

STORAGE NAME: h0065c.cp

DATE: October 29, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
CRIME AND PUNISHMENT
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) 10 YEARS 0 DAYS
 - (2) CRIME AND PUNISHMENT
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

House Bill 65 authorizes local administrative boards to declare any place or premises that has been used on more than two occasions within a 6-month period for dealing in stolen property to be declared a public nuisance. This would allow the board to impose fines against the owner of the property and enter orders prohibiting the maintaining of the nuisance.

The provisions of HB 65 mirror those of CS/HB 363 which died in returning messages at the end of 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: Local administrative boards are given the authority to declare a premises to be a public nuisance if it has been used twice within the past six months for dealing in stolen property.

B. PRESENT SITUATION

Section 893.138, Fla. Stat. authorizes county or municipal governments to create administrative boards by ordinance to hear certain public nuisance complaints. Any employee, officer or resident of the county or municipality may bring a complaint before the administrative board. After serving notice upon the owner and holding a hearing, the administrative board may declare "any place or premises" a public nuisance if it has been used twice in a six month period as the site for prostitution, illegal drug dealing, or criminal street gang activity.

If the board declares a place or premises to be a public nuisance, it may enter an order requiring the owner to abate the nuisance. The board may also enter an order prohibiting the operating or maintaining of the premises, including the closure of the premises. The board may enter an order prohibiting the operation of any business or activity on the premises that is conducive to the nuisance. The board may also seek injunctive relief against the nuisance.

The section also authorizes the passage of county or municipal ordinances allowing for the imposition of fines against the owner of the public nuisance. 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:

Section 893.138 currently provides that administrative boards may declare any place or premises to be a public nuisance if it has been used on more than two occasions in a six month period as a site for prostitution, illegal drug dealing or criminal street gang activity. HB 65 adds to this list by providing that an administrative board may declare any place or premises to be a public nuisance if it has been used for the purpose of dealing in stolen property on more than two occasions within a six month period.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 Amends s. 893.138 to allow local administrative boards to declare a premises to be a public nuisance if it has been used on more than two occasions in a six month period as a site for dealing in stolen property.

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.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See fiscal comments.

D. FISCAL COMMENTS:

Community Affairs 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.

Crime & Punishment comments: This bill may result in an increased number of complaints before local administrative boards. Information is currently unavailable as to how many counties or municipalities have created administrative boards, how often the public

nuisance provisions are currently used by local administrative boards or how many more complaints are expected if this bill is enacted.

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:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON Community Affairs:

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