

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 1444

INTRODUCER: Senator Martin

SUBJECT: Preemption to the State

DATE: January 26, 2026

REVISED: _____

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

I. Summary:

SB 1444 provides for the preemption of various matters to the state. Specifically, the bill:

- Prevents counties, municipalities, and special districts from substantially burdening the free exercise of religion by adopting or enforcing any ordinance, regulation, resolution, rule, or other policy that prohibits or restricts a person's ability to attend religious services or gatherings and specifies that they must be allowed in areas zoned for residential or commercial use;
- Preempts certain matters relating to the issuance of certificates of occupancy and building permits;
- Prohibits local governments from enacting or enforcing any ordinance, regulation, resolution, rule, charter provision, or other policy or taking any action to license or otherwise regulate a mutual benefit corporation in a manner that is different from other businesses in a local government's jurisdiction; and
- Prohibits local governments from regulating certain parking standards at home-based businesses.

The bill takes effect upon becoming law.

II. Present Situation:

Home Rule Authority

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Counties operating under a county charter have all powers of self-government

¹ Article. VIII, s. 1(f), FLA CONST.

not inconsistent with general law or special law approved by the vote of the electors.² Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.³

Preemption

Preemption refers to the principle that a federal or state statute can supersede or supplant state or local law that stands as an obstacle to accomplishing the full purposes and objectives of the overriding federal or state law.⁴

Where state preemption applies, a local government may not exercise authority in that area.⁵ Whether a local government ordinance or other measure violates preemption is ultimately decided by a court. If a local government improperly enacts an ordinance or other measure on a matter preempted to the state, a person may challenge the ordinance by filing a lawsuit. A court ruling against the local government may declare the preempted ordinance void.⁶

Federal and State Law Pertaining to Religious Liberty

Provisions in the Constitutions of Florida and the United States

The relationship between religion and government in the United States is governed by the First Amendment to the United States Constitution, which prevents the government from establishing religion and protects privately initiated expression and activities from government interference and discrimination.⁷ Both the U.S. Constitution and the Florida Constitution contain an Establishment Clause, Free Exercise Clause, and protect individual freedom of speech and expression.⁸

The First Amendment's Equal Protection Clause provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people to peaceably assemble, and to petition the Government for a redress of grievances.

Similarly, Article I, section 3 of the Florida Constitution states:

There shall be no law respecting the establishment of religion, or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety.

² Article. VIII, s. 1(g), FLA CONST.

³ Art. VIII, s. 2(b), FLA CONST.; *see also* s. 166.021(1), F.S.

⁴ Preemption definition, Black's Law Dictionary (12th ed. 2024).

⁵ *D'Agastino v. City of Miami*, 220 So. 3d 410 (Fla. 2017); Judge James R. Wolf and Sarah Harley Bolinder, [*The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*](#), 83 Fla. B.J. 92 (June 2009).

⁶ *See, e.g., Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002).

⁷ U.S. CONSTITUTION. Amend. I.

⁸ U.S. CONSTITUTION. Amend. I; FLA. CONST., Art. I, sections 3 and 4.

Establishment Clause

The Establishment Clause of the First Amendment to the U.S. Constitution requires the government to maintain neutrality in its treatment of religion. Quoting from its decision in *Sherbert v. Verner*, the U.S. Supreme Court notes that the “door of the Free Exercise Clause stands tightly closed against any governmental regulation of religious beliefs as such,”⁹ and a regulation may appear to be neutral on its face may, in its application, nonetheless offend the constitutional requirement for governmental neutrality if it unduly burdens the free exercise of religion.¹⁰

The incorporation of the Fourteenth Amendment into the First Amendment protections extended the Congressional prohibition from making any law respecting the establishment of religion or prohibiting the free exercise of religion to also include actions by the states. The first court case appeared in 1931, *Stromberg v. California*, and additional protections were presented in *Cantwell v. Connecticut* in 1940.¹¹ The *Cantwell* court said:

The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws. The constitutional inhibition of legislation on the subject of religion has a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts – freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definition to preserve the enforcement of that protection. In every case, the power to regulate must be so exercised or not, in attaining a permissible end, unduly to infringe the protected freedom.¹²

Free Speech and Expression

However, the right to practice religious freedom is not absolute. In the United States Supreme Court case, *Reynolds v. United States*, 98 U.S. 145 (1879), a case which addressed a federal statute outlawing bigamy and some worshippers under the Church of Latter Day Saints which believed their religion mandated the practice, the Court upheld his conviction and the authority that Congress had to outlaw bigamy. The Court said, “Can a man excuse his practices to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and, in effect permit every citizen to become a

⁹ Quoting from *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940).

¹⁰ *Wisconsin v. Yoder*, 406 U.S. 205, 220. In *Yoder*, the respondents had been convicted of violating the state’s compulsory school attendance law which required all children to attend school until the age of 16. The Yoders and other respondents had withdrawn their children after the eighth grade in accordance with their Amish religious beliefs.

¹¹ See *Stromberg v. California*, 283 U.S. 359. In *Stromberg*, a young camp counselor was charged with violating the state penal code for displaying a red flag in a public place under one of three conditions related to government opposition or incitement of violence. After being found guilty, she appealed on the grounds that the conviction was a violation of her free speech. The majority opinion of the U.S. Supreme Court stated that free speech, including certain nonverbal expressive conduct such as waving a red flag, was protected under the First Amendment and made clear that the First Amendment applied to state actions. States could place limits on speech which incited violence or threatened the overthrow of the government.

¹² *Cantwell, et al v. Connecticut*, 310 U.S. 296, 303-304 (1940).

law unto himself. Government could exist only in name under such circumstances.”¹³ Additional precedent which applied protection under the Equal Protection Clause of the Fourteenth Amendment was decided in *Prince v. Massachusetts* during the October 1943 term, when the United States Supreme Court further recognized that the right to practice religion was not an unlimited privilege, however; stating, “the right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death.”¹⁴ The court stated that while “religious training and activity, whether performed by adult or child, are protected by the Fourteenth Amendment against interference by state action, except insofar as they violate reasonable regulations adopted for the protection of the public health, morals and welfare.”¹⁵

Religious Freedom Restoration Acts

The Religious Freedom Restoration Act of 1993

In 1993, Congress passed the Religious Freedom Restoration Act (RFRA) to establish rights which exceeded those found under the free exercise of religion clause of the United States Constitution.¹⁶ The legislation created a heightened standard of review for government actions that substantially burden an individual’s right to practice his or her religion. The legislation further prohibits a substantial burden on an individual’s right to practice religion even if the burden is the result of a rule of general applicability unless the rule fulfills a compelling governmental interest and it represents the least restrictive means of achieving that compelling government interest.¹⁷ Congress acted in 1993 following the Supreme Court’s decision in *Employment Division v. Smith* whereby two members of a Native American tribe were denied unemployment benefits after they were fired for using peyote, a Schedule I controlled substance, as part of a religious ceremony.¹⁸ In upholding the denial of benefits to the two members of the Native American tribe, the Court discussed how it would not apply the balancing test of *Sherbert* to require exemptions, saying that such exceptions were better handled through an individualized government assessment process and not the courts.¹⁹

The original federal legislation included all government action – federal, state, and local. However, the reach of RFRA was reduced following a decision in *City of Boerne v. Flores* in 1997 when the Court held that the federal statute could not reach beyond the federal government.²⁰ In 2000, Congress passed the *Religious Land Use and Institutionalized Persons Act of 2000* which implemented a compelling interest test for specific types of state actions on land use regulations or the development of land. Additional regulations are also extended to any state or local government who accepts federal assistance to prohibit substantial burdens on individuals who are in institutions and their exercise of religious freedom. An institution is

¹³ *Reynolds v. United States*, 98 U.S.145, 166-167. (1879)

¹⁴ *Prince v. Massachusetts*, 321 U.S.158, 166-167 (1943).

¹⁵ *Prince v. Massachusetts*, 321 U.S. 158, 172 (1943).

¹⁶ *Religious Freedom Restoration Act of 1993*, Pub. L. 103-141(1993).

¹⁷ *Religious Freedom Restoration Act of 1993*, Pub. L. 103-141, §2 (1993).

¹⁸ *See Employment Division v. Smith*, 494 U.S. 872 (1990).

¹⁹ *Employment Division v. Smith*, 494 U.S. 872, 883-884 (1990).

²⁰ *City of Bourne v. Flores*, 521.U.S. 507 (1997).

defined as a jail, prison, correctional facilities, or institutions for the mentally ill or for juveniles awaiting trial.²¹

Florida Religious Freedom Restoration Act of 1998

Additionally, Florida adopted the Religious Freedom Restoration Act (FRFRA), in 1998 following the *City of Boerne v. Flores* decision, to specifically protect an individual's right to the free exercise of religion and to create a cause of action for infringement by the state on an individual's free exercise of religion similar to the one created under the federal RFRA.²²

The FRFRA provides that, as a general matter, the government may not substantially burden a person's free exercise of religion. However, the government may substantially burden a person's exercise of religion if the government demonstrates that the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. The "Whereas clauses" of the FRFRA legislation establish through several paragraphs the legislative intent to confirm that Florida uses the compelling interest test set forward in *Sherbert v. Verner* and *Wisconsin v. Yoder* in situations where the free exercise of religion is substantially burdened.²³

Enforcement of the Florida Building Code: Permits

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare.²⁴ Authorized state and local government agencies enforce the Florida Building Code and issue building permits.²⁵

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity. It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local enforcing agency upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.²⁶ A local building department or enforcement agency must post each type of building permit application on its website.²⁷ Each application must be inscribed with the date of application and the Florida Building Code in effect as of that date.²⁸

States of Emergency

The State Emergency Management Act (ch. 252, F.S.) prescribes the Governor's authority to declare a state of emergency, issue executive orders, and otherwise lead the state during

²¹ *Religious Land Use and Institutionalized Persons Act of 2000*, Pub.L. 106-274, §8 (2000).

²² Section 761.03, F.S. See also chapter 98-412, s. 3, Laws of Fla.

²³ Chapter 98-412, Laws of Fla.

²⁴ Section 553.72(2), F.S.

²⁵ See ss. 125.01(1)(bb), 125.56(1), 553.72(3), and 553.80(1), F.S.

²⁶ See ss. 125.56(4)(a) and 553.79(1), F.S. Other entities may, by resolution or regulation, be directed to issue permits.

²⁷ Section 553.79(1)(b), F.S.

²⁸ Section 105.3, 2023 Florida Building Code.

emergencies. If the Governor finds that an emergency²⁹ has occurred or is imminent, he or she must declare a state of emergency.³⁰ An executive order or proclamation of a state of emergency shall identify whether the state of emergency is due to a minor,³¹ major,³² or catastrophic³³ disaster.³⁴ The state of emergency must continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.³⁵ Additionally, the Legislature may end a state of emergency by passing a concurrent resolution.³⁶ The Governor may exercise several powers under a state of emergency, including utilizing all available resources of the state as reasonably necessary to cope with an emergency, prescribing evacuation routes, and making provision for the availability and use of temporary emergency housing.³⁷

Mutual Benefit Corporations

Current law defines “mutual benefit corporation” as a domestic corporation that is not organized primarily or exclusively for religious purposes; is not recognized as exempt under s. 501(c)(3) of the Internal Revenue Code; and is not organized for a public or charitable purpose that is required upon its dissolution to distribute its assets to the United States, a state, a local government, or a person that is recognized as exempt under s. 501(c)(3) of the Internal Revenue Code.³⁸ The term does not include an association organized under chapters 718 (condominiums), 719 (cooperatives), 720 (homeowners’ associations), or 721 (vacation and timeshare plans) of the Florida Statutes, or any corporation where membership in the corporation is required pursuant to a document recorded in county property records.³⁹

Current law also provides that a mutual benefit corporation, such as a private club that is established for social, pleasure, or recreational purposes and that is organized as a corporation of which the equity interests are held by the members, may purchase the equity membership interest of any member.⁴⁰ For these purposes, the payment for such interest is not a distribution.⁴¹

²⁹ “Emergency” means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. Section 252.34(4), F.S.

³⁰ Section 252.36(2), F.S.

³¹ “Minor disaster” means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance. Section 252.34(2)(c), F.S.

³² “Major disaster” means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance. Section 252.34(2)(b), F.S.

³³ “Catastrophic disaster” means a disaster that will require massive state and federal assistance, including immediate military involvement. Section 252.34(2)(a), F.S.

³⁴ Section 252.36(4)(c), F.S.

³⁵ Section 252.36(2), F.S.

³⁶ Section 252.36(3), F.S.

³⁷ Section 252.36(6), F.S.

³⁸ Section 617.01401, F.S.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Section 617.0505(1), F.S. “Distribution” means the payment of a dividend or any part of the income or profit of a corporation to its members, directors, or officers. Section 617.01401(7), F.S.

Sovereign Immunity

Sovereign immunity is “[a] government’s immunity from being sued in its own courts without its consent.”⁴² The doctrine had its origin with the judge-made law of England. The basis of the existence of the doctrine of sovereign immunity in the United States was explained as follows: A sovereign is exempt from suit, not because of any formal conception or obsolete theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends.⁴³

Article X, s. 13 of the Florida Constitution authorizes the Legislature to enact laws that permit suits against the State and its subdivisions, thereby waiving sovereign immunity. Currently, Florida law allows tort lawsuits against the State and its subdivisions⁴⁴ for damages that result from the negligence of government employees acting in the scope of their employment, but limits payment of judgments to \$200,000 per person and \$300,000 per incident.⁴⁵ This liability exists only where a private person would be liable for the same conduct.⁴⁶ Harmed persons who seek to recover amounts in excess of these limits may request that the Legislature enact a claim bill to appropriate the remainder of their court-awarded judgment.⁴⁷ Article VII, s. 1(c) of the Florida Constitution prohibits funds from being drawn from the State Treasury except in pursuance of an appropriation made by law. However, local governments and municipalities are not subject to this provision, and therefore may appropriate their local funds according to their processes.

Statutory Waivers of Sovereign Immunity

Section 768.28(1), F.S., allows tort lawsuits to be filed against the State and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28, F.S., applies only to “injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment ...”⁴⁸

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per accident. Although a court may award a judgment in excess of these statutory limits, a claimant cannot collect more than provided for in statute without passage of a special claim bill passed by the legislature.⁴⁹

⁴² BLACK’S LAW DICTIONARY (11th ed. 2019).

⁴³ *Cauley v. City of Jacksonville*, 403 So. 2d 379, 381 (Fla. 1981) (quoting *Kawananakoa v. Polyblank*, 205 U.S. 349, 353 (1907)).

⁴⁴ Section 768.28(2), F.S., defines “state agencies or subdivisions” to include “executive departments, the Legislature, the judicial branch (including public defenders), and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities, including the Florida Space Authority.”

⁴⁵ Section 768.28, F.S.

⁴⁶ Section 768.28(1), F.S.

⁴⁷ Section 768.28(5)(a), F.S. *See also*, s. 11.066, F.S., which states that state agencies are not required to pay monetary damages under a court’s judgment except pursuant to an appropriation made by law.

⁴⁸ *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).

⁴⁹ *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment unless the damages result from the employee's bad faith, malicious purpose, or wanton and willful disregard for human rights, safety, or property.⁵⁰ A government entity is not liable for any damages resulting for actions by an employee outside the scope of his or her employment and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.⁵¹

Home-based Businesses: Local Government Restrictions

Current law preempts areas of regulation for home-based businesses to the state. Local governments may not enact or enforce any ordinance, regulation, or policy or take any action to license or regulate a home-based business.⁵² Furthermore, a home-based business may not be prohibited, restricted, regulated, or licensed in a manner that is different from other businesses in a local government's jurisdiction, except as otherwise provided by law.⁵³

However, in order for a business to qualify as a home-based business, it must ensure that parking related to the business activities of such home-based business complies with local zoning requirements.⁵⁴ Local governments are permitted to regulate the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted.⁵⁵ Local governments may also regulate the parking or storage of heavy equipment⁵⁶ at the business which is visible from the street or neighboring property.⁵⁷

A local government may impose regulations on a home-based business relating to noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors, but such regulations may not be more stringent than those that apply to a residence where no business is conducted.⁵⁸

III. Effect of Proposed Changes:

Preemption Relating to the Regulation of Religious Services and Gatherings

SB 1444 preempts all matters relating to the regulation of religious services and gatherings to the state. The bill prevents counties, municipalities, and special districts from substantially burdening the free exercise of religion by adopting or enforcing any ordinance, regulation, resolution, rule, or other policy that prohibits or restricts a person's ability to attend religious

⁵⁰ Section 768.28(9)(a), F.S.

⁵¹ *Id.*

⁵² Section 559.955, F.S.

⁵³ Section 559.955(2)(b), F.S.

⁵⁴ Section 559.955(3)(b), F.S. *See s. 559.955(3), F.S.*, for each criteria a business must meet to be considered a "home-based business."

⁵⁵ *Id.*

⁵⁶ "Heavy equipment" means commercial, industrial, or agricultural vehicles, equipment, or machinery. Section 559.955(3)(b), F.S.

⁵⁷ Section 559.955(3)(b), F.S.

⁵⁸ Section 559.955(3)(e), F.S.

services or gatherings and specifies that they must be allowed in areas zoned for residential or commercial use, including, but not limited to, homes, community centers, or businesses. Any such policy adopted or enforced by a local government is void and unenforceable.

The bill also prohibits counties, municipalities, and special districts from substantially burdening the free exercise of religion by adopting or enforcing any ordinance, regulation, resolution, rule, or other policy that prohibits or restricts a person's ability to temporarily park a motor vehicle on a public right-of-way or a private driveway if such parking is related to the attendance of religious services or gatherings. However, such parking must be consistent with public safety and access requirements.

The bill provides for several legislative findings, including:

- The free exercise of religion is a fundamental right guaranteed by the United States Constitution and State Constitution.
- The Legislature enacted the Religious Freedom Restoration Act of 1998 to protect a person's free exercise of religion from being substantially burdened by the state or government, which includes counties, municipalities, and special districts.
- Religious services and gatherings held in traditional houses of worship, private residences, or commercial establishments are an essential expression of the free exercise of religion.
- Counties, municipalities, and special districts have, at times, enacted or enforced ordinances, regulations, resolutions, rules, or other policies that substantially burden a person's exercise of religion by restricting religious services and gatherings, parking, or related services or activities.

As a result of such findings, the bill provides that it is the intent of the Legislature to preempt any ordinance, regulation, resolution, rule, or other policy that substantially burdens the free exercise of religion and ensure uniform statewide protection for the free exercise of religion.

The bill specifies that these provisions do not relieve a person from complying with applicable local building, fire, safety, or health standards or authorize any use or conduct that could create a public nuisance.⁵⁹

Preemptions Relating to Issuance of Certificates of Occupancy and Building Permits

The bill prohibits local enforcement agencies from denying the issuance of a certificate of occupancy to an owner of a residential or commercial structure based on noncompliance with a Florida-friendly landscaping ordinance⁶⁰ if the owner was issued a building permit for such structure within one year after the declaration of a state of emergency for a natural disaster for the county in which the structure is located.

The bill also prohibits local enforcement agencies from denying the issuance of a building permit for the alteration, modification, or repair of a single-family residential structure if such alteration, modification, or repair:

⁵⁹ See s. 893.138, F.S., for a list of activities that may be declared a public nuisance.

⁶⁰ "Florida-friendly landscaping" means quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. Section 373.185, F.S. See also ss. 125.568 and 166.048, F.S.

- Is completed within one year after the declaration of a state of emergency for a natural disaster for the county in which the structure is located;
- Is necessitated by damage to the structure caused by the natural disaster;
- Has a total cost that does not exceed more than 50 percent of the value of the structure;
- Does not affect more than 50 percent of the structure; and
- Does not alter the footprint of the structure.

The bill specifies that a local enforcement agency may also not require a building permit for:

- Construction of playground equipment, fences, or landscape irrigation systems on a parcel containing a single-family residential dwelling. However, a local government may require a building permit for any electrical work performed as part of the construction of playground equipment, fences, or landscape irrigation systems.
- Performance of any work that is valued at less than \$7,500 on a parcel containing a single-family residential dwelling. This provision does not apply to a larger project in which a division of the project is made in amounts of less than \$7,500. A local government may require a building permit for any electrical, plumbing, or structural work performed on a parcel containing a single-family residential dwelling regardless of the value of the work. For purposes of the bill, structural work does not include the repair or replacement of exterior windows or doors.

Preemption Relating to Mutual Benefit Corporations

The bill preempts the regulation of mutual benefit corporations to the state. The bill prohibits local governments from enacting or enforcing any ordinance, regulation, resolution, rule, charter provision, or other policy or taking any action to license or otherwise regulate a mutual benefit corporation in a manner that is different from other businesses in a local government's jurisdiction, including, but not limited to:

- Restricting, prohibiting, or regulating the ability of a mutual benefit corporation to host or allow events, rentals, or activities involving nonmembers;
- Restricting or regulating the ability of a mutual benefit corporation to determine who may access its property, including, but not limited to, guests, invitees, or event participants.
- Interfering with the internal governance, bylaws, membership policies, or contractual agreements of a mutual benefit corporation; or
- Imposing operational restrictions on events hosted by a mutual benefit corporation in a manner that is different from other businesses in a local government's jurisdiction.

Any such policy enacted or enforced by a local government is void and unenforceable.

For purposes of the bill, the term "mutual benefit corporation" includes private clubs such as a golf club, a marina club, a country club, a yacht club, a fraternal club, or any other similar entity that:

- Maintains a defined membership structure.
- Operates facilities or property for the use and benefit of its members.
- Is not open to the general public, except as permitted by the club.

The bill provides that any person aggrieved or adversely affected by the enactment or enforcement of a policy that is in violation of these provisions may bring a civil cause of action for declaratory or injunctive relief and recovery of reasonable attorney fees and costs if the court finds the local government is in violation of the law.

The bill also waives sovereign immunity for the state's agencies or political subdivisions for causes of action based on the application of any ordinance, regulation, resolution, rule, charter provision, or other policy as it pertains to the enactment or enforcement of such policy.

Preemption Relating to Parking at Home-based Businesses

The bill prohibits local governments from regulating certain parking standards at a home-based business, including:

- Regulating the parking of vehicles or trucks on land zoned as residential if the parcel size is greater than two acres.
- Regulating the parking of trailers or heavy equipment on land zoned as residential if the parcel size is greater than five acres.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require counties and municipalities to expend funds or further limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 4 of the bill prohibits local governments from denying a building permit for the alteration, modification, or repair of a single-family residential structure if it meets certain requirements, which includes the structure being completed within 1 year after the declaration of a state of emergency for a natural disaster for the county in which the structure is located. This provision may warrant consideration because the issuance of building permits is not contingent on the completion of construction, but rather the application for such permit.

Section 4 of the bill also prohibits local governments from requiring a building permit for work under \$7,500 on parcel containing single-family homes, with certain exceptions. This provision may warrant consideration as to whether it could interact with requirements of the National Flood Insurance Program (NFIP), under which communities adopt and enforce floodplain management standards, including permitting and review of development in flood hazard areas.

It may also have implications for a community's participation in FEMA's Community Rating System, which rewards communities for exceeding minimum floodplain standards through activities such as permitting, documentation, and enforcement.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 553.79, and 559.955.

This bill creates the following sections of the Florida Statutes: 125.595, 166.0499, 189.09, and 559.954.

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.
