

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 Finance and Tax

BILL: SB 278

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Downtown Development Districts

DATE: February 13, 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>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 278 provides statutory authority for the 0.5 mill ad valorem taxing power granted to a Downtown Development Authority (DDA) by Chapter 65-1090, Laws of Florida. The bill allows the Miami DDA to continue levying ad valorem taxes, up to 0.5 mills, in addition to the municipality's regular ad valorem taxes and special assessments, not to exceed the 10 mills allowed under the State Constitution for municipal purposes.

The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

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 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 Chapter 65-1090, L.O.F., authorized municipalities with a population in excess

¹ See generally chapter 189, F.S.

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 Feb. 9, 2015).

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

of 250,000 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

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.

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

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.

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

¹⁷ Chapter 99-208, Laws of Fla.

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

III. Effect of Proposed Changes:

Section 1 amends s. 166.0497, F.S., to authorize the governing body of a municipality that created a DDA pursuant to Chapter 65-1090, L.O.F., to levy an ad valorem tax on all real and personal property in the district for financing the operation of the DDA.

The bill provides that the ad valorem tax that can be levied is limited to 0.5 mills.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill could implicate Article III, Section 10 of the State Constitution, which provides:

No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

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/millage_tables.asp (last visited Feb. 9, 2015).

The State Constitution defines a special law as a special or local law.²¹

As explained by case law:

A special law is one relating to, or designed to operate upon, particular persons or things, or one that purports to operate upon classified persons or things when classification is not permissible or the classification adopted is illegal; a local law is one relating to, or designed to operate only in, a specifically indicated part of the State, or one that purports to operate within classified territory when classification is not permissible or the classification is illegal.²²

Although the Florida Supreme Court has recognized that the Legislature has wide discretion in establishing statutory classification schemes, “[a] statute is invalid if ‘the descriptive technique is employed merely for identification rather than classification.’”²³ In determining whether the class of persons regulated by a statute is open so as to make the statute a general law as opposed to a special law that requires enactment in accordance with state constitutional provisions, the question “is not whether it is imaginable or theoretically possible that the law might be applied to others, but whether it is reasonable to expect that it will.”²⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not reviewed the fiscal impact of the bill. The bill authorizes the City of Miami to continue to levy up to 0.5 mills on all real and personal property in the district for financing the operation of the Miami DDA.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

²¹ Fla. Const. art X, s. 12(g).

²² *Lawnwood Medical Center Inc. v. Seeger, M.D.*, 959 So. 2d 1222 (Fla. 1st DCA 2007) *affirmed by* 990 So.2d 503 (Fla. 2008).

²³ *Dep’t of Business Regulation v. Classic Mile, Inc.*, 541 So.2d 1155 (Fla. 1989); *Shelton v. Reeder*, 121 So2d 145 (Fla. 1960).

²⁴ *State, Dep’t of Bus. & Prof’l Regulation, Div. of Pari-Mutuel Wagering v. Gulfstream Park Racing Ass’n, Inc.*, 912 So. 2d 616 (Fla. Dist. Ct. App. 2005) *aff’d sub nom. Florida Dep’t of Bus. & Prof’l Regulation v. Gulfstream Park Racing Ass’n, Inc.*, 967 So. 2d 802 (Fla. 2007).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 166.0497 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.)

None.

B. Amendments:

None.