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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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01/27/2022 03:55 PM

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Senator Torres moved the following:

1 **Senate Substitute for Amendment (349788) (with title**
2 **amendment)**

3
4 Delete lines 94 - 335

5 and insert:

6 633.202 or to local ordinances approved in a referendum by the
7 qualified electors in the area governed by the local government.

8 (7) (a) ~~(6)~~ Except as provided in paragraph (b), this section
9 is intended to be prospective in nature and applies ~~shall apply~~
10 only to cases commenced on or after July 1, 2019.

11 (b) The amendments to this section effective October 1,



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12 2022, are prospective in nature and apply only to ordinances
13 adopted on or after October 1, 2022.

14 Section 2. Present subsections (3) through (6) of section
15 125.66, Florida Statutes, are redesignated as subsections (4)
16 through (7), respectively, a new subsection (3) is added to that
17 section, and paragraph (a) of subsection (2) of that section is
18 amended, to read:

19 125.66 Ordinances; enactment procedure; emergency
20 ordinances; rezoning or change of land use ordinances or
21 resolutions.-

22 (2) (a) The regular enactment procedure shall be as follows:
23 The board of county commissioners at any regular or special
24 meeting may enact or amend any ordinance, except as provided in
25 subsection (5) ~~(4)~~, if notice of intent to consider such
26 ordinance is given at least 10 days before such meeting by
27 publication as provided in chapter 50. A copy of such notice
28 shall be kept available for public inspection during the regular
29 business hours of the office of the clerk of the board of county
30 commissioners. The notice of proposed enactment shall state the
31 date, time, and place of the meeting; the title or titles of
32 proposed ordinances; and the place or places within the county
33 where such proposed ordinances may be inspected by the public.
34 The notice shall also advise that interested parties may appear
35 at the meeting and be heard with respect to the proposed
36 ordinance.

37 (3) (a) Before the enactment of a proposed ordinance, the
38 board of county commissioners shall prepare or cause to be
39 prepared a business impact estimate in accordance with this
40 subsection. The business impact estimate must be posted on the



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41 county's website no later than the date the notice of proposed
42 enactment is published pursuant to paragraph (2) (a) and must
43 include all of the following:

44 1. A summary of the proposed ordinance, including a
45 statement of the public purpose to be served by the proposed
46 ordinance, such as serving the public health, safety, morals,
47 and welfare of the county.

48 2. An estimate of the direct economic impact of the
49 proposed ordinance on private for-profit businesses in the
50 county, including the following, if any:

51 a. An estimate of direct compliance costs businesses may
52 reasonably incur if the ordinance is enacted.

53 b. Identification of any new charge or fee on businesses
54 subject to the proposed ordinance or for which businesses will
55 be financially responsible.

56 c. An estimate of the county's regulatory costs, including
57 an estimate of revenues from any new charges or fees that will
58 be imposed on businesses to cover such costs.

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

61 4. Any additional information the board determines may be
62 useful.

63 (b) This subsection may not be construed to require a
64 county to procure an accountant or other financial consultant to
65 prepare the business impact estimate required by this
66 subsection.

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

69 1. Part II of chapter 163;



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- 70 2. Section 553.73;
71 3. Section 633.202;
72 4. Sections 190.005 and 190.046;
73 5. Ordinances required to comply with federal or state law
74 or regulation;
75 6. Ordinances related to the issuance or refinancing of
76 debt;
77 7. Ordinances related to the adoption of budgets or budget
78 amendments;
79 8. Ordinances required to implement a contract or an
80 agreement, including, but not limited to, any federal, state,
81 local, or private grant, or other financial assistance accepted
82 by a county government;
83 9. Emergency ordinances; or
84 10. Ordinances approved in a referendum by the qualified
85 electors in the county.
86 Section 3. Section 125.675, Florida Statutes, is created to
87 read:
88 125.675 Legal challenges to certain recently enacted
89 ordinances.—
90 (1) A county must suspend enforcement of an ordinance that
91 is the subject of an action challenging the ordinance's validity
92 on the grounds that it is expressly preempted by the State
93 Constitution or by state law or is arbitrary or unreasonable if:
94 (a) The action was filed with the court no later than 90
95 days after the adoption of the ordinance;
96 (b) The complainant requests suspension in the initial
97 complaint or petition, citing this section; and
98 (c) The county has been served with a copy of the complaint



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99 or petition.

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

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

109 (4) The signature of an attorney or a party constitutes a
110 certificate that he or she has read the pleading, motion, or
111 other paper and that, to the best of his or her knowledge,
112 information, and belief formed after reasonable inquiry, it is
113 not interposed for any improper purpose, such as to harass or to
114 cause unnecessary delay, or for economic advantage, competitive
115 reasons, or frivolous purposes or needless increase in the cost
116 of litigation. If a pleading, motion, or other paper is signed
117 in violation of these requirements, the court, upon its own
118 initiative, shall impose upon the person who signed it, a
119 represented party, or both, an appropriate sanction, which may
120 include an order to pay to the other party or parties the amount
121 of reasonable expenses incurred because of the filing of the
122 pleading, motion, or other paper, including reasonable attorney
123 fees.

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

126 (a) Part II of chapter 163;

127 (b) Section 553.73;



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128 (c) Section 633.202;
129 (d) Sections 190.005 and 190.046;
130 (e) Ordinances required to comply with federal or state law
131 or regulation;
132 (f) Ordinances related to the issuance or refinancing of
133 debt;
134 (g) Ordinances related to the adoption of budgets or budget
135 amendments;
136 (h) Ordinances required to implement a contract or an
137 agreement, including, but not limited to, any federal, state,
138 local, or private grant, or other financial assistance accepted
139 by a county government;
140 (i) Emergency ordinances; or
141 (j) Ordinances approved in a referendum by the qualified
142 electors in the county.
143 (6) The court may award attorney fees and costs and damages
144 as provided in s. 57.112.
145 Section 4. Present subsections (4) through (8) of section
146 166.041, Florida Statutes, are redesignated as subsections (5)
147 through (9), respectively, and a new subsection (4) is added to
148 that section, to read:
149 166.041 Procedures for adoption of ordinances and
150 resolutions.—
151 (4) (a) Before the enactment of a proposed ordinance, the
152 governing body of a municipality shall prepare or cause to be
153 prepared a business impact estimate in accordance with this
154 subsection. The business impact estimate must be posted on the
155 municipality's website no later than the date the notice of
156 proposed enactment is published pursuant to paragraph (3) (a) and



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157 must include all of the following:

158 1. A summary of the proposed ordinance, including a
159 statement of the public purpose to be served by the proposed
160 ordinance, such as serving the public health, safety, morals,
161 and welfare of the municipality.

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

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

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

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

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

175 4. Any additional information the governing body determines
176 may be useful.

177 (b) This subsection may not be construed to require a
178 municipality to procure an accountant or other financial
179 consultant to prepare the business impact estimate required by
180 this subsection.

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

183 1. Part II of chapter 163;

184 2. Section 553.73;

185 3. Section 633.202;



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186 4. Sections 190.005 and 190.046;

187 5. Ordinances required to comply with federal or state law
188 or regulation;

189 6. Ordinances related to the issuance or refinancing of
190 debt;

191 7. Ordinances related to the adoption of budgets or budget
192 amendments;

193 8. Ordinances required to implement a contract or an
194 agreement, including, but not limited to, any federal, state,
195 local, or private grant, or other financial assistance accepted
196 by a local government;

197 9. Emergency ordinances; or

198 10. Ordinances approved in a referendum by the qualified
199 electors in the municipality.

200 Section 5. Section 166.0411, Florida Statutes, is created
201 to read:

202 166.0411 Legal challenges to certain recently enacted
203 ordinances.—

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

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

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

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



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215 (2) When the plaintiff appeals a final judgment finding
216 that an ordinance is valid and enforceable, the municipality may
217 enforce the ordinance 30 days after the entry of the order
218 unless the plaintiff files a motion for a stay of the lower
219 tribunal's order which is granted by the appellate court.

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

224 (4) The signature of an attorney or a party constitutes a
225 certificate that he or she has read the pleading, motion, or
226 other paper and that, to the best of his or her knowledge,
227 information, and belief formed after reasonable inquiry, it is
228 not interposed for any improper purpose, such as to harass or to
229 cause unnecessary delay, or for economic advantage, competitive
230 reasons, or frivolous purposes or needless increase in the cost
231 of litigation. If a pleading, motion, or other paper is signed
232 in violation of these requirements, the court, upon its own
233 initiative, shall impose upon the person who signed it, a
234 represented party, or both, an appropriate sanction, which may
235 include an order to pay to the other party or parties the amount
236 of reasonable expenses incurred because of the filing of the
237 pleading, motion, or other paper, including reasonable attorney
238 fees.

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

241 (a) Part II of chapter 163;

242 (b) Section 553.73;

243 (c) Section 633.202;



- 244 (d) Sections 190.005 and 190.046;
- 245 (e) Ordinances required to comply with federal or state law
- 246 or regulation;
- 247 (f) Ordinances related to the issuance or refinancing of
- 248 debt;
- 249 (g) Ordinances related to the adoption of budgets or budget
- 250 amendments;
- 251 (h) Ordinances required to implement a contract or an
- 252 agreement, including, but not limited to, any federal, state,
- 253 local, or private grant, or other financial assistance accepted
- 254 by a municipal government;
- 255 (i) Emergency ordinances; or
- 256 (j) Ordinances approved in a referendum by the qualified
- 257 electors in the municipality.

258
259 ===== T I T L E A M E N D M E N T =====

260 And the title is amended as follows:
261 Delete lines 16 - 34
262 and insert:
263 action if certain conditions are met; authorizing a
264 prevailing county to enforce the ordinance after a
265 specified period, except under certain circumstances;
266 requiring courts to give priority to certain cases;
267 providing construction relating to an attorney's or a
268 party's signature; requiring a court to impose
269 sanctions under certain circumstances; providing
270 applicability; authorizing courts to award attorney
271 fees and costs and damages under certain
272 circumstances; amending s. 166.041, F.S.; requiring a



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273 governing body of a municipality to prepare or cause
274 to be prepared a business impact estimate before the
275 enactment of a proposed ordinance; specifying
276 requirements for the posting and content of the
277 estimate; providing construction and applicability;
278 creating s. 166.0411, F.S.; requiring a municipality
279 to suspend enforcement of an ordinance that is the
280 subject of a certain legal action if certain
281 conditions are met; authorizing a prevailing
282 municipality to enforce the ordinance after a
283 specified period, except under certain circumstances;