

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** HB 191 Town of Orchid, Indian River County

**SPONSOR(S):** Brackett

**TIED BILLS:**           **IDEN./SIM. BILLS:**

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**FINAL HOUSE FLOOR ACTION:** 117 Y's      0 N's      **GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

HB 191 passed the House on February 15, 2024, and subsequently passed the Senate on March 7, 2024

A local government must hold its public meetings within its jurisdictional boundaries, unless specifically authorized by the Legislature to hold such meetings elsewhere. Municipalities with a population of 500 or fewer residents may hold public meetings outside of their boundary at a time and place prescribed by ordinance or resolution. Public meetings under this provision must be held within five miles of the exterior jurisdictional boundary of the municipality. As of April 1, 2023, there were 45 municipalities with estimated populations of 500 or fewer residents.

The Town of Orchid (Town) in Indian River County was incorporated in 1965. The Town does not own any meeting facilities within its jurisdictional limits and currently conducts public meetings in a room at a privately-owned golf club within its municipal boundaries. As of April 1, 2023, the Town had an estimated population of 531 people.

The bill creates an exception to general law allowing the Town to hold public meetings within five miles of its exterior jurisdictional boundary as long as its population does not exceed 1,250 people.

According to the economic impact statement, the bill will increase Town expenditures by \$1,500 in Fiscal Year 2024-25, as the Town will need to purchase seating and other furnishings for conducting meetings.

The bill was approved by the Governor on May 17, 2024, ch. 2024-279, L.O.F., and became effective on that date.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### Public Meetings

The Florida Constitution requires all meetings of any collegial public body of the executive branch of state government or any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.<sup>1</sup> The Legislature, however, may provide by general law an exemption<sup>2</sup> from public meeting requirements provided that the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.<sup>3</sup>

Current law also addresses public policy regarding access to government meetings by further requiring all meetings of any board or commission of any state agency or authority, or of any agency or authority of any county, municipality, or political subdivision, at which official acts are to be taken, to be open to the public at all times, unless the meeting is exempt.<sup>4</sup> The board or commission must provide reasonable notice of all public meetings.<sup>5</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or that operates in a manner that unreasonably restricts the public's access to the facility.<sup>6</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>7</sup> Failure to abide by public meeting requirements will invalidate any resolution, rule, or formal action adopted at a meeting.<sup>8</sup> A public officer or member of a governmental entity who violates public meeting requirements is subject to civil and criminal penalties.<sup>9</sup>

##### Extra-territorial Public Meetings of Small Municipalities

The Florida Constitution provides that a municipality may exercise power outside of its boundaries only as authorized by the Legislature in a general or special law.<sup>10</sup> For instance, in 2008, the Legislature authorized the city council of the City of Belleair Beach to hold its meetings outside of the municipality's boundaries at such time and place as prescribed by ordinance, resolution, or interlocal agreement.<sup>11</sup> The city council was encouraged to hold its meetings in close proximity to the people it serves.<sup>12</sup> In 2011, due to the number of situations in which small municipalities did not have the proper facilities available to hold public meetings, the Legislature permitted municipalities with populations of 500 or fewer residents to hold public meetings within five miles of their exterior jurisdictional boundaries.<sup>13</sup> Prior to this statutory authorization, several Attorney General Opinions indicated municipalities lacked statutory authorization to hold public meetings outside of their jurisdiction and, without such statutory authorization, acts and proceedings at meetings held outside the municipal jurisdiction were void.<sup>14</sup>

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<sup>1</sup> Art. I, s. 24(b), FLA. CONST.

<sup>2</sup> A public meeting exemption means a provision of general law which provides that a specified meeting, or portion thereof, is not subject to the access requirements of s. 286.011, F.S., or s. 24, Art. I of the Florida Constitution. See s. 119.011(8), F.S.

<sup>3</sup> Art. I, s. 24(c), FLA. CONST.

<sup>4</sup> S. 286.011(1), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> S. 286.011(6), F.S.

<sup>7</sup> S. 286.011(2), F.S.

<sup>8</sup> S. 286.011(1), F.S.

<sup>9</sup> S. 286.011(3), F.S.

<sup>10</sup> Art. VIII, s. 2(c), FLA. CONST.

<sup>11</sup> Ch. 2008-286, Laws of Fla.

<sup>12</sup> *Id.*

<sup>13</sup> Ch. 2011-147, Laws of Fla., codified as s. 166.0213, F.S.

<sup>14</sup> 08-01 Op. Att'y Gen. Fla. 1 (2008). Also see 03-03 Op. Att'y Gen. 1 (2003); 75-139 Op. Att'y Gen. 1 (1975).

As of April 1, 2023, there were 45 municipalities with estimated populations of 500 residents or fewer.<sup>15</sup>

Town of Orchid

The Town of Orchid (Town) in Indian River County was incorporated in 1965.<sup>16</sup> As of April 1, 2023, the Town had an estimated population of 531 residents.<sup>17</sup> In 1985, the Deerfield Groves Partnership purchased a significant portion of the land within the municipal boundaries to expand its grapefruit operations.<sup>18</sup> This was followed by a sale to Orchid Island Association Ltd. in 1987 for the purpose of establishing a luxury gated community centered around a golf course. The Town adopted a revised charter in 1988.<sup>19</sup>

The original plan of development for the Town included a town hall, but today the Town is mostly built out with few remaining parcels.<sup>20</sup>

The Town does not own any meeting facilities within its jurisdictional limits that can accommodate larger meetings, such as the Town Council meetings. The Town currently holds its public meetings in the Sandpiper Room at the Orchid Island Golf & Beach Club within the municipal boundaries.<sup>21</sup> According to a statement by the mayor, the club currently offers the Town space to hold public meetings free of charge, but may not do so in the future.<sup>22</sup> Additionally, the popularity of the venue results in difficulty scheduling public meetings.

**Effect of the Bill**

The bill provides findings that the Town currently owns no public meeting facilities within its boundaries and has no reasonable prospect of doing so in the future. The bill provides an exception to general law authorizing the Town to hold public meetings within five miles of its exterior jurisdictional boundary as long as its population does not exceed 1,250 people.

According to the economic impact statement, the bill will increase Town expenditures by \$1,500 in Fiscal Year 2024-25, as the Town will need to purchase seating and other furnishings for conducting meetings.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

<sup>15</sup> Bureau of Economic and Business Research, *Florida Estimates of Populations 2023*, [https://www.bibr.ufl.edu/wp-content/uploads/2023/12/estimates\\_2023.pdf](https://www.bibr.ufl.edu/wp-content/uploads/2023/12/estimates_2023.pdf) (last visited Jan. 5, 2024).

<sup>16</sup> Town of Orchid, *Incorporation of the Town of Orchid*, <https://www.townoforchid.com/community/page/incorporation-town-orchid> (last visited Jan. 5, 2024).

<sup>17</sup> Bureau of Economic and Business Research, *Florida Estimates of Populations 2023*, [https://www.bibr.ufl.edu/wp-content/uploads/2023/12/estimates\\_2023.pdf](https://www.bibr.ufl.edu/wp-content/uploads/2023/12/estimates_2023.pdf) (last visited Jan. 5, 2024).

<sup>18</sup> Town of Orchid, *Development of the Town*, <https://www.townoforchid.com/community/page/development-town> (last visited Jan. 5, 2024).

<sup>19</sup> City of Orchid Ordinance No. 88-01 (Sept. 20, 1988).

<sup>20</sup> See Town of Orchid, *Development of the Town*, <https://www.townoforchid.com/community/page/development-town> (last visited Jan. 5, 2024); Town of Orchid, *Recent History*, <https://www.townoforchid.com/community/page/recent-history> (last visited Jan. 5, 2024).

<sup>21</sup> Samantha Baita, *Site of Orchid's new Town Hall on island seen ideal fit*, Vero News (Oct. 5, 2023), <https://veronews.com/2023/10/05/site-of-orchids-new-town-hall-on-island-seen-ideal-fit/> (last visited Jan. 5, 2024).

<sup>22</sup> Economic Impact Statement for HB 191 (2024).

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

According to the economic impact statement, the bill will increase Town expenditures by \$1,500 in Fiscal Year 2024-25, as the Town will need to purchase seating and other furnishings for conducting meetings.

C. ECONOMIC IMPACT STATEMENT FILED? Yes  No

D. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? August 18, 2023

WHERE? The *Indian River Press Journal*, a daily newspaper of general circulation published in Indian River County, Florida.

E. REFERENDUM(S) REQUIRED? Yes  No