

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/CS/HB 105](#)

**TITLE:** Local Government Enforcement Actions

**SPONSOR(S):** Brackett

**COMPANION BILL:** [SB 588](#) (McClain)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Civil Justice & Claims](#)

16 Y, 0 N, As CS

[Intergovernmental Affairs](#)

12 Y, 0 N, As CS

[Judiciary](#)

## SUMMARY

### Effect of the Bill:

CS/HB 105 establishes a new, exclusive mechanism for challenging “enforcement actions,” as the bill defines that term, taken by counties and municipalities. To accomplish its purpose, the bill:

- Prohibits local government entities from “initiating or threatening to initiate any enforcement action that is determined by a court...to be arbitrary or unreasonable and not authorized by an ordinance.”
- Authorizes a person subject to an enforcement action to submit a request for review of such action, and specifies procedures and timelines pertaining thereto.
- Authorizes a person subject to an enforcement action to challenge such action in court in specified circumstances.
- Provides protection under the Whistle-blower’s Act to certain persons who disclose information in connection with proceedings established by the bill.
- Provides that the sections of law created by the bill “are the sole authority for challenges to arbitrary or unreasonable enforcement actions.”
- Provides that a local ordinance, rule, regulation, or other local policy that prohibits or restricts a local government entity from complying with the bill’s requirements, or any rules adopted thereunder, is void to the extent of the conflict.

The bill provides an effective date of October 1, 2026.

### Fiscal or Economic Impact:

The bill may have a fiscal impact on local government and an economic impact on the private sector.

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## ANALYSIS

### **EFFECT OF THE BILL:**

CS/HB 105 creates ss. 125.676 and 166.0413, F.S., to establish a new, exclusive mechanism for challenging “enforcement actions” taken by **counties** and **municipalities** in the state (hereinafter, collectively, “local government entity”). For the purposes of the bill, “enforcement action” means any decision, determination, demand, inspection, citation, order, denial, interpretation, or other regulatory action undertaken by a local government entity, except that the term does not include the following:

- Proprietary activities;
- Law enforcement actions;
- Workers’ compensation actions;
- Employment or personnel actions;
- Procurement;
- Franchises;
- Budget adoption or amendment;

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- Emergency actions;
- Debt issuance or refinancing;
- Actions or decisions that apply equally to all similarly situated persons; or
- Reasonable interpretations of existing rules, ordinances, resolutions, statutes, or regulations. (Sections [1](#) and [2](#))

Further, the term “county,” as used in the bill, means a county’s elected governing body or a county employee, including a county building official or fire marshal. (Section [1](#))

### Legal Remedies

To accomplish its purpose, the bill prohibits a local government entity from “initiating or threatening to initiate any enforcement action that is determined by a court of competent jurisdiction to be arbitrary or unreasonable and not authorized by an ordinance.” Under the bill, any person or business entity subject to an enforcement action may then submit a request for review of such action to the local government entity, which review must then occur within 30 days of receipt of the request pursuant to rules established and maintained by the receiving local government entity; the receiving local government entity must also, within that timeframe, send to the requester a written response. Should the receiving local government entity fail to timely review and respond to the request for review, the requester may then file a legal action as specified in the bill.

Further, a person or business entity subject to an enforcement action may, within 180 days of the subject action, file a lawsuit in a court of competent jurisdiction to obtain a determination as to whether the subject action is “arbitrary or unreasonable and not authorized by an ordinance,” with “arbitrary or unreasonable” defined to mean an enforcement action that:

- Is not supported by applicable law, rule, or adopted policy;
- Deviates from a prior determination or interpretation without written justification;
- Unreasonably delays or obstructs lawful development, permitting, or other business activity; or
- Imposes requirements or conditions not authorized by general law, ordinance, or regulation.

The bill then directs the court, upon a finding that an enforcement action is arbitrary or unreasonable and not authorized by an ordinance, to take the following actions:

- Award reasonable attorney fees and costs to the prevailing plaintiff.
- Award actual damages not to exceed \$50,000 per occurrence.
- Issue injunctive relief to immediately restrain or enjoin the local government entity from engaging in any action in violation of the bill.

However, the bill does not make the submission of a request for review a prerequisite to the filing of such a lawsuit. Thus, under the bill, a person or business entity subject to an enforcement action could elect to file a lawsuit instead of first proceeding with the request for review. (Sections [1](#) and [2](#))

### Whistle-blower Protection

The bill provides that “any person or employee who discloses in good faith information under [ss. 125.676 and 166.0413, F.S.] relating to an arbitrary or unreasonable enforcement action is not subject to retaliation and is afforded protection under the [Florida] Whistle-blower’s Act.” Under the bill, a prevailing plaintiff in a lawsuit brought to obtain a determination as to whether an enforcement action is arbitrary or unreasonable may file a complaint alleging a prohibited personnel action with the [Florida Commission on Human Relations](#) as provided in [s. 112.31895, F.S.](#) However, the bill does not expressly authorize an employee subject to retaliation in violation of the bill to file such a complaint on his or her own behalf, unless the employee and the prevailing plaintiff are one and the same. Further, in specifying that “any person or employee” who meets specified criteria is afforded protection under the Florida Whistle-blower’s Act, the bill appears to be expanding the scope and purpose of this Act. (Sections [1](#) and [2](#))

## Preemption

The bill provides that ss. 125.676 and 166.0413, F.S., as created by the bill, “are the sole authority for challenges to arbitrary or unreasonable enforcement actions” by a county or municipality, respectively. Practically speaking, if the bill passes, the procedures established therein would govern in any instance in which a party aggrieved by a local government enforcement action wishes to challenge such action as arbitrary or unreasonable, even over any civil or administrative remedies presently available under Florida law or local government ordinances for **challenging local government decisions**. The bill also specifies that a local ordinance, rule, regulation, or other local policy that prohibits or restricts a county or municipality from complying with the bill’s requirements, or any rules adopted thereunder, is void to the extent of the conflict. (Sections [1](#) and [2](#))

## Effective Date

The bill provides an effective date of October 1, 2026. (Section [3](#))

## **FISCAL OR ECONOMIC IMPACT:**

### LOCAL GOVERNMENT:

The bill may have a negative fiscal impact on local governments to the extent that it results in a significant increase in litigation against local governments and exposes them to financial liability for the payment of damages awardable under the bill.

### PRIVATE SECTOR:

The bill may have a positive fiscal impact on the private sector to the extent that it encourages local governments to more expediently act on decisions involving the public and to not take any action with respect to those decisions that is arbitrary or unreasonable and not authorized by an ordinance.

## **RELEVANT INFORMATION**

### **SUBJECT OVERVIEW:**

#### Local Governments

##### *Counties*

The State Constitution provides that the state shall be divided into political subdivisions called counties, which may generally be created, abolished, or changed by law.<sup>1</sup> A county government may be established by charter,<sup>2</sup> which shall be adopted, amended, or repealed only upon vote of the county’s electors in a special election called for that purpose.<sup>3</sup> Counties operating under county charters have all powers of self-government not inconsistent with general law, or with special law approved by vote of the electors, and the charter shall provide which prevails in the event of a conflict between county and municipal ordinances. Meanwhile, counties not operating under county

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<sup>1</sup> [Art. VIII, s. 1, Fla. Const.](#); Florida currently has 67 counties. Florida Association of Counties, *About Florida’s Counties*, <https://www.fl-counties.com/about-floridas-counties/> (last visited Jan. 23, 2026).

<sup>2</sup> A county charter, which resembles a state or federal constitution, removes the resolution of local problems from the Legislature’s agenda and grants the county electorate greater control over their regional affairs. 20 of Florida’s 67 counties are currently charter counties. Florida Association of Counties, *Charter County Information*, <https://www.fl-counties.com/about-floridas-counties/charter-county-information/> (last visited Jan. 23, 2026).

<sup>3</sup> [Art. VIII, s. 1, Fla. Const.](#)

charters have those powers of self-government provided by law, and a county ordinance in conflict with a municipal ordinance is ineffective within the municipality to the conflict's extent.<sup>4</sup>

Except where otherwise provided by county charter, each county's governing body is a board of county commissioners composed of five or seven members serving staggered terms of four years.<sup>5</sup> After each decennial census, the board must divide the county into districts of contiguous territory as nearly equal in population as practicable, and one commissioner residing in each district shall be elected as provided by law.<sup>6</sup> Further, each county's electors must elect, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court.<sup>7</sup>

### *Municipalities*

The State Constitution authorizes the establishment and abolishment of municipalities (colloquially referred to as "cities"), and the amendment of municipal charters, pursuant to general or special law.<sup>8</sup> Municipalities have all governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes<sup>9</sup> except when expressly prohibited from doing so by law.<sup>10</sup> Furthermore, each municipal legislative body must be elective.<sup>11</sup>

### Challenging Local Government Decisions

Generally speaking, under Florida law, a person aggrieved by a local government decision has civil remedies available for challenging such decision and in many instances such an aggrieved person may also have administrative remedies available to him or her under the applicable local ordinance. For example, a person aggrieved by a decision of a local government's code enforcement board may appeal such decision to the circuit court within 30 days of the issuance of the decision to be appealed.<sup>12</sup> In certain instances, however, such person also has the ability to file an administrative appeal directly with the code enforcement board, local appeal board, or a designated special magistrate before proceeding to court.<sup>13</sup> Similarly, in the case of a quasi-judicial decision (such as a decision on a development permit<sup>14</sup> request), an aggrieved party may, under the applicable local ordinance, have the right to file an administrative appeal with the local appeal board or other authority designated by the local government entity to hear such appeals; in any event, the aggrieved party may also file a petition for a writ of certiorari<sup>15</sup> in the circuit court, which writ functions as an appeal of the local governing board's decision.<sup>16</sup>

Furthermore, Florida law provides certain procedural protections for persons who, for one reason or another, find themselves wanting to do or obtain something which requires local government consent. For example, Florida law

<sup>4</sup> *Id.* But see [S. 125.01\(1\)\(w\), F.S.](#) (providing all counties, including non-charter counties, have the power to carry on county government including "any other acts not inconsistent with law.")

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

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> [Art. VIII, s. 2, Fla. Const.](#); Per the latest data available from the Florida League of Cities, Florida has 411 municipalities. Florida League of Cities, *Florida's Cities*, <https://www.floridaleagueofcities.com/wp-content/uploads/2025/06/FL-City-Fact-Sheet.pdf> (last visited Jan. 23, 2026).

<sup>9</sup> "Municipal purpose" means any activity or power which may be exercised by the state or its political subdivisions. [S. 166.021, F.S.](#)

<sup>10</sup> [Art. VIII, s. 2, Fla. Const.](#)

<sup>11</sup> *Id.*

<sup>12</sup> [S. 162.11, F.S.](#)

<sup>13</sup> See, e.g., [R. 69A-71.004, F.A.C.](#), pertaining to certain fire code ordinance enforcement.

<sup>14</sup> A "development permit" is a building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official local government action having the effect of permitting land development. [S. 163.3164\(16\), F.S.](#)

<sup>15</sup> A writ of certiorari is a court order directing a lower court to deliver its record of a judicial or quasi-judicial proceeding to the higher court so that the higher court may review it. Legal Information Institute, *Writ of Certiorari*, [https://www.law.cornell.edu/wex/writ\\_of\\_certiorari](https://www.law.cornell.edu/wex/writ_of_certiorari) (last visited Jan. 23, 2026).

<sup>16</sup> Fla. R. App. P. [9.030](#) and [9.100](#).

establishes timeframes in which counties and municipalities must review a development permit application for completeness and issue a development order<sup>17</sup> in response thereto; failure to meet these deadlines may result in the local government entity having to refund to the applicant all or part of the application fee.<sup>18</sup>

### Florida Whistle-blower's Act

Generally speaking, the Florida Whistle-blower's Act (Act), codified in ss. 112.3187-[112.31895, F.S.](#), protects certain government employees, and persons employed by certain independent contractors working with certain government entities, from retaliatory action for reporting to an appropriate agency law violations on the part of the employer that create a substantial and specific danger to the public's health, safety, or welfare. The Act also shields from retaliatory action any person who discloses to an appropriate agency information alleging improper use of government office, gross waste of funds, or any other abuse or gross neglect of duty on the part of any government entity, public officer, or government employee.

#### *Protections Provided*

Under the Act, unless a covered employee or person knowingly discloses fraudulent information, an agency<sup>19</sup> or independent contractor<sup>20</sup> may not:

- Dismiss, discipline, or take any other adverse personnel action<sup>21</sup> against an employee for disclosing information pursuant to the Act's provisions; or
- Take any adverse action that affects the rights or interests of a person in retaliation for the person's disclosure of information under the Act.<sup>22</sup>

#### *Qualifying Information Disclosures*

To qualify for protection under the Act, however, certain requirements must be met. First, the information disclosed under the Act must include:

- Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare.<sup>23</sup>
- Any act or suspected act of gross mismanagement,<sup>24</sup> malfeasance,<sup>25</sup> misfeasance,<sup>26</sup> gross waste of public funds, suspected or actual Medicaid<sup>27</sup> fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.<sup>28</sup>

<sup>17</sup> A "development order" is an order granting, denying, or granting with conditions a development permit application. [S. 163.3164, F.S.](#)

<sup>18</sup> Ss. [125.022](#) and [166.033, F.S.](#)

<sup>19</sup> "Agency" means any state, regional, county, local, or municipal government entity, whether executive, judicial, or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university. [S. 112.3187, F.S.](#)

<sup>20</sup> "Independent contractor" means a person, other than an agency, engaged in any business and who enters into a contract, including a provider agreement, with an agency. [Id.](#)

<sup>21</sup> "Adverse personnel action" means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by an agency or independent contractor. [Id.](#)

<sup>22</sup> [Id.](#)

<sup>23</sup> [Id.](#)

<sup>24</sup> "Gross mismanagement" means a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact. [Id.](#)

<sup>25</sup> "Malfeasance" is an intentional, illegal act that causes physical or financial harm to another. Legal Information Institute, *Malfeasance*, <https://www.law.cornell.edu/wex/malfeasance> (last visited Jan. 23, 2026).

<sup>26</sup> "Misfeasance" means the improper performance of a lawful act which causes physical or financial harm to another. Legal Information Institute, *Misfeasance*, <https://www.law.cornell.edu/wex/misfeasance> (last visited Jan. 23, 2026).

<sup>27</sup> "Medicaid" is a joint federal and state program that provide free or reduced-costs healthcare coverage for certain low-income individuals. Each state runs its own Medicaid program, and eligibility for such programs varies from state to state;

Further, the information disclosed under the Act must be disclosed to an agency or federal government entity having the authority to investigate, police, manage, or otherwise, remedy the violation or act, including, but not limited to: the Office of the Chief Inspector General; an agency inspector general; the Florida Commission on Human Relations; and the whistle-blower's hotline established under Florida law.<sup>29</sup> However, for disclosures concerning local government entities, including any regional, county, or municipal entity, special district, community college district, or school district, or any political subdivision thereof, the information must be disclosed to a chief executive officer or other appropriate local official.<sup>30</sup>

### *Employees and Persons Protected*

The Act generally protects employees and persons who:

- Disclose information on their own initiative in a written and signed complaint;
- Are asked to participate in an investigation, hearing, or other inquiry conducted by an agency or federal government entity;
- Refuse to participate in any adverse action prohibited by this section; or
- Initiate a complaint through the whistle-blower's hotline or the hotline of the Department of Legal Affairs' Medicaid Fraud Control Unit.<sup>31</sup>

The Act also generally protects employees who file any written complaint to their supervisory officials or submit a complaint to the Chief Inspector General in the Executive Office of the Governor; to the employee designated as agency inspector general; or to the [Florida Commission on Human Relations](#)<sup>32</sup> ("Commission").<sup>33</sup> However, the Act may not be used by a person while he or she is under the care, custody, or control of the state correctional system or, after release from the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any incarceration period.<sup>34</sup> Furthermore, no remedy or other protection under the Act applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under the Act is sought.<sup>35</sup>

### *Remedies*

Any employee or employment applicant with a state agency who is discharged, disciplined, or subject to other adverse personnel action, or denied employment, because he or she engaged in a protected activity may file a complaint with the Commission in accordance with statutorily-specified procedures, which complaint may initiate an investigation into the allegations.<sup>36</sup> Upon receipt of a notice from the Commission of the investigation's termination, the complainant may elect to pursue an administrative remedy<sup>37</sup> or bring a civil action within 180 days after receipt of the notice.<sup>38</sup>

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however, the federal government requires all state Medicaid programs to follow certain general rules. U.S. Department of Health and Human Services, *What's the Difference Between Medicare and Medicaid?*, <https://www.hhs.gov/answers/medicare-and-medicaid/what-is-the-difference-between-medicare-medicaid/index.html> (last visited Jan. 23, 2026).

<sup>28</sup> [S. 112.3187, F.S.](#)

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Established by the Legislature in 1969 to enforce the Florida Civil Rights Act and later to address employment and housing discrimination, the Commission also has jurisdiction over state employee complaints filed under the Act. Florida Commission on Human Relations, *History of the Florida Commission on Human Relations*, <https://fchr.myflorida.com/history-of-the-florida-commission-on-human-relations> (last visited Jan. 23, 2026).

<sup>33</sup> [S. 112.3187, F.S.](#)

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> See [s. 112.31895, F.S.](#), for more information about the applicable complaint procedures. *Id.*

<sup>37</sup> See [s. 112.31895, F.S.](#), for more information about the available administrative remedy. *Id.*

<sup>38</sup> *Id.*

Further, within 60 days of any action prohibited by the Act, a local public employee protected by the Act may file a complaint with the appropriate local government authority, if that authority has established an administrative procedure for handling such complaints<sup>39</sup> or has contracted with the Division of Administrative Hearings to conduct such hearings before an Administrative Law Judge ("ALJ").<sup>40</sup> In either instance, the local government agency's hearing panel or the ALJ will make findings of fact and conclusions of law and submit such findings and conclusions to the local government authority for a final decision.<sup>41</sup> Within 180 days after the entry of such a final decision, the complainant may bring a civil action in any court of competent jurisdiction.<sup>42</sup>

Finally, any other person protected by the Act may, after exhausting all available contractual or administrative remedies, bring a civil action in any court of competent jurisdiction within 180 days after the prohibited action.<sup>43</sup>

### *Relief*

In any action brought under the Act, the relief must include:

- Reinstatement of the employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief;
- Reinstatement of the employee's full fringe benefits and seniority rights, as appropriate;
- Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action;
- Payment of reasonable costs, including attorney fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith;
- Issuance of an injunction, if appropriate, by a court of competent jurisdiction; and
- Unless the employee was a municipal employee, temporary reinstatement to the employee's former position or to an equivalent position, pending the complaint's final outcome, if any employee complains of being discharged in retaliation for a protected disclosure and a court of competent jurisdiction or the Commission determines that the disclosure:
  - Was not made in bad faith or for a wrongful purpose; or
- Occurred after an agency's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency.<sup>44</sup>

### *Defenses*

Under the Act, it is an affirmative defense to any action brought under the Act that the adverse action at issue was predicated upon grounds other than, and would have occurred absent, the employee's or person's exercise of rights protected by the Act.<sup>45</sup>

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<sup>39</sup> Any such procedure must be established by ordinance and provide for a hearing held before a panel of impartial persons appointed by the local government authority. [Id.](#)

<sup>40</sup> [Id.](#)

<sup>41</sup> [Id.](#); [Ch. 120, F.S.](#)

<sup>42</sup> [S. 112.3187, F.S.](#)

<sup>43</sup> [Id.](#)

<sup>44</sup> [Id.](#)

<sup>45</sup> [Id.](#)

**BILL HISTORY**

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Civil Justice &amp; Claims Subcommittee</a>	16 Y, 0 N, As CS	1/21/2026	Jones	Mawn
THE CHANGES ADOPTED BY THE COMMITTEE:	Provided that an arbitrary or unreasonable enforcement action is only actionable under the bill if it is not authorized by an ordinance; defined the term “county,” as it is used in the bill; and narrowed the “enforcement action” definition to exclude specified local government actions and activities.			
<a href="#">Intergovernmental Affairs Subcommittee</a>	12 Y, 0 N, As CS	1/28/2026	Darden	Darden
THE CHANGES ADOPTED BY THE COMMITTEE:	Removed provisions of the bill concerning special districts.			
<a href="#">Judiciary Committee</a>				

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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