

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 Judiciary

BILL: CS/SB 1134

INTRODUCER: Judiciary Committee and Senator Yarborough

SUBJECT: Official Actions of Local Governments

DATE: February 11, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Fleming</u>	<u>CA</u>	Favorable
2.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1134 prohibits counties and municipalities from funding, promoting, or taking official actions such as adopting ordinances, resolutions, rules, regulations, programs, or policies, related to diversity, equity, and inclusion (DEI). It also prohibits a county or municipality from expending any funds, regardless of the source, to establish, support, sustain, or staff a DEI office or officer.

The bill provides that a member of a county or municipal governing body acting in his or her official capacity who violates the prohibitions commits misfeasance or malfeasance in office. It also prohibits counties and municipalities from allowing their funds to be used by employees, contractors, and others to promote DEI initiatives.

An action may be brought by a resident against a county or municipality that violates the bill's provisions. The bill does not prohibit official action required for compliance with general or federal law and includes a series of exceptions.

The bill also requires the potential recipients of a county or municipal contract or grant to certify that they do not and will not use local government funds to require employees, contractors, volunteers, vendors, or agents to ascribe to, study, or be instructed using materials related to DEI.

The statute created by the bill applies to any contract between a county or municipality and a diversity, equity, and inclusion officer which is in existence on January 1, 2027. With respect to all other contracts, the statute applies to contracts executed or renewed after January 1, 2027.

The bill takes effect January 1, 2027.

II. Present Situation:

Diversity, Equity, and Inclusion

DEI stands for diversity, equity, and inclusion. It refers to programs intending to help people from different backgrounds, cultures, identities, and experiences feel accepted in their environments, whether at school, work, or other organizations. Few governments have defined DEI as a concept; it is more common to define the terms individually:

- Diversity generally refers to the presence of differences within a given setting, collective, or group; the practice of honoring and including people of different communities, identities, and backgrounds.
- Equity generally means an effort to ensure a fair and just allocation of resources, access, support, and advancement for all individuals; the state of being equal, especially in status and access to resources to achieve the outcome of equality.
- Inclusion generally refers to the practice of intentionally recognizing, appreciating, and welcoming diversity and encouraging all individuals to have a sense of belonging.¹

The State Board of Education prohibits Florida College System Institutions from expending funds on DEI, which it defines as “any program, campus activity, or policy that classifies individuals on the basis of race, color, sex, national origin, gender identity, or sexual orientation and promotes differential or preferential treatment of individuals on the basis of such classification.”²

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.³

¹ Office of Financial Management, Washington State, *Washington State Glossary for Inclusive & Equitable Workplaces* (Oct. 2025), <https://ofm.wa.gov/hr-resources/inclusive-work-culture/deib-glossary/>; City of Lebanon, New Hampshire, *What is DEI Anyway?* (May 23, 2022), <https://lebanonnh.gov/1619/What-is-DEI-Anyway>; Mariyam Muhammad, *What is DEI? More on the initiative, what companies rolled back DEI, Trump DEI order*, THE COLUMBUS DISPATCH, Jan. 31, 2025, <https://www.dispatch.com/story/news/2025/01/31/dei-diversity-equity-inclusionexplained-trump-executive-order/78088476007/>.

² Fla. Admin. Code R. 6A-14.0718.

³ Executive Office of the Governor, Ron DeSantis, *Executive Order Number 19-10* (Jan. 8, 2019) (Reaffirming Commitment to Diversity in Government), available at https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO_19-10.pdf.

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

The Florida Civil Rights Act of 1992 protects persons from discrimination based on race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.⁴ The Act establishes the Florida Commission on Human Relations (the Commission) within the Department of Management Services.⁵ The Commission is empowered to receive, initiate, investigate, conciliate, hold hearings on, and act upon complaints alleging discriminatory practices.⁶ 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.⁷

Local Ordinances

The governing body of a county or municipality has broad legislative powers to enact ordinances and local laws; perform governmental functions; and exercise power to promote the health, welfare, safety, and quality of life of a local government's residents.⁸ 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.⁹

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.¹⁰ Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law and approved by a vote of the electors.¹¹ Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions, provide municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.¹²

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.¹³ Local government authority has been liberally construed when

⁴ Section 760.01, F.S.

⁵ Sections 760.03 and 760.04, F.S.

⁶ Section 760.06(5), F.S.

⁷ Section 760.021(1), F.S.

⁸ See ss. 125.01 and 166.021, F.S. (prescribing the powers and duties of counties and municipalities, respectively).

⁹ See ss. 125.66 and 166.041, F.S. (prescribing the procedures for adoption of ordinances and resolutions for counties and municipalities, respectively).

¹⁰ FLA. CONST. art. VIII, s. 1(f).

¹¹ FLA. CONST. art. VIII, s. 1(g).

¹² FLA. CONST. art. VIII, s. 2(b); see also s. 166.021(1), F.S.

¹³ FLA. CONST. art. VIII, s. 2(b); s. 125.86, F.S. (identifying legislative responsibilities for charter counties); s. 166.021, F.S. (identifying municipal powers); see also *Quiles v. City of Boynton Beach*, 802 So. 2d 397, 398 (Fla. 4th DCA 2001) (recognizing that it is the duty of public authorities in municipalities to protect the safety, health, and welfare of their citizens).

reviewed by courts. For example, courts have found the following to meet the standards for what constitutes a “municipal purpose,” and were therefore deemed valid local government actions:

- The acquisition and maintenance of a golf course.¹⁴
- The sale of souvenir photographs.¹⁵
- The prohibition of motorized scooter rentals.¹⁶

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 invalid, despite their wide-ranging powers.¹⁷ In general, if affected by a local ordinance, one may challenge the validity of the ordinance in court by filing a civil action against the local government.¹⁸

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 if a local ordinance is either preempted by or in conflict with the State Constitution or Florida Statutes.¹⁹ Preemption means that a local government is precluded from exercising authority in a particular area, while conflict exists if a municipality has the right to act but such action frustrates the purpose of the state regulation.²⁰ 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.²¹

Malfeasance or Misfeasance in Office

“Misfeasance in public office” means “the tort of excessive, malicious, or negligent exercise of statutory powers by a public officer.” “Malfeasance in office” means “abuse of public office.”²²

Under Article IV, s. 7 of the State Constitution, the Governor is authorized to suspend from office “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 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.²³ 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 to do so.²⁴

¹⁴ *West v. Town of Lake Placid*, 97 Fla. 127, 120 So. 361 (1929).

¹⁵ *City of Winter Park v. Montesi*, 448 So. 2d 1242 (Fla. 5th DCA 1984).

¹⁶ *Classy Cycles, Inc. v. Panama City Beach*, 301 So. 3d 1046 (Fla. 1st DCA 2019).

¹⁷ *Dennis v. City of Key West*, 381 So. 2d 312 (Fla. 3d DCA 1980).

¹⁸ *See Hardage v. City of Jacksonville Beach*, 399 So. 2d 1077 (Fla. 1st DCA 1981).

¹⁹ *See City of Jacksonville v. American Environmental Services Inc.*, 699 So. 2d 255, 256 (Fla. 1st DCA 1997).

²⁰ *See id.*

²¹ *See, e.g.*, s. 790.33, F.S. (expressly preempting the regulation of firearms and ammunition).

²² BLACK’S LAW DICTIONARY (12th ed. 2024).

²³ FLA. CONST. art. IV, s. 7.

²⁴ *Id.*

With respect to municipal officers, the State Constitution only authorizes the Governor to suspend municipal officers indicted for a crime, and to temporarily fill the vacancy through the end of the term, unless provided otherwise by law or in the municipal charter.²⁵ Section 112.51, F.S., provides that the Governor may 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 also temporarily fill the office during the suspension.²⁶ If the municipal officer is convicted of any of the charges contained in the indictment or information for which he or she was suspended, the Governor must remove him or her from office.²⁷ If the official is acquitted, found not guilty, or otherwise cleared of the charges, the Governor must revoke the suspension.²⁸

III. Effect of Proposed Changes:

Sections 1 and 2 of the bill create ss. 125.595 and 166.04971, F.S., which generally prohibit counties and municipalities, respectively, from taking official actions relating to diversity, equity, and inclusion.

Definitions

Under the bill, “acting in an official capacity” means performing purporting to perform a function, duty, or responsibility assigned by law, rule, or policy to a public officer or public employee, or otherwise exercising or claiming to exercise the authority of such office or employment.

“Diversity, equity, and inclusion” means any effort to:

- Manipulate or otherwise influence the composition of employees with reference to race, color, sex, ethnicity, gender identity, or sexual orientation other than to ensure that hiring is conducted in accordance with state and federal antidiscrimination laws;
- Promote or provide preferential treatment or special benefits to a person or group based on that person’s or group’s race, color, sex, ethnicity, gender identity, or sexual orientation; or
- Promote or adopt training, programming, or activities designed or implemented with reference to race, color, sex, ethnicity, gender identity, or sexual orientation.

The term does not include the use of equal opportunity or equal employment opportunity materials designed to inform a person about the prohibition against discrimination based on protected status under state or federal law.

“Diversity, equity, and inclusion office” means any office, division, department, agency, center, or other unit of a local government which coordinates, creates, develops, designs, implements, organizes, plans, or promotes policies, programming, training, practices, meetings, activities, procedures, or similar actions related to diversity, equity, and inclusion.

²⁵ *Id.*

²⁶ Section 112.51(1)-(3), F.S.

²⁷ Section 112.51(5), F.S.

²⁸ Section 112.51(6), F.S.

“Diversity, equity, and inclusion officer” means a person who is a full-time or part-time employee of, or an independent contractor contracted by, a local government, whose duties cover the same fields as the office described above.

Prohibitions on Diversity, Equity, and Inclusion

The bill prohibits counties and municipalities, respectively, from funding, promoting, or taking official actions relating to diversity, equity, and inclusion. Such actions include, but are not limited to, the adoption or enforcement of ordinances, resolutions, rules, regulations, programs, or policies. Any such existing ordinances, resolutions, rules, regulations, programs, or policies are void.

Additionally, counties and municipalities may not expend any funds, regardless of the source, to:

- Establish, support, sustain, or staff a diversity, equity, and inclusion office; or
- Employ, contract, or otherwise engage to serve as a diversity, equity, and inclusion officer.

The bill provides that a member of a county or municipal governing body acting in an official capacity who violates the prohibitions commits misfeasance or malfeasance in office.

A county or municipality may not provide or authorize its funds to be used by employees, contractors, volunteers, vendors, or agents to promote diversity, equity, and inclusion initiatives.

An action in circuit court may be brought by a local resident against a county or municipality that violates the bill. The court may enter judgment awarding declaratory and injunctive relief, damages, and costs.²⁹

The bill does not prohibit official action by a county or municipality required for compliance with state or federal law or regulations. Additionally, the bill does not prohibit a county from doing any of the following:

- Recognizing or promoting federal holidays.
- Recognizing or promoting state holidays and special observances.
- Recognizing or promoting patriotic and national observances recognized by federal law.
- Recognizing or honoring the individuals and groups honored by state monuments and memorials, including recognizing the events forming the basis for such monuments and memorials.
- Using equal opportunity or equal employment opportunity materials designed to inform a person about the prohibition against discrimination based on protected status under state or federal law.

The bill provides that it may not be construed to conflict with:

- State or federal law protecting the right of males and females to restrooms and changing facilities corresponding to biological sex.

²⁹ Declaratory relief is a form of relief in which a court pronounces the legal status of an item or pronounces the correct ownership of something. Injunctive relief occurs when a court grants an injunction to require a party to do something or refrain from doing a particular thing to prevent irreparable injury. BLACK’S LAW DICTIONARY (12th ed. 2024).

- State or federal law ensuring that victims of domestic violence and dependents have access to emergency shelters.
- State or federal law prohibiting discrimination based on biological sex in educational programs, sports, activities, and employment.
- State or federal law ensuring males and females have access to public health services corresponding to biological sex.
- Any other state or federal laws recognizing the inherent biological differences between males and females for the purpose of ensuring their health, safety, and welfare.

The bill does not apply to the actions of an appointed board or commission composed of nonelected volunteers, or to basic administrative support provided to such a board, unless the support is provided by a government employee whose sole function is such support.

Prohibition Against Using Diversity, Equity, and Inclusion Material

Section 3 of the bill creates s. 287.139, F.S., to provide that any potential recipient of a county or municipal contract or grant must certify before such award that they do not and will not use local government funds to require employees, contractors, volunteers, vendors, or agents to ascribe to, study, or be instructed using materials related to diversity, equity, and inclusion, as defined in the bill.

Applicability

Section 4 of the bill provides that the statute created by the bill applies to any contract between a county or municipality and a diversity, equity, and inclusion officer which is in existence on January 1, 2027. With respect to all other contracts, the statute applies to contracts executed or renewed after January 1, 2027.

Effective Date

Section 5 of the bill provides that it takes effect January 1, 2027.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Because the bill prohibits recipients of local government contracts or grants from using government funds to require employees and others to ascribe to, study, or be instructed using materials related to diversity, equity, and inclusion (DEI), the bill is likely to result in negative fiscal impacts to businesses offering DEI instructional services or materials.

C. Government Sector Impact:

To the extent any local government in Florida currently funds or promotes a diversity, equity, and inclusion (DEI) program, maintains a DEI office, or employs an inclusion officer, enactment of the bill is likely to result in an indeterminate cost savings to the local government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 125.595, 166.04971, and 287.139.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on February 10, 2026:

The committee substitute is the same as the underlying bill except it:

- Provides a definition for “acting in an official capacity.”

- Prohibits counties and municipalities from allowing their funds to be used by employees, contractors, and others to promote diversity, equity, and inclusion initiatives.
- Provides that the statute created by the bill applies to any contract between a county or municipality and a DEI officer which is in existence on January 1, 2027. With respect to all other contracts, the statute applies to contracts executed or renewed after January 1, 2027.

B. Amendments:

None.