

**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.)

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Prepared By: The Professional Staff of the Community Affairs Committee

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BILL: SB 298

INTRODUCER: Senator Alexander

SUBJECT: Municipal Governing Body Meetings

DATE: January 19, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	<b>Favorable</b>
2.			BC	
3.				
4.				
5.				
6.				

**I. Summary:**

The bill authorizes the governing bodies of certain municipalities to hold meetings within five miles of their exterior jurisdictional boundary.

This bill creates section 166.0213 of the Florida Statutes.

**II. Present Situation:**

The Florida Constitution grants local governments broad home rule authority. Specifically, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.<sup>1</sup> However, the Florida Constitution states that annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.<sup>2</sup> Similarly, s. 166.021, F.S., gives municipalities home rule powers with the following exceptions: annexation, merger, exercise of extraterritorial power, and subjects prohibited by the federal, state, or county constitution or law.

A number of situations have arisen where small municipalities have not had the proper facilities available to act as a temporary city hall where the local government can hold public meetings. Statutory and constitutional analyses, along with multiple attorney general opinions, indicate that

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<sup>1</sup> Art. VIII, s. 2(b), Fla. Const.; *see also* s. 166.021, F.S.

<sup>2</sup> Art. VIII, s. 2(c), Fla. Const.

there is no statutory authorization to hold public meetings outside of the jurisdiction.<sup>3</sup> “[I]n the absence of such statutory authorization, acts and proceedings at meetings held outside the municipal jurisdiction are void unless such actions are statutorily authorized.”<sup>4</sup>

### III. Effect of Proposed Changes:

The bill creates s. 166.0213, F.S. This section provides municipalities with a population of 500 or fewer residents with the authority to hold meeting within 5 miles of the exterior jurisdictional boundary of the municipality at a time and place prescribed by ordinance or resolution.

### IV. Constitutional Issues:

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

None.

#### B. Public Records/Open Meetings Issues:

Article I, section 24(b) of the Florida Constitution, and s. 286.011, F.S., the Sunshine Law, specify the requirements for open meetings. Open meetings are defined as any meeting of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken. No resolution, rule, or formal action shall be considered binding unless it is taken or made at an open meeting.<sup>5</sup>

At least one public meeting 100 miles from the relevant jurisdiction has been held to be a violation of the Sunshine Laws because it was decided that affected citizens were not given reasonable opportunity to attend.<sup>6</sup> Because the bill only authorizes meetings within 5 miles of the jurisdiction, it likely still affords citizens a reasonable opportunity to attend and is likely consistent with the constitutional and statutory requirements for public meetings.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

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<sup>3</sup> Art. VIII, s. 2(c), Fla. Const.; s. 166.021, F.S., Op. Att’y Gen. Fla 2008-01 (2008); Op. Att’y Gen. Fla 2003-03 (2003); Op. Att’y Gen. Fla 75-139 (1975); *see also County of Okeechobee v. Florida Nat. Bank*, 150 So. 124, 126 (Fla. 1933).

<sup>4</sup> Op. Att’y Gen. Fla 2008-01 (2008).

<sup>5</sup> Section 286.011, F.S.

<sup>6</sup> *Rhea v. School Bd. of Alachua County*, 636 So.2d 1383 (Fla. 1st DCA 1994).

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**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.)

None.

B. Amendments:

None.