by buyers when trying to sell something off Craigslist," offered the department's

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<sup>4</sup> Section 383.50, F.S.

<sup>5</sup> Juan Perez Jr., *East Chicago Police Offer Up Their Lobby, Parking Lot for Craigslist Transactions*, Chicago Tribune, May 01, 2014, available at [http://articles.chicagotribune.com/2014-05-01/news/chi-east-chicago-police-offer-up-their-lobby-parking-lot-for-craigslist-transactions-20140501\\_1\\_craigslist-transactions-becker-lobby](http://articles.chicagotribune.com/2014-05-01/news/chi-east-chicago-police-offer-up-their-lobby-parking-lot-for-craigslist-transactions-20140501_1_craigslist-transactions-becker-lobby) (last visited March 11, 2015).

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

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

<sup>8</sup> Becca Mitchell and Todd Corillo, *Virginia Beach Police Offering Precinct Lobbies as a Safe Place for Craigslist Transactions*, WTKR News Channel 3, January 27, 2015, available at <http://wtkr.com/2015/01/27/virginia-beach-police-offering-precinct-lobby-as-a-safe-place-for-craigslist-transactions/> (last visited March 11, 2015).

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

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

<sup>11</sup> Angi Gonzalez, *Toledo Police to Offer Safe Haven to Craigslist Users*, WNWO NBC 24, February 24, 2015, available at <http://www.nbc24.com/news/story.aspx?id=1168859#.VOCK-nF91A> (last visited March 11, 2015).

lobby and parking lot for transactions.<sup>12</sup> Police in Delray Beach and Boynton Beach are reportedly also pondering a similar program.

Finally, the Miami-Dade Board of County Commissioners adopted a resolution moved by Commissioner Sally Heyman at its February 3, 2015, meeting directing the mayor to examine the feasibility and advisability of providing locations such as Miami-Dade police stations or other locations that would deter criminal activity to serve as safe havens for Craigslist transactions.

### III. Effect of Proposed Changes:

**Section 1** creates s. 501.181, F.S., to encourage the Department of Management Services (DMS) to establish state safe-haven facilities and local governments to establish local safe-haven facilities for the conduct of sales transactions related to classified advertisement websites similar to Craigslist.

The bill provides definitions for the following terms: “building,” “classified advertisement website,” “department,” “local safe-haven facility,” “sales transaction” or “transaction,” and “state safe-haven facility.”

The DMS is encouraged to designate at least:

- One state safe-haven facility in each county with a population of less than 250,000.
- Two state safe-haven facilities in each county with a population between 250,000 and 800,000.
- Four state safe-haven facilities in each county with a population greater than 800,000.

The bill provides that governmental entities and their employees and agents are not responsible for supervising, intervening in, or facilitating a sales transaction at a safe-haven facility. The bill states that state and local governments and their agents may not be held liable in tort or for any claim related to injury or damage suffered as a result of any incident arising from a sales transaction. Employees or agents of local governments may only be held liable for damages if they acted outside the scope of their employment, or in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.

**Section 2** provides an effective date of July 1, 2015.

### IV. Constitutional Issues:

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

None.

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

None.

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<sup>12</sup> Kate Jacobsen, *Boca Raton Police Ask Craigslist Sellers to Use Station Lobby*, The Sun-Sentinel, July 5, 2014, available at [http://articles.sun-sentinel.com/2014-07-05/news/fl-boca-raton-craigslist-lobby-20140701\\_1\\_boca-raton-police-station-lobby-craigslist-sellers](http://articles.sun-sentinel.com/2014-07-05/news/fl-boca-raton-craigslist-lobby-20140701_1_boca-raton-police-station-lobby-craigslist-sellers) (last visited March 11, 2015).

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill creates section 501.181 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 March 17, 2015:**

- Provides definitions for the following terms: “building,” “classified advertisement website,” “department,” “local safe-haven facility,” “sales transaction” or “transaction,” and “state safe-haven facility.”
- Encourages the Department of Management Services to designate a certain number of state safe-haven facilities in each county depending on the population of the county.
- Encourages local governments to designate local safe-haven facilities.
- Provides that government actors are not responsible for facilitating sales transactions and provides governments are not liable for the actions of the parties involved in the transaction.
- Provides that governments and their employees or agents are immune from liability for injuries arising out of sales transactions. Government employees may be liable if they acted in bad faith, outside the scope of employment, or with malicious purpose

or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.

**B. Amendments:**

None.

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

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823558

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
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The Committee on Community Affairs (Diaz de la Portilla)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 501.181, Florida Statutes, is created to  
read:

501.181 Safe-haven facilities.—

(1) As used in this section, the term:

(a) "Building" means a structure with a roof and walls and  
any area surrounding the structure that is on the same property



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11 as the structure or on property that is owned, maintained, or  
12 occupied by the same entity that owns, maintains, or occupies  
13 the structure; that is open to the public; and which includes,  
14 but is not limited to, courtyards, parking lots, and lawns.

15 (b) "Classified advertisement website" means a web-based  
16 advertisement site that lists items for sale or items wanted for  
17 purchase or acquisition.

18 (c) "Department" means the Department of Management  
19 Services.

20 (d) "Local safe-haven facility" means a public local  
21 governmental building approved by the local governmental body to  
22 be used by the public to execute sales transactions, or as  
23 otherwise determined and approved by the local governmental  
24 body.

25 (e) "Sales transaction" or "transaction" means an in-person  
26 sale or purchase of an item that was offered for sale or listed  
27 as wanted for purchase on a classified advertisement website and  
28 the parties to the sale or purchase arrange to meet at a state  
29 safe-haven facility or local safe-haven facility for the purpose  
30 of executing the sale or purchase, or the sale or purchase was  
31 executed at a state safe-haven facility or local safe-haven  
32 facility. The exchange of money for goods is not a necessary  
33 element of such a transaction.

34 (f) "State safe-haven facility" means a public state  
35 governmental building that has a designated area where  
36 individuals may execute sales transactions.

37 (2) The department is encouraged to designate at least:

38 (a) One state safe-haven facility in each county having a  
39 population of less than 250,000;



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40 (b) Two state safe-haven facilities in each county having a  
41 population of at least 250,000, but less than 800,000; and

42 (c) Four state safe-haven facilities in each county having  
43 a population of 800,000 or more.

44 (3) A state safe-haven facility should be easily accessible  
45 so an individual is not discouraged from using the location. A  
46 public state building, including, but not limited to, a state  
47 college or university, Florida Highway Patrol station, or other  
48 public state office building, may serve as a state safe-haven  
49 facility.

50 (4) The department should designate at least one indoor and  
51 one outdoor area at each state safe-haven facility that may be  
52 used by individuals to execute sales transactions during the  
53 hours that the state safe-haven facility is open to the public.

54 (5) Other than as provided for in this section, the  
55 department is not responsible for regulating sales transactions  
56 at state safe-haven facilities.

57 (6) Local governmental bodies are encouraged, but not  
58 required, to approve the use of public local governmental  
59 buildings, such as sheriff's offices, county courthouses, and  
60 other public local governmental office buildings, to serve as  
61 local safe-haven facilities. This section does not preempt a  
62 local governmental body from regulating or otherwise governing  
63 the use and functions of local safe-haven facilities. Local  
64 governmental bodies may adopt different definitions of the terms  
65 in subsection (1) as applicable to local safe-haven facilities.

66 (7) The state or a local government and its officers,  
67 employees, or agents are not responsible for supervising,  
68 intervening in, or facilitating a sales transaction or otherwise



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69 responsible for providing security to supervise or intervene in  
70 the transaction and are not otherwise liable for the actions of  
71 the parties or nonparties involved in the transaction.

72 (8) The state and local governments and their respective  
73 agencies and subdivisions may not be held liable in tort or  
74 named as a party defendant in any action for any injury or  
75 damage suffered as a result of any incident arising from a sales  
76 transaction. An officer, employee, or agent of the state or  
77 local government or any of their agencies or subdivisions may  
78 not be held personally liable in tort or named as a party  
79 defendant in any action for any injury or damage suffered as a  
80 result of any incident arising from a sales transaction unless  
81 such officer, employee, or agent acted outside the scope of her  
82 or his employment or in bad faith or with malicious purpose or  
83 in a manner exhibiting wanton and willful disregard for human  
84 rights, safety, or property.

85 (9) Subject to and as provided in s. 768.28, this section  
86 does not reduce or limit the liability or rights of the state or  
87 any local government, or any of their agencies or subdivisions,  
88 or of the officers, employees, or agents of the state or local  
89 government, in tort based on an incident that did not arise  
90 from, or was caused by, a sales transaction.

91 Section 2. This act shall take effect July 1, 2015.

92  
93 ===== T I T L E A M E N D M E N T =====

94 And the title is amended as follows:

95 Delete everything before the enacting clause  
96 and insert:

97 A bill to be entitled





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98 An act relating to classified advertisement websites;  
99 creating s. 501.181, F.S.; defining terms; encouraging  
100 the Department of Management Services to designate a  
101 specified number of state safe-haven facilities in  
102 each county based upon population; authorizing public  
103 state buildings to serve as state safe-haven  
104 facilities; encouraging local governments to approve  
105 the use of public local governmental buildings as  
106 local safe-haven facilities; limiting the liability of  
107 the state and any local government, and of the  
108 officers, employees, or agents of the state or any  
109 local government, that provides a state safe-haven  
110 facility or local safe-haven facility; limiting  
111 actions for injury or damages against the state or any  
112 local government, or of the officers, employees, or  
113 agents of the state or any local government, arising  
114 from a sales transaction; providing an effective date.  
115

116 WHEREAS, there have been a number of cases throughout this  
117 state in which people selling cellular phones, computers, or  
118 other goods through classified advertisement websites have been  
119 targeted by criminals who intend to rob them when they meet to  
120 exchange goods for cash, and

121 WHEREAS, even when the victims of these crimes select  
122 public and populated locations that they feel are safe, such as  
123 shopping centers or parks, to execute the transactions, they  
124 still fall prey to these criminals, and

125 WHEREAS, identifying locations to serve as safe havens for  
126 transactions related to classified advertisement websites will



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127 likely deter these crimes and provide for greater safety  
128 throughout the state, NOW, THEREFORE,

By Senator Diaz de la Portilla

40-00452-15

2015286\_\_

1                   A bill to be entitled  
2           An act relating to classified advertisement websites;  
3           creating s. 501.180, F.S.; defining the term "safe-  
4           haven facility"; requiring a specified number of safe-  
5           haven facilities to be designated in each county based  
6           upon population size; authorizing state buildings, or  
7           alternatively, local governmental buildings, to serve  
8           as safe-haven facilities; limiting the liability of an  
9           entity that provides a safe-haven facility; limiting  
10          actions against the state or local government related  
11          to transactions taking place at a safe-haven facility;  
12          providing an effective date.

13  
14          WHEREAS, there have been a number of cases throughout this  
15          state in which people selling cellphones, computers, or other  
16          valuable goods through classified advertisement websites have  
17          been targeted by criminals who intend to rob them when they meet  
18          to exchange goods for cash; and

19          WHEREAS, even when the victims of these crimes select  
20          public and populated locations for the transactions that they  
21          feel are safe, such as shopping centers or parks, they still  
22          fall prey to these criminals; and

23          WHEREAS, identifying locations to serve as safe havens for  
24          transactions related to classified advertisement websites will  
25          deter these crimes and provide greater safety throughout the  
26          state, NOW, THEREFORE,

27  
28          Be It Enacted by the Legislature of the State of Florida:  
29

40-00452-15

2015286\_\_

30 Section 1. Section 501.180, Florida Statutes, is created to  
31 read:

32 501.180 Safe-haven facilities.—

33 (1) As used in this section, the term "safe-haven facility"  
34 means a secure location open to the public for the purpose of  
35 conducting a sales transaction involving an item or a service  
36 that was offered for sale on a classified advertisement website.

37 (2) To promote the safety of an individual who is using a  
38 classified advertisement website that requires the seller and  
39 buyer to meet in person to conduct the transaction, there shall  
40 be at least:

41 1. One safe-haven facility in each county with a population  
42 of less than 250,000 residents;

43 2. Two safe-haven facilities in each county with at least  
44 250,000, but less than 800,000 residents; and

45 3. Four safe-haven facilities in each county with 800,000  
46 or more residents.

47 (3) A safe-haven facility must be easily accessible so that  
48 an individual is not discouraged from using the location. A  
49 state building such as a college or university, Florida Highway  
50 Patrol station, or other state office building may serve as a  
51 safe-haven facility. A local governmental building, such as a  
52 sheriff's office or a county courthouse, may serve as a safe-  
53 haven facility if the local governmental body approves of the  
54 use of such building.

55 (4) An entity or its officers, employees, or agents that  
56 provides a safe-haven facility is not responsible for overseeing  
57 the sales transaction or is not otherwise liable for the actions  
58 of the parties involved in the transaction.

40-00452-15

2015286\_\_

59       (5) An action may not be initiated on a claim against the  
60 state or local government or any of their agencies or  
61 subdivisions based on an incident that occurs during a sales  
62 transaction at a safe-haven facility involving an individual  
63 that is not an officer, employee, or agent of the state or local  
64 government or of their agencies or subdivisions.

65       Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

3-17-15

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

286

Meeting Date

Bill Number (if applicable)

Topic CLASSIFIED AD WEBSITES

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASS'T COUNTY AITY

Address 111 NW 1ST ST. 2810

Phone 305-979-7110

Street

MIAMI 33128

Email JMM2@MIAMI-DADE.GOV

City

State

Zip

Speaking:  For  Against  Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3.17.15

Meeting Date

286

Bill Number (if applicable)

Topic CLASSIFIED AD SAFE HAVENS

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title ADVOCATE

Address 100 N. MONROE ST

Phone 294-1838

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email LYOUMANS@FL.COUNTIES.

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.

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Judiciary, *Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Community Affairs  
Finance and Tax  
Regulated Industries  
Rules

**SENATOR MIGUEL DIAZ de la PORTILLA**

40th District

March 16, 2015

The Honorable Wilton Simpson  
Chair  
Community Affairs

Via Email

Dear Chair Simpson:

I respectfully request that I be excused from the Community Affairs Committee on Tuesday, March 17 at 9:00 a.m. I have a business obligation in my law firm in Miami and will not arrive in Tallahassee until Tuesday night.

My Senate Bill SB 286 is on the Community Affairs agenda. I request that my assistant, Pat Gosney, be permitted to present that bill on my behalf, along with my amendment, Bar Code 823558.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla  
Senator, District 40

Cc: Mr. Tom Yeatman, Staff Director; Ms. Ann Whittaker, Committee Administrative Assistant

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Judiciary, *Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Community Affairs  
Finance and Tax  
Regulated Industries  
Rules

**SENATOR MIGUEL DIAZ de la PORTILLA**

40th District

January 16, 2015

The Honorable Wilton Simpson  
Chair, Community Affairs

Via Email

Dear Chair Simpson:

My SB 286, Classified Advertisement Websites, has been referred to the Committee on Community Affairs. I would appreciate it if you would agenda the bill at the next available opportunity.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla  
Senator, District 40

Cc: Mr. Tom Yeatman, Staff Director; Ms. Ann Whittaker, Committee Administrative Assistant

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

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

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

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

---

BILL: CS/SB 1216

INTRODUCER: Community Affairs Committee and Senator Simpson

SUBJECT: Connected-city Corridors

DATE: March 17, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	<b>Fav/CS</b>
2.			ATD	
3.			FP	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1216 names Pasco County as a pilot community for a period of 10 years related to connected-city corridor plan amendments. The bill provides requirements for connected-city corridors as well as authorized features. Plan amendments within a connected-city corridor may be based on a longer than normal planning period and need not demonstrate need on any basis. Projects within certain connected-city corridors are exempted from concurrency requirements and development of regional impact (DRI) review requirements. The bill provides that the exclusive method of establishing a community development district of less than 2,000 acres within a connected-city corridor is by adoption of an ordinance by the county commission. The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report on the pilot project to the Governor and Legislature in 10 years.

**II. Present Situation:**

**Comprehensive Plans and the Comprehensive Plan Amendment Process**

In 1985, the Florida Legislature passed the landmark Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development. A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. Development that does not conform to the comprehensive plan may not

be approved by a local government unless the local government amends its comprehensive plan first.

State law requires a proposed comprehensive plan amendment to receive three public hearings, the first held by the local planning board.<sup>1</sup> The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies.<sup>2</sup>

The state agencies review the proposed amendment for impacts related to their statutory purview. The regional planning council with jurisdiction reviews the amendment specifically for “extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region” as well as adverse effects on regional resources or facilities.<sup>3</sup> Upon receipt of the reports from the various agencies, the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the amendment receives a favorable vote it is transmitted to the Department of Economic Opportunity (DEO) for final review.<sup>4</sup> The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant agency rules and laws.<sup>5</sup>

### **Special Districts**

Special districts are local units of special purpose government, within limited geographical areas, which are used to manage, own, operate, maintain, and finance basic capital infrastructure, facilities, and services. Special districts have existed in Florida since 1845 when the Legislature authorized five commissioners to drain the “Alachua Savannah” also known as Paynes Prairie. The project was financed by special assessments made on landowners based on the number of acres owned and the benefit derived. Since that time, special districts have been used by local governments to provide a broad range of government services. All special districts must comply with the requirements of the Uniform Special District Accountability Act of 1989 which was enacted by the Legislature to reform and consolidate laws relating to special districts. Chapter 189, F.S., applies to the formation, governance, administration, supervision, merger and dissolution of special districts unless otherwise expressly provided in law.<sup>6</sup> The Act includes an extensive statement of legislative intent emphasizing improved accountability to state and local governments, better communication and coordination in monitoring required reporting of special districts, and improved uniformity in special district elections and non-ad valorem assessments. The statement also specifies the elements required in the charter of each new district.<sup>7</sup>

Special districts serve a limited purpose, function as an administrative unit separate and apart from the county or city in which they may be located, and are often referred to as a local unit of

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<sup>1</sup> Section 163.3174(4)(a), F.S.

<sup>2</sup> Section 163.3184, F.S.

<sup>3</sup> Section 163.3184(3)(b)3.a., F.S.

<sup>4</sup> Section 163.3184, F.S.

<sup>5</sup> *Id.*

<sup>6</sup> For example, the creation of community development districts and their charters is exclusively controlled by ch. 190, F.S. Section 190.004, F.S.

<sup>7</sup> Section 189.402(2), F.S.

special purpose. Special districts may be created by general law (an act of the Legislature), by special act (a law enacted by the Legislature at the request of a local government and affecting only that local government), by local ordinance, or by rule of the Governor and Cabinet.

The Special District Information Program within the DEO serves as the clearinghouse for special district information, and maintains a list of special districts categorized by function which can include community development districts (575), community redevelopment districts (213), downtown development districts (14), drainage and water control districts (86), economic development districts (11), fire control and rescue districts (65), mosquito control districts (18), and soil and water conservation districts (62).<sup>8</sup> There are a total of 1,634 special districts in Florida.

### ***Community Development Districts***

Community Development Districts (CDDs) are a type of special district controlled by ch. 190, F.S. The purpose of a CDD is to provide an “alternative method to manage and finance basic services for community development.”<sup>9</sup> Counties and cities may create community development districts of less than 1,000 acres.<sup>10</sup> CDDs larger than 1,000 acres can only be created by the Governor and the Cabinet, sitting as the Florida Land and Water Adjudicatory Commission.<sup>11</sup> Chapter 190 provides that CDDs must comply with many of the same requirements that apply to other special districts.

### **Development of Regional Impact Background**

A development of regional impact (DRI) is defined in s. 380.06, F.S., as “any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.” Section 380.06, F.S., provides for both state and regional review of local land use decisions involving DRIs. Regional planning councils coordinate the review process with local, regional, state and federal agencies and recommend conditions of approval or denial to local governments. DRIs are also reviewed by the Department of Economic Opportunity for compliance with state law and to identify the regional and state impacts of large-scale developments. Local DRI development orders may be appealed by the owner, the developer, or the state land planning agency to the Governor and Cabinet, sitting as the Florida Land and Water Adjudicatory Commission.<sup>12</sup> Section 380.06(24), F.S., exempts numerous types of projects from review as a DRI.

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

**Section 1** amends s. 163.3246, F.S., to describe and create a 10-year pilot project for connected-city corridor plan amendments. The bill names Pasco County as a pilot community that may

---

<sup>8</sup> Information relating to special districts and their functions can be found in the SDIP online publication “Florida Special District Handbook Online” which can be found at <http://www.floridaspecialdistricts.org/handbook/> (last visited March 12, 2015).

<sup>9</sup> Section 190.002(3), F.S.

<sup>10</sup> Section 190.005(2), F.S.

<sup>11</sup> Section 190.005(1), F.S.

<sup>12</sup> Section 380.07(2), F.S.

adopt connected-city corridor plan amendments. Such amendments may be based on a longer than normal planning period and need not demonstrate need on any basis.

Pasco County is required to submit an annual or biennial monitoring report to the Department of Economic Opportunity. If Pasco County adopts a long-term transportation network plan and financial feasibility plan then projects within the connected-city corridor are deemed to have satisfied all concurrency and transportation mitigation requirements. Projects located within the connected-city corridor are exempt from DRI review requirements.

The Office of Program Policy Analysis and Government Accountability is directed to submit a report to the Governor and Legislature by December 1, 2024, regarding the pilot project.

**Section 2** amends s. 190.005, F.S., to provide the exclusive method of establishing a community development district of 2,000 acres or less within a connected-city corridor is by adoption of an ordinance by the county commission. The bill also exempts community development districts within both a connected-city corridor and the jurisdiction of more than one city from a requirement that the petition establishing the district be filed with the Florida Land and Water Adjudicatory Commission.

**Section 3** provides the bill shall become effective upon becoming law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 163.3246 and 190.005.

**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 March 17, 2015:**

- Creates a 10-year pilot project and names Pasco County as a pilot community.
- Describes connected-city corridor plan amendments and provides certain requirements and optional features.
- Provides a concurrency exemption for certain connected-city corridors.
- Provides a DRI exemption.
- Directs OPPAGA to submit a report to the Governor and Legislature.
- Provides the exclusive method of establishing certain community development districts.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (14) is added to section 163.3246,  
Florida Statutes, to read:

163.3246 Local government comprehensive planning  
certification program.—

(14) It is the intent of the Legislature to encourage the  
creation of connected-city corridors that facilitate the growth



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11 of high-technology industry and innovation through partnerships  
12 that support research, marketing, workforce, and  
13 entrepreneurship. It is the intent of the Legislature to provide  
14 for a locally controlled, comprehensive plan amendment process  
15 for such projects that are designed to achieve a cleaner,  
16 healthier environment; limit urban sprawl by promoting diverse  
17 but interconnected communities; provide a range of  
18 intergenerational housing types; protect wildlife and natural  
19 areas; assure the efficient use of land and other resources;  
20 create quality communities of a design that promotes alternative  
21 transportation networks and travel by multiple transportation  
22 modes; and enhance the prospects for the creation of jobs. The  
23 Legislature finds and declares that this state's connected-city  
24 corridors require a reduced level of state and regional  
25 oversight because of their high degree of urbanization and the  
26 planning capabilities and resources of the local government.

27 (a) Notwithstanding subsections (2), (4), (5), (6), and  
28 (7), Pasco County is named a pilot community and shall be  
29 considered certified for a period of 10 years for connected-city  
30 corridor plan amendments. The state land planning agency shall  
31 provide a written notice of certification to Pasco County by  
32 July 15, 2015, which shall be considered a final agency action  
33 subject to challenge under s. 120.569. The notice of  
34 certification must include:

35 1. The boundary of the connected-city corridor  
36 certification area; and

37 2. A requirement that Pasco County submit an annual or  
38 biennial monitoring report to the state land planning agency  
39 according to the schedule provided in the written notice. The





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40 monitoring report shall, at a minimum, include the number of  
41 amendments to the comprehensive plan adopted by Pasco County,  
42 the number of plan amendments challenged by an affected person,  
43 and the disposition of such challenges.

44 (b) A plan amendment adopted under this subsection may be  
45 based upon a planning period longer than the generally  
46 applicable planning period of the Pasco County local  
47 comprehensive plan, shall specify the projected population  
48 within the planning area during the chosen planning period, may  
49 include a phasing or staging schedule that allocates a portion  
50 of Pasco County's future growth to the planning area through the  
51 planning period, and may designate a priority zone or subarea  
52 within the connected-city corridor for initial implementation of  
53 the plan. A plan amendment adopted under this subsection is not  
54 required to demonstrate need based upon projected population  
55 growth or on any other basis.

56 (c) If Pasco County adopts a long-term transportation  
57 network plan and financial feasibility plan, and subject to  
58 compliance with the requirements of such a plan, the projects  
59 within the connected-city corridor are deemed to have satisfied  
60 all concurrency and other state agency or local government  
61 transportation mitigation requirements except for site-specific  
62 access management requirements.

63 (d) If Pasco County does not request that the state land  
64 planning agency review the developments of regional impact that  
65 are proposed within the certified area, an application for  
66 approval of a development order within the certified area is  
67 exempt from review under s. 380.06.

68 (e) The Office of Program Policy Analysis and Government



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69 Accountability (OPPAGA) shall submit to the Governor, the  
70 President of the Senate, and the Speaker of the House of  
71 Representatives by December 1, 2024, a report and  
72 recommendations for implementing a statewide program that  
73 addresses the legislative findings in this subsection. In  
74 consultation with the state land planning agency, OPPAGA shall  
75 develop the report and recommendations with input from other  
76 state and regional agencies, local governments, and interest  
77 groups. OPPAGA shall also solicit citizen input in the  
78 potentially affected areas and consult with the affected local  
79 government and stakeholder groups. Additionally, OPPAGA shall  
80 review local and state actions and correspondence relating to  
81 the pilot program to identify issues of process and substance in  
82 recommending changes to the pilot program. At a minimum, the  
83 report and recommendations must include:

84 1. Identification of local governments other than the local  
85 government participating in the pilot program which should be  
86 certified. The report may also recommend that a local government  
87 is no longer appropriate for certification; and

88 2. Changes to the certification pilot program.

89 Section 2. Subsection (2) of section 190.005, Florida  
90 Statutes, is amended to read:

91 190.005 Establishment of district.—

92 (2) The exclusive and uniform method for the establishment  
93 of a community development district of less than 1,000 acres in  
94 size or a community development district of up to 2,000 acres in  
95 size located within a connected-city corridor established  
96 pursuant to s. 163.3246(14) shall be pursuant to an ordinance  
97 adopted by the county commission of the county having



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98 jurisdiction over the majority of land in the area in which the  
99 district is to be located granting a petition for the  
100 establishment of a community development district as follows:

101 (a) A petition for the establishment of a community  
102 development district shall be filed by the petitioner with the  
103 county commission. The petition shall contain the same  
104 information as required in paragraph (1) (a).

105 (b) A public hearing on the petition shall be conducted by  
106 the county commission in accordance with the requirements and  
107 procedures of paragraph (1) (d).

108 (c) The county commission shall consider the record of the  
109 public hearing and the factors set forth in paragraph (1) (e) in  
110 making its determination to grant or deny a petition for the  
111 establishment of a community development district.

112 (d) The county commission shall not adopt any ordinance  
113 which would expand, modify, or delete any provision of the  
114 uniform community development district charter as set forth in  
115 ss. 190.006-190.041. An ordinance establishing a community  
116 development district shall only include the matters provided for  
117 in paragraph (1) (f) unless the commission consents to any of the  
118 optional powers under s. 190.012(2) at the request of the  
119 petitioner.

120 (e) If all of the land in the area for the proposed  
121 district is within the territorial jurisdiction of a municipal  
122 corporation, then the petition requesting establishment of a  
123 community development district under this act shall be filed by  
124 the petitioner with that particular municipal corporation. In  
125 such event, the duties of the county, hereinabove described, in  
126 action upon the petition shall be the duties of the municipal



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127 corporation. If any of the land area of a proposed district is  
128 within the land area of a municipality, the county commission  
129 may not create the district without municipal approval. If all  
130 of the land in the area for the proposed district, even if less  
131 than 1,000 acres, is within the territorial jurisdiction of two  
132 or more municipalities, except for proposed districts within a  
133 connected-city corridor established pursuant to s. 163.3246(14),  
134 the petition shall be filed with the Florida Land and Water  
135 Adjudicatory Commission and proceed in accordance with  
136 subsection (1).

137 (f) Notwithstanding any other provision of this subsection,  
138 within 90 days after a petition for the establishment of a  
139 community development district has been filed pursuant to this  
140 subsection, the governing body of the county or municipal  
141 corporation may transfer the petition to the Florida Land and  
142 Water Adjudicatory Commission, which shall make the  
143 determination to grant or deny the petition as provided in  
144 subsection (1). A county or municipal corporation shall have no  
145 right or power to grant or deny a petition that has been  
146 transferred to the Florida Land and Water Adjudicatory  
147 Commission.

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

149  
150 ===== T I T L E A M E N D M E N T =====

151 And the title is amended as follows:

152 Delete everything before the enacting clause  
153 and insert:

154 A bill to be entitled

155 An act relating to connected-city corridors; amending



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156 s. 163.3246; providing legislative intent; designating  
157 Pasco County as a pilot community; requiring the state  
158 land planning agency to provide a written  
159 certification to Pasco County within a certain  
160 timeframe; providing requirements for certain plan  
161 amendments; requiring the Office of Program Policy  
162 Analysis and Government Accountability to submit a  
163 report and recommendations to the Governor and the  
164 Legislature by a certain date; providing requirements  
165 for the report; amending s. 190.005, F.S.; requiring  
166 community development districts up to a certain size  
167 located within a connected-city corridor to be  
168 established pursuant to an ordinance; providing an  
169 effective date.

By Senator Simpson

18-01374-15

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1                   A bill to be entitled  
2       An act relating to connected-city corridors; amending  
3       s. 163.3184, F.S.; requiring plan amendments that  
4       qualify as connected-city corridor amendments to be  
5       reviewed by the local government; creating s.  
6       163.3255, F.S.; providing legislative intent;  
7       authorizing local governments to adopt connected-city  
8       corridor plan amendments; providing requirements for  
9       such plan amendments; providing incentives and  
10      benefits for such corridors; authorizing affected  
11      persons to file a petition with the Division of  
12      Administrative Hearings for review of such plan  
13      amendments; amending s. 190.005, F.S.; requiring  
14      community development districts located within a  
15      connected-city corridor plan amendment to be  
16      established pursuant to a county ordinance; amending  
17      s. 380.06, F.S.; providing a statutory exemption from  
18      the development of regional impact review process for  
19      any development within the geographic boundaries of a  
20      connected-city corridor plan; providing an effective  
21      date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25       Section 1. Paragraph (d) is added to subsection (2) of  
26      section 163.3184, Florida Statutes, to read:

27       163.3184 Process for adoption of comprehensive plan or plan  
28      amendment.—

29       (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

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30 (d) Plan amendments that qualify as connected-city corridor  
31 amendments shall follow the review process in s. 163.3255 and  
32 are subject to review and approval by only the local government  
33 having jurisdiction.

34 Section 2. Section 163.3255, Florida Statutes, is created  
35 to read:

36 163.3255 Connected-city corridors.-

37 (1) It is the intent of the Legislature to encourage the  
38 creation of connected-city corridors that facilitate the growth  
39 of high-technology industry and innovation through partnerships  
40 that support research, marketing, workforce, and  
41 entrepreneurship. It is the intent of the Legislature to provide  
42 for a locally controlled, expedited comprehensive plan amendment  
43 process for such projects that are designed to achieve a  
44 cleaner, healthier environment; limit urban sprawl by promoting  
45 diverse, yet interconnected, communities; provide a range of  
46 housing types; protect wildlife and natural areas; ensure the  
47 efficient use of land and other resources; create quality  
48 communities of a design that promotes alternative transportation  
49 networks and travel by multiple transportation modes; and  
50 enhance the prospects for the creation of jobs.

51 (2) A local government may adopt a connected-city corridor  
52 plan amendment under the following conditions:

53 (a) The proposed amendment involves a sufficient land area  
54 in a location that will be conducive to attracting technology  
55 employers while also providing proximate intergenerational  
56 housing alternatives and recreation opportunities;

57 (b) The proposed amendment contemplates a variety of mixed-  
58 use development forms designed to accommodate job creation and

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59 technological innovation;

60 (c) The proposed amendment may create a new land use  
61 category applicable only to the connected-city corridor planning  
62 area, which may be in the form of a special area plan or overlay  
63 district, and may include text or map amendments to other  
64 directly related or affected provisions in the adopted  
65 comprehensive plan, but otherwise does not alter or modify the  
66 other preexisting goals, policies, and objectives of the local  
67 government comprehensive plan; and

68 (d) The property that is the subject of the proposed  
69 amendment is not located within an area of critical state  
70 concern designated in s. 380.0552 or by the Administration  
71 Commission pursuant to s. 380.05(1).

72 (3) A connected-city corridor plan amendment adopted  
73 pursuant to this section must include maps, illustrations, and  
74 text supported by data and analysis to meet all of the following  
75 requirements:

76 (a) A boundary map that, at a minimum, generally depicts  
77 residential and mixed-use areas, which may include public and  
78 private institutional uses, office uses, industrial and other  
79 employment uses, and retail uses, and identifies conservation  
80 areas; provides generally for an interconnected mix of uses  
81 within the planning area to promote a sense of place and to  
82 promote internal capture or minimization of transportation and  
83 other external impacts; and provides the general framework for  
84 the residential and mixed-use development concepts with graphic  
85 illustrations based on a hierarchy of places and functional  
86 place-making components.

87 (b) A general identification of the water supplies needed



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88 and available sources of water, including water resource  
89 development and water supply development projects, and water  
90 conservation measures needed to meet the projected demand of the  
91 future land uses in the plan amendment.

92 (c) Provision for a long-term master transportation network  
93 plan for the connected-city corridor which contains a general  
94 identification of the alternative transportation facilities to  
95 serve the future land uses in the plan amendment, including  
96 guidelines to be used to establish each modal component intended  
97 to optimize mobility, and for a financial feasibility plan to  
98 address mitigation of such future impacts.

99 (c) A general identification of any other regionally  
100 significant public facilities necessary to support the future  
101 land uses, which may include central utilities provided onsite  
102 within the planning area, and policies setting forth the  
103 procedures to be used to mitigate the impacts of future land  
104 uses on public facilities.

105 (d) A general identification of any regionally significant  
106 natural resources within the planning area based on the best  
107 available data and policies that set forth the procedures for  
108 protection or conservation of specific resources consistent with  
109 the overall conservation and development strategy for the  
110 planning area.

111 (e) General principles and guidelines addressing the mixed-  
112 use form and the interrelationships of future land uses; the  
113 protection and, as appropriate, restoration and management of  
114 lands identified for permanent preservation through recordation  
115 of conservation easements consistent with s. 704.06, which may  
116 be phased or staged in coordination with detailed site

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117 development plans for specific area plans.

118 (4) A plan amendment adopted pursuant to this section may  
119 be based upon a planning period longer than the generally  
120 applicable planning period of the local comprehensive plan,  
121 shall specify the projected population within the planning area  
122 during the chosen planning period, may include a phasing or  
123 staging schedule that allocates a portion of the local  
124 government's future growth to the planning area through the  
125 planning period, and may designate a priority zone or subarea  
126 within the connected-city corridor for initial implementation of  
127 the plan. A plan amendment adopted pursuant to this section is  
128 not required to demonstrate need based upon projected population  
129 growth or on any other basis.

130 (5) If the local government adopts the long-term master  
131 transportation network plan and financial feasibility plan  
132 pursuant to subparagraph (3)(c), the projects within the  
133 connected-city corridor shall, subject to compliance with the  
134 requirements of such financial feasibility plan, be deemed to  
135 have satisfied all concurrency and other state agency or local  
136 government transportation mitigation requirements, except only  
137 for site-specific access-management requirements.

138 (6) Connected-city corridor plan amendments require public  
139 hearings before the local governing board, which shall be  
140 adoption hearings as described in s. 163.3184(11). A transmittal  
141 hearing is not required for state agency review.

142 (7) (a) Any affected person may file a petition with the  
143 Division of Administrative Hearings pursuant to ss. 120.569 and  
144 120.57 to request a hearing to challenge the compliance of the  
145 plan amendment within 30 days after the local government's

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146 adoption of the amendment and shall serve a copy of the petition  
147 on the local government. An administrative law judge must hold a  
148 hearing in the affected jurisdiction at least 30 days but no  
149 more than 60 days after the filing of a petition and the  
150 assignment of an administrative law judge. The parties to a  
151 hearing held pursuant to this subsection are the petitioner, the  
152 local government, and any intervenor. In the proceeding, the  
153 plan amendment shall be determined to be in compliance if the  
154 local government's determination of compliance is fairly  
155 debatable. The state land planning agency may not intervene in  
156 any proceeding initiated pursuant to this subsection.

157 (b)1. If the administrative law judge recommends that the  
158 connected-city corridor plan amendment is not in compliance, the  
159 administrative law judge shall submit the recommended order to  
160 the Administration Commission for final agency action. If the  
161 administrative law judge recommends that the connected-city  
162 corridor plan amendment is in compliance, the administrative law  
163 judge shall submit the recommended order to the state land  
164 planning agency.

165 2. If the state land planning agency determines that the  
166 plan amendment is not in compliance, the agency shall, within 30  
167 days after its receipt of the recommended order, submit the  
168 recommended order to the Administration Commission for final  
169 agency action. If the state land planning agency determines that  
170 the plan amendment is in compliance, the agency shall enter a  
171 final order within 30 days after its receipt of the recommended  
172 order.

173 (c) In all challenges under this subsection, when a  
174 determination of compliance as defined in s. 163.3184(1)(b) is

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175 made, consideration shall be given to the plan amendment as a  
176 whole and whether the plan amendment furthers the intent of this  
177 part.

178 Section 3. Subsection (2) of section 190.005, Florida  
179 Statutes, is amended, to read:

180 190.005 Establishment of district.—

181 (2) The exclusive and uniform method for the establishment  
182 of a community development district of less than 1,000 acres in  
183 size or a community development district located within a  
184 connected-city corridor plan established pursuant to s.

185 163.3255, regardless of size, shall be pursuant to an ordinance  
186 adopted by the county commission of the county having  
187 jurisdiction over the majority of land in the area in which the  
188 district is to be located granting a petition for the  
189 establishment of a community development district as follows:

190 (a) A petition for the establishment of a community  
191 development district shall be filed by the petitioner with the  
192 county commission. The petition shall contain the same  
193 information as required in paragraph (1) (a).

194 (b) A public hearing on the petition shall be conducted by  
195 the county commission in accordance with the requirements and  
196 procedures of paragraph (1) (d).

197 (c) The county commission shall consider the record of the  
198 public hearing and the factors set forth in paragraph (1) (e) in  
199 making its determination to grant or deny a petition for the  
200 establishment of a community development district.

201 (d) The county commission shall not adopt any ordinance  
202 which would expand, modify, or delete any provision of the  
203 uniform community development district charter as set forth in

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204 ss. 190.006-190.041. An ordinance establishing a community  
205 development district shall only include the matters provided for  
206 in paragraph (1)(f) unless the commission consents to any of the  
207 optional powers under s. 190.012(2) at the request of the  
208 petitioner.

209 (e) If all of the land in the area for the proposed  
210 district is within the territorial jurisdiction of a municipal  
211 corporation, then the petition requesting establishment of a  
212 community development district under this act shall be filed by  
213 the petitioner with that particular municipal corporation. In  
214 such event, the duties of the county, hereinabove described, in  
215 action upon the petition shall be the duties of the municipal  
216 corporation. If any of the land area of a proposed district is  
217 within the land area of a municipality, the county commission  
218 may not create the district without municipal approval. If all  
219 of the land in the area for the proposed district, even if less  
220 than 1,000 acres, is within the territorial jurisdiction of two  
221 or more municipalities, except for proposed districts within a  
222 connected-city corridor plan, the petition shall be filed with  
223 the Florida Land and Water Adjudicatory Commission and proceed  
224 in accordance with subsection (1).

225 (f) Notwithstanding any other provision of this subsection,  
226 within 90 days after a petition for the establishment of a  
227 community development district has been filed pursuant to this  
228 subsection, the governing body of the county or municipal  
229 corporation may transfer the petition to the Florida Land and  
230 Water Adjudicatory Commission, which shall make the  
231 determination to grant or deny the petition as provided in  
232 subsection (1). A county or municipal corporation shall have no

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233 right or power to grant or deny a petition that has been  
234 transferred to the Florida Land and Water Adjudicatory  
235 Commission.

236 Section 4. Paragraph (y) is added to subsection (24) of  
237 section 380.06, Florida Statutes, to read:

238 380.06 Developments of regional impact.—

239 (24) STATUTORY EXEMPTIONS.—

240 (y) Any development within the geographic boundaries of a  
241 connected-city corridor plan which is prepared and adopted  
242 pursuant to s. 163.3255 is exempt from this section.

243

244 If a use is exempt from review as a development of regional  
245 impact under paragraphs (a)-(u), but will be part of a larger  
246 project that is subject to review as a development of regional  
247 impact, the impact of the exempt use must be included in the  
248 review of the larger project, unless such exempt use involves a  
249 development of regional impact that includes a landowner,  
250 tenant, or user that has entered into a funding agreement with  
251 the Department of Economic Opportunity under the Innovation  
252 Incentive Program and the agreement contemplates a state award  
253 of at least \$50 million.

254 Section 5. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17/15

Meeting Date

SB 1216

Bill Number (if applicable)

159278

Amendment Barcode (if applicable)

Topic connected city corridors / bill as amended

Name CITIZENS PARTISON

Job Title Policy Director

Address 308 N. MURDOE

Street

Phone 222-6277 x 103

TALLAHASSEE

City

State

32301

Zip

Email cpattison@1000fof.org

Speaking:  For  Against  Information

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

Representing 1000 FRIENDS OF FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-17-15

Meeting Date

SB-1216

Bill Number (if applicable)

Topic Corridors

Amendment Barcode (if applicable)

Name FRANK MOREY

Job Title CITIZEN

Address 15723 SE 20<sup>th</sup> AVE  
Street

Phone 352.256.2372

Hawthorne FL 32640  
City State Zip

Email NVESQUITER@olicon

Speaking:  For  Against  Information

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

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE

APPEARANCE RECORD

3/17/05

Meeting Date

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

SB1214

Bill Number (if applicable)

Topic CITY CORRIDORS

Amendment Barcode (if applicable)

Name JAMES M DICK

Job Title RETIRED CITIZEN

Address 1114 S.E. 163rd St

Phone 904-864-7063

Street

HAWTHORNE

FL.

32640

Email jmdjaxfl@yahoo.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing CITIZENS VOLUNTARY GROUP

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

# CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Community Affairs Committee Judge:

Started: 3/17/2015 9:04:06 AM

Ends: 3/17/2015 10:15:14 AM

Length: 01:11:09

9:04:10 AM Call to order  
9:05:27 AM Tab 5 SB 782 Senator Montford  
9:05:44 AM Amendment Barcode 441076  
9:07:18 AM Amendment adopted  
9:07:26 AM Senator Bradley  
9:08:21 AM Dale Rabon Guthrie, Jackson County Constitutionals  
9:08:26 AM Roll call on SB 782  
9:08:33 AM Bill reported favorably  
9:08:51 AM Tab 2 SB 168 Senator Negron  
9:09:42 AM Lori Killinger, Florida Manufactured Housing Association  
9:12:08 AM Roll call SB 168  
9:12:17 AM Bill reported favorably  
9:12:43 AM Tab 10 SB 286 Senator Diaz de la Portilla  
9:12:57 AM Pat Gosney, LA Senator Diaz de la Portilla  
9:13:13 AM Amendment Barcode 823558  
9:14:10 AM Amendment adopted  
9:14:24 AM Senator Brandes  
9:15:09 AM Ms. Gosney  
9:15:31 AM Laura Youmans, Florida Association of Counties  
9:15:45 AM Jess McCarty, Miami-Dade County  
9:15:52 AM Roll call SB 286  
9:15:57 AM Bill reported favorably  
9:16:15 AM Tab 1 SB 420 Senator Grimsley  
9:16:25 AM Anne Bell, LA Senator Grimsley  
9:16:42 AM Amendment Barcode 560196  
9:16:55 AM Amendment Barcode 195728  
9:17:22 AM Amendment adopted  
9:18:03 AM Roll call SB 420  
9:18:13 AM Bill reported favorably  
9:18:32 AM Tab 9 SB 962 Senator Legg  
9:18:52 AM Rich Reidy, LA Senator Legg  
9:19:38 AM Senator Bradley  
9:20:39 AM Amendment Barcode 945426  
9:20:45 AM Late Filed Amendment introduced  
9:21:16 AM Amendment adopted  
9:21:41 AM Roll call SB 962  
9:21:52 AM Bill reported favorably  
9:22:07 AM Tab 6 SB 466 Senator Flores  
9:23:03 AM Senator Dean  
9:24:48 AM Megan Sirjane-Samples, Florida League of Cities  
9:25:56 AM Roll call on SB 466  
9:26:09 AM Bill reported favorably  
9:26:24 AM Tab 7 SB 972 Senator Flores  
9:29:10 AM Senator Flores close  
9:29:20 AM Roll call on SB 972  
9:29:33 AM Bill reported favorably  
9:29:50 AM Tab 3 SB 824 Senator Evers  
9:30:03 AM Dave Murzin, LA Senator Evers  
9:30:40 AM Amendment Barcode 759076  
9:30:46 AM Late Filed Amendment introduced  
9:31:02 AM Mr. Murzin  
9:31:19 AM Senator Bradley

9:31:58 AM Mike Huey, FL Assn. of the Am. Institute of Architects + ABC  
9:33:02 AM Amendment adopted  
9:33:25 AM Richard Watson, Associated Builders and Contractors  
9:34:08 AM Roll call on SB 824  
9:34:17 AM Bill reported favorably  
9:34:30 AM Tab 4 SB 826 Senator Evers  
9:34:40 AM Dave Murzin, LA Senator Evers  
9:34:45 AM Senator Bradley  
9:35:29 AM Richard Watson, Associated Builders and Contractors  
9:38:57 AM Senator Bradley  
9:39:33 AM Mr. Murzin close  
9:40:45 AM Senator Bradley  
9:40:52 AM Roll call on SB 826  
9:41:02 AM Bill reported favorably  
9:41:29 AM Tab 11 SB 1216 Senator Simpson  
9:41:58 AM Amendment Barcode 159278  
9:43:00 AM Charles Pattison, 1000 Friends of Florida  
9:43:34 AM Senator Dean  
9:44:13 AM Frank Morey representing self  
9:45:26 AM James Dick, Citizens Voluntary Group  
9:48:13 AM Senator Dean  
9:54:43 AM Senator Bradley  
9:56:23 AM Amendment adopted  
9:56:45 AM Senator Dean  
10:00:39 AM Senator Simpson close  
10:00:58 AM Roll call on SB 1216  
10:01:12 AM Bill reported favorably  
10:01:29 AM Tab 8 SB 1114 Senator Stargel  
10:01:43 AM Amendment Barcode 336962  
10:02:31 AM Amendment adopted  
10:02:38 AM Senator Thompson  
10:03:20 AM Senator Abruzzo  
10:05:13 AM Senator Stargel  
10:05:46 AM Senator Abruzzo  
10:07:14 AM Senator Thompson  
10:09:20 AM David Cruz, Florida League of Cities  
10:10:00 AM Senator Bradley  
10:12:01 AM Senator Abruzzo  
10:13:30 AM Senator Stargel close  
10:13:51 AM Roll call on SB 1114  
10:14:04 AM Bill reported favorably  
10:14:21 AM Senator Brandes  
10:14:42 AM Senator Thompson  
10:14:54 AM Senator Abruzzo  
10:15:08 AM Adjourned



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Judiciary, *Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Community Affairs  
Finance and Tax  
Regulated Industries  
Rules

**SENATOR MIGUEL DIAZ de la PORTILLA**

40th District

March 16, 2015

The Honorable Wilton Simpson  
Chair  
Community Affairs

Via Email

Dear Chair Simpson:

I respectfully request that I be excused from the Community Affairs Committee on Tuesday, March 17 at 9:00 a.m. I have a business obligation in my law firm in Miami and will not arrive in Tallahassee until Tuesday night.

My Senate Bill SB 286 is on the Community Affairs agenda. I request that my assistant, Pat Gosney, be permitted to present that bill on my behalf, along with my amendment, Bar Code 823558.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla  
Senator, District 40

Cc: Mr. Tom Yeatman, Staff Director; Ms. Ann Whittaker, Committee Administrative Assistant

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore