

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1415 Traffic Control
SPONSOR(S): Sansom and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1878(i)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Pugh	Miller
2) State Infrastructure Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

State law generally prohibits activities that obstruct the free flow of traffic on public roadways and pose safety hazards to motorists and pedestrians. Sections 316.2045 and 337.406, F.S., provide some limited exceptions and require state or local authorizations for certain uses. Solicitation of funds by federally-recognized non-profit organizations or by charitable groups registered under chapter 496, F.S., is largely prohibited on state-maintained roads, while local governments have authority to permit such activities on non-state-maintained roads.

HB 1415 exempts organizations that are qualified under s. 501(c)(3) of the Internal Revenue Code and which are registered under chapter 496, F.S., and persons acting on behalf of these organizations, from needing permits from local governments before they can engage in solicitation along non-state-maintained roadways.

HB 1415 may have a minimal fiscal impact on some local governments due to a reduction in permit fees, and no fiscal impact to state government. The bill raises no apparent constitutional or other legal issues.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: HB 1415 increases the options of private charitable or nonprofit organizations to conduct their fundraising activities without additional government interference.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 316.2045, F.S., generally prohibits the obstruction of public streets, highways, and roads – whether maintained by the state or local governments – and addresses issues of permissible activities, penalties for violators, and an exemption for vehicles collecting solid waste or recyclable or recovered materials.

The section:

- Designates as a pedestrian violation, punishable by a \$15 fine plus court costs, when a person willfully obstructs the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining vehicular traffic, by standing or approaching a motor vehicle, or by endangering the safe movement of vehicles or pedestrians.
- Requires permits for the use of any portion of a state-maintained road or right-of-way, pursuant to the conditions in s. 337.406, F.S. Under that section of law, local governments may obtain permits from FDOT for parades and other activities that require closing any road on the State Highway System to normal traffic.
- Further provides that it is unlawful, without proper authorization or a lawful permit, for any person or persons to willfully obstruct the free, convenient, and normal use of any public street, highway, or road in order to solicit. A violation of this provision is a second-degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days.
- Organizations qualified under s. 501(c)(3) of the Internal Revenue Code as non-profits and registered pursuant to chapter 496, F.S., or persons or organizations acting on their behalf are exempted from needing a state permit or authorization for activities on non-state-maintained roads. Chapter 496, F.S., regulates charitable solicitation in Florida, and specifies that charities and certain other non-profit organizations register with the Department of Agriculture and Consumer Services, disclose a variety of background and financial information, and pay a registration fee ranging from \$10 to \$400, depending on the previous year's fundraising amount. The department annually publishes a book listing all of the registered charities and organizations, and their previous year's revenue and expenses. The 2005-2006 edition of the "Gift Givers' Guide" is 932 pages and includes an estimated 10,000 organizations.
- Local governments may require permits for the use of any street, highway, or road that is not maintained by the state. Non-state maintained roadways are defined as either county, municipal, or private roads which a local government has agreed through a contractual arrangement to maintain.

Numerous Florida cities and counties have adopted ordinances that establish permitting requirements for persons and groups that want to solicit charitable donations; the exact number is unavailable. A review of several local ordinances indicates the requirements vary from community to community.

Effect of Proposed Changes

HB 1415 preempts local governments from requiring permits for the use of non-state-maintained roadways from organizations that are qualified under s. 501(c)(3) of the Internal Revenue Code and which are registered under chapter 496, F.S., and from persons acting on behalf of these organizations.

Local ordinances requiring permits for charitable or non-profit solicitation activities on non-state-maintained roads, and any ordinances prohibiting that activity, would not apply to qualified organizations.

HB 1415 takes effect upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends s. 316.2045, F.S., to exempt from local-government permitting certain charitable and non-profit solicitation activities on non-state-maintained roadways.

Section 2: Specifies an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate, but probably minimal. Local governments that collect a fee for issuing permits to charitable and non-profit organizations wanting to solicit contributions along non-state-maintained roadways would lose that revenue source.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Charitable or non-profit organizations that have not participated in roadside solicitation because they could not meet local-government permitting requirements or because the activity was banned may be able to collect more contributions, which could benefit persons in their local communities.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 1415 does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Local governments are exempt from rulemaking under chapter 120, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor's intent is to allow non-profits and charitable organizations to engage in fund-raising activities on non-state-maintained roadways. However, the proposed language appears to broadly exempt these organizations from needing a permit to use a non-state-maintained road for any purpose, such as parades, performances, carnivals or other activities that may not involve fund-raising.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES