

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 2148

INTRODUCER: Community Affairs Committee, Senator Haridopolos and others

SUBJECT: Public Construction Works

DATE: April 17, 2008 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	Fav/CS
2.			TR	
3.			GO	
4.			GA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute (CS) prohibits a county, municipality, or special district from owning or operating an asphalt plant or a portable or stationary concrete batch plant that has an independent mixer.

This CS creates a new section of the Florida Statutes.

II. Present Situation:

County and Municipal Governments

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Those counties operating under a county charter have all powers of self-government not inconsistent with general law, or special law approved by the vote of the electors.² There are 19 charter counties in Florida and over 75 percent of the state's residents live in a charter county. Section 125.01, F.S., enumerates the powers and duties of county

¹ Art. VIII, § 1(f), Fla. Const.

² Art. VIII, § 1(g), Fla. Const.

government, unless preempted on a particular subject by general or special law. Those powers include the provision of fire protection, ambulance services, parks and recreation, libraries, museums and other cultural facilities, waste and sewage collection and disposal, and water and alternative water supplies. Municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform its functions and provide services, and exercise any power for municipal purposes except as otherwise provided by law.³

III. Effect of Proposed Changes:

Section 1 provides that, notwithstanding any law to the contrary, a county, municipality, or special district may not own or operate an asphalt plant or a portable or stationary concrete batch plant that has an independent mixer.

Section 2 provides the CS takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments and special districts are prohibited under this CS from owning or operating an asphalt plant or concrete batch plant. One local government that recently purchased such a plant has indicated that the use of the plant will lower the cost of public construction projects.

³ Art. VIII, § 2(b), Fla. Const.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Committee substitute by the Committee on Community Affairs on April 17, 2008:

The CS prohibits local governments and special districts from owning or operating an asphalt plant or concrete batch plant. It also deletes language:

- Expanding those projects for a governmental entity which are subject to competitive bidding to include the repair or maintenance of a public building, structure, or facility.
- Providing additional procedures a local government must follow should the entity find it necessary to perform the project using its own services.
- Rendering void and unenforceable certain clauses in public construction contracts limiting or waiving damages for delays resulting from an act or omission of a local government or special district and other entities acting within their control.
- Providing for de novo review of a governmental entity's decision regarding additional compensation or time for a contractor in connection with a public construction contract.
- Revising provisions related to local governments employing labor and providing road equipment for repair and maintenance of roads and bridges.

B. Amendments:

None.