

**STORAGE NAME:** h0065.ca

**DATE:** September 3, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
ANALYSIS**

**BILL #:** HB 65

**RELATING TO:** Local Governments/Buildings/Public Nuisance

**SPONSOR(S):** Representative Sanderson

**COMPANION BILL(S):** None.

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

(1) COMMUNITY AFFAIRS (PRC)

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I. SUMMARY:

House Bill 65 clarifies current law and increases local governments' authority to declare any place or premise a public nuisance that has been used on more than two occasions within a 6-month period for dealing in stolen property. The fiscal impact of this bill is insignificant.

The provisions of HB 65 mirror those of CS/HB 363 which died in the 1999 session.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 893.138, Florida Statutes, 1998 Florida Supplement, authorizes local governments to create administrative boards to hear certain public nuisance complaints and impose administrative fines and other non-criminal penalties against owners of premises that are the site of certain types of illegal activity. Any place may be declared a public nuisance by the local administrative board if it is used twice in a six month period as the site for prostitution, illegal drug dealing, or a criminal street gang activity.

According to the administrative boards, many of the premises declared to be a public nuisance are rental properties. The provisions of s. 893.138, Florida Statutes, 1998 Florida Supplement, effectively compels real property owners to be vigilant about preventing or abating activities related to drug-abuse, prostitution, and criminal street gangs .

The fines imposed on premises declared to be a public nuisance may be up to \$500 per day for recurring public nuisances, but the total fines may not exceed \$7,500. Local ordinances may provide for the fines to be recorded as a lien against the property and for the property to be foreclosed to recover the lien and attorney's fees so long as the property is not a homestead.

B. EFFECT OF PROPOSED CHANGES:

HB 65 adds to current law that any place or premises used for the purpose of dealing in stolen property on more than two occasions within a six month period may be declared a public nuisance. Such activity may be abated by local governments by the imposition of fines or injunctive relief. This provision increases the existing list of activities that can cause property to be declared a public nuisance and abated by local governments.

The bill also clarifies the language of section 893.138, F.S. 1998 Supplement, making it consistent through out when referring to "any place or premises."

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Counties and municipalities may hear additional complaints pertaining to stolen property activity. When applicable, owners of places or premises must take necessary steps to abate activity involving stolen property from their property pursuant to s. 893.138, Florida Statutes, 1998 Supplement.

(3) any entitlement to a government service or benefit?

Yes. Florida citizens with valid nuisance complaints under s. 893.138, Florida Statutes, 1998 Supplement, are entitled to have their complaints regarding stolen property activity heard by an administrative board where established by any county or municipality for that purpose.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. It allows the citizens of the state to be proactive in promoting the health and safety of their communities from activities relating to stolen property.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 893.138, Florida Statutes, 1998 Supplement.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 893.138, Florida Statutes, 1998 Florida Supplement, to increase county and municipal authority to abate certain illegal activities by declaring certain sites to be public nuisances and to further clarify the statute.

Section 2. Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

The source of the following fiscal research is based on the provisions of CS/HB 363, filed in the 1999 session, that are identical to HB 65. The increased authority to counties and municipalities has little or no impact on the non-recurring effects since participating local governments already have administrative boards to hear nuisance complaints under s. 893.139, Florida Statutes, 1998 Florida Supplement.

2. Recurring Effects:

Indeterminate. It is not known whether HB 65 will significantly increase the case load for complaints under this bill for all counties and municipalities with public nuisance administrative boards. However, the nuisance administrative boards from some large municipalities expect a minimal case load increase for complaints under this bill. (See Fiscal Comments)

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

HB 65 allows citizens of the state to be proactive in promoting the health and safety of their communities from activities relating to stolen property.

3. Effects on Competition, Private Enterprise and Employment Markets:

Crime-free neighborhoods may contribute to more stable real property values in communities with nuisance administrative boards. Citizens may patronize businesses in communities that abate nuisances as prescribed in s. 893.138, Florida Statutes, 1998 Florida Supplement.

D. FISCAL COMMENTS:

Public nuisance administrative boards of some of the large municipalities expect no increase from costs related to HB 65. Only an increase of one to two cases per year are anticipated due to this bill. The additional case load may result in more fines awarded. Those fines may also include the costs of attorney fees and investigative costs.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 65 does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. Counties and municipalities have the option of creating administrative boards pursuant to s. 893.138, Florida Statutes, 1998 Florida Supplement.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 65 does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 65 does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON Community Affairs:

Prepared by:

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