

STORAGE NAME: h0663z.ca

****FAILED TO PASS THE LEGISLATURE****

DATE: May 15, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
FINAL ANALYSIS**

BILL #: HB 663

RELATING TO: Safe Neighborhood Improvement Districts

SPONSOR(S): Representative Manuel Prieguez

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 10 NAYS 0
 - (2) COLLEGES & UNIVERSITIES YEAS 8 NAYS 0
 - (3) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 7 NAYS 0
 - (4) CRIMINAL JUSTICE APPROPRIATIONS YEAS 10 NAYS 0
-

I. SUMMARY:

This bill amends the "Safe Neighborhoods Act" to authorize the creation of "neighborhood improvement districts" where 75 percent of the land is used for postsecondary educational purposes and where there is a plan to reduce crime through the use of a "university police patrol." "University police patrol" is defined as a police patrol having law enforcement powers that serve a safe neighborhood improvement district with the same boundaries as that of the campus of a nonpublic university or college with an enrollment of 10,000 or more full-time students attending classes within the boundaries of the district. The police patrol must be funded by the university or college or other funding sources authorized by law.

The bill grants such "university police patrols" law enforcement powers within the district and requires officers to meet the standards established by the Criminal Justice Standards and Training Commission and be certified as law enforcement officers by the commission. The bill declares that university police patrol police officers are employees of the district.

The bill authorizes the local government creating a Local Government Neighborhood Improvement District that has a "university police patrol" to establish the qualifications of the district's board of directors in the ordinance creating the district. The bill allows budget and fiscal matters pertaining to a neighborhood improvement district having a "university police patrol" to be established by interlocal agreement between the district and the local governing body.

The bill does not appear to have a fiscal impact on state or local government.

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 type="checkbox"/> Unknown <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

Less Government: This bill authorizes the creation of a dependent special district with police powers. See the "Effects of Proposed Changes" section for details.

Lower Taxes: This bill has no direct impact on taxes or fees. See the "Fiscal Analysis & Economic Impact Statement," for a discussion of the bill's potential fiscal impact.

B. PRESENT SITUATION:

Background Information

Campus Law Enforcement Agencies

In 1995, to determine the nature of law enforcement services provided on college campuses, the Bureau of Justice Statistics (BJS) of the United States Justice Department surveyed 4-year institutions of higher education in the United States with 2,500 or more students. Of the 682 campuses meeting the requirements for inclusion in the survey, 680 had some type of organized police or security agency. The results of the survey are presented in the report entitled Campus Law Enforcement Agencies (1995). The report presents data describing nearly 600 of these campus law enforcement agencies in terms of their personnel, expenditures and pay, operations, equipment, computers and information systems, policies, and special programs. The following paragraphs are excerpted from this report.

During 1995 three-fourths of the agencies providing law enforcement services on 4-year campuses in the United States with an enrollment of 2,500 or more used sworn officers granted general arrest powers by a State or local government. The remainder relied on non-sworn security officers whose authority was typically limited to the temporary detention of a suspect until his or her arrest by a sworn officer from a State or local law enforcement agency.

The use of sworn campus police officers increased with enrollment size. More than 95% of the campuses with 20,000 or more students, and almost 90% of those with 10,000 to 19,999 students used sworn officers, compared to 54% of the campuses with 2,500 to 4,999 students. About 5 in 6 agencies with sworn officers and 64% of all agencies used armed patrol officers. Well over 90% of the agencies serving campuses with more than 20,000 students used armed officers, compared to 42% of those with 2,500 to 4,999 students.

In addition to being more common on campuses with larger enrollments, sworn and armed officers were also more likely to be found at institutions under public rather than private control. Overall, 93% of the agencies serving public institutions used sworn officers, and 81% used armed patrol officers, compared to 43% and 34% respectively among private institutions.

Nearly all of the public campuses with 10,000 or more students (96%) used sworn officers, and 89% had armed patrol officers. Among private campuses in this size range, 71% used sworn officers, and 59% used armed officers. Among campuses with 5,000 to 9,999 students, those under public control were about twice as likely as private institutions to use sworn (92% versus 45%), or armed (76% versus 39%) officers. Among the smallest campuses, those under public control were more than twice as likely as private campuses to use officers who were sworn (84% versus 34%) or armed (67% versus 24%).

The arrest jurisdiction of sworn campus police officers was limited to the campus served in about half of all agencies. This was more likely to be the case at institutions under private (67%) rather than public (47%) control, and on campuses with smaller enrollments. For example, sworn officers serving public institutions were limited to on-campus arrests at about 60% of the campuses with fewer than 5,000 students, compared to just 30% of those with 20,000 or more students. When broader arrest jurisdictions were granted campus police officers it was sometimes limited to a defined area around the campus, but usually extended to the entire municipality, county, or State.

According to information submitted by the University of Miami, the following states have enacted laws allowing some type of university police at private universities:

- Delaware;
- Georgia;
- Louisiana;
- Massachusetts
- Missouri;
- New Jersey;
- North Carolina;
- Ohio;
- Pennsylvania;
- Rhode Island;
- South Carolina;
- Tennessee;
- Virginia.

State University System Police

Section 240.268, F.S., directs each public university to provide for police officers for the university. University police are declared to be law enforcement officers of the state and have full authority to bear arms in the performance of their duties and to execute search warrants within their territorial jurisdiction. University police must meet the minimum standards established by the Criminal Justice Standards and Training Commission and chapter 943, F.S. Each police officer must take the oath of office as established by the university; and the university may obtain and approve a bond on each officer, payable to the Governor and his or her successors in office, conditioned on the faithful performance of the duties of such university police officer. The university must provide a uniform set of identification credentials for each university police officer. In performance of any of the powers, duties, and functions

authorized by law or this section, university police have the same rights, protections, and immunities afforded other peace or law enforcement officers.

The university, in concurrence with the Department of Law Enforcement, is directed to adopt rules, including, but not limited to, the appointment, employment, and removal of university police in accordance with the state Career Service System, and, further, establish in writing a policy manual, including, but not limited to, routine and emergency law enforcement situations.

Community College System Police

Section 240.38, F.S., directs each community college to provide for police officers for the community college. Community college police are declared to be law enforcement officers of the state and have full authority to bear arms in the performance of their duties and to execute search warrants within their territorial jurisdiction. Community college police must also meet the minimum standards established by the Police Standards and Training Commission of the Department of Law Enforcement and chapter 943, F.S. Each police officer must take the oath of office as established by the community college; and the community college may obtain and approve a bond on each officer, payable to the Governor, conditioned on the faithful performance of the duties of such community college police officer. The community college must provide a uniform set of identification credentials for each community college police officer. In performance of any of the powers, duties, and functions authorized by law or this section, community college police have the same rights, protections, and immunities afforded other peace or law enforcement officers.

The community college, with approval of the Department of Law Enforcement, is directed to adopt rules, including, but not limited to, the appointment, employment, and removal of community college police in accordance with the state Career Service System, and, further, establish in writing a policy manual, including, but not limited to, routine and emergency law enforcement situations.

University of Miami Police Patrol

The Coral Gables campus of the University of Miami comprises 260 acres in an urban area, with 110 buildings. It has a student population exceeding 12,000. As a private entity, the University does not have police powers. However, according to the University, since 1947 the university has contracted with the City of Coral Gables to provide sworn police officers devoted to the University's Coral Gables campus. Under an agreement initiated in 1969, police services are provided at the University's Coral Gables campus by City of Coral Gables police officers. The University pays the officers' salaries, as well as for their badges, guns, and uniforms. University officers are ineligible for City benefits. Although the agreement cedes some control over campus police officers to the University, the City retains control over hiring and assigning the officers to off-campus duties. Based on the recommendation of the Police Standards and Training Commission provided in an October 8, 1976, letter, University police officers are classified as part-time sworn Coral Gables police officers. Currently, twenty-five university police officers provide police services to the University's Coral Gables campus.

According to the University's general counsel, the Chief of Police for the City of Coral Gables is philosophically opposed to the current arrangement and does not wish to continue the agreement with the University. Attempts to reach an alternative arrangement satisfactory to both parties have not been successful.

Qualifications and Standards for Law Enforcement Officers

Section 943.11, F.S., creates the Criminal Justice Standards and Training Commission (Commission) within the Department of Law Enforcement. Included in its powers are the authority to certify and revoke certification of officers, instructors, and criminal justice training schools; and establish uniform minimum employment standards for the various criminal justice disciplines. Section 943.13, F.S., establishes minimum qualifications for employment or appointment of law enforcement officers and correctional officers. Section 943.17, F.S., directs the Commission to establish and revise job-related curricula and performance standards for basic recruit, advanced, and career development training programs and courses.

Neighborhood Improvement Districts

Chapter 163, part IV, Florida Statutes, the "Safe Neighborhoods Act," allows for the creation of Safe Neighborhood Improvement Districts. The stated purpose of the act is to guide and accomplish the coordinated, balanced, and harmonious development of safe neighborhoods; to promote the health, safety and general welfare of these areas and their inhabitants, visitors, property owners, and workers; to establish, maintain, and preserve property values and preserve and foster the development of attractive neighborhood and business environments; to prevent overcrowding and congestion; to improve or redirect automobile traffic and provide pedestrian safety; to reduce crime rates and the opportunities for the commission of crime; and to provide improvements in neighborhoods so they are defensible against crime.

In 1998, the Legislature amended the act to include crime prevention through community policing innovations in the powers of neighborhood improvement districts. Section 163.340(23), F.S., defines "community policing innovation" to mean:

"a policing technique or strategy designed to reduce crime by reducing opportunities for, and increasing the perceived risks of engaging in, criminal activity through visible presence of police in the community, including, but not limited to, community mobilization, neighborhood block watch, citizen patrol, citizen contact patrol, foot patrol, neighborhood storefront police stations, field interrogation, or intensified motorized patrol."

Creation and Powers of Local Government Neighborhood Improvement Districts

Safe Neighborhood Improvement Districts are formed by the adoption of a local planning ordinance authorizing the creation of such districts. There are a number of options available for the implementation of a safe neighborhood program.

Pursuant to s. 163.506, F.S., one of the available options under the Safe Neighborhoods Act is the Local Government Neighborhood Improvement District. The Local Government Neighborhood Improvement District utilizes community involvement through an advisory council, and may charge fees and/or taxes to accomplish the goals of neighborhood improvement. While neighborhood improvement is a tenant of this program, it is not its central focus; crime prevention is central with neighborhood improvement secondary. Each district is created by the enactment of a separate ordinance, which:

- Specifies the boundaries, size, and name of the district;
- Authorizes the district to receive grants from the city;
- Authorizes the assessment of an ad valorem tax of up to 2 mills;
- Authorizes the use of special assessments to support planning and implementation of district improvements;
- Designates the local governing body as the board of directors of the district; and
- Establishes an advisory council comprised of property owners or residents in the district.

- May prohibit use of any district power authorized by s. 163.514, F.S.

As an alternative to designating the local governing body as the board of directors, s. 163.506(3), F.S., allows a majority of the local governing body of a city or county to appoint a board of three to seven directors for the district who are residents of the proposed district and who are subject to ad valorem taxation in the residential neighborhood improvement district or who are property owners in a commercial neighborhood improvement district.

Pursuant to s. 163.514, F.S., unless prohibited by ordinance, all neighborhood improvement districts may:

- Enter into contracts;
- Acquire, own, lease, or improve its property;
- Accept grants and donations;
- Have exclusive control over its funds, unless agreed to otherwise;
- Cooperate and contract with other governmental agencies;
- Contract for services of planning consultants and crime prevention experts;
- Contract with county or municipal government for planning assistance, and increased levels of law enforcement protection and security;
- Promote the neighborhood to businesses and commercial entities;
- Improve facilities, undertake approaches to prevent crime, and modify the district plan to implement these changes;
- Identify areas with blighted influences, including areas with unlawful dumping or graffiti, and develop programs to eradicate blight; and
- Subject to referendum, make special assessments to pay for improvements in the district and cover other expenses.

All neighborhood improvement districts are required to analyze local crime activities and determine the relationships between land use and the frequency of crimes. They are authorized to implement necessary programs to reduce crime and promote safe neighborhoods.

Compliance with Chapter 189, F.S.

Section 163.5035, F.S., requires safe neighborhood improvement districts to comply with all applicable provisions in chapter 189, F.S., relating to special districts. The section provides for the provisions of chapter 189, F.S., to prevail in cases where the provisions of this part conflict with provisions in chapter 189, F.S. Section 189.4155(5), F.S., provides:

“Nothing in this section shall create or alter the respective rights of local governments or special districts to provide public facilities or services to a particular geographic area or location, nor shall this section alter or affect the police powers of any local government or the authority or requirements under chapter 163.”

Fiscal Management and Budget Preparation

Section 163.5151, F.S., provides, subject to agreement with the local governing body, for all funds of a neighborhood improvement districts to be received, held, and secured in the same manner as other public funds by the appropriate fiscal officers of the local government in which the district is located. The funds of the district must be maintained under a separate account, and must be used for purposes authorized by this part, and must be disbursed only by direction of or with approval of the district pursuant to requisitions signed by the manager or other

designated chief fiscal officer of the district and countersigned by at least one other member of the board.

The section also requires district bylaws to provide for maintenance of minutes and other official records of its proceedings and actions; for preparation and adoption of an annual budget for each ensuing fiscal year; for internal supervision and control of its accounts; and for an external audit at least annually by an independent certified public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the district. A copy of the external audit must be filed with the city clerk or the clerk of the court, whichever is appropriate, within 90 days after the end of each fiscal year. The bylaws must specify the means by which each of these functions is to be performed and, as to those functions assigned to district personnel, the manner and schedule of performance.

Each special neighborhood improvement district must establish its budget pursuant to the provisions of chapter 200, F.S. Prior to adoption of the final budget and setting of the millage rate to be levied by the board, the board must submit a tentative budget and proposed millage rate of the district to the local governing body of the municipality or county in which the district is located for approval or disapproval. The governing body must have the power to modify the budget or millage submitted by the board. Subsequent to approval, the board must adopt its final budget and millage rate in accordance with the requirements of chapter 200, F.S.

C. EFFECT OF PROPOSED CHANGES:

This bill authorizes the creation of "neighborhood improvement districts" where 75 percent of the land is used for postsecondary educational purposes and where there is a plan to reduce crime through the use of a "university police patrol." "University police patrol" is defined as a police patrol having law enforcement powers that serves a safe neighborhood improvement district with the same boundaries as that of the campus of a nonpublic university or college with an enrollment of 10,000 or more full-time students attending classes within the boundaries of the district. The police patrol must be funded by the university or college or other funding sources authorized by law.

Notwithstanding statutory provisions governing district board of directors, the bill authorizes the local government creating a Local Government Neighborhood Improvement District that has a university police patrol to establish the qualifications of the district's board of directors in the ordinance creating the district. Similarly, notwithstanding statutory provisions governing fiscal management and budget preparation of neighborhood improvement districts, the bill allows budget and fiscal matters pertaining to a district having a university police patrol to be established by interlocal agreement between the district and the local governing body. The bill authorizes such interlocal agreements and interlocal agreements between such a district and any other unit of local government.

The bill provides that notwithstanding any provision of chapter 163, F.S., relating to intergovernmental programs, or chapter 189, F.S., relating to special districts, a university police patrol created by a safe neighborhood improvement district may exercise law enforcement powers within the district. The bill also declares that all university police patrol officers are law enforcement officers of this state with the right to make arrests and bear arms. University police patrol police officers are required to meet the standards established by the Criminal Justice Standards and Training Commission and be certified as law enforcement officers by the commission. The bill declares university police patrol police officers are employees of the district.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Subsection (23) of s. 163.340, F.S., is amended to revise the definition of “community policing innovation” to include university police patrol as defined in s. 163.503, F.S., as a community policing innovation.

Section 2. Subsection (1) of s. 163.503, F.S., is amended to include “postsecondary educational” uses and the use of “a university police patrol” in the definition of “safe neighborhood improvement district.” As amended, the definition includes a “district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, postsecondary educational, or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques, or through community policing innovations or use of a university police patrol.”

A new subsection (10) is added to s. 163.503, F.S., to define “university police patrol.”

Section 3. Section 163.5035, F.S., relating to compliance with special district provisions, is amended to provide that notwithstanding the provisions of chapter 163, F.S., or chapter 189, F.S., relating to special districts, a university police patrol created by a safe neighborhood improvement district may exercise law enforcement powers within such district.

Section 4. Subsection (3) of s. 163.506, F.S., relating to local government neighborhood improvement districts, is amended to provide that notwithstanding the provisions of this section, the board of directors of such a district which has a university police patrol shall have qualifications as established in the ordinance creating the district or any amendments to such ordinance.

A new subsection (5) is added to s. 163.506, F.S., to declare that police officers comprising a university police patrol are law enforcement officers of this state with the right to make arrests and bear arms. Such officers are required to meet standards established by the Criminal Justice Standards and Training Commission and be certified as law enforcement officers by the commission. The section declares such individuals who are police officers shall be considered employees of the district.

Section 5. A new subsection (5) is added to s. 163.5151, F.S., relating to fiscal management and budget preparation, to provide that notwithstanding this section, the budget and fiscal matters pertaining to a safe neighborhood district with a university police patrol may be prescribed by an interlocal agreement between the district and the local governing body.

Section 6. Section 163.5235, F.S., is created to authorize a safe neighborhood improvement district with a university police patrol to enter into an interlocal agreement pursuant to s. 163.01, F.S., with the local government that created the district and any other unit of local government pertaining to the operation of the district. Such interlocal agreements may address mutual aid, cooperation, sharing of resources, budgeting, and financial assistance.

Section 7. An effective date of upon becoming law is provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no impact on state revenues.

2. Expenditures:

The Florida Department of Law Enforcement (FDLE) reports the department may experience minimal costs associated with the employment, training, and records maintenance of those officers being employed as “university police patrol” officers.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has no direct impact on local government revenues.

2. Expenditures:

This bill may impact local police or sheriff departments currently employing officers patrolling neighborhood areas that, under this bill, will comprise a safe neighborhood improvement district. The bill allows the creation of a dependent special district to provide police services within the boundaries of the special district. Depending on the situation, the creation of such a district may reduce local government expenditures necessary to provide police services within the boundaries of the special district.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

As noted above, the bill allows the creation of a dependent special district to provide police services within the boundaries of the special district. The private university or college composing the special district could and most likely would be obligated to fund the provision of such police services.

Local Government Neighborhood Improvement Districts are authorized to levy ad valorem taxes and special assessments. Under the bill’s definition of “university police patrol” the boundaries of a district providing such services would be the same as that of a private college or university. If the college or university is a nonprofit organization and therefore exempt from ad valorem taxation, as is the case with the University of Miami, no ad valorem taxes could be imposed. A Local Government Neighborhood Improvement District with a university police patrol could impose a special assessment on the property of the college or university with the college’s or university’s consent.

D. FISCAL COMMENTS:

See above.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill 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:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rule making authority.

C. OTHER COMMENTS:

Jurisdiction of University Police Patrols

Section 3 of this bill provides that notwithstanding the provisions of chapter 163, F.S., or chapter 189, F.S., a university police patrol created by a safe neighborhood improvement district may exercise law enforcement powers *within such district*. Thus, the jurisdiction of a university police patrol created by a neighborhood improvement district would be the boundaries of the district.

Section 901.25, F.S., authorizes any duly authorized state, county, or municipal arresting officer to arrest a person outside the officer's jurisdiction when in fresh pursuit. Such officers have the same authority to arrest and hold such person in custody outside his or her jurisdiction, subject to the limitations established in this section, as has any authorized arresting state, county, or municipal officer of this state to arrest and hold in custody a person not arrested in fresh pursuit.

The term "fresh pursuit" includes fresh pursuit as defined by the common law and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It also includes the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. It also includes the pursuit of a person who has violated a county or municipal ordinance or chapter 316, F.S., or has committed a misdemeanor.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

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