

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Community Affairs Committee

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BILL: CS/SB 1878

INTRODUCER: Community Affairs Committee and Senator Argenziano

SUBJECT: Traffic Control

DATE: April 18, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	Fav/CS
2.	_____	_____	TR	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This committee substitute (CS) exempts organizations that are qualified under s. 501(c)(3) of the Internal Revenue Code and which are registered under ch. 496, F.S., and persons acting on behalf of these organizations, from local government permitting requirements for solicitation along non-state-maintained roadways, provided certain conditions and requirements are met. Specifically, the CS provides that sponsoring entities must provide the local government with the following information:

- The names and addresses of those conducting the solicitation and of those receiving the contributions;
- A safety plan for persons participating in the solicitation;
- A detailed description of the location and hours of the solicitation activities;
- Proof of a commercial general liability insurance policy against bodily injury and property damage arising from the solicitation activities, with a limit of no less than \$1 million per occurrence;
- Proof that the organization either is registered with the state Department of Agriculture and Consumer Services, pursuant to s. 496.405, F.S., or is exempt from registration.

The CS also establishes a number of operational requirements governing charitable solicitation along non-state-maintained roadways

This CS substantially amends section 316.2045 of the Florida Statutes.

## II. Present 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. Specifically, this 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 motor vehicles, 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 ordinances indicates the requirements vary from community to community.

## III. Effect of Proposed Changes:

The CS 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 ch. 496, F.S., and from persons acting on behalf of these organizations, as long as the organizations or persons meet certain requirements and conditions. Specifically, the organization, persons, or organizations acting on their behalf must provide the local government with the following information:

- The names and addresses of those conducting the solicitation and of those receiving the contributions, no later than 14 days before the event.
- A safety plan for persons participating in the solicitation.
- A detailed description of the location and hours of the solicitation activities.
- Proof of a commercial general liability insurance policy against bodily injury and property damage arising from the solicitation activities, with a limit of no less than \$1 million per occurrence. The insurance certificate must name the local government as a co-insured, and must be filed with the local government no later than 72 hours before the event.
- Proof that the organization either is registered with the state Department of Agriculture and Consumer Services, pursuant to s. 496.405, F.S., or is exempt from registration.

The CS also establishes a number of additional requirements governing charitable and non-profit solicitation activities, including: (1) no one under the age of 18 may participate in the solicitation activities; (2) all solicitation activities must occur during daylight hours; (3) the solicitation activities must not interfere with the safe and efficient movement of traffic, nor cause danger to the participants or the public; (4) persons participating in the solicitation may not persist in asking for donations once they have been turned down, nor may they behave in a demanding or harassing manner, or use sound or voice-amplifying equipment; and (5) signs advertising the solicitation activities must be posted at least 500 feet ahead of the site where the solicitation is occurring.

Eligible organizations or persons are limited to 10 cumulative days of solicitation activities each year, and local governments are authorized to stop solicitation activities if the requirements are not met.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue, as such authority exists on February 1, 1989.

This CS may reduce the authority that cities and counties have to raise revenues by restricting the imposition of permit fees for roadside solicitation. The fiscal impact of the CS on local governments has not been determined. However, the CS is likely to have an insignificant fiscal impact of less than \$1.9 million.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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.

C. Government Sector Impact:

Local governments that currently collect a fee for issuing permits to charitable and non-profit organizations wanting to solicit contributions along non-state-maintained roadways could lose that revenue source. However, the likely fiscal impact on local governments would be minimal.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The requirements and conditions provided for in the CS are largely based on the City of Tallahassee's charitable solicitation ordinance.

## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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