

STORAGE NAME: h0065a.ca

DATE: October 4, 1999

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

BILL #: HB 65

RELATING TO: Local Governments/Buildings/Public Nuisance

SPONSOR(S): Representative Sanderson

TIED BILL(S):

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

- (1) COMMUNITY AFFAIRS (PRC)
 - (2) CRIME & PUNISHMENT (CRC)
 - (3)
 - (4)
 - (5)
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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. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

1. Less Government: 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. 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. 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 Supplements, 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.

C. 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."

D. 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 GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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. Expenditures:

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)

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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. 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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON Community Affairs:

Prepared by:

Staff Director:

Bridget Edmond

Joan Highsmith-Smith