

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 31, 1998 Revised: _____

Subject: Counties

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Schmith</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute (CS) for SB 2086 changes the population requirement from 50,000 or less to 75,000 or less for a county to be designated or considered a “small county” in certain chapters of the Florida Statutes. Presently, there are 29 counties in Florida with populations of 50,000 or less. The CS would add three more counties (Columbia, pop. 53,684; Nassau, pop. 52,740; and Putnam, pop. 70,243) to a list of small counties. The CS also authorizes counties to use a collection agency or attorney to collect past due fines and fees.

The CS also creates a new section of law requiring the Department of Environmental Protection to waive processing fees for renewals of specified exemptions issued to any county, municipality or special district. This section may violate the single subject requirement of the State Constitution.

This CS substantially amends the following sections of the Florida Statutes: 34.191, 163.05, 163.3177, 163.3191, 165.061, 212.055, 218.075, 218.65, 252.373, 288.063, 373.441, 403.4131, 403.706, 403.7061, 403.7095 and 403.719. This CS repeals section 125.2801 and creates section 218.076 of the Florida Statutes.

II. Present Situation:

Throughout the Florida Statutes “small counties” are considered to be those counties having a population of 50,000 or less. According to the *1997 Florida Estimates of Population*, University of Florida, Bureau of Economic and Business Research, College of Business Administration, April 1, 1997, those counties include:

- | | | | | |
|----------|----------|--------|---------|--------|
| Baker | Franklin | Hardee | Levy | Taylor |
| Bradford | Gadsden | Hendry | Liberty | Union |

Baker	Franklin	Hardee	Levy	Taylor
Calhoun	Gilchrist	Holmes	Madison	Wakulla
DeSoto	Glades	Jackson	Okeechobee	Walton
Dixie	Gulf	Jefferson	Sumter	Washington
Flagler	Hamilton	Lafayette	Suwannee	

Current law provides benefits, exemptions or special consideration to small counties. Some of those statutory provisions include, but are not limited, to the following:

- Section 163.05, F.S., provides the Small County Technical Assistance Program enabling small counties to implement workable solutions to financial and administrative problems.
- Section 163.3177, F.S., relates to required and optional elements of local comprehensive plans for local governments.
- Section 163.3191, F.S., relates to small counties' ability to enter into an agreement with the Department of Community Affairs (DCA) to focus planning resources on certain issues or elements when updating its comprehensive plan.
- Section 165.061, F.S., provides standards for incorporation. An area desiring to incorporate must meet certain statutorily prescribed conditions. Among them is the requirement that in counties with populations of less than 50,000, the area desiring incorporation must have at least 1,500 persons.
- Section 212.055, F.S., allows small counties to use the proceeds, or any interest accrued thereon, from the local government infrastructure surtax for long-term maintenance costs associated with landfill closure.
- Section 218.075, F.S., allows the Department of Environmental Protection (DEP) and the water management districts to reduce or waive the permit processing fees for small counties for public works projects.
- Paragraph (a) of subsection (2) and paragraph (a) of subsection (7) of s. 218.65, F.S., relate to county eligibility of supplemental funds from the local government half-cent sales tax based on certain criteria.
- Paragraph (a) of subsection (3) of s. 252.373, F.S., requires consideration of small counties in the DCA rules determining which local governments receive distributions from the Emergency Management Assistance and Preparedness Trust Fund.
- Subsection (3) of s. 288.063, F.S., provides small counties certain benefits for transportation projects approved by the Office of Tourism, Trade, and Economic Development. The intent is to attract new employment opportunities or expand or retain employment in existing companies or allow for construction or expansion of a state or federal correctional facility,

thereby creating new employment opportunities or expanding or retaining employment in the county.

- Subsection (2) of s. 288.065, F.S., provides long-term loans, loan guarantees, and loan loss reserves to small counties.
- Paragraph (g) of subsection (1) of s. 373.441, F.S., provides for consideration of the provisions under which delegation to small counties of the local pollution control permitting program may take place. The DEP and the water management districts may adopt rules in this regard in an effort to streamline the permitting process.
- Subsection (2) of s. 394.467, F.S., allows for involuntary placement in a facility for treatment of mental illness. In small counties where no psychiatrist or clinical psychologist is available to provide a second opinion, the second opinion may be provided by a licensed physician with postgraduate training and experience in diagnosis and treatment of mental and nervous disorders or by a psychiatric nurse.
- Subsection (5) of s. 403.4131, F.S., provides for the “Keep Florida Beautiful” program. Small counties are encouraged to adopt a regional approach to administer and coordinate their litter control and prevention programs.
- Paragraph (d) of subsection (4) of s. 403.706, F.S., provides for solid waste responsibilities of local governments. Small counties may provide recycling in order to reduce the waste stream by a certain percentage which is statutorily prescribed.
- Paragraph (c) of subsection (3) of s. 403.7061, F.S., provides requirements for review of new waste-to-energy facilities’ capacities by DEP. This statutory provision does not apply to small counties.
- Paragraph (a) of subsection (7) of s. 403.7095, F.S., provides a solid waste management grant program. Counties with a population under 100,000 are eligible to receive annual grants of \$50,000 through June 30, 1998.
- Paragraph (i) of subsection (1) of s. 403.719, F.S., allows small counties to use waste tire grants for any solid waste-related purpose.
- Subsections (2) and (16) of s. 403.973, F.S., provide for direction through the Office of Tourism, Trade, and Economic Development for the purpose of reviewing and expediting permit applications by qualifying businesses. Qualifying businesses must create at least 100 jobs, or 50 jobs if business is located in an enterprise zone or small county. Small counties are also provided technical assistance and guidance through the Office of Tourism, Trade, and Economic Development in preparing permits and other activities requiring certain expertise in job growth and development.

- Paragraph (b) of subsection (7) of s. 468.609, F.S., provides certification standards for building code inspectors and administrators. Small counties are deemed to have satisfied the requirements for standard certification if an employee, by October 1, 1998, is approved for certification under either the Southern Building Code Congress International, the Building Officials Association of Florida, the South Florida Building Code (Dade and Broward) or the Council of American Building Officials.

Section 327 of chapter 96-410, Laws of Florida, relates to a county achieving and retaining small county status after meeting many qualifying provisions of other statutes, until that county exceeds a population of 75,000. This section was added as a floor amendment to House Bill 751 (the Administrative Procedure Act revisions) during the 1996 Legislative Session, *See 1745 Journal of the House of Representatives* (May 2, 1996), and was not the substance of any bill filed and heard in committee during the session. As such, there is no published legislative analysis of that section. Section 327 of chapter 96-410, Laws of Florida, has been codified as s. 125.2801, F.S..

III. Effect of Proposed Changes:

This CS changes the population requirement from 50,000 or less to 75,000 or less for a county to be designated or considered a small county in certain chapters of the Florida Statutes. According to the 1997 Estimates of Population, there are 29 counties in Florida with populations of 50,000 or less. Three additional counties (Columbia, Nassau and Putnam) would be included under the new population ranges.

A section-by-section analysis of the provisions of the CS is as follows:

Section 1 repeals s. 125.2801, F.S., which relates to a county achieving and retaining small county status after meeting other qualifying statutory provisions, until that county exceeds a population of 75,000. Issues have been raised with this section since its adoption during the 1996 session and the intent of the CS is to address those issues by amending the small county status within various substantive statutes.

Section 2 adds subsection (4) to s. 34.191, F.S., to authorize a county to assign the collection of past due fines and costs to a private attorney or collection agency. Fines, court costs, or other costs imposed by the court, may be so assigned if they are 90 days or more past due and if the board of county commissioners determines that assignment is cost-effective and follows established bid practices. The attorney or collection agency must be licensed or registered in the state. The county may authorize a fee to be added to the past due balance to offset collection costs.

Section 3 amends s. 163.05, F.S., which provides the Small County Technical Assistance Program enabling small counties to implement workable solutions to financial and administrative problems. This amendment qualifies three additional counties for technical assistance under the program.

Section 4 amends paragraph (i) of subsection (6) of s. 163.3177, F.S., which relates to required and optional elements of local comprehensive plans for local governments. This amendment exempts three additional counties from a requirement to adopt optional elements in their comprehensive plans.

Section 5 amends paragraph (a) of subsection (12) of s. 163.3191, F.S., which relates to small counties' ability to enter into an agreement with the DCA to focus planning resources on certain issues or elements when updating its comprehensive plan. This amendment qualifies three additional counties to enter into agreements with DCA.

Section 6 amends paragraph (b) of subsection (1) of s. 165.061, F.S., which provides standards for incorporation. An area desiring to incorporate must meet certain statutorily-prescribed conditions, one of which is that in counties with populations of less than 50,000, the area desiring incorporation must have at least 1,500 persons. The CS changes the 50,000 to 75,000.

Section 7 amends paragraph (d) of subsection (2) of s. 212.055, F.S., which allows small counties to use the proceeds, or any interest accrued thereon, from the local government infrastructure surtax for long-term maintenance costs associated with landfill closure. This amendment qualifies three additional counties for this use of the proceeds.

Section 8 amends s. 218.075, F.S., which allows the DEP and the water management districts to reduce or waive the permit processing fees for small counties for public works projects. The CS authorizes waiver or reduction of those fees for counties with a population of 50,000 or less *on April 1, 1994, until they exceed a population of 75,000*. This amendment ensures that 31 small counties qualify for reduction or waiver of DEP and water management district fees.

Section 9 creates s. 218.076, F.S., to require DEP to waive permit processing fees for renewals of exemptions from the Class G-II groundwater standards when the exemptions were issued to any county, municipality or independent special district with reclaimed water land application facilities for wastewater effluent disposal, when such exemptions were granted by DEP by final agency action containing specified findings. According to the sponsor, this section will allow DEP to waive the processing fee for the Cedar Key Special Water and Sewerage District to renew its current exemption. It is unknown whether any other local government entity would qualify under this provision.

Section 10 amends paragraph (a) of subsection (2) of s. 218.65, F.S., which relates to county eligibility of supplemental emergency funds from the local government half-cent sales tax based on certain considerations and populations. The CS modifies the county population criteria from 50,000 or above to 65,000 or above, but retains the existing taxable value criteria to narrow the application of the statute.

This section also amends paragraph (a) of subsection (7) by deleting the criteria that a county must be eligible for an emergency distribution, pursuant to subsection (2), to be eligible for a supplemental distribution for that year. The CS retains the current criteria, that the inmate

population be greater than seven percent of the total population of the county, as the only criteria for a supplemental distribution. Therefore, a county may qualify for a supplemental distribution without meeting the criteria in subsection (2)(a) or (b) regarding the value of new construction and additions placed on the tax roll and the percentage increase in county taxable value.

Section 11 amends paragraph (a) of subsection (3) of s. 252.373, F.S., which specifies the criteria DCA must include in its rules to determine which local emergency management agencies and programs will receive funds from the Emergency Management, Preparedness and Assistance Trust Fund. The amendment may qualify three additional counties for funding from the Trust Fund if they meet the other criteria in the statute.

Section 12 amends subsection (3) of s. 288.063, F.S., which provides small counties certain benefits for transportation projects approved by the Office of Tourism, Trade, and Economic Development. The intent is to attract new employment opportunities or expand or retain employment in existing companies or allow for construction or expansion of a state or federal correctional facility, creating new employment opportunities thereby expanding or retaining existing employment in the county.

Section 13 amends subsection (1) of s. 373.441, F.S., which provides considerations for DEP rules to guide the participation of local governments to promote efficient, streamlined pollution control programs. The amendment changes the consideration for special provisions under which the environmental resource permit program may be delegated to small counties and municipalities.

Section 14 amends subsection (5) of s. 403.4131, F.S., which provides for the “Keep Florida Beautiful” program. This change adds three more small counties to those which are encouraged to adopt a *regional* approach to administer and coordinate their litter control and prevention programs.

Section 15 amends paragraph (d) of subsection (4) of s. 403.706, F.S., which provides for solid waste responsibilities of local governments. Small counties may provide recycling in order to reduce the waste stream by a certain percentage which is statutorily prescribed. Should a small county decide to offer recycling, it must notify the DEP by October 1. The amendment authorizes three additional small counties to substitute recycling for achieving the statutory goal, and requires them to notify DEP by October 1 if they choose that alternative.

Section 16 amends paragraph (c) of subsection (3) of s. 403.7061, F.S., which provides requirements for review of new waste-to-energy facilities’ capacities by DEP. The CS exempts three additional small counties from the provisions of this section.

Section 17 amends paragraph (a) of subsection (7) of s. 403.7095, F.S., which provides a solid waste management grant program and provides for annual grants to all counties with a population of less than 100,000. The CS deletes the expiration date of June 30, 1998, thereby indefinitely extending the program. Each eligible small county may receive \$50,000.

Section 18 amends paragraph (i) of subsection (1) of s. 403.719, F.S., which allows small counties to use waste tire grants for any solid waste-related purpose. The CS will allow three additional counties to qualify for this expanded use.

Section 19 provides for an effective date of July 1, 1998.

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:

Section 9 of the CS creates a new section of the Florida Statutes to exempt any county, municipality or special district from paying DEP processing fees for renewals of exemptions from certain groundwater standards. This section may violate s. 6, Art. III of the State Constitution, which provides, "Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be expressed in the title." The purpose of this provision is to prevent a single enactment from becoming a cloak for dissimilar legislation having no necessary or appropriate connection with the subject matter. *See* 49 Fla. Jur 2nd §88. The test a court will apply is whether or not the provisions of the bill are designed to accomplish separate and disassociated objects of legislative effort. *Id.* This section of the bill, intended to exempt a specific special district from paying a fee to a state agency, does not appear to be related to the remainder of the bill, which relates to counties.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Residents of Columbia, Nassau and Putnam counties would benefit from this CS to the extent these counties qualify for small county status programs, exemptions and permit waivers,

thereby saving the taxpayer possible property tax increases or increased fees for such things as solid waste disposal.

C. Government Sector Impact:

Three additional counties, Columbia, Nassau and Putnam, will benefit by qualifying for various forms of assistance and fee or permit waivers from state government.

Under section 2, counties are authorized to contract out for the collection of past due fines and costs. Some counties report that this authority will result in a cost savings because the administrative costs to collect these past due amounts are greater than the cost of contracting out collection services. In addition, the CS authorizes counties to recoup the cost of collection through additional penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Florida Association of Counties comments that this CS is intended to ensure small counties that may be approaching populations of more than 50,000 in the next few years do not, by virtue of going over the population limits, forfeit state or federal funds to which they may be entitled.

Section 2 of the CS, which provides that a county commission may assign the collection of outstanding fines, court costs, and other costs imposed by a county court to a collection agent, is contained in SB 200.

VIII. Amendments:

None.