

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 65 Municipal Governing Body Meetings

**SPONSOR(S):** Wood

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 298

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	11 Y, 1 N	Nelson	Hoagland
2) Government Operations Subcommittee	11 Y, 0 N	Thompson	Williamson
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The Florida Constitution and Statutes require that the exercise of extra-territorial powers by a municipality be provided by general or special law. These provisions have been interpreted to prohibit a municipality's governing body from holding meetings outside its boundaries absent enactment of a law to authorize such action.

HB 65 authorizes the governing body of a municipality with a population of 500 or less to hold its meetings within five miles of its jurisdictional boundary at a time and place as may be prescribed by ordinance or resolution.

The bill has no fiscal impact, and an effective date of July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Section 2(c) of Art. VIII of the State Constitution requires that the exercise of extra-territorial powers by a municipality shall be as provided by general or special law. Section 166.021(3)(a), F.S., authorizes a municipal legislative body to adopt legislation concerning any subject matter upon which the Legislature may act, except for: “[t]he subjects of annexation, merger, and *exercise of extraterritorial power*, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution.” [Emphasis added.]

Previously, the Florida Attorney General has opined that a municipality’s governing body may not hold meetings outside its jurisdictional boundaries unless authorized by general or special law, recognizing the Legislature’s role in authorizing extraterritorial powers. See, OAG 2003-03, advising that municipal councils may not hold meetings outside municipal limits, and that all acts and proceedings at such meetings are void in the absence of statutory authorization.

In 2008, the Legislature passed a local bill (ch. 2008-286, L.O.F.) authorizing the City of Belleair Beach’s governing board to hold meetings outside the municipality’s boundaries at such time and place as prescribed by ordinance, resolution or interlocal agreement. Language in the bill provided that the city council was encouraged to hold its meetings in close proximity to the people it serves.

##### **Effect of Proposed Changes**

HB 65 authorizes the governing body of a municipality with a population of 500 or less to hold its meetings within five miles of its jurisdictional boundary at such time and place as may be prescribed by ordinance or resolution.

Of the 412 municipalities in Florida, approximately 43 cities would be encompassed by this bill.<sup>1</sup> An extremely small community may not contain public buildings, access to other suitable structures, or a sufficient tax base to allow for the construction of a town hall. This bill would allow such municipalities to schedule official meetings in out-of-town locations.

Unlike the provision that requires the meetings of a board of county commissioners to be “held at any appropriate public place in the county....,”<sup>2</sup> there is no statutorily-prescribed location for municipal council meetings. Nonetheless, Florida’s Government in the Sunshine Law requires that the public be provided a reasonable opportunity to attend such meetings.<sup>3</sup> The proposed distance of five miles does not appear to place an undue burden on citizens, particularly when viewed in the context of a large metropolitan area where one may need to travel a much greater distance in order to participate in a similar public meeting.

#### B. SECTION DIRECTORY:

Section 1: Creates s. 166.0213, F.S., relating to municipal governing body meetings.

Section 2: Provides an effective date of July 1, 2011.

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<sup>1</sup> Estimates of Population by County and City in Florida: April 1, 2009. Bureau of Economic and Business Research, Warrington College of Business Administration, University of Florida.

<sup>2</sup> Section 125.001, F.S.

<sup>3</sup> Article I, section 24(b) of the Florida Constitution, and section 286.011, F.S.

## 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:

None.

2. Expenditures:

This bill will allow the governing bodies of small municipalities in Florida to hold their meetings outside the city boundaries. This will alleviate the necessity of building and maintaining a town hall in cities where a meeting place cannot otherwise be secured.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Florida's Government in the Sunshine Law requires that the public be provided a reasonable opportunity to attend open (board or commission) meetings.<sup>4</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>5</sup> However, the proposed distance of five miles does not appear to place an undue burden on citizens, and is therefore likely consistent with the constitutional and statutory requirements for public meetings.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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<sup>4</sup> Article I, section 24(b) of the Florida Constitution, and section 286.011, F.S.

<sup>5</sup> *Rhea v. School Bd. of Alachua County*, 636 So.2d 1383 (Fla. 1st DCA 1994).

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.