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LEGISLATIVE ACTION

Senate

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House

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Senator Hutson moved the following:

Senate Amendment (with title amendment)

Delete lines 175 - 299

and insert:

(1) A county must suspend enforcement of an ordinance that is the subject of an action challenging the ordinance's validity on the grounds that it is expressly preempted by the State Constitution or by state law or is arbitrary or unreasonable if:

(a) The action was filed with the court no later than 90 days after the adoption of the ordinance;

(b) The complainant requests suspension in the initial



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12 complaint or petition, citing this section; and

13 (c) The county has been served with a copy of the complaint
14 or petition.

15 (2) When the plaintiff appeals a final judgment finding
16 that an ordinance is valid and enforceable, the county may
17 enforce the ordinance 30 days after the entry of the order
18 unless the plaintiff files a motion for a stay of the lower
19 tribunal's order which is granted by the appellate court.

20 (3) The court shall give cases in which the enforcement of
21 an ordinance is suspended under this section priority over other
22 pending cases and shall render a preliminary or final decision
23 on the validity of the ordinance as expeditiously as possible.

24 (4) The signature of an attorney or a party constitutes a
25 certificate that he or she has read the pleading, motion, or
26 other paper and that, to the best of his or her knowledge,
27 information, and belief formed after reasonable inquiry, it is
28 not interposed for any improper purpose, such as to harass or to
29 cause unnecessary delay, or for economic advantage, competitive
30 reasons, or frivolous purposes or needless increase in the cost
31 of litigation. If a pleading, motion, or other paper is signed
32 in violation of these requirements, the court, upon its own
33 initiative, shall impose upon the person who signed it, a
34 represented party, or both, an appropriate sanction, which may
35 include an order to pay to the other party or parties the amount
36 of reasonable expenses incurred because of the filing of the
37 pleading, motion, or other paper, including reasonable attorney
38 fees.

39 (5) This section does not apply to local ordinances enacted
40 to implement the following:



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- 41 (a) Part II of chapter 163;
42 (b) Section 553.73;
43 (c) Section 633.202;
44 (d) Sections 190.005 and 190.046;
45 (e) Ordinances required to comply with federal or state law
46 or regulation;
47 (f) Ordinances related to the issuance or refinancing of
48 debt;
49 (g) Ordinances related to the adoption of budgets or budget
50 amendments;
51 (h) Ordinances required to implement a contract or an
52 agreement, including, but not limited to, any federal, state,
53 local, or private grant, or other financial assistance accepted
54 by a county government; or
55 (i) Emergency ordinances.
56 (6) The court may award attorney fees and costs and damages
57 as provided in s. 57.112.

58 Section 4. Present subsections (4) through (8) of section
59 166.041, Florida Statutes, are redesignated as subsections (5)
60 through (9), respectively, and a new subsection (4) is added to
61 that section, to read:

62 166.041 Procedures for adoption of ordinances and
63 resolutions.—

64 (4) (a) Before the enactment of a proposed ordinance, the
65 governing body of a municipality shall prepare or cause to be
66 prepared a business impact estimate in accordance with this
67 subsection. The business impact estimate must be posted on the
68 municipality's website no later than the date the notice of
69 proposed enactment is published pursuant to paragraph (3) (a) and



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70 must include all of the following:

71 1. A summary of the proposed ordinance, including a
72 statement of the public purpose to be served by the proposed
73 ordinance, such as serving the public health, safety, morals,
74 and welfare of the municipality.

75 2. An estimate of the direct economic impact of the
76 proposed ordinance on private for-profit businesses in the
77 municipality, including the following, if any:

78 a. An estimate of direct compliance costs businesses may
79 reasonably incur if the ordinance is enacted;

80 b. Identification of any new charge or fee on businesses
81 subject to the proposed ordinance, or for which businesses will
82 be financially responsible; and

83 c. An estimate of the municipality's regulatory costs,
84 including an estimate of revenues from any new charges or fees
85 that will be imposed on businesses to cover such costs.

86 3. A good faith estimate of the number of businesses likely
87 to be impacted by the ordinance.

88 4. Any additional information the governing body determines
89 may be useful.

90 (b) This subsection may not be construed to require a
91 municipality to procure an accountant or other financial
92 consultant to prepare the business impact estimate required by
93 this subsection.

94 (c) This subsection does not apply to local ordinances
95 enacted to implement the following:

96 1. Part II of chapter 163;

97 2. Section 553.73;

98 3. Section 633.202;



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99 4. Sections 190.005 and 190.046;

100 5. Ordinances required to comply with federal or state law
101 or regulation;

102 6. Ordinances related to the issuance or refinancing of
103 debt;

104 7. Ordinances related to the adoption of budgets or budget
105 amendments;

106 8. Ordinances required to implement a contract or an
107 agreement, including, but not limited to, any federal, state,
108 local, or private grant, or other financial assistance accepted
109 by a local government; or

110 9. Emergency ordinances.

111 Section 5. Section 166.0411, Florida Statutes, is created
112 to read:

113 166.0411 Legal challenges to certain recently enacted
114 ordinances.—

115 (1) A municipality must suspend enforcement of an ordinance
116 that is the subject of an action challenging the ordinance's
117 validity on the grounds that it is expressly preempted by the
118 State Constitution or by state law or is arbitrary or
119 unreasonable if:

120 (a) The action was filed with the court no later than 90
121 days after the adoption of the ordinance;

122 (b) The complainant requests suspension in the initial
123 complaint or petition, citing this section; and

124 (c) The municipality has been served with a copy of the
125 complaint or petition.

126 (2) When the plaintiff appeals a final judgment finding
127 that an ordinance is valid and enforceable, the municipality may



128 enforce the ordinance 30 days after the entry of the order
129 unless the plaintiff files a motion for a stay of the lower
130 tribunal's order which is granted by the appellate court.

131
132 ===== T I T L E A M E N D M E N T =====

133 And the title is amended as follows:

134 Delete lines 16 - 34

135 and insert:

136 action if certain conditions are met; authorizing a
137 prevailing county to enforce the ordinance after a
138 specified period, except under certain circumstances;
139 requiring courts to give priority to certain cases;
140 providing construction relating to an attorney's or a
141 party's signature; requiring a court to impose
142 sanctions under certain circumstances; providing
143 applicability; authorizing courts to award attorney
144 fees and costs and damages under certain
145 circumstances; amending s. 166.041, F.S.; requiring a
146 governing body of a municipality to prepare or cause
147 to be prepared a business impact estimate before the
148 enactment of a proposed ordinance; specifying
149 requirements for the posting and content of the
150 estimate; providing construction and applicability;
151 creating s. 166.0411, F.S.; requiring a municipality
152 to suspend enforcement of an ordinance that is the
153 subject of a certain legal action if certain
154 conditions are met; authorizing a prevailing
155 municipality to enforce the ordinance after a
156 specified period, except under certain circumstances;