

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4113 Levying War Against People of the State

SPONSOR(S): Trujillo

TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Williams	Cunningham
2) Judiciary Committee			

SUMMARY ANALYSIS

Section 876.35, F.S., makes it a third degree felony for two or more persons to combine to levy war against any part of a people of this state, or to remove them forcibly out of this state, or to remove them from their habitations to any other part of the state by force. This statute has not been amended in a substantive way since its creation in 1868.

The Florida Department of Law Enforcement reports that there have been no arrests associated with this section of statute since 2000.

The proposed committee bill repeals s. 876.35, F.S.

The proposed committee bill is estimated to have no fiscal impact and is effective July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Section 876.35, F.S., was created in 1868.¹ The statute makes it a third degree felony² for two or more persons to combine to levy war against any part of a people of this state, or to remove them forcibly out of this state, to remove them from their habitations to any other part of the state by force, or assemble for such purposes.

Section 876.35, F.S., has not been amended in a substantive way since its creation. It was amended in 1971³ to update the associated penalty to a third degree felony from its original penalty of imprisonment not exceeding five years, or fines not exceeding \$1,000. In 1974,⁴ the statute was renumbered.

The Florida Department of Law Enforcement reports that there have been no arrests associated with this section of statute since 2000.⁵

Effect of the Proposed Committee Bill

The proposed committee bill repeals s. 876.35, F.S.

B. SECTION DIRECTORY:

Section 1. Repeals s. 876.35, F.S., relating to combination against part of the people of the state.

Section 2. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state government revenues.

2. Expenditures:

The bill does not appear to have any impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

¹ Section 6, ch. 1637, 1868; RS 2375; GS 3200; RGS 5030; CGL 7132.

² A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

³ Section 705, ch. 71-136, L.O.F.

⁴ Section 65, ch. 74-383, L.O.F.

⁵ Email message from Lynn Dodson, Legislative Affairs Director, Florida Department of Law Enforcement. November 21, 2011). (On file with House Criminal Justice Subcommittee staff).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The proposed committee bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES