

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 Community Affairs

BILL: SB 420

INTRODUCER: Senator Yarborough

SUBJECT: Official Actions of Local Governments

DATE: March 14, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Fleming	CA	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

I. Summary:

SB 420 prohibits counties and municipalities from adopting ordinances, resolutions, rules, regulations, programs, or policies related to diversity, equity, and inclusion, which is defined to mean any ordinance or policy that classifies an individual on the basis of race, color, sex, national origin, gender identity, or sexual orientation and promotes deferential or preferential treatment of individuals on the basis of such classification.

The bill provides that a member of a county or municipal governing body who violates the prohibition or votes in favor of an official action which has the purpose of directly or indirectly taking action as it relates to diversity, equity, and inclusion, is guilty of misfeasance or malfeasance in office. An action in circuit court may be brought against a county that violates the bill's provisions; the court may enter judgment awarding declaratory and injunctive relief, damages, costs, and reasonable attorney fees to a prevailing plaintiff.

The bill's provisions apply retroactively to all official actions taken by a county or municipality before July 1, 2025. The bill does not prohibit official action required for compliance with general or federal law or regulation.

The bill takes effect July 1, 2025.

II. Present Situation:

Unlawful Discrimination in Florida

In 2019, Governor DeSantis reaffirmed the policy of non-discrimination in government employment and declared it the policy of his administration to prohibit discrimination in employment based on age, sex, race, color, religion, national origin, marital status, or disability.¹

Florida Civil Rights Act (Part I, Chapter 760, F.S.)

The Florida Civil Rights Act (FCRA) of 1992 protects persons from discrimination based on race, color, religion, sex, pregnancy, national origin, age, handicap, and marital status.² The FCRA establishes the Florida Commission on Human Relations (the Commission) within the Department of Management Services.³

The Commission is empowered to receive, initiate, investigate, conciliate, hold hearings, and act upon complaints alleging discriminatory practices.⁴ Additionally, the Attorney General may initiate a civil action for damages, injunctive relief, civil penalties of up to \$10,000 per violation, and other appropriate relief.⁵

Local Ordinances

The governing body of a county or municipality has broad legislative powers to enact ordinances, local laws, to perform governmental functions and exercise power to promote the health, welfare, safety, and quality of life of a local government's residents. Ordinances address a wide variety of local issues, from government structure and zoning laws to speed limits and noise ordinances. Procedures for passing local ordinances are prescribed by the Legislature and differ only slightly between counties and municipalities.

Local Government Authority

The Florida Constitution grants local governments broad authority to take actions furthering citizens' health, welfare, safety, and quality of life. This "home rule" authority includes legislative powers to enact local laws. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.⁶ Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors.⁷ Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to

¹ Office of the Governor, *Executive Order Number 19-10*, Jan. 8, 2019 (Reaffirming Commitment to Diversity in Government).

² Section 760.01, F.S.

³ Sections 760.03 and 760.04, F.S.

⁴ Section 760.06(5), F.S.

⁵ Section 760.021(1), F.S.

⁶ FLA. CONST. art. VIII, s. 1(f).

⁷ FLA. CONST. art. VIII, s. 1(g).

conduct municipal government, perform their functions and provide municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.⁸

This authority, under the umbrella of governmental or municipal purpose, extends broadly to any ordinance necessary to promote the health, welfare, safety, and quality of life of a local government's residents.⁹ Local governments' authority has been liberally construed when reviewed by courts. For example, courts have found the following to meet the standards for what constitutes a "municipal purpose," and therefore were valid local government actions:

- Acquisition and maintenance of a golf course;¹⁰
- Sale of souvenir photographs;¹¹ and
- Prohibiting the rental of motorized scooters.¹²

In general, this broad home rule authority is limited by two guideposts: preemption, where a higher level of government such as the State has already legislated on a topic, and standards of reasonableness. Local governments may not pass ordinances which are apparently unreasonable or unreasonable, despite their wide-ranging powers.¹³ Anyone affected by an ordinance may challenge its validity in court by filing a civil action against the local government.¹⁴

Preemption

An ordinance can be declared invalid on the grounds that it is inconsistent with the State Constitution or Florida Statutes. Inconsistency may be found where a local ordinance is either preempted by or in conflict with the State Constitution or Florida Statutes.¹⁵ Preemption means that a local government is precluded from exercising authority in a particular area, while conflict exists where a municipality has the right to act but such action frustrates the purpose of the state regulation.¹⁶ Express preemption refers to instances where the Legislature has directly written into law that the State intends to occupy a field of law, prohibiting local governments from taking action in that field.¹⁷

Malfeasance or Misfeasance in Office

Under Article IV, s. 7 of the State Constitution, the Governor is authorized to suspend from office by executive order any state officer not subject to impeachment, any officer of the militia not in the active service of the United States, or any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official

⁸ FLA. CONST. art. VIII, s. 2(b). *See also* s. 166.021(1), F.S.

⁹ Art. VIII, § 2(b), Fla. Const.; Section 125.86, F.S.; for municipalities see *Quiles v. City of Boynton Beach*, 802 So. 2d 397, 398 (Fla. 4th DCA 2001); § 166.021, Fla. Stat.

¹⁰ *West v. Town of Lake Placid*, 97 Fla. 127, 120 So. 361 (1929).

¹¹ *City of Winter Park v. Montesi*, 448 So. 2d 1242 (Fla. 5th DCA 1984).

¹² *Classy Cycles, Inc. v. Panama City Beach*, 301 So. 3d 1046 (Fla. 1st DCA 2019).

¹³ *Dennis v. City of Key West*, 381 So. 2d 312 (Fla. 3d DCA 1980).

¹⁴ *Hardage v. City of Jacksonville Beach*, 399 So. 2d 1077 (Fla. 1 DCA 1981). There are statutory requirements for being allowed to bring suit in certain cases, such as those based on a technical deficiency in the ordinance, but the cases at issue in this analysis merely require being affected.

¹⁵ *City of Jacksonville v. American Environmental Services Inc.*, 699 So. 2d 255 (Fla. 1st DCA 1997).

¹⁶ *Id.*

¹⁷ *See, e.g.*, s. 790.33, F.S. "... the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition..."

duties, or commission of a felony. The Governor may temporarily appoint someone to fill the office during the suspension and may choose to reinstate the suspended officer.¹⁸ The Senate has the authority to remove from office or reinstate the suspended officer in proceedings prescribed by law and may convene a special session for such purpose.¹⁹

In reference to municipal officers, the State Constitution only authorizes the Governor to suspend municipal officers indicted for crime, unless such power is vested in law or a municipal charter.²⁰ Section 112.51, F.S., provides that the Governor may by executive order suspend from office any elected or appointed municipal official for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties. The Governor may temporarily fill the office during the suspension.²¹ If the municipal officer is convicted of any of the charges contained in the indictment or information by reason of which he or she was suspended, the Governor must remove the official from office.²² If the municipal official is acquitted, found guilty, or otherwise cleared of the charges, the Governor must revoke the suspension.²³

III. Effect of Proposed Changes:

The bill creates ss. 125.595 and 166.04971, F.S., to prohibit counties and municipalities, respectively, from adopting ordinances, resolutions, rules, regulations, programs, or policies related to diversity, equity, and inclusion. Diversity, equity, and inclusion is defined by the bill to mean any ordinance or policy that classifies an individual on the basis of race, color, sex, national origin, gender identity, or sexual orientation and promotes deferential or preferential treatment of individuals on the basis of such classification.

The bill provides that a member of a county or municipal governing body who violates the prohibition or votes in favor of an official action which has the purpose of directly or indirectly taking action as it relates to diversity, equity, and inclusion, is guilty of misfeasance or malfeasance in office. An action in circuit court may be brought against a county or municipality that violates the bill's provisions; the court may enter judgment awarding declaratory and injunctive relief, damages, costs, and reasonable attorney fees to a prevailing plaintiff.

The bill's provisions apply retroactively to all official actions taken by a county or municipality before July 1, 2025. The bill does not prohibit official action required for compliance with general or federal law or regulation.

The bill takes effect July 1, 2025.

¹⁸ FLA. CONST. art. IV, s. 7.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Section 112.51(3), F.S.

²² Section 112.51(5), F.S.

²³ Section 112.51(6), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

State statutes are presumed to apply prospectively and not retroactively. In essence, statutes generally apply to actions that occur on or after the effective date of an act, not before the legislation becomes effective. In general, laws that are remedial or procedural may be applied retroactively. However, substantive laws may not be applied retroactively even if the Legislature intends that they apply retroactively, if the “laws impair vested rights, create new obligations, or impose new penalties.”²⁴

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

²⁴ *Patronis v. United Insurance Company of America*, 299 So 3d. 1152, 1156 (Fla. 1st DCA 2020) (quoting *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So. 2d 55, 61 (Fla. 1995).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 125.595 and 166.04971.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
