

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 Committee on Appropriations

BILL: CS/CS/SB 278

INTRODUCER: Appropriations Committee; Finance and Tax Committee; and Senator Diaz de la Portilla

SUBJECT: Downtown Development Districts

DATE: April 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	<u>Babin</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 278 authorizes a municipality with a population of more than 400,000 within a county defined in s. 125.011(1), F.S., to levy an ad valorem tax on all real and personal property in a downtown development district of up to 0.475 mill. The 0.475 mill is included within the municipality's regular ad valorem taxes and special assessments. In total, the municipality's millage may not exceed the 10 mills allowed under the Florida Constitution for municipal purposes.

The Revenue Estimating Conference has determined that this bill will have a negative, but insignificant recurring fiscal impact on local revenues.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Downtown Development Authorities are special districts¹ whose function is "planning, coordinating, and assisting in the implementation, revitalization, and redevelopment of a specific

¹ See generally Chapter 189, F.S.

downtown area of a city.”² Fourteen DDAs are currently active in Florida, most of which were created by special act.³

Authorization of DDAs

The Florida Legislature first authorized DDAs in 1965 to remediate blighted business areas, halt further deterioration, and revitalize the central business districts of the larger cities where those conditions exist.⁴ Municipalities with a population in excess of 250,000 were authorized to establish a DDA with certain enumerated powers.⁵ The law provided that DDAs be governed by a five-member board appointed by the governing body of the municipality and chaired by the mayor of the municipality. The law authorized the governing body of the DDA to levy up to a 0.5 mill ad valorem tax on all real and personal property in the downtown district.⁶

In 1967, using the authority in Chapter 65-1090, L.O.F., the City of Miami created its DDA, and authorized it to levy an ad valorem tax.⁷ The City of Miami’s DDA continues today.⁸

The Florida Constitution of 1968 granted cities and counties broad home rule authority, making general laws of local application, like Chapter 65-1090, L.O.F., obsolete. In 1971, the Legislature repealed many general laws of local application passed between 1921 and 1970.⁹ The Legislature declared that those repealed laws “shall become an ordinance of that municipality... subject to modification or repeal as are other ordinances.”¹⁰

The City of Miami was the only city to create a DDA pursuant to Chapter 65-1090, L.O.F., prior to its repeal; however, between 1965 and the repeal of the general DDA authorization in 1971, four other DDAs were created by special act of the Legislature.¹¹ These DDAs were in Delray Beach,¹² Fort Lauderdale,¹³ Ocala,¹⁴ and West Palm Beach,¹⁵ all of which continue today.

The Code of the City of Miami continues to authorize up to a 0.5 mill ad valorem tax on all real and personal property in the downtown district.

² Section 380.031(5), F.S.

³ The Special District Information Program within the Department of Economic Opportunity serves as the clearinghouse for special district information, and maintains a list of special districts categorized by function. Dep’t of Economic Opportunity, Special District Accountability Program, *Official List of Special Districts Online*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Apr 4, 2015).

⁴ Chapter 65-1090, at 692, Laws of Fla.

⁵ *Id.*

⁶ Chapter 65-1090, at 699, Laws of Fla.

⁷ Chapter 14, City of Miami, Florida, Code of Ordinances (1965).

⁸ Dep’t of Economic Opportunity, Special District Accountability Program, *Official List of Special Districts Online*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Feb 9, 2015).

⁹ Chapter 71-29, Laws of Fla.

¹⁰ Chapter 71-29, at 116, Laws of Fla. Some litigation has questioned the legality of this type of transfer. *See generally Milan Investment Group, Inc., v. City of Miami, et al.*, No. 3D09-2955 (Fla. 3d DCA 2010).

¹¹ Dep’t of Economic Opportunity, Special District Accountability Program, *Official List of Special Districts Online*, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited Feb 9, 2015).

¹² Chapter 71-604, Laws of Fla.

¹³ Chapter 65-1541, Laws of Fla.

¹⁴ Chapter 67-1782, Laws of Fla.

¹⁵ Chapter 67-2170, Laws of Fla.

The city commission is authorized to levy an additional ad valorem tax on all real and personal property in the downtown district as described in this article, not exceeding one-half mill on the dollar valuation of such property, for the purpose of financing the operation of the downtown development authority. This levy of one-half mill per dollar ad valorem tax shall be in addition to the regular ad valorem taxes and special assessments for improvements imposed by the city commission.¹⁶

In 1999, the Legislature enacted s. 166.0497, F.S., establishing procedures by which the Miami DDA could alter, amend or expand its boundaries.¹⁷

Municipal Millage Rates

Municipal millages are composed of a general nonvoted millage, a municipal debt service millage, a general voted millage, and a dependent special district millage.¹⁸

For the purpose of fixing millage, the Florida Statutes treat the Miami DDA as a dependent special district.¹⁹ The millage rate levied by the Miami DDA for the fiscal year beginning October 1, 2014, and ending September 30, 2015, is 0.4780 mills.²⁰

Home-Rule Charter Counties

Section 125.011(1), F.S., defines a county as:

. . . any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word “county” within the above provisions shall include “board of county commissioners” of such county.

The local governments authorized by ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, to operate under a home rule charter are the city of Key West and Monroe County,²¹ Dade County,²² and Hillsborough County.²³ Of these, only Miami-Dade County operates under a home-rule charter adopted pursuant to these specific provisions.²⁴ Miami-Dade’s charter was adopted on May 21, 1957.²⁵

¹⁶ Section 14-60, City of Miami, Florida, Code of Ordinances (2014).

¹⁷ Chapter 99-208, Laws of Fla.

¹⁸ Section 200.001(2), F.S.

¹⁹ Section 200.001(8)(e), F.S.

²⁰ Office of the Miami Dade Property Appraiser, 2014 Adopted Millage Rates, *available at* <http://www.miamidade.gov/pa/library/2014-adopted-millage-chart.pdf> (last visited Apr. 4, 2015).

²¹ FLA. CONST. art. VIII, s. 6, n. 2.

²² FLA. CONST. art. VIII, s. 6, n. 3.

²³ FLA. CONST. art. VIII, s. 6, n. 4.

²⁴ County charters can be adopted pursuant to other provisions of the Florida Constitution. *See* FLA. CONST. art. VIII, s. 1.

²⁵ Miami-Dade County Florida, *The Home Rule Amendment and Charter*, *available at*

Miami-Dade County is currently the only county that comports with the description of a “county” contained in s. 125.011(1), F.S. General laws applicable to Miami-Dade County have survived various legal challenges claiming that such general laws are, in actuality, special laws.²⁶

III. Effect of Proposed Changes:

Section 1 creates s. 189.056, F.S., to authorize the governing body of a municipality with a population of more than 400,000 and located within a county, as defined in s. 125.011(1), F.S., to levy an ad valorem tax on all real and personal property in a downtown development district, up to 0.475 mill.

The bill provides that the total ad valorem tax that can be levied by the DDA is limited to 0.475 mills.

The bill provides that the DDA’s millage is treated as a dependent special district millage, which includes it within the 10 mill limit for municipal purposes provided by the Florida Constitution.

Section 2 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions of Art. VII, Section 18, of the Florida Constitution are implicated because this bill reduces the authority of municipalities to raise revenue. However, the amount of the reduction is estimated to be insignificant; therefore, the bill is exempt from the mandates provisions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article III, s. 11(a)(2) of the Florida Constitution states that there “shall be no special law or general law of local application pertaining to: . . . assessment or collection of taxes for state or county purposes.”

<http://www.miamidade.gov/charter/library/charter.pdf> (last visited Apr. 4, 2015), *compare* Hillsborough County Florida, *Home Rule Charter*, available at <http://www.hillsboroughcounty.org/DocumentCenter/Home/View/376> (last visited Apr. 4, 2015) (providing that the county is chartered under Article VIII, Section 1 of the Florida Constitution as opposed to Article VIII, Section 6 of the Florida Constitution).

²⁶ *Homestead Hospital v. Miami-Dade County*, 829 So. 2d 259 (Fla. 3rd DCA 1992); and see *Metropolitan Dade County v. Golden Nugget Group*, 448 So. 2d 515 (Fla. 3rd DCA 1984), *aff’d* 464 So. 2d 535 (Fla. 1985).

A special law, as defined by the Florida Supreme Court, is a law that is “relating to or designed to operate on, particular persons or things, or one that purports to operate on classified persons or things when classification is not permissible or the classification adopted is illegal.”

In contrast, a general law “operates universally throughout the state, uniformly upon subjects as they may exist throughout the state, or uniformly within a permissible classification.” The Legislature has wide discretion in creating classifications provided the classifications are reasonable. A classification by the Legislature carries a presumption of reasonableness.

This bill authorizes certain municipalities within counties, as defined in s. 125.011(1), F.S., to levy an ad valorem tax. Three counties are potentially eligible to levy the tax in the future; however, only Miami-Dade County is currently eligible.

Section 125.011(1), F.S., is referenced in 13 chapters of Florida Statutes a total of 26 times. Legal challenges claiming that some of these general laws were, in actuality, special laws have failed.²⁷

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that CS/CS/SB 278 will have negative, but insignificant recurring fiscal impact. The City of Miami is authorized to levy up to 0.5 mills on all real and personal property in the district for financing the operation of the Miami DDA. The bill reduces the City of Miami DDA’s authority to 0.475 mill.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁷ See *Id.*

VIII. Statutes Affected:

This bill creates section 189.056 of the Florida Statutes.

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

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

CS/CS by Appropriations on April 9, 2015:

The committee substitute reduces the ad valorem limit that a DDA may levy from 0.5 mill to 0.475 mill.

CS by Finance and Tax on March 23, 2015:

The CS replaces the language in the bill and:

- Creates s. 189.056, F.S., which authorizes municipalities with a population over 400,000, located within a county, as defined in s. 125.011(1), F.S., to levy an ad valorem tax not to exceed 0.5 mill within the boundaries of a DDA.
- Limits all ad valorem tax for the DDA to 0.5 mill.
- Treats the DDA's millage as a dependent special district millage.

B. Amendments:

None.