

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 449 Public Fairs and Expositions

**SPONSOR(S):** Community & Military Affairs Subcommittee, Agriculture & Natural Resources Subcommittee, and Steube

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 502

| REFERENCE                                       | ACTION           | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|------------------|---------|--|
| 1) Agriculture & Natural Resources Subcommittee | 12 Y, 0 N, As CS | Kaiser  | Blalock                                  |
| 2) Community & Military Affairs Subcommittee    | 14 Y, 0 N As CS  | Gibson  | Hoagland                                 |
| 3) Finance & Tax Committee                      |                  |         |  |
| 4) State Affairs Committee                      |                  |         |  |

### SUMMARY ANALYSIS

Part I of ch. 616, F.S., gives the Department of Agriculture and Consumer Services (department) statutory authority for permitting fair associations and addresses the operation and regulation of public fairs and expositions in the state. In addition to the state fair held in Tampa every year, there are approximately fifty other district, regional or county fair associations that hold annual public fairs as well as other fairs and expositions.

The bill makes several technical changes to ch. 616, F.S., which modernizes the terminology since the statute was last revised in 1993, such as replacing "peace officer" with "law enforcement officer," "chickens" with "poultry," and "occupational license fee" with "local business tax."

The bill provides a specific definition for "annual public fair" to distinguish between the annual fair events held by fair associations and other events. Because the term "concessions" is used throughout the chapter, a definition for "concessions" is provided to identify third parties that provide rides, games, food, beverages, merchandise for sale, exhibits, projects, activities, events, programs, or other uses on property under the control of the fair association.

Additional substantive changes of the bill include:

- Recognizing that the primary objective of the fair association, other than public service, is holding, conducting, and promoting public fairs or expositions.
- Providing that a fair association may also file its charter and charter amendments with the Department of State for recognition as a not-for-profit organization.
- Providing that any projects, activities, events, programs and uses authorized by ch. 616, F.S., serve an essential government purpose and are not taxable or subject to assessments.
- Providing that a fair association organized under ch. 616, F.S., is a noncommercial activity provider.
- Recognizing the Department of Transportation as being able to make contributions of money, property, or services to fair associations to assist in carrying out the purposes of the association.
- Allowing the state or its entities and/or the mayor or city council of any municipality within the county to expend such moneys as they deem in the best interests of their counties for the development of exhibitions and resources in their counties in connection with public fairs.
- Prohibiting a fair association from conducting more than one annual public fair each calendar year.
- Reducing the number of days from 60 to 30 for a waiver to the minimum exhibit requirements to be filed with the department.
- Amending the definition of trespass, as it pertains to entering fairgrounds, to include acts that disrupt the authorized activity of a licensee or the general public on those grounds.

The bill does not appear to have a fiscal impact on state or local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0449c.CMAS

DATE: 1/13/2012

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Fairs and expositions have been regulated by the state since 1917 when the first legislation dealing with these entities was passed. In 1974, legislation was enacted that created the Florida State Fair Authority. The authority is responsible for staging the annual state fair held in Tampa, Florida.

In addition to the state fair held in Tampa every year, there are approximately fifty other district, regional or county fair associations that hold annual fairs as well as other fairs and expositions. Forty-nine of the fair associations are members of the Florida Federation of Fairs and Livestock Shows (federation). The mission statement of the federation is "to increase the overall quality of agricultural fairs, provide members the support and guidance needed to enlighten our youth and educate the fairgoers on agriculture, trade, entertainment and heritage of Florida."<sup>1</sup>

Public fairs, expositions, and fair associations are currently regulated under ch. 616, F.S. The last major revisions to ch. 616, F.S., took place in 1993 when the statute was reviewed under the provisions of the Regulatory Sunset Act.<sup>2</sup> The bill makes various revisions to ch. 616, F.S., pertaining to public fairs and expositions.

#### Section 1

##### Present Situation

Section 616.001, F.S., provides definitions for "authority," "community fair," "county fair," "department," "district fair," "entry," "exhibit," "exhibitor," "fair association" or "association," "public fair or exposition," "regional fair" or "interstate fair," "specialized show," and "state fair."

##### Effect of Proposed Changes

The bill amends s. 616.001, F.S., to define an "annual public fair" as a "community, county, district, regional, or state fair that is held and conducted by a fair association and permitted by the Department of Agriculture and Consumer Services (department) pursuant to s. 616.15, F.S."<sup>3</sup> Providing a separate definition for "annual public fair" clarifies the difference between the official annual public fair and the other off-season uses of the fairgrounds. The bill also amends the term "public fair or exposition" to specify that it includes "a project, activity, event, or program and use by a fair association, including the annual public fair event.

The bill also defines the term "concession" to mean "use by a fair association, or a grant, lease, or license to a third party, of a portion of the land under the ownership, custody, or control of a fair association for specific uses, or the right to enter upon the land for specific purposes, such as providing rides, games, food, beverage, merchandise for sale, exhibits, projects, activities, events, programs, or other uses authorized in this chapter."<sup>4</sup> This term is used throughout ch. 616, F.S., but has never been defined in statute.

The bill amends the definitions of "community fair," "county fair," "district fair," "public fair or exposition," "regional fair," and "state fair" to include the reference to the new definition of "annual public fair."

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<sup>1</sup> For more information see <http://www.floridafairs.org/> (last accessed January 6, 2012).

<sup>2</sup> 93-168, L.O.F.

<sup>3</sup> S. 616.15, F.S., provides the various requirements that a fair association must meet to obtain a permit in order to conduct a public fair or exposition.

<sup>4</sup> Ch. 616, F.S., Public Fairs and Expositions.

The definition of “exhibit” is amended to specifically include parades and displays of articles or a collection of articles, whether static, interactive, or dynamic, by a fair association or a third party contracting with a fair association, such as exhibits of animals, art, housewares, or motor vehicles. The term “exhibitor” is also amended to include a fair association or third party contracting with a fair association.

## **Section 2**

### Present Situation

Section 616.01, F.S., provides that in order to establish a not-for-profit association for the purpose of conducting and operating public fairs or expositions, twenty-five or more persons who are residents and qualified electors of the county where the fair is to be located must submit a proposed charter to the department for review and approval. The proposed charter must also be presented to the judge of the circuit court for the county where the principal office of the association is to be located. The proposed charter also must be signed by the intended incorporators and include:

- The name of the association, which must include the word, “Inc.,” and the place where the principal office is to be located.
- The general nature of its objects and powers, including a provision that the sole purpose of incorporation is conducting and operating public fairs or expositions.
- The qualifications and terms of members and the manner of their admission or expulsion. The charter may include ex officio membership as well as the number of years in a term of membership.
- The period of time for which the charter is to exist.
- The names and residences of the subscribers.
- Which officers shall manage the affairs of the charter and the time at which the officers will be elected or appointed.
- The names of the officers who are to manage its affairs until the first election or appointment under the charter.
- By whom its bylaws are to be made, altered, or rescinded.
- The longest amount of indebtedness or liability to which it may at any time subject itself.

### Effect of Proposed Changes

The bill amends s. 616.01, F.S., to incorporate references to the annual public fair, as opposed to the fair. The bill also identifies the persons establishing the charter as the “subscribers.”

## **Section 3**

### Present Situation

Section 616.02, F.S., requires the proposed charter of a fair association to be acknowledged by at least three of its subscribers in the presence of an officer authorized to acknowledge deeds.

### Effect of Proposed Changes

The bill amends s. 616.02, F.S., to establish that the primary objective of the fair association, other than public service, is holding, conducting, and promoting public fairs or expositions.

## **Sections 4, 5, and 6**

### Present Situation

Section 616.03, F.S., provides that subscribers intending to apply for a charter of a fair association must provide notice to the circuit judge stating the time when the application will be made, and then

must forward the notice to the department for approval. The notice must be published in a newspaper in the county where the principal office of the association is located once each week for 4 consecutive weeks. The notice must set forth the charter and objects of the association to be formed. The proposed charter must be submitted to and approved by the board of county commissioners of the county in which the principal office of the association is to be located. During the time of publication, the proposed charter must be on file in the office of the clerk of the circuit court. Once approved by the department and the board of county commissioners, the proposed charter, with proof of approval and publication, is then submitted to the circuit judge at the time stated in the notice. If no cause is shown to the contrary and the judge finds the proposed charter to be in proper form and so sworn to and for the primary object of public service, the judge may approve the charter and render a decree incorporating the subscribers under the charter for the objects and purposes and with the powers therein specified. The charter and decree of incorporation must be recorded in the office of the clerk of the circuit court in the county where the principal office of the association is to be located as well as the office of the department.

Section 616.05, F.S., provides that an association may amend the charter by resolution as provided in its bylaws. The proposed amendment must be submitted to the department for approval. When approved, the proposed amendment can be incorporated into the original charter, upon:

- Publication of notice in the same manner as provided in s. 616.03, F.S., outlined above;
- Placement on file in the office of the clerk of the circuit court and in the office of the department;
- The rendering of a decree of the circuit judge approving and allowing the amendment; and
- Being recorded in the clerk's office.

Section 616.051, F.S., provides that an association may dissolve a charter by resolution as provided in its bylaws. The proposal for dissolving the charter must be presented to the department for approval. Upon approval, publication of notice, as prescribed above, and proof that all indebtedness has been paid and no claims are outstanding against the association, the circuit judge may dissolve the association by decree. The judge may also order any public funds remaining in the association to be distributed as recommended by the board of directors.

### Effect of Proposed Changes

The bill amends these sections of law to update and revise some technical terms regarding the procedures for obtaining or amending a charter. For example, application must be made to the circuit court rather than the circuit judge. Also, a charter may be amended or dissolved by resolution as provided in its charter or bylaws.

The bill also provides that obtaining a charter as explained above does not prevent a fair association from also filing its charter with the Department of State pursuant to ch. 617, F.S., for notice purposes.<sup>5</sup> The bill requires a fair association that has filed its charter with the Department of State to also file a copy of any amendments to the charter with the Department of State.

## **Section 7**

### Present Situation

Section 616.07, F.S., provides that no member, officer, director or trustee of a fair association is personally liable for any of the debts of the association, and no money or property of a fair association can be distributed as profits or dividends among the members, officers, directors, or trustees of the fair association. All money and property of the fair association must, except for payment of debts and liabilities:

- Remain perpetually public property;
- Be administered by the association trustee;

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<sup>5</sup> Ch. 617, F.S., addresses not-for-profit corporations.

- Be used exclusively for the legitimate purposes of the association; and
- Be exempt from all forms of taxation, including special assessments.

Public funds or property remaining in a fair association, when the association dissolves, must be distributed by resolution of the board of directors, upon order of the circuit judge to any county or any municipality within the county. The distribution resolution may provide terms of a public project for which the funds or property may be used. However, if the property has been contributed by a municipality or county, the property must be re-conveyed to the municipality or county that contributed the property.

### Effect of Proposed Changes

The bill amends s. 616.07, F.S., to provide that, in addition to the statutory tax exemptions described above that the fair associations currently benefit from, any projects, activities, events, programs, and uses authorized by part I, ch. 616, F.S., serve an essential governmental purpose and, therefore, are also not taxable and are not subject to assessments.<sup>6</sup> The bill also clarifies that this section does not apply to ch. 212, F.S., in order to clarify that the bill is not intended to expand the tax exemptions provided in ch. 212, F.S., for fair associations.<sup>7</sup>

## **Section 8**

### Present Situation

Section 616.08, F.S., empowers fair associations to hold, conduct, and operate public fairs and expositions annually, and in order to accomplish this goal to:

- Buy, lease, acquire and occupy lands, erect buildings and make improvements as needed;
- Develop lands, buildings and improvements;
- Sell, mortgage, lease or convey such property or any part thereof for the purpose of public fairs and expositions;
- Charge and receive compensation for admission to the fairs and expositions, for the sale or renting of space for exhibitions, and for other privileges;
- Conduct and hold public meetings;
- Supervise and conduct lectures and all kinds of demonstration work in connection with or for the improvement of agriculture, horticulture, stock raising and poultry raising, and all kinds of farming and matters connected therewith;
- Hold exhibits of agricultural and horticultural products and livestock, chickens, and other domestic animals;
- Give certificates or diplomas of excellence;
- Promote the progress of the geographical areas it represents and serves and stimulate public interest in the advantages and development of that area by providing facilities for agricultural and industrial exhibitions, public gatherings, cultural activities and other functions which the association determines will enhance the educational, physical, economic, and cultural interests of the public; and,
- Generally carry out all matters, acts, and business usual or proper in connection with public fairs and expositions.

Section 616.08, F.S., also specifies that this enumeration of particular powers does not limit any special provisions of the association's charter in carrying out its business and the conduct of its affairs as it relates to creating, defining, limiting and regulating the powers of the association or its officers or members. The treasurer or similar officer of the association must provide a sufficient bond, which is payable to the association, with a surety company authorized under the laws of the state. The bond

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<sup>6</sup> This language aims to codify the finding that fair associations perform essential governmental purposes, and therefore, are exempt from taxation and assessments. See AGO 95-17 and *Carswell v. State*, 159 So. 15 (Fla. 1935).

<sup>7</sup> S. 212.08(7)(gg) provides certain tax exemptions related to fair associations.

must be in an amount equal to the value of the total monies and properties in that officer's possession or custody, in addition to the value of any money and property of the association that may reasonably be expected to come into that officer's possession or custody.

### Effect of Proposed Changes

The bill amends s. 616.08, F.S., to incorporate various references to the "annual public fair," as opposed to the "fair." The bill also provides that, in addition to the facilities that a fair association can provide to promote the progress of the geographical areas it represents, a fair association can also provide other facilities for the benefit and development of the educational, horticultural, livestock, equestrian, charitable, historical, civic, cultural, scientific, or other resources of the state, any county of the state, or any municipality or other community of any county of the state, including facilities for exhibits, concessions, entertainment events, recreational vehicle parking, auctions, trade shows, and concerts. The bill also states that a fair association organized under ch. 616, F.S., is a noncommercial activity provider.

## **Section 9**

### Present Situation

Section 616.101, F.S., requires an annual review of the accounts and records of each fair association whose fair has an annual attendance of more than 25,000. The review must be made by a qualified accountant licensed by the state. Fair associations whose fairs have an annual attendance of 25,000 or less must submit an annual financial statement signed by an officer of the county. The results of the annual reviews must be kept in the official records of each fair association and made available to all directors of the association.

A certified copy of the review must be filed with the department when the association is applying for a fair permit or upon request by the department to certify expenditures of state premium or building funds when there is evidence of violation of state laws.

### Effect of Proposed Changes

The bill amends s. 616.101, F.S., to incorporate the references to the "annual public fair," as opposed to the "fair." The bill also clarifies that when examining premiums or building funds for evidence of violation, the premiums are those awarded to exhibitors of the fair.

## **Section 10**

### Present Situation

Section 616.11, F.S., provides that any fair association can enter into a contract, lease, or agreement with any municipality or county in the state or with the state or with an agency or subdivision of the state for the donation or use and occupation of lands owned, leased, or held by the county, municipality, or the state or agency or subdivision of the state. The terms and length of time the association may use the property is subject to the agreement reached with the local government or state entity. The association has the right to charge and receive an admission fee to the fair or exposition.

The state or its entities, the board of county commissioners of any county where the fair is held, and the mayor and city council of any municipality within the county may also make contributions of money, property, or services to fair associations to assist in carrying out the purposes of the fair associations.

The boards of county commissioners of the various counties where the fairs are held may expend in their discretion such moneys as they deem in the best interest of their counties and in the development of the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and

any other resources of their counties in connection with public fairs, including offering to pay the premiums for the exhibitions of resources for their respective counties.

### Effect of Proposed Changes

The bill amends s. 616.11, F.S., to specify that a fair association may use the property leased or contracted from a local government or state entity for public exposition purposes. The bill also specifies that the Department of Transportation can make contributions of money, property, or services to fair associations to assist in carrying out the purposes of the association.

Additionally, other than the board of county commissioners within a county where a fair is held, the bill authorizes the state or an agency or subdivision of the state and the mayor or city council of any municipality within the county to expend in their discretion such moneys as they deem in the best interest of their counties and in the development of the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and any other resources of their counties in connection with public fairs, including offering to pay the premiums for the exhibitions of resources of the state, county, or municipality.

## **Section 11**

### Present Situation

Section 616.12(1), F.S., provide that every person operating an exhibition of any kind within the grounds of, and in connection with, a public fair or exposition must pay license taxes as provided by law. However, if the fair association secures a fair permit from the department and qualifies with all other provisions of ch. 616, F.S., the persons operating the exhibitions are not required to pay any license taxes but may operate under a tax exemption certificate issued to the fair association by the department. The department must set forth the proper forms and rules for carrying out the intent and purpose of this section, including the necessary tax exemption certificate, which must be signed by the tax collector, showing that the persons operating the exhibition has met all the requirements of ch. 616, F.S., and is fully exempt.

Section 616.12(2), F.S., provides that fair associations securing the required fair permit from the department are exempt from occupational license fees, occupational permit fees, or any occupational taxes assessed by the county, municipality, political subdivision, or agency, or instrumentality where the fair is held.

### Effect of Proposed Changes

The bill amends s. 616.12(1), F.S., to incorporate the reference to the annual public fair, as opposed to the fair. The bill also adds the local business tax authorized by ch. 205, F.S., to the license taxes that persons operating certain shows, exhibitions, carnivals, games, and other attractions within the grounds the grounds of any public fair are exempt from paying if the fair association satisfies the requirements of ch. 616, F.S., which includes securing the required fair permit from the department. The bill updates the language in the subsection to include the local business tax, which was formally referred to as an occupational license tax. The bill also no longer requires the tax exemption certificate to be signed by the tax collector.

The bill amends s. 616.12(2), F.S., to remove the term "occupational license fees" and replace it with the updated term "local business tax as defined by chapter 205" in reference to exemptions provided to any fair association that has secured the required annual fair permit from the department.

## **Section 12**

### Present Situation

Section 616.121, F.S., provides that persons who make a false statement either to obtain a permit to hold a public fair or exhibition or in an application for distribution of the amount paid for license taxes with the intent of obtaining the permit or any part of that amount for him/herself or for any firm or corporation in which that person has a financial interest, commits a misdemeanor of the first degree.<sup>8</sup>

### Effect of Proposed Changes

The bill amends s. 616.121, F.S., to incorporate the reference to the “annual public fair,” as opposed to the “fair.” This language has been reworded but the intent is unchanged.

## **Section 13**

### Present Situation

Section 616.14, F.S., provides that any fair association that conducts more than one public fair or exhibition during any calendar year is subject to revocation of its charter by the court granting the charter. In addition, any fair association that fails to conduct a public fair or exhibition for a period of 3 calendar years must, upon recommendation of the department, have its charter revoked by the court granting the charter.

### Effect of Proposed Changes

The bill specifically prohibits a fair association from conducting more than one annual public fair each calendar year.

## **Section 14**

### Present Situation

Section 616.15, F.S., provides that all public fairs and expositions conducted by a fair association must be permitted by the department. To obtain a permit, an applicant must present a permit application to the department at least 3 months before holding the fair or exposition. The application must be signed by an officer of the association and accompanied by a fee in an amount to be determined by the department. The fee may not be more than \$366 or less than \$183 and is used to process the application as well as conduct any required investigation. Fees collected under this section must be deposited into the General Inspection Trust Fund in a special account known as the “Agricultural and Livestock Fair Account.”

A copy of the application must also be sent to each fair association within 50 miles of the site of the proposed fair at the same time the application is presented to the department.

In order for the department to issue the permit, the application must set forth:

- The opening and closing dates of the proposed fair or exposition.
- The name and address of the owner of the central amusement attraction to operate during the fair and exposition.
- A properly executed affidavit of the association applying for a permit certifying the existence of a binding contract between the association and the owner of the central amusement attraction covering the period for which the permit applies.
- A statement that the main purpose of the association is to conduct and operate the proposed fair or exposition for the benefit and development of educational, agricultural, horticultural,

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<sup>8</sup> The penalty for a first degree misdemeanor is a term of imprisonment not exceeding one year or a fine not to exceed \$1,000.



livestock, charitable, historical, civic, cultural, scientific, and other resources of the geographical area the fair or exhibition represents and serves. The statement must be in writing and duly acknowledged by an officer of the association.

- A list of the premiums for the current fair or exposition to be conducted or a list from the previous year showing the premiums and awards to be offered to exhibitors in the various departments of the fair. The list may be submitted separately at any time not later than 60 days before the fair or exposition is to be held. The department may issue the permit within 10 days thereafter if the applicant is properly qualified.
- Proof of liability insurance in an amount of not less than \$300,000 per occurrence.
- A copy of the most recent review.
- A list of all of the current members of the board of directors of the association and their home addresses.

The department must enforce and administer the provisions of ch. 616, F.S., except for the regulation of the games, which is the responsibility of local law enforcement agencies. The department has rule-making authority to carry out the provisions of the permitting process. The department is authorized to order a full investigation of any fair association to determine whether or not it meets the requirements of ch. 616, F.S., and accordingly can withhold a permit from, deny a permit to, or withdraw a permit once issued from an association.

The department can also decide if any proposed fair or exposition can compete with another fair or exposition within 50 miles of the proposed fair or exposition with respect to the name, dates of operation, or market. Competition with another fair association is just cause for withholding a permit from a proposed fair or exposition. Preference is given to existing fair associations with established dates, locations, and names. The determination by the department is considered final.

### Effect of Proposed Changes

The bill amends s. 616.15, F.S., to incorporate the reference to the “annual public fair,” as opposed to the “fair.” In addition, the bill requires the application for permit to include the contact information for members of the board of directors for the association in addition to their home addresses.

## **Section 15**

### Present Situation

Section 616.17, F.S., provides that fair associations display a certain minimum number of exhibits at public fairs or exhibitions in order to be approved for a tax exemption certificate by the department.<sup>9</sup> However, the requirement does not limit a fair association from displaying more than the minimum number of exhibits. Specialized livestock shows and fruit or vegetable festivals must comply with their own minimum number of exhibits to obtain the tax exemption certificate from the department.<sup>10</sup>

The department may grant a waiver to the minimum exhibit requirements to a fair association that submits a waiver application at least 60 days prior to the start of the annual public fair or exposition and shows good cause why the requirements cannot be met.

A fair association providing exhibits as set forth in this section or other exhibits or concessions, whether provided directly by the association or through a third party agreement, is not subject to criminal penalties or civil damages arising out of the personal injury or death of any person, or property damage, resulting from such exhibits or concessions. The waiver of liability does not apply if the personal injury, death, or property damage was due to an act of omission committed by the fair association in bad faith, with malicious purpose, or with wanton and willful disregard of human rights, safety, or property. Third parties providing exhibits or concessions are not covered by the waiver of liability.

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<sup>9</sup> S. 616.17(1)(a)-(j), F.S.

<sup>10</sup> S. 616.17 (2)(a)-(b), F.S.

## Effect of Proposed Changes

The bill amends s. 616.17, F.S., to incorporate the reference to the “annual public fair,” as opposed to the “fair.” The bill also requires the waiver to the minimum exhibit requirements to be provided at least 30 days prior to the start of the annual public fair as opposed to 60 days.

### **Section 16**

#### Present Situation

Section 616.185, F.S., provides that for the purposes of ch. 616, F.S., trespassing upon the grounds of the Florida State Fair Authority or any other public fair or exposition is defined to mean:

- Entering and remaining on the grounds of the fair authority or any other public fair or exhibition and committing an act which disrupts the orderly conduct of an authorized activity of the fair organization in charge or its lessees on the grounds or facility of the public fair; or
- Entering and remaining on the grounds or facilities after being directed not to enter or to leave by the executive director of the authority, chief administrative officer of the fair or exposition, or any employee or agent designated by the executive director or administrator after it has been determined that entering and remaining on the grounds is in violation of the rules and regulations of the fair authority or the public fair or such presence is disruptive to the orderly conduct of any authorized activity of the fair organization in charge or its lessees on the grounds or facilities.

Persons found guilty of trespassing on the fair authority or public fair or exhibition grounds commit a misdemeanor of the second degree.<sup>11</sup> A peace officer may arrest any person on or off the premises, without a warrant, if the officer has probable cause for believing such person has trespassed upon the grounds of the fair authority or public fair. Such arrest does not render the peace officer criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

#### Effect of Proposed Changes

The bill amends s. 616.185, F.S., to revise the definition of trespassing to include a disruption of orderly conduct for the licensees or the general public, as well as the fair association and its lessees. Also, a technical change is made to identify a “peace” officer as a “law enforcement” officer.

### **Sections 17, 18 and 20**

The changes made by the bill to ss. 616.19, 616.21, and 616.23, F.S., are non-substantive, technical revisions that do not change the statutory meaning.

### **Section 19**

#### Present Situation

Section 616.23, F.S., provides that the buildings authorized by ch. 616, F.S., may be used by the county, municipality, or fair association for which the buildings are built as agricultural or livestock exhibition buildings for public fair or exposition purposes in the promotion of the agricultural and livestock industries. These buildings may also be used as office space for agricultural agents; however, no more than 20 percent of the buildings may be so used.

#### Effect of Proposed Changes

The bill amends s. 616.23, F.S., to authorize the buildings to be used for public fair and exposition purposes, regardless of whether it is for the promotion of the agricultural or livestock industries.

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<sup>11</sup> The penalty for a second degree misdemeanor is a term of imprisonment not exceeding 60 days or a fine not to exceed \$500.

## Section 21

This section corrects a cross-reference to the definition of “fair association.” In adding and amending definitions to s. 616.001, F.S., the statutory reference to “fair association” changed from s. 616.001(9), F.S., to s. 616.001(11), F.S.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 616.001, F.S., providing and amending definitions.

**Section 2:** Amends s. 616.01, F.S., amending conditions relating to proposed charter.

**Section 3:** Amends s. 616.02, F.S., providing the primary objective of a fair association.

**Section 4:** Amends s. 616.03, F.S., providing criteria for a fair association to file for charter and providing for a fair association to file for charter with the Department of State in addition to the Department of Agriculture and Consumer Services.

**Section 5:** Amends s. 616.05, F.S., providing criteria for a charter to be amended; and, providing for a fair association to file an amendment to the charter with the Department of State if the charter was filed with the Department of State.

**Section 6:** Amends s. 616.051, F.S., providing criteria for a charter to be dissolved.

**Section 7:** Amends s. 616.07, F.S., revising provisions regarding the distribution of public funds and property when a fair association is dissolved; clarifying that certain authorized projects, activities, events, programs, and uses serve an essential governmental purpose and, therefore, are exempt from taxation.

**Section 8:** Amends s. 616.08, F.S., requiring each fair association to hold an annual public fair; authorizing the fair association to grant a lease or license of space for exhibits, concessions, and other purposes; and requiring the fair association to stimulate public interest in the benefit and development of certain resources of the state, any county, or a municipality.

**Section 9:** Amends s. 616.101, F.S., requiring an annual review of the accounts and records of certain fair associations; and requiring an annual financial statement for certain fair associations.

**Section 10:** Amends s. 616.11, F.S., clarifying the right of the fair association to use certain property for public purposes; authorizing the Department of Transportation to make contributions to a fair association to assist it in carrying out its purpose; and authorizing state, county, and municipal governments to fund certain projects at or connected with public fairs and expositions.

**Section 11:** Amends s. 616.12, F.S., revising provisions relating to the exemption from certain local business taxes for annual public fairs held by a fair association.

**Section 12:** Amends s. 616.121, F.S., providing a penalty for false application for a permit; and conforming terminology.

**Section 13:** Amends s. 616.14, F.S., providing that a fair association may not hold more than one annual public fair a year.

**Section 14:** Amends s. 616.15, F.S., conforming terminology regarding obtaining a permit from the Department of Agriculture and Consumer Services to conduct a public fair.

**Section 15:** Amends s. 616.17, F.S., conforming terminology regarding minimum exhibits to be displayed to qualify for a tax exemption certificate; and requiring an application for a waiver to the minimum exhibits requirements be submitted 30 days before the annual public fair.

**Section 16:** Amends s. 616.185, F.S., conforming terminology regarding trespassing on the grounds of the Florida State Fair Authority or any other fair association.

**Section 17:** Amends s. 616.19, F.S., conforming terminology regarding designation of fairs.

**Section 18:** Amends s. 616.21, F.S., conforming terminology regarding conditions for expenditures for agricultural and livestock exhibit buildings.

**Section 19:** Amends s. 616.23, F.S., providing that agricultural and livestock exhibit buildings may be used for public fair or exposition purposes.

**Section 20:** Amends s. 616.24, F.S., conforming terminology.

**Section 21:** Amends s. 288.1175, F.S., correcting a cross reference.

**Section 22:** Provides an effective date of July 1, 2012.

## **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:

None.

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

None.

### **D. FISCAL COMMENTS:**

The bill has not yet been heard by the Revenue Estimating Impact Conference.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2011, the Agriculture and Natural Resources Subcommittee adopted three amendments to HB 449. **Amendment 1** clarified the definition of a “public fair or exposition” to mean “a project, activity, event, or program and use by a fair association, including the annual public fair event, which serves the purposes specified in s. 616.08 and benefits and develops the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and other resources of this state, or any county, municipality, or other community in this state.” **Amendment 2** removed language providing fair associations an exemption from local land use and zoning ordinances. **Amendment 3** removed language exempting fair association from inspection fees, franchise fees and taxes, utility service fees and taxes, communication service fees and taxes, surplus line fees and taxes, and impact fees. The analysis has been updated to reflect these amendments.

On January 11, 2011, the Community & Military Affairs Subcommittee adopted two technical amendments to CS/HB 449. **Amendment 1** addressed a concern raised by the Department of Revenue’s analysis that the language in s. 616.07, F.S., exempting money and property of the fair association from all forms of taxation, including special assessments, and exempting any projects, activities, events, programs, and uses authorized by part I of ch. 616, F.S., from taxation and assessments could be interpreted to expand the tax exemptions provided by ch. 212, F.S., to fair associations. Since the legislative intent was not to expand the tax exemptions provided by ch. 212, F.S., the sentence “this section does not apply to chapter 212” was added. **Amendment 2** also addressed a concern raised by the Department of Revenue’s analysis. There was confusion regarding whether the word “department” that was added to the existing list of governmental entities in s. 616.12(2), F.S., which may assess a tax or fee was referring to the Department of Revenue, the Department of Agriculture and Consumer Services, or to a department within local government. The amendment simply removed the word “department” in order to avoid confusion. The analysis has been updated to reflect these amendments.