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# **LOCAL GOVERNMENT AFFAIRS SUBCOMMITTEE**

## **MEETING PACKET**

**Wednesday, December 2, 2015  
11:30 a.m.  
Webster Hall (212 Knott)**



# **The Florida House of Representatives**

## **Local Government Affairs Subcommittee**

**Steve Crisafulli**  
**Speaker**

**Debbie Mayfield**  
**Chair**

Meeting Agenda  
Wednesday, December 2, 2015  
Webster Hall (212 Knott)  
11:30 a.m. – 1:30 p.m.

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Welcome and Opening Remarks
- V. Consideration of the Following Bill(s):
  - CS/HJR 275 Homestead Tax Exemption/Senior, Low-Income, Long-Term Residents by Finance & Tax Committee, Avila
  - CS/HB 277 County and Municipality Homestead Tax Exemption by Finance & Tax Committee, Avila
  - HB 461 Location of Utilities by Ingram
  - HB 519 Gilchrist County Development Authority by Perry
  - HB 565 Redevelopment Trust Fund by Spano
  - HB 649 Eagle Bay Sub-Drainage District, Okeechobee County by Pigman
  - HB 655 City of Jacksonville, Duval County by Fullwood
- VI. Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HJR 275 Homestead Tax Exemption/Senior, Low-income, Long-term Residents  
**SPONSOR(S):** Finance & Tax Committee; Avila and others  
**TIED BILLS:** HB 277 **IDEN./SIM. BILLS:** SJR 492

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	16 Y, 1 N, As CS	Dugan	Langston
2) Local Government Affairs Subcommittee		Monroe <i>KDM</i>	Miller <i>E.H.W.</i>
3) Local & Federal Affairs Committee			

### SUMMARY ANALYSIS

Article VII, section 6(d)(2) of the Florida Constitution provides that counties and municipalities, if authorized by general law, may grant an additional homestead exemption equal to the assessed value of property to any person who:

- has the legal or equitable title to real estate with a just value less than \$250,000,
- has maintained thereon the permanent residence of the owner for not less than 25 years,
- has attained age 65, and
- whose household income does not exceed \$20,000.

If the property's just value rises above \$250,000, the person no longer qualifies for the additional exemption. Rises in the just value of homesteaded property usually occur because of changes in market conditions or because of additions or improvements made to the property.

The joint resolution proposes an amendment to the Florida Constitution to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption.

The proposed constitutional amendment is effective January 1, 2017, if approved by the voters, and operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

On October 16, 2015, the Revenue Estimating Conference determined the proposed constitutional amendment has an indeterminate revenue impact on counties and municipalities, reflecting the need for approval by the voters and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

Based on 2014 advertising costs, the Division of Elections within the Department of State has estimated the full publication costs for advertising the proposed constitutional amendment to be approximately \$133,000. This would be paid from non-recurring General Revenue funds.

**A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature.**

**The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Property Taxes in Florida**

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>3</sup> and provides for specified assessment limitations, property classifications, and exemptions.<sup>4</sup> After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup>

##### **Exemptions**

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>6</sup>

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Counties and municipalities, if authorized by general law, may grant either or both of the following additional homestead exemptions for purposes of their own property tax levies:

- An exemption not exceeding \$50,000 to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, and who has attained age 65, and whose household income, as defined by general law, does not exceed \$20,000;<sup>7</sup> or
- An exemption equal to the assessed value of the property to any person who has the legal or equitable title to real estate with a just value less than \$250,000, and who has maintained thereon the permanent residence of the owner for not less than 25 years, and who has attained age 65, and whose household income does not exceed \$20,000.<sup>8</sup>

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<sup>1</sup> Art. VII, s. 1(a), Fla. Const.

<sup>2</sup> Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Art. VII, s. 4, Fla. Const.

<sup>4</sup> Art. VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> Section 196.031, F.S.

<sup>6</sup> *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>7</sup> Art. VII, s. 6(d)(1), Fla. Const.

<sup>8</sup> Art. VII, s. 6(d)(2), Fla. Const.

The Legislature implemented these provisions in general law,<sup>9</sup> allowing counties and municipalities the discretion to grant the exemptions. Counties and municipalities may grant either or both of these exemptions through the adoption of an ordinance.<sup>10</sup>

The \$20,000 income limitation is annually adjusted for changes in cost of living,<sup>11</sup> and the income limitation in 2015 is \$28,448. The statute defines “household income” as the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code,<sup>12</sup> of all members of a household,<sup>13</sup> and requires that a taxpayer claiming the exemption annually submit to the property appraiser a sworn statement, with supporting documentation, of household income on a form prescribed by the Department of Revenue.<sup>14</sup>

For 2015, there are 21 counties that grant the low income, long-time resident assessed value exemption, totaling \$451,574,217 in exempt taxable value; in addition, 13 counties contain at least one municipality that granted the exemption for 2015, totaling \$179,894,174 in exempt taxable value.<sup>15</sup> The table below illustrates the number of exemptions and exempt taxable value.

County	County Exemption		Municipal Exemptions <sup>16</sup>	
	Count	Value	Count	Value
Bay	162	\$ 9,280,441	16	\$ 905,558
Broward		not authorized	475	\$ 19,337,090
Clay		not authorized	25	\$ 1,749,144
Columbia	35	\$ 1,868,732		
Miami-Dade	7,834	\$ 225,040,488	9,552	\$ 110,750,383
Escambia	426	\$ 13,377,459	57	\$ 1,971,205
Flagler	100	\$ 6,838,060		
Gilchrist	91	\$ 3,375,107		
Gulf	11	\$ 347,459		
Hernando	208	\$ 8,114,775		
Hillsborough	3,338	\$ 107,063,281	1,228	\$ 31,333,626
Jackson	5	\$ 445,624		
Lake	128	\$ 4,145,690		
Lee	233	\$ 7,302,100		
Leon	347	\$ 12,899,214	406	\$ 6,336,193
Madison	18	\$ 1,028,706		
Manatee	0	\$0	1	\$ 109,302
Monroe	33	\$ 1,056,766	8	\$ 115,872
Nassau	37	\$ 3,838,427		
Orange	171	\$ 10,612,072		
Putnam	716	\$ 18,442,634	121	\$ 2,203,715
Santa Rosa	31	\$ 2,398,682	5	\$ 427,564
Volusia	576	\$ 14,098,500	144	\$ 4,092,780
Walton		not authorized	14	\$561,742
<b>Total</b>	<b>14,539</b>	<b>\$ 451,574,217</b>	<b>12,052</b>	<b>\$ 179,894,174</b>

Individuals who previously qualified for the 65 or older, low income, long-term residents exemption will lose the exemption if:

<sup>9</sup> Section 196.075, F.S.

<sup>10</sup> Section 196.075(4), F.S.

<sup>11</sup> Section 196.075(3), F.S.

<sup>12</sup> 26 U.S.C. s. 62.

<sup>13</sup> Section 196.075(1)(b), F.S.

<sup>14</sup> Section 196.075(4)(d), F.S.

<sup>15</sup> Revenue Estimating Conference, Impact Conference, Homestead Exemption up to \$250,000: HJR 275/HB 277 (October 16, 2015).

<sup>16</sup> The municipal exemption column is incomplete because some municipalities did not report the information; also, certain municipalities grant the exemption but no one has applied or is eligible.

- They no longer maintain their homestead on the property,
- Their income exceeds the income limitation, or
- The just value of their homestead increases above the \$250,000 cap, either because of changes in the market or because of additions and improvement made to the homestead.

### **Effect of Proposed Changes**

The joint resolution proposes an amendment to the Florida Constitution with respect to the 65 or older, low-income, long-time resident, additional homestead exemption in art. VII, s. 6(d)(2). Specifically, the amendment proposes to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption.

The effect of the amendment is to allow a 65 or older, low-income, long-time resident to continue receiving the exemption if the homestead's just value rises above \$250,000 either due to changes in the market or because of additions or improvements made to the property. In addition, individuals who were granted the exemption in prior years, but became ineligible for the exemption because the just value of the individual's homestead rose above \$250,000, may regain the exemption if they are otherwise still qualified (the legislation operates retroactively).

The proposed constitutional amendment is effective January 1, 2017, if approved by the voters, and operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

#### **B. SECTION DIRECTORY:**

Not applicable to joint resolutions proposing a constitutional amendment.

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

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

##### **1. Revenues:**

None.

##### **2. Expenditures:**

Article XI, s. 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Department of State, Division of Elections estimated the average cost per word to advertise an amendment to the State Constitution is \$135.97 for this fiscal year.<sup>17</sup> Based on 2014 advertising costs, the Division of Elections within the Department of State has estimated the full publication costs for advertising the proposed constitutional amendment to be approximately \$133,000. This would be paid from non-recurring General Revenue funds.

The Department of State normally is the defendant in lawsuits challenging proposed amendments to the Florida Constitution. The cost for defending these lawsuits has ranged from \$10,000 to \$150,000, depending on a number of variables.<sup>18</sup>

<sup>17</sup> 2016 Agency Legislative Bill Analysis, Department of State, HJR 165 (10/27/2015), available to Legislators and staff at <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=5939&yr=2016> (accessed 10/29/2015), and a copy of which is maintained on file by the Local Government Affairs Subcommittee.

<sup>18</sup> 2015 Agency Legislative Bill Analysis, Department of State, HB 521 (2/23/2015), a copy of which is maintained on file by the Local Government Affairs Subcommittee.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

On October 16, 2015, the Revenue Estimating Conference determined the proposed constitutional amendment would have an indeterminate fiscal impact due to the requirement for a statewide referendum, and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

However, if approved in the referendum, and if all counties and municipalities currently allowing the exemption continue to do so, the conference estimated the impact on local government revenues would be  $-\$0.5$  million in Fiscal Year 2017-18, growing to  $-\$1.2$  million Fiscal Year 2020-21. If all counties and municipalities in the state were to adopt the exemption as amended by this legislation, the estimated statewide impact (excluding school and special district levies, which are not authorized to grant this exemption) is  $-\$1.6$  million in 2017-18, growing to  $-\$4.2$  million in 2020-21.<sup>19</sup>

The above estimates assume current millage rates and do not include any impacts of the retroactive provisions of the proposal.

### 2. Expenditures:

None.

## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposed amendment is approved by the electorate, certain long-time residents could maintain property tax relief regardless of increases in the just value of the homestead property due to either changing market conditions or because of additions or improvements made to the property. Further, a resident that lost the exemption (because the just value of his or her property rose above \$250,000) may regain the exemption if he or she is otherwise qualified.

## D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

#### 2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.<sup>20</sup> The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.<sup>21</sup>

<sup>19</sup> Revenue Estimating Conference, Impact Conference, Homestead Exemption up to \$250,000: HJR 275/HB 277 (October 16, 2015).

<sup>20</sup> Art. XI, s. 1, Fla. Const.

<sup>21</sup> Art. XI, s. 5, Fla. Const.

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect.

**B. RULE-MAKING AUTHORITY:**

The resolution does not provide authority or require implementation by administrative agency rulemaking

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On November 5, 2015, the Finance & Tax Committee adopted a strike all amendment which revised the joint resolution to clarify the tax year that the determination of just value is made, provide an effective date, and provide that the joint resolution operates retroactively for any person who received the exemption prior to January 1, 2017.

This analysis is written to HJR 275 as amended.



## Department of State 2015 AGENCY LEGISLATIVE BILL ANALYSIS

### BILL INFORMATION

<b>BILL NUMBER:</b>	HB 521
<b>BILL TITLE:</b>	<u>Relating to Miami-Dade County Home Rule Charter</u>
<b>BILL SPONSOR:</b>	Representative Artilles; Cosponsors: Representatives Baxley, Combee, Perry, Van Zant, Wood
<b>EFFECTIVE DATE:</b>	Not specified

### COMMITTEES OF REFERENCE

1) Local Government Affairs Subcommittee
2) Civil Justice Subcommittee
3) Local & Federal Affairs Committee
4)
5)

### CURRENT COMMITTEE

Local Government Affairs Subcommittee
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### SIMILAR BILLS

<b>BILL NUMBER:</b>	SB 810
<b>SPONSOR:</b>	N/A

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	N/A
<b>YEAR:</b>	N/A
<b>LAST ACTION:</b>	N/A

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	N/A

**Is this bill part of an agency package?**

No.

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	2/23/15
<b>LEAD AGENCY ANALYST:</b>	Christie Burrus
<b>ADDITIONAL ANALYST(S):</b>	Eddie Phillips
<b>LEGAL ANALYST:</b>	Drew Atkinson
<b>FISCAL ANALYST:</b>	Alicia Bevis

**POLICY ANALYSIS**

**1. EXECUTIVE SUMMARY**

Miami-Dade County Home Rule Charter; Proposing an amendment to the State Constitution to authorize amendments or revisions to the Miami-Dade County Home Rule Charter by a special law approved by the electors of Miami-Dade County; restricting the filing of a bill proposing such a special law; providing that the charter may impose fixed term limits on county commissioners; conforming historical references to reflect the current name of Miami-Dade County, etc.

**2. SUBSTANTIVE BILL ANALYSIS**

**1. PRESENT SITUATION:**

Article VIII, Section 6, subsections (e) and (f), of the State Constitution govern the Miami-Dade County Home Rule Charter.

**2. EFFECT OF THE BILL:**

Allows the electors of Miami-Dade County, by special law, to authorize amendments or revisions to the Miami-Dade County Home Rule Charter. The Bill also requires that a bill proposing such a special law be approved by the local legislative delegation and filed by a member thereof and also provides that a charter may impose fixed term limits for county commissioners and conforms historical references to reflect the current name of Miami-Dade County.

**3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?**

If yes, explain:	N/A
What is the expected impact to the agency's core mission?	N/A
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

List any known proponents and opponents:	Unknown
Provide a summary of the proponents' and opponents' positions:	N/A

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**

If yes, provide a description:	Unknown
Date Due:	N/A
Bill Section Number:	N/A

**6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?**

Board:	N/A
Board Purpose:	N/A
Who Appointments:	N/A
Appointee Term:	N/A
Changes:	N/A

Bill Section Number(s):	N/A
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**FISCAL ANALYSIS**

**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT?**

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation increase local taxes or fees?	Unknown
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

**2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?**

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation contain a State Government appropriation?	Unknown
If yes, was this appropriated last year?	N/A

**3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?**

Revenues:	Unknown
Expenditures:	Unknown
Other:	N/A

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**

Does the bill increase taxes, fees or fines?	Unknown
Does the bill decrease taxes, fees or fines?	Unknown
What is the impact of the increase or decrease?	Unknown
Bill Section Number:	N/A

**TECHNOLOGY IMPACT**

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	N/A
If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A

**FEDERAL IMPACT**

Does the legislation have a federal impact (i.e., federal compliance, federal funding, federal agency involvement, etc.)?	Unknown
If yes, describe the anticipated impact including any fiscal impact.	N/A

**ADDITIONAL COMMENTS**

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments. The cost to advertise constitutional amendments for the 2014 general election was \$135.97 per word. Using 2014 rates, the cost to advertise this amendment for the 2016 general election could be \$94,227.21, at a minimum.

The Department is normally the defendant in lawsuits challenging proposed amendments to the Florida Constitution. The cost for defending these lawsuits has ranged from \$10,000 to \$150,000, depending on a number of variables.

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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments and recommended action:	None.
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House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities, if authorized by general law, for the assessed value of property with a just value less than \$250,000 and owned by persons age 65 or older who meet certain residence and income requirements to specify that just value shall be determined in the first tax year that the owner applies and is eligible for the exemption and to provide retroactive applicability and an effective date.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

27 (a) Every person who has the legal or equitable title to  
 28 real estate and maintains thereon the permanent residence of the  
 29 owner, or another legally or naturally dependent upon the owner,  
 30 shall be exempt from taxation thereon, except assessments for  
 31 special benefits, up to the assessed valuation of twenty-five  
 32 thousand dollars and, for all levies other than school district  
 33 levies, on the assessed valuation greater than fifty thousand  
 34 dollars and up to seventy-five thousand dollars, upon  
 35 establishment of right thereto in the manner prescribed by law.  
 36 The real estate may be held by legal or equitable title, by the  
 37 entireties, jointly, in common, as a condominium, or indirectly  
 38 by stock ownership or membership representing the owner's or  
 39 member's proprietary interest in a corporation owning a fee or a  
 40 leasehold initially in excess of ninety-eight years. The  
 41 exemption shall not apply with respect to any assessment roll  
 42 until such roll is first determined to be in compliance with the  
 43 provisions of section 4 by a state agency designated by general  
 44 law. This exemption is repealed on the effective date of any  
 45 amendment to this Article which provides for the assessment of  
 46 homestead property at less than just value.

47 (b) Not more than one exemption shall be allowed any  
 48 individual or family unit or with respect to any residential  
 49 unit. No exemption shall exceed the value of the real estate  
 50 assessable to the owner or, in case of ownership through stock  
 51 or membership in a corporation, the value of the proportion  
 52 which the interest in the corporation bears to the assessed

53 value of the property.

54 (c) By general law and subject to conditions specified  
 55 therein, the Legislature may provide to renters, who are  
 56 permanent residents, ad valorem tax relief on all ad valorem tax  
 57 levies. Such ad valorem tax relief shall be in the form and  
 58 amount established by general law.

59 (d) The legislature may, by general law, allow counties or  
 60 municipalities, for the purpose of their respective tax levies  
 61 and subject to the provisions of general law, to grant either or  
 62 both of the following additional homestead tax exemptions:

63 (1) An exemption not exceeding fifty thousand dollars to a  
 64 ~~any~~ person who has the legal or equitable title to real estate  
 65 and maintains thereon the permanent residence of the owner, and  
 66 who has attained age sixty-five, and whose household income, as  
 67 defined by general law, does not exceed twenty thousand dollars;  
 68 or

69 (2) An exemption equal to the assessed value of the  
 70 property to a ~~any~~ person who has the legal or equitable title to  
 71 real estate with a just value less than two hundred and fifty  
 72 thousand dollars, as determined in the first tax year that the  
 73 owner applies and is eligible for the exemption, and who has  
 74 maintained thereon the permanent residence of the owner for not  
 75 less than twenty-five years, and who has attained age sixty-  
 76 five, and whose household income does not exceed the income  
 77 limitation prescribed in paragraph (1).

78

79 The general law must allow counties and municipalities to grant  
 80 these additional exemptions, within the limits prescribed in  
 81 this subsection, by ordinance adopted in the manner prescribed  
 82 by general law, and must provide for the periodic adjustment of  
 83 the income limitation prescribed in this subsection for changes  
 84 in the cost of living.

85 (e) Each veteran who is age 65 or older who is partially  
 86 or totally permanently disabled shall receive a discount from  
 87 the amount of the ad valorem tax otherwise owed on homestead  
 88 property the veteran owns and resides in if the disability was  
 89 combat related and the veteran was honorably discharged upon  
 90 separation from military service. The discount shall be in a  
 91 percentage equal to the percentage of the veteran's permanent,  
 92 service-connected disability as determined by the United States  
 93 Department of Veterans Affairs. To qualify for the discount  
 94 granted by this subsection, an applicant must submit to the  
 95 county property appraiser, by March 1, an official letter from  
 96 the United States Department of Veterans Affairs stating the  
 97 percentage of the veteran's service-connected disability and  
 98 such evidence that reasonably identifies the disability as  
 99 combat related and a copy of the veteran's honorable discharge.  
 100 If the property appraiser denies the request for a discount, the  
 101 appraiser must notify the applicant in writing of the reasons  
 102 for the denial, and the veteran may reapply. The Legislature  
 103 may, by general law, waive the annual application requirement in  
 104 subsequent years. This subsection is self-executing and does not

105 require implementing legislation.

106 (f) By general law and subject to conditions and  
 107 limitations specified therein, the Legislature may provide ad  
 108 valorem tax relief equal to the total amount or a portion of the  
 109 ad valorem tax otherwise owed on homestead property to the:

110 (1) Surviving spouse of a veteran who died from service-  
 111 connected causes while on active duty as a member of the United  
 112 States Armed Forces.

113 (2) Surviving spouse of a first responder who died in the  
 114 line of duty.

115 (3) As used in this subsection and as further defined by  
 116 general law, the term:

117 a. "First responder" means a law enforcement officer, a  
 118 correctional officer, a firefighter, an emergency medical  
 119 technician, or a paramedic.

120 b. "In the line of duty" means arising out of and in the  
 121 actual performance of duty required by employment as a first  
 122 responder.

123 ARTICLE XII

124 SCHEDULE

125 Additional ad valorem exemption for persons age sixty-five  
 126 or older.—This section and the amendment to Section 6 of Article  
 127 VII revising the just value determination for the additional ad  
 128 valorem tax exemption for persons age sixty-five or older shall  
 129 take effect January 1, 2017, following approval by the electors,  
 130 and shall operate retroactively to January 1, 2013, for any

131 person who received the exemption under paragraph (2) of Section  
 132 6(d) of Article VII before January 1, 2017.

133 BE IT FURTHER RESOLVED that the following statement be  
 134 placed on the ballot:

135 CONSTITUTIONAL AMENDMENT

136 ARTICLE VII, SECTION 6

137 ARTICLE XII

138 HOMESTEAD TAX EXEMPTION FOR CERTAIN SENIOR, LOW-INCOME,  
 139 LONG-TERM RESIDENTS; DETERMINATION OF JUST VALUE.—Proposing an  
 140 amendment to the State Constitution to revise the homestead tax  
 141 exemption that may be granted by counties or municipalities for  
 142 property with just value less than \$250,000 owned by certain  
 143 senior, low-income, long-term residents to specify that just  
 144 value is determined in the first tax year the owner applies and  
 145 is eligible for the exemption. The amendment takes effect  
 146 January 1, 2017, and applies retroactively to exemptions granted  
 147 before January 1, 2017.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 277 County and Municipality Property Tax Exemption  
**SPONSOR(S):** Finance & Tax Committee; Avila and others  
**TIED BILLS:** HJR 275 **IDEN./SIM. BILLS:** SB 488

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	16 Y, 1 N, As CS	Dugan	Langston
2) Local Government Affairs Subcommittee		Monroe <i>DM</i>	Miller <i>EM</i>
3) Local & Federal Affairs Committee			

### SUMMARY ANALYSIS

The bill implements CS/HJR 275, which proposes to amend article VII, section 6(d) of the Florida Constitution. This section authorizes legislation allowing county and municipal governments the option to create an additional homestead exemption on the assessed value of property with a just value under \$250,000 owned by certain low-income, long-time residents. Specifically, the joint resolution proposes to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption.

Section 196.075, F.S., authorizes counties and municipalities to grant an additional homestead exemption equal to the assessed value of property to any person who:

- has the legal or equitable title to real estate with a just value less than \$250,000,
- has maintained thereon the permanent residence of the owner for not less than 25 years,
- has attained age 65, and
- whose household income does not exceed \$20,000.

Currently, if the property's just value rises above \$250,000, the person no longer qualifies for the additional exemption. Increases in the just value of homesteaded property usually occur because of changes in market conditions or because of additions or improvements made to the property.

The bill amends s. 196.075(2), F.S., to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption. In addition, individuals who were granted the exemption in prior years, but became ineligible for the exemption because the just value of the individual's homestead rose above \$250,000, may regain the exemption if they are otherwise still qualified (the legislation operates retroactively). Finally, individuals who received the exemption prior to the effective date of the bill may apply to the tax collector for a refund for any prior year in which the exemption was denied solely because the just value of the homestead property was greater than \$250,000.

On October 16, 2015, the Revenue Estimating Conference determined the bill has an indeterminate revenue impact on counties and municipalities, reflecting the need for approval of CS/HJR 275 by the voters and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

The bill will take effect January 1, 2017, if CS/HJR 275 or a similar joint resolution having substantially the same specific intent and purpose is approved by the electors at the general election to be held in November 2016. Further, the bill operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>3</sup> and provides for specified assessment limitations, property classifications, and exemptions.<sup>4</sup> After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup>

##### Exemptions

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>6</sup>

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Counties and municipalities, if authorized by general law, may grant either or both of the following additional homestead exemptions for purposes of their own property tax levies:

- An exemption not exceeding \$50,000 to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, and who has attained age 65, and whose household income, as defined by general law, does not exceed \$20,000;<sup>7</sup> or
- An exemption equal to the assessed value of the property to any person who has the legal or equitable title to real estate with a just value less than \$250,000, and who has maintained thereon the permanent residence of the owner for not less than 25 years, and who has attained age 65, and whose household income does not exceed \$20,000.<sup>8</sup>

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<sup>1</sup> Art. VII, s. 1(a), Fla. Const..

<sup>2</sup> Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Art. VII, s. 4, Fla. Const.

<sup>4</sup> Art. VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> Section 196.031, F.S.

<sup>6</sup> *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>7</sup> Art. VII, s. 6(d)(1), Fla. Const.

<sup>8</sup> Art. VII, s. 6(d)(2), Fla. Const.

The Legislature implemented these provisions in general law,<sup>9</sup> allowing counties and municipalities the discretion to grant the exemptions. Counties and municipalities may grant either or both of these exemptions through the adoption of an ordinance.<sup>10</sup>

The \$20,000 income limitation is annually adjusted for changes in cost of living,<sup>11</sup> and the income limitation in 2015 is \$28,448. The statute defines “household income” as the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code,<sup>12</sup> of all members of a household,<sup>13</sup> and requires that a taxpayer claiming the exemption annually submit to the property appraiser a sworn statement, with supporting documentation, of household income on a form prescribed by the Department of Revenue.<sup>14</sup>

For 2015, there are 21 counties that grant the low income, long-time resident assessed value exemption, totaling \$451,574,217 in exempt taxable value; in addition, 13 counties contain at least one municipality that granted the exemption for 2015, totaling \$179,894,174 in exempt taxable value.<sup>15</sup> The table below illustrates the number of exemptions and exempt taxable value.

County	County Exemption		Municipal Exemptions <sup>16</sup>	
	Count	Value	Count	Value
Bay	162	\$ 9,280,441	16	\$ 905,558
Broward		not authorized	475	\$ 19,337,090
Clay		not authorized	25	\$ 1,749,144
Columbia	35	\$ 1,868,732		
Miami-Dade	7,834	\$ 225,040,488	9,552	\$ 110,750,383
Escambia	426	\$ 13,377,459	57	\$ 1,971,205
Flagler	100	\$ 6,838,060		
Gilchrist	91	\$ 3,375,107		
Gulf	11	\$ 347,459		
Hernando	208	\$ 8,114,775		
Hillsborough	3,338	\$ 107,063,281	1,228	\$ 31,333,626
Jackson	5	\$ 445,624		
Lake	128	\$ 4,145,690		
Lee	233	\$ 7,302,100		
Leon	347	\$ 12,899,214	406	\$ 6,336,193
Madison	18	\$ 1,028,706		
Manatee	0	\$0	1	\$ 109,302
Monroe	33	\$ 1,056,766	8	\$ 115,872
Nassau	37	\$ 3,838,427		
Orange	171	\$ 10,612,072		
Putnam	716	\$ 18,442,634	121	\$ 2,203,715
Santa Rosa	31	\$ 2,398,682	5	\$ 427,564
Volusia	576	\$ 14,098,500	144	\$ 4,092,780
Walton		not authorized	14	\$561,742
<b>Total</b>	<b>14,539</b>	<b>\$ 451,574,217</b>	<b>12,052</b>	<b>\$ 179,894,174</b>

<sup>9</sup> Section 196.075, F.S.

<sup>10</sup> Section 196.075(4), F.S.

<sup>11</sup> Section 196.075(3), F.S.

<sup>12</sup> 26 U.S.C. s. 62.

<sup>13</sup> Section 196.075(1)(b), F.S.

<sup>14</sup> Section 196.075(4)(d), F.S.

<sup>15</sup> Revenue Estimating Conference, Impact Conference, Homestead Exemption up to \$250,000: HJR 275/HB 277 (October 16, 2015).

<sup>16</sup> The municipal exemption column is incomplete because some municipalities did not report the information; also, certain municipalities grant the exemption but no one has applied or is eligible.

Individuals who previously qualified for the 65 and older, low income, long-term residents exemption will lose the exemption if:

- They no longer maintain their homestead on the property,
- Their income exceeds the income limitation, or
- The just value of their homestead increases above the \$250,000 cap, either because of changes in the market or because of additions and improvement made to the homestead.

### **Effect of Proposed Changes**

The bill amends s. 196.075(2), F.S., to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption. The effect of the amendment is to allow a 65 or older, low-income, long-time resident to continue receiving the exemption if the homestead's just value rises above \$250,000 either due to changes in the market or because of additions or improvements made to the property.

In addition, individuals who were granted the exemption in prior years, but became ineligible for the exemption because the just value of the individual's homestead rose above \$250,000, may regain the exemption by reapplying for the exemption. The just value determination for such person shall be the just value as determined in the first tax year that the owner applied for and was eligible for the exemption, regardless of the current just value of his or her homestead property.

Individuals who received the exemption prior to the effective date of the bill may apply to the tax collector for a refund, pursuant to s. 197.182, for any prior year in which the exemption was denied solely because the just value of the homestead property was greater than \$250,000. The refund for a given year is equal to the difference between the previous tax liability for that year without the exemption and their tax liability with the exemption.

The bill is effective January 1, 2017, if CS/HJR 275 or a similar joint resolution is approved by the voters, and operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

#### **B. SECTION DIRECTORY:**

- Section 1. Amends s. 196.075(2), F.S., to limit the just value determination for the exemption.
- Section 2. Provides when the just value determination is made for a person who received the exemption under s. 196.075(2)(b), F.S., prior to the effective date of this act.
- Section 3. Provides that certain persons may apply to the tax collector for a refund for prior year exemption denials.
- Section 4. Provides an effective date and retroactive applicability.

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

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

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

On October 16, 2015, the Revenue Estimating Conference determined the bill has an indeterminate fiscal impact due to the requirement for a statewide referendum to approve CS/HJR 275, and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

However, if CS/HJR 275 is approved in the referendum, and if all counties and municipalities currently allowing the exemption continue to do so, the conference estimated the impact on local government revenues would be -\$0.5 million in Fiscal Year 2017-18, growing to -\$1.2 million in Fiscal Year 2020-21. If all counties and municipalities in the state were to adopt the exemption as amended by this legislation, the estimated statewide impact (excluding school and special district levies, which are not authorized to grant this exemption) is -\$1.6 million in 2017-18, growing to -\$4.2 million in 2020-21.<sup>17</sup>

The above estimates assume current millage rates and do not include any impacts of the retroactive provisions of the proposal.

**2. Expenditures:**

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

If the bill becomes law, certain long-time residents could maintain property tax relief regardless of increases in the just value of the homestead property due to either changing market conditions or because of additions or improvements made to the property. Further, a resident that lost the exemption (because the just value of his or her property rose above \$250,000) may regain the exemption if he or she is otherwise qualified.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not provide authority or require implementation by administrative agency rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On November 5, 2015, the Finance & Tax Committee adopted a strike all amendment which revised the bill to:

- clarify the tax year in which the just value of the property is determined,
- provide that the just value determination for a person who received the exemption prior to the effective date of the bill is made when such person first applied for the exemption, regardless of the current just value,
- provide that certain persons may apply to the tax collector for a refund for prior year exemption denials,
- provide an effective date, and
- provide that the bill operates retroactively for any person who received the exemption prior to January 1, 2017.

This analysis is written to CS/HB 277.

1                                   A bill to be entitled  
 2           An act relating to a county and municipality homestead  
 3           tax exemption; amending s. 196.075, F.S.; revising the  
 4           homestead tax exemption that may be adopted by a  
 5           county or municipality by ordinance for the assessed  
 6           value of property with a just value less than \$250,000  
 7           which is owned by persons age 65 or older who meet  
 8           certain residence and income requirements; specifying  
 9           that just value shall be determined in the first tax  
 10          year that the owner applies and is eligible for the  
 11          exemption; providing for a refund of overpaid taxes in  
 12          prior years; providing retroactive applicability;  
 13          providing a contingent effective date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1. Subsection (2) of section 196.075, Florida  
 18           Statutes, is amended to read:

19           196.075 Additional homestead exemption for persons 65 and  
 20           older.—

21           (2) In accordance with s. 6(d), Art. VII of the State  
 22           Constitution, the board of county commissioners of any county or  
 23           the governing authority of any municipality may adopt an  
 24           ordinance to allow either or both of the following additional  
 25           homestead exemptions:

26           (a) Up to \$50,000 for a ~~any~~ person who has the legal or

27 equitable title to real estate and maintains thereon the  
 28 permanent residence of the owner, who has attained age 65, and  
 29 whose household income does not exceed \$20,000. ~~+ or~~

30 (b) The amount of the assessed value of the property for a  
 31 ~~any~~ person who has the legal or equitable title to real estate  
 32 with a just value less than \$250,000, as determined in the first  
 33 tax year that the owner applies and is eligible for the  
 34 exemption, and who has maintained thereon the permanent  
 35 residence of the owner for at least 25 years, who has attained  
 36 age 65, and whose household income does not exceed the income  
 37 limitation prescribed in paragraph (a), as calculated in  
 38 subsection (3).

39 Section 2. For purposes of s. 196.075(2)(b), Florida  
 40 Statutes, as amended by this act, the just value determination  
 41 for a person who received the exemption under s. 196.075(2)(b),  
 42 Florida Statutes, before the effective date of this act shall be  
 43 the just value as determined in the first tax year that the  
 44 owner applied and was eligible for the exemption before the  
 45 effective date of this act. Such person may reapply for the  
 46 exemption in subsequent years, regardless of the current just  
 47 value of his or her homestead property.

48 Section 3. For purposes of s. 196.075(2)(b), Florida  
 49 Statutes, as amended by this act, a person who received the  
 50 exemption under s. 196.075(2)(b), Florida Statutes, before the  
 51 effective date of this act may apply to the tax collector for a  
 52 refund, pursuant to s. 197.182, Florida Statutes, for any prior

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53 year in which the exemption was denied solely because the just  
54 value of the homestead property was greater than \$250,000. The  
55 refund for any year shall be equal to the difference between the  
56 previous tax liability for that year without the exemption and  
57 the tax liability with the exemption.

58 Section 4. This act shall take effect on the same date  
59 that CS/HJR 275 or a similar joint resolution having  
60 substantially the same specific intent and purpose takes effect,  
61 if such joint resolution is approved by the electors at the  
62 general election to be held in November 2016, and shall apply  
63 retroactively to the 2013 tax roll for any person who received  
64 the exemption under s. 196.075(2)(b) before the effective date  
65 of this act.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 461 Location of Utilities
SPONSOR(S): Ingram
TIED BILLS: IDEN./SIM. BILLS: CS/SB 416

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) Local Government Affairs Subcommittee, Darden, Miller. Row 2: 2) Appropriations Committee.

SUMMARY ANALYSIS

Consistent with common law, Florida statute provides for a utility to bear the costs of relocating its facilities located "upon, under, over, or along" any public road or rail corridor if the facilities "unreasonably interfere[] in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion" of the road or rail corridor.

The bill would provide an additional exemption to the general rule requiring utilities to bear the cost for relocating their facilities. The bill requires the Department of Transportation (DOT) or the local government entity to pay for the relocation of utility facilities if the facilities are located within an existing and valid public utility easement granted by recorded plat.

The bill limits the authority of the county to grant licenses for utility facilities to only those facilities located "under, on, over, across, or within the right-of-way limits of," but not "along," a county highway or public road or highway.

The bill limits the authority of DOT and local government entities to prescribe and enforce reasonable rules and regulations relating the placement or maintenance of utility facilities to those located "under, on, over, across, or within the right-of-way limits of," but not "along," a county highway or public road or highway.

The bill may have an indeterminate negative fiscal impact on state and local government expenditures, to the extent these entities engage in road and rail projects requiring utility relocations.

The bill is effective upon becoming law.

The municipality/county mandates provision of Art. VII, s. 18 of the Florida Constitution may apply. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

Public roads, highways, and rail corridors, as well as water, sewer, gas, power, telephone, television, and other utilities, play an essential role in our daily lives. Originally, the streets throughout our country were “laid out for the horse and buggy age” and, with time, they became “too narrow for the present traffic conditions.”<sup>1</sup> Over time, streets were expanded to accommodate traffic and, even today, streets require expansion to accommodate evolving traffic needs. Rather than acquiring separate easements from private landowners, government authorities historically have allowed utilities to lay their lines and facilities within public rights-of-way and utility easements. Under current law regarding the platting of real property,<sup>2</sup> every plat offered for recording must include a dedication by all owners of record of the land to be subdivided.<sup>3</sup> Once a plat is recorded in compliance with the statute, all streets, rights-of-way, alleys, easements, and public areas shown on the plat are deemed dedicated for public use, for the uses and purposes thereon stated, unless otherwise stated.<sup>4</sup>

Historically, utilities have been required to pay to relocate lines or facilities located within property held for the public's benefit when relocation is required for a public project. For example, in 1905 the U.S. Supreme Court held that a gas utility company, which had an agreement providing it would make reasonable changes when directed by the City of New Orleans, was not entitled to be compensated for relocating certain lines located within streets and alleys in order for the city to develop a drainage system.<sup>5</sup> Similarly, in 1906 the Florida Supreme Court explained that it is a “rule well settled in the law [that with any] grant to individuals and corporations [of] the privilege of occupying the streets and public ways for lawful purposes, such as railroad tracks, poles, wires, and gas and water pipes, such rights are at all times held in subordination to the superior rights of the public, and all necessary and desirable police ordinances, that are reasonable, may be enacted and enforced to protect the public health, safety, and convenience, notwithstanding the same may interfere with legal franchise rights.”<sup>6</sup>

Accordingly, in 1935, the U.S. Supreme Court held that a utility, which had purchased a right-of-way for pipes and auxiliary telephone lines, had purchased a private right-of-way, or private easement, which the court held was land subject to compensation by the authority seeking to build a highway across it.<sup>7</sup>

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<sup>1</sup> *Ridgefield Land Co. v. City of Detroit*, 217 N.W. 58, 59 (Mich. 1928).

<sup>2</sup> Current law provides that every plat submitted to the approving agency of a local governing body must be accompanied by a boundary survey of the platted lands, as well as a title opinion of an attorney-at-law licensed in Florida or a certification by an abstractor or a title company, as specified by statute. Section 177.041, F.S. Prior to approval by the appropriate governing body, the plat must be reviewed for conformity to the governing statutes by a professional surveyor and mapper either employed by or under contract to the local governing body, the costs of which must be borne by the legal entity offering the plat for recordation, and evidence of such review must be placed on such plat. Section 177.081(1), F.S.

<sup>3</sup> Section 177.081(3), F.S. As used in chapter 177, F.S., “[e]asement’ means any strip of land created by a subdivider for public or private utilities, drainage, sanitation, or other specified uses having limitations, the title to which shall remain in the name of the property owner, subject to the right of use designated in the reservation of the servitude.” Section 177.031(7)(a), F.S. “Right-of-way’ means land dedicated, deeded, used, or to be used for a street, alley, walkway, boulevard, drainage facility, access for ingress and egress, or other purpose by the public, certain designated individuals, or governing bodies.” Section 177.031(16), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *New Orleans Gaslight Co. v. Drainage Comm’n of New Orleans*, 197 U.S. 453, 454 (1905).

<sup>6</sup> *Anderson v. Fuller*, 41 So. 684, 688 (Fla. 1906).

<sup>7</sup> *Panhandle Eastern Pipe Line Co. v. State Highway Comm’n of Kansas*, 294 U.S. 613 (1935). See *City of Grand Prairie v. Am. Tel & Tel. Co.*, 405 F.2d 1144, 1146 (5<sup>th</sup> Cir. 1969) (holding the common law rule that a utility pay for relocation did not apply where the utility facilities were located within a private easement acquired long prior to planning and laying out and construction of a street). See *Bonner v. Prichard*, 661 F.2d 1206, 1209 (11<sup>th</sup> Cir. 1981) (en banc) (the Eleventh Circuit Court of Appeals has adopted all of the decisions of the former Fifth Circuit decided prior to October 1, 1981).

In 1983, the U.S. Supreme Court reaffirmed the common-law principle that a utility forced to relocate from a public right-of-way must do so at its own expense.<sup>8</sup>

In 2014, the Florida Second District Court of Appeal (Second DCA) ruled that the requirement for utilities to pay for relocation within a right-of-way is well established in the common law<sup>9</sup> and, absent another arrangement by agreement between a governmental entity and the utility, or a statute dictating otherwise, this common law principle governs.<sup>10</sup> This case involved a platted public utility easement, six feet or less on each side of the boundary for each home site in the subdivision, in which the electric utility had installed lines and other equipment.<sup>11</sup> The municipality and the utility had a franchise agreement granting the utility the right to operate its electric utility in the public easement, but the agreement did not address who would be responsible for the cost of moving the utility's equipment if the municipality required the utility to do so. The Second DCA held that the utility would bear the cost of moving a utility line located within a public utility easement to another public utility easement as part of the municipality's expansion of an existing road.<sup>12</sup>

### Utility Use of Public Lands

Various provisions of Florida law establish the authority of utilities to place their facilities on or beside public property. Chapter 361, F.S., establishes eminent domain rights over public and private property for companies that construct, maintain, or operate public works, such as water, sewer, wastewater reuse, natural gas, and electric utilities.<sup>13</sup> Through eminent domain, a utility acquires the property at issue.

Other provisions of law establish the authority of telecommunications companies to place their facilities along public roads or in the public right-of-way without acquiring the property. For example, s. 362.01, F.S., authorizes any telegraph or telephone company to "erect posts, wires and other fixtures for telegraph or telephone purposes on or beside any public road or highway" provided that this does not "obstruct or interfere with the common uses of said roads and highways." Permission to occupy the streets of an incorporated city or town must be obtained by the city or town council. In addition, s. 610.104, F.S., provides that a cable or video service provider granted a statewide franchise is authorized to "construct, maintain, and operate facilities through, upon, over, and under any public right-of-way ... subject to the applicable governmental permitting."

### Statutory Responsibility for Cost of Removal or Relocation of Utility Facilities

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<sup>8</sup> *Norfolk Redevelopment & Hous. Auth. v. Chesapeake & Potomac Tele. Co. of Va.*, 464 U.S. 30, 35 (1983).

<sup>9</sup> *Lee County Electric Coop., Inc. v. City of Cape Coral*, 159 So. 3d 126, 130 (Fla. 2d DCA 2014), *cert. denied*, 151 So. 3d 1226 (Fla. 2014), quoting *Norfolk Redevelopment & Hous. Auth. v. Chesapeake & Potomac Tel. Co. of Va.*, 464 U.S. 30, 35 (1983).

<sup>10</sup> *Id.* at 130-31.

<sup>11</sup> "A right-of-way is not the same thing as an easement. The term 'right-of-way' has been construed to mean ... a right of passage over the land of another.... It does not necessarily mean a legal and enforceable incorporeal [or intangible] right such as an easement." *City of Miami Beach v. Carner*, 579 So. 2d 248, 253 (Fla. 3d DCA 1991) (citation & internal quotation marks omitted). An easement gives someone else a reserved right to use property in a specified manner. See *Seminole Civic Ass'n v. Adkins*, 604 So. 2d 523, 527 (Fla. 5th DCA 1992) ("[E]asements are mere rights to make certain limited use of lands and at common law, they did not have, and in the absence of contractual provisions, do not have, obligations corollary to the easement rights."). An easement "does not involve title to or an estate in the land itself." *Estate of Johnston v. TPE Hotels, Inc.*, 719 So. 2d 22, 26 (Fla. 5th DCA 1998) (citations omitted).

<sup>12</sup> *Lee County Electric Coop., Inc.*, supra n. 9. In reaching this conclusion, the Second DCA distinguished *Panhandle E. Pipe Line Co.*, noting that case concerned "a private easement the utility purchased from a property owner, rather than pursuant to a franchise agreement that allows the utility to use public property." *Lee County Electric Coop., Inc.*, 159 So. 3d at 129. The Second DCA in its opinion also distinguished an earlier Second DCA case, *Pinellas County v. General Tel. Co. of Fla.*, 229 So. 2d 9 (Fla. 2d DCA 1969). In *Pinellas County*, the court determined that the county had to pay for "attempt[ing] to eliminate General Telephone's franchise and forc[ing] it to relocate its facilities." The court stated that the ruling in *Pinellas County* could not be dispositive in *Lee County* since it was both unclear whether the payment ordered by the court was for the termination of the franchise agreement or the cost of relocating utility lines, and that the court in *Pinellas County* used language suggesting the franchise agreement may have had the City of St. Petersburg to pay for the cost of relocation.

<sup>13</sup> See also s. 362.02, F.S. (telegraph and telephone companies are granted eminent domain powers to construct, maintain, and operate their lines along and upon the railroad right-of-way, provided that it does not interfere with the ordinary use of the railroad).

Since 1957, Florida law expressly has provided that in the event of widening, repair, or reconstruction of a county's public road or highway,<sup>14</sup> the licensee must move or remove the lines at no cost to the county.<sup>15</sup> In 2009, that requirement was made subject to s. 337.403(1)(e), F.S.<sup>16</sup> In 2014, it was made subject to an additional requirement that the county find the utility is "unreasonably interfering" with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor.<sup>17</sup>

Additionally, beginning in 1957, Florida statutorily required utilities to bear the costs of relocating a utility placed upon, under, over, or along any public road<sup>18</sup> that an authority<sup>19</sup> finds unreasonably interferes in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion of the road.<sup>20</sup> In 1994, that law was amended to include utilities placed upon, under, over, or along any publicly owned rail corridor.<sup>21</sup> Current law requires utility owners, upon 30 days' notice, to eliminate the unreasonable interference within a reasonable time or an agreed time, at their own expense.<sup>22</sup> However, since 1987, numerous exceptions to the general rule that the utility bear the costs under these circumstances have been statutorily carved out.<sup>23</sup> These exceptions include:

- When the project is on the federal aid interstate system and federal funding is identified for at least 90 percent of the cost, DOT pays for the removal or relocation with federal funds.<sup>24</sup>
- When utility work is performed as part of a transportation facility construction contract, DOT may participate in those costs in an amount limited to the difference between the official estimate of all the work in the agreement plus 10 percent of the amount awarded for the utility work in the construction contract.<sup>25</sup>
- When utility work is performed in advance of a construction contract, DOT may participate in the cost of clearing and grubbing necessary for relocation.<sup>26</sup>
- If the utility being removed or relocated was initially installed to serve an authority or its tenants, or both, the authority bears the cost of the utility work but is not responsible for the cost of removal or relocation of any subsequent additions to the facility for the purpose of serving others.<sup>27</sup>
- If, in an agreement between the utility and an authority entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority without the agreement expressly addressing future responsibility for cost of removal or relocation the authority bears the cost of the utility work, but nothing impairs or restricts, or may be used to interpret, the terms of any agreement entered into prior to July 1, 2009.<sup>28</sup>

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<sup>14</sup> In this context, "road" means "a way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith." Section 334.03(22), F.S.

<sup>15</sup> Chapter 57-777, s. 1, Laws of Fla., now codified at s. 125.42(5), F.S.

<sup>16</sup> Chapter 2009-85, s. 2, Laws of Fla., now codified at s. 125.42(5), F.S. Section 337.403(1)(e), F.S. requires the authority to pay for relocation costs if the utility, in an agreement entered into after July 1, 2009, conveyed, subordinated, or relinquished a property right to the authority for the purpose of accommodating the use or acquisition of a right-of-way.

<sup>17</sup> Chapter 2014-169, s. 1, Laws of Fla., now codified at s. 125.42, F.S.

<sup>18</sup> See definition of "road" in n. 14.

<sup>19</sup> "[A]uthority" means DOT and local governmental entities. s. 337.401(1), F.S.

<sup>20</sup> Chapter 57-1978, s. 1, Laws of Fla., now codified at s. 337.403, F.S.

<sup>21</sup> Chapter 1994-247, s. 28, Laws of Fla., now codified at s. 337.403, F.S.

<sup>22</sup> Section 337.403, F.S.

<sup>23</sup> Section 337.403(1)(a)-(i), F.S.

<sup>24</sup> Chapter 1987-100, s. 12, Laws of Fla., now codified at s. 337.403(1)(a), F.S.

<sup>25</sup> Chapter 1987-100, s. 12, Laws of Fla., now codified at s. 337.403(1)(b), F.S.

<sup>26</sup> Chapter 1999-385, s. 25, Laws of Fla., now codified at s. 337.403(1)(c), F.S.

<sup>27</sup> Chapter 2009-85, s. 10, Laws of Fla., now codified at s. 337.403(1)(d), F.S.

<sup>28</sup> Chapter 2009-85, s. 10, Laws of Fla., now codified at s. 337.403(1)(e), F.S.

- If the utility is an electric facility being relocated underground to enhance vehicular, bicycle, and pedestrian safety, and if ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past five years, DOT bears the cost of the necessary utility work.<sup>29</sup>
- An authority may bear the cost of utility work when the utility is not able to establish a compensable property right in the property where the utility is located:
  - If the utility was physically located on the particular property before the authority acquired rights in the property,<sup>30</sup>
  - The information available to the authority does not establish the relative priorities of the authority's and the utility's interest in the property,<sup>31</sup> and
  - The utility demonstrates that it has a compensable property right in all adjacent properties along the alignment of the utility<sup>32</sup> or, pursuant to a 2014 amendment, after due diligence, the utility certifies that it does not have evidence to prove or disprove it has a compensable property right in the particular property where the utility is located.<sup>33</sup>
- If a municipally-owned or county-owned utility is located in a rural area of critical economic concern<sup>34</sup> and DOT determines that the utility is unable, and will not be able within the next 10 years, to pay for the cost of utility work necessitated by a DOT project on the State Highway System, DOT may pay, in whole or in part, the cost of such utility work performed by DOT or its contractor.
- If the relocation of utility facilities is needed for the construction of a commuter rail service project or an intercity passenger rail service project, and the cost of the project is reimbursable by the Federal Government, then the utility that owns or operates the facilities located by permit on a DOT owned rail corridor shall perform all necessary utility relocation work after notice from DOT, and DOT must pay the expense for the utility relocation work in the same proportion as Federal funds are expended on the rail project after deducting any increase in the value of a new facility and any salvage value derived from an old facility.<sup>35</sup>

Also, in 2014, the Legislature clarified the 2009 exception that requires an authority to bear the costs to relocate a utility facility that was initially installed to exclusively serve the authority or its tenants. Under this clarification, if the utility facility was installed in the right-of-way to serve a county or municipal facility on property adjacent to the right-of-way and the county or municipal facility is intended to be used for purposes other than transportation purposes, the county or municipality is obligated to pay only for the utility work done outside the right-of-way.<sup>36</sup>

Florida statutory law is silent as to cost responsibility for relocation of utility facilities located on or along public roads or rights-of-way in circumstances other than those identified above. The U.S. Supreme Court, in reaffirming the common-law principle related to cost responsibility for utility relocation, has noted that “[i]t is a well-established principle of statutory construction that ‘[t]he common law ... ought not to be deemed repealed, unless the language of a statute be clear and explicit for this purpose.’”<sup>37</sup> Thus, in circumstances not explicitly addressed in Florida statutory law, the courts may apply the

<sup>29</sup> Chapter 2009-85, s.10, Laws of Fla., now codified at s. 337.403(1)(f), F.S.

<sup>30</sup> Chapter 2012-174, s. 35, Laws of Fla., now codified at s. 337.403(1)(g)1., F.S.

<sup>31</sup> Chapter 2012-174, s. 35, Laws of Fla., now codified at s. 337.403(1)(g)3., F.S.

<sup>32</sup> Chapter 2012-174, s. 35, Laws of Fla., now codified at s. 337.403(1)(g)2., F.S.

<sup>33</sup> Chapter 2014-169, s. 5, Laws of Fla., now codified at s. 337.403(1)(g)2., F.S.

<sup>34</sup> Section 288.0656(2)(d) defines “rural area of critical economic concern” as “a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.”

<sup>35</sup> Chapter 2014-169, s. 5, Laws of Fla., now codified at s. 337.403(1)(i), F.S. The exception expressly provides that in no event is the state required to use state dollars for such utility relocation work and that it does not apply to any phase of the Central Florida Rail Corridor project known as SunRail. Section 337.403(1)(i), F.S.

<sup>36</sup> ch. 2014-169, s. 5, Laws of Fla., now codified at s. 337.403(1)(d), F.S.

<sup>37</sup> *Norfolk Redevelopment & Hous. Auth.*, 464 U.S. at 35 (1983), quoting *Fairfax's Devisee v. Hunter's Lessee*, 11 U.S. (7 Cranch) 603, 623, 3 L. Ed. 453 (1812).

common law principle requiring a utility to pay for relocation of its facilities as required by a governmental authority, absent an agreement otherwise or the presence of a private utility easement.

### Specific Grant of Authority to Counties to Issue Licenses to Utilities

Section 125.42, F.S., gives counties the specific authority to grant a license to any person or private corporation to construct, maintain, repair, operate, and remove, within the unincorporated areas of a county, water, sewage, gas, power, telephone, other utility, and television transmission lines located under, on, over, across and *along* any county roads or highways.<sup>38</sup> The “under, on, over, across and along” county roads or highway language has been in the statute since 1947.<sup>39</sup>

In *Lee County Electric Cooperative, Inc. v. City of Cape Coral*, the court interpreted the term “along,” as used in s. 337.403, F.S., in determining who would bear the burden of the cost of moving a utility line.<sup>40</sup> The interpretation of “along” informs its similar use in ss. 125.42 and 337.401, F.S.<sup>41</sup> The court determined that s. 337.403, F.S., codified common law and, applying the statute, the utility was responsible for bearing the costs of relocation.<sup>42</sup> The court did not find any “cases interpreting the ‘along’ the road portion of the statute,” but determined the statutory language was clear, holding that “[t]he utility lines at issue . . . were located ‘along’ the road and they were ‘interfering’ with the City’s ‘expansion’ of the road.”<sup>43</sup>

### Specific Grant of Authority to Regulate the Placement and Maintenance of Utility Facilities

Chapter 337, F.S., relates to public contracts and the acquisition, disposal, and use of property.<sup>44</sup> In relation to the placement and maintenance of utility facilities along, across, or on any public road or publicly owned rail corridor, current law authorizes the DOT and local governmental entities<sup>45</sup> to prescribe and enforce reasonable rules or regulations.<sup>46</sup> “Utility” in this context means any electric transmission, telephone, telegraph, or other communication services lines; pole lines; poles; railways; ditches; sewers; water, heat or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures the statute refers to as a “utility.”<sup>47</sup> Florida local governments have enacted ordinances regulating utilities located within city rights-of-way or easements.<sup>48</sup>

### Effect of Proposed Changes

The bill revises several statutory provisions related to the placement and relocation of utility facilities. In general, the bill changes references to utility facilities located *along* public roads and publicly owned rail corridors to utility facilities located *within the right-of-way limits of* such roads and rail corridors. These changes specify the circumstances under which a utility must pay to remove or relocate its facilities (s. 337.403, F.S.), limit the authority of a county to grant licenses for utility transmission lines (s. 125.42, F.S.), and limit the authority of DOT and local governmental entities to prescribe and enforce rules or regulations relating to the placement or maintenance of utility facilities (s. 337.401, F.S.).

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<sup>38</sup> Section 125.42, F.S.

<sup>39</sup> Chapter 23850, ss. 1-3, Laws of Fla., now codified at s. 125.42, F.S.

<sup>40</sup> *Lee County Electric Coop., Inc. v. City of Cape Coral*, 159 So. 3d 126 (Fla. 2d DCA 2014), *cert. denied*, 151 So. 3d 1226 (Fla. 2014).

<sup>41</sup> “When a court interprets a statute, it is axiomatic that all parts of a statute must be read together in order to achieve a consistent whole [and], whenever possible, . . . give full effect to all statutory provisions and construe related statutory provisions in harmony with one another.” *Almerico v. RLI Ins.*, 716 So. 2d 774, 779, n.7 (Fla. 1998) (citations & internal quotation marks omitted).

<sup>42</sup> *Lee County Electric Coop., Inc., supra n. 45*, at Part II of the opinion.

<sup>43</sup> *Id.* at 132.

<sup>44</sup> Sections 337.015 - 337.409, F.S.

<sup>45</sup> These are referred in ss. 337.401-337.404, F.S., as an “authority.” s. 337.401(1)(a), F.S.

<sup>46</sup> Section 337.401, F.S.,

<sup>47</sup> Section 337.401(1)(a), F.S.

<sup>48</sup> See City of Cape Coral Code of Ordinances, Ch. 25; City of Jacksonville Code of Ordinances, Title XXI, Ch. 711; City of Orlando Code of Ordinances, Ch. 23.

## Statutory Responsibility for Cost of Removal or Relocation of Utility Facilities

The bill limits a utility's responsibility to pay for the removal or relocation of its facilities that unreasonably interfere with the convenient, safe, or continuous use of, or the maintenance, improvement, extension, or expansion of, a public road or publicly owned rail corridor to only those facilities located *upon, under, over, or within the right-of-way limits of* the road or rail corridor, but not *along* the road or rail corridor. Thus, the bill draws a clearer distinction between utility facilities located within the right-of-way and those located outside the right-of-way but within a dedicated public utility easement.

This distinction is reinforced by the addition of an exception which requires DOT or the local government authority to pay for the relocation of facilities that unreasonably interfere with the convenient, safe, or continuous use of, or the maintenance, improvement, extension, or expansion of, a public road or publicly owned rail corridor where the facilities are located within a utility easement granted by recorded plat, regardless of whether such land was subsequently acquired by the authority by dedication, transfer of fee, or otherwise. To the extent an authority is required to bear the cost of relocating a utility, the bill provides that the authority shall pay the entire expense properly attributable to such work after deducting any increase in the value of a new facility and any salvage value derived from an old facility.

By eliminating the reference to facilities "along" a public road or publicly owned rail corridor and providing a specific exemption for the relocation of utilities located in a public utility easement, this provision removes the precedential effect of the *Lee County* case on facilities similarly located in public utility easements along a road or rail corridor but outside the right-of-way. Thus, the bill appears to shift cost responsibility in these instances to the governmental authority.

It is not clear how the provisions of the bill will impact utility relocation cost sharing as a practical matter. Utility representatives assert that local government authorities routinely pay to relocate utility facilities under current law. While local government representatives do not dispute this point, they assert these payments are made pursuant to negotiated agreements and for the purpose of efficiency in completing projects.

While the cost responsibility for many projects apparently is negotiated on a case-by-case basis, it is difficult to identify a clear and consistent prior practice upon which to determine the full, practical impact of this provision in the bill. However, to the extent these circumstances were previously resolved by negotiation between utility providers and local government entities, this bill could impact such negotiations. Responses to a survey by the Florida League of Cities suggest relocations from public utility easements are an uncommon occurrence, consistent with the position of utility representatives. Several municipalities reported one or fewer relocations from public utility easements in the recent past.<sup>49</sup> Two municipalities estimated the percentage of total city projects involving public utility easements, which was less than 5 percent in both cases.<sup>50</sup> A few municipalities, however, stated that relocations from public utility easements represented more than 20 percent of their projects.<sup>51</sup>

## Specific Grant of Authority to Counties to Issue Licenses to Utilities

The bill provides that the authority of a county to grant a license to construct, maintain, repair, operate, or remove, within the unincorporated areas of the county, lines for the transmission of water, sewage,

<sup>49</sup> Utility Relocation Information Request Survey, Florida League of Cities (conducted electronically July 14, 2015 to Sept. 14, 2015). *E.g.* City of Archer (none in last 5 years), City of Lake Wales (none in last 12 years), City of North Miami Beach (1 in last 16 years), City of Palm Bay (1 in last 8 years).

<sup>50</sup> *Id.* City of Clearwater ("5% of Clearwater's projects involve public utility easements"); City of Fort Walton Beach ("only 2% [of city projects] lie within a utility easement.")

<sup>51</sup> *Id.* City of South Daytona ("20% of our relocation projects [are] within a public easement"); City of Deerfield Beach ("2 [of 4] utility relocation projects [last year] ... were located within a public utility easement[.]").

gas, power, telephone, other utility, television lines, and other communications services<sup>52</sup> is limited to those lines located *under, on, over, across, or within the right-of-way limits* of any county roads or highways.<sup>53</sup> Accordingly, this change removes a county's authority to grant licenses for such lines running *along* a road or highway, but not within the actual right of way, which may include a public utility easement.

### Specific Grant of Authority to Regulate the Placement and Maintenance of Utility Facilities

The bill narrows the authority of DOT and local governmental entities to prescribe and enforce reasonable rules or regulations in relation to the placing and maintaining of electric transmission, telephone, telegraph, or other communication services lines; pole lines; poles; railways; ditches; sewers; water, heat or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to as a utility, to the placement or maintenance of such utilities *across, on, or within the right-of-way limits* of any public road or publicly owned rail corridors.<sup>54</sup> By changing the language to "right-of-way," the bill removes the authority of DOT and local governments to prescribe and enforce reasonable rules and regulations regarding the placement and maintenance of the foregoing utilities *along* a public road or rail corridor, which may include a public utility easement. The bill also changes the expression "other structures referred to as a utility" to include structures referred to in ss. 337.402-337.404, F.S.<sup>55</sup>

### Finding of Important State Interest

The bill provides the following legislative finding:

The Legislature finds that a proper and legitimate state purpose is served by clarifying a utility's responsibility for relocating its facilities within a utility easement granted by recorded plat. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

#### B. SECTION DIRECTORY:

- Section 1: Amends s. 125.42, F.S., relating to water, sewage, gas, power, telephone, other utility and television line licenses.
- Section 2: Amends s. 337.401, F.S., relating to rules or regulations concerning specified structures within public roads or rail corridors.
- Section 3: Amends s. 337.403, F.S., relating to alleviating interference a utility causes to a public road or publicly owned rail corridor.
- Section 4: Provides a legislative finding that the act fulfills an important state interest.
- Section 5: Provides an effective date upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

- 1. Revenues:  
None.

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<sup>52</sup> The bill adds "other communications services" to the list of utilities in current law.

<sup>53</sup> Section 125.42(1), F.S.

<sup>54</sup> Current law references placement and maintenance "along, across, or on" any road or publicly owned rail corridors, rather than the "right-of-way of" any road or publicly owned rail corridors. Section 337.401(1)(a), F.S.

<sup>55</sup> Current law includes only those other structures referred to in s. 337.401, F.S., as a "utility," which includes "any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps." Section 337.401(1)(a), F.S.

2. Expenditures:

In its analysis, DOT indicates the bill will have an indeterminate negative impact on state government expenditures to the extent the costs associated with moving utilities are no longer covered by the utility company.<sup>56</sup> The analysis also notes that the bill could result in adjustments to the DOT Work Program, to the extent funds are expended on utility relocations.<sup>57</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

In its analysis, DOT stated the bill would have an indeterminate negative impact on local government expenditures. Several local government entities have provided projections of increased costs that would result from the bill. These projections include:

- City of Cape Coral, three road projects, \$4,131,492.<sup>58</sup>
- City of St. Petersburg Water Resources Department, sewer infrastructure, \$106,556 per year.<sup>59</sup>
- City of Port St. Lucie, completion of Crosstown Parkway Extension Project, between \$200,000 and \$600,000.<sup>60</sup>
- City of North Port<sup>61</sup> and the City of South Daytona<sup>62</sup> stated the bill would increase their expenditures, but did not provide a projected amount.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. By requiring DOT or local government entities to bear the cost of relocation for facilities located in public utility easements, the bill would appear to reduce costs for utilities. Representatives of the utility industry assert the bill conforms the statute to established practice prior to the *Lee County* decision, thus protecting them from costs previously borne by local governments. Local government representatives assert that costs previously were negotiated on a case-by-case basis. Staff has requested and reviewed information from both utility and local government representatives, but, based on these limited circumstances, can only identify a clear and consistent prior practice of the parties generally relying on negotiated agreements to resolve the payment for relocation of utility facilities from public utility easements.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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<sup>56</sup> Florida Department of Transportation, Agency Analysis of 2016 House Bill 461 (dated November 3, 2015).

<sup>57</sup> *Id.*

<sup>58</sup> Florida League of Cities, *supra* note 49, City of Cape Coral response. It is not clear from response if these costs refer to a past or future project.

<sup>59</sup> Florida League of Cities, *supra* note 49, City of St. Petersburg response.

<sup>60</sup> Florida League of Cities, *supra* note 49, City of Port St. Lucie response.

<sup>61</sup> Florida League of Cities, *supra* note 49, City of North Port response.

<sup>62</sup> City of South Daytona Resolution No. 15-18.

The municipality/county mandates provision of Art. VII, s. 18, of the Florida Constitution may apply since state and local governments would bear the cost of utility relocation from utility easements. However, an exception may apply since the bill applies to both state and local governments.<sup>63</sup>

If the bill does qualify as a mandate and no exemption is applicable, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature. Section 4 of the bill provides a legislative finding that the bill fulfills an important state interest.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

To the extent DOT has any rules affected by this legislation, the agency may need to amend those rules.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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A bill to be entitled  
 An act relating to the location of utilities; amending  
 s. 125.42, F.S.; revising the circumstances under  
 which a board of county commissioners is authorized to  
 grant to a person or private corporation a license for  
 specified projects related to lines for the  
 transmission of certain public utilities and  
 communication services; conforming a cross-reference;  
 amending s. 337.401, F.S.; authorizing the Department  
 of Transportation and certain local governmental  
 entities to prescribe and enforce rules or regulations  
 regarding the placement and maintenance of specified  
 structures and lines within the right-of-way limits of  
 roads or publicly owned rail corridors under their  
 respective jurisdictions; conforming cross-references;  
 amending s. 337.403, F.S.; specifying that the owner  
 of a utility located within certain right-of-way  
 limits must initiate and bear the cost necessary to  
 alleviate any interference to the use of certain  
 public roads or rail corridors under certain  
 circumstances; conforming a cross-reference; requiring  
 the authority to bear the cost of the utility work  
 necessary to eliminate an unreasonable interference if  
 the utility is lawfully located within a certain  
 utility easement, subject to certain deductions;  
 providing findings of an important state interest;

27 providing an effective date.

28

29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. Section 125.42, Florida Statutes, is amended to  
32 read:

33 125.42 Water, sewage, gas, power, telephone, other  
34 utility, and television lines within the right-of-way limits of  
35 ~~along~~ county roads and highways.-

36 (1) The board of county commissioners, with respect to  
37 property located without the corporate limits of any  
38 municipality, is authorized to grant a license to any person or  
39 private corporation to construct, maintain, repair, operate, and  
40 remove lines for the transmission of water, sewage, gas, power,  
41 telephone, other public utilities, ~~and~~ television, or other  
42 communications services as defined in s. 202.11(1) under, on,  
43 over, across, or within the right-of-way limits of ~~and along~~ any  
44 county highway or any public road or highway acquired by the  
45 county or public by purchase, gift, devise, dedication, or  
46 prescription. However, the board of county commissioners shall  
47 include in any instrument granting such license adequate  
48 provisions:

49 (a) To prevent the creation of any obstructions or  
50 conditions which are or may become dangerous to the traveling  
51 public;

52 (b) To require the licensee to repair any damage or injury

53 | to the road or highway by reason of the exercise of the  
 54 | privileges granted in any instrument creating such license and  
 55 | to repair the road or highway promptly, restoring it to a  
 56 | condition at least equal to that which existed immediately prior  
 57 | to the infliction of such damage or injury;

58 |       (c) Whereby the licensee shall hold the board of county  
 59 | commissioners and members thereof harmless from the payment of  
 60 | any compensation or damages resulting from the exercise of the  
 61 | privileges granted in any instrument creating the license; and

62 |       (d) As may be reasonably necessary, for the protection of  
 63 | the county and the public.

64 |       (2) A license may be granted in perpetuity or for a term  
 65 | of years, subject, however, to termination by the licensor, in  
 66 | the event the road or highway is closed, abandoned, vacated,  
 67 | discontinued, or reconstructed.

68 |       (3) The board of county commissioners is authorized to  
 69 | grant exclusive or nonexclusive licenses for the purposes stated  
 70 | herein for television.

71 |       (4) This law is intended to provide an additional method  
 72 | for the granting of licenses and shall not be construed to  
 73 | repeal any law now in effect relating to the same subject.

74 |       (5) In the event of widening, repair, or reconstruction of  
 75 | any such road, the licensee shall move or remove such water,  
 76 | sewage, gas, power, telephone, and other utility lines and  
 77 | television lines at no cost to the county should they be found  
 78 | by the county to be unreasonably interfering, except as provided

79 | in s. 337.403(1)(d)-(j) ~~s. 337.403(1)(d)-(i)~~.

80 | Section 2. Paragraph (a) of subsection (1) of section  
81 | 337.401, Florida Statutes, is amended to read:

82 | 337.401 Use of right-of-way for utilities subject to  
83 | regulation; permit; fees.—

84 | (1)(a) The department and local governmental entities,  
85 | referred to in this section and in ss. 337.402, 337.403, and  
86 | 337.404 ~~ss. 337.401-337.404~~ as the "authority," that have  
87 | jurisdiction and control of public roads or publicly owned rail  
88 | corridors are authorized to prescribe and enforce reasonable  
89 | rules or regulations with reference to the placing and  
90 | maintaining ~~along~~, across, ~~or~~ on, or within the right-of-way  
91 | limits of any road or publicly owned rail corridors under their  
92 | respective jurisdictions any electric transmission, telephone,  
93 | telegraph, or other communications services lines; pole lines;  
94 | poles; railways; ditches; sewers; water, heat, or gas mains;  
95 | pipelines; fences; gasoline tanks and pumps; or other structures  
96 | referred to in this section and in ss. 337.402, 337.403, and  
97 | 337.404 as the "utility." The department may enter into a  
98 | permit-delegation agreement with a governmental entity if  
99 | issuance of a permit is based on requirements that the  
100 | department finds will ensure the safety and integrity of  
101 | facilities of the Department of Transportation; however, the  
102 | permit-delegation agreement does not apply to facilities of  
103 | electric utilities as defined in s. 366.02(2).

104 | Section 3. Subsection (1) of section 337.403, Florida

105 Statutes, is amended to read:

106 337.403 Interference caused by utility; expenses.—

107 (1) If a utility that is placed upon, under, over, or  
 108 within the right-of-way limits of ~~along~~ any public road or  
 109 publicly owned rail corridor is found by the authority to be  
 110 unreasonably interfering in any way with the convenient, safe,  
 111 or continuous use, or the maintenance, improvement, extension,  
 112 or expansion, of such public road or publicly owned rail  
 113 corridor, the utility owner shall, upon 30 days' written notice  
 114 to the utility or its agent by the authority, initiate the work  
 115 necessary to alleviate the interference at its own expense  
 116 except as provided in paragraphs (a)-(j) ~~(a)-(i)~~. The work must  
 117 be completed within such reasonable time as stated in the notice  
 118 or such time as agreed to by the authority and the utility  
 119 owner.

120 (a) If the relocation of utility facilities, as referred  
 121 to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.  
 122 84-627, is necessitated by the construction of a project on the  
 123 federal-aid interstate system, including extensions thereof  
 124 within urban areas, and the cost of the project is eligible and  
 125 approved for reimbursement by the Federal Government to the  
 126 extent of 90 percent or more under the Federal Aid Highway Act,  
 127 or any amendment thereof, then in that event the utility owning  
 128 or operating such facilities shall perform any necessary work  
 129 upon notice from the department, and the state shall pay the  
 130 entire expense properly attributable to such work after

131 deducting therefrom any increase in the value of a new facility  
132 and any salvage value derived from an old facility.

133 (b) When a joint agreement between the department and the  
134 utility is executed for utility work to be accomplished as part  
135 of a contract for construction of a transportation facility, the  
136 department may participate in those utility work costs that  
137 exceed the department's official estimate of the cost of the  
138 work by more than 10 percent. The amount of such participation  
139 is limited to the difference between the official estimate of  
140 all the work in the joint agreement plus 10 percent and the  
141 amount awarded for this work in the construction contract for  
142 such work. The department may not participate in any utility  
143 work costs that occur as a result of changes or additions during  
144 the course of the contract.

145 (c) When an agreement between the department and utility  
146 is executed for utility work to be accomplished in advance of a  
147 contract for construction of a transportation facility, the  
148 department may participate in the cost of clearing and grubbing  
149 necessary to perform such work.

150 (d) If the utility facility was initially installed to  
151 exclusively serve the authority or its tenants, or both, the  
152 authority shall bear the costs of the utility work. However, the  
153 authority is not responsible for the cost of utility work  
154 related to any subsequent additions to that facility for the  
155 purpose of serving others. For a county or municipality, if such  
156 utility facility was installed in the right-of-way as a means to

157 | serve a county or municipal facility on a parcel of property  
 158 | adjacent to the right-of-way and if the intended use of the  
 159 | county or municipal facility is for a use other than  
 160 | transportation purposes, the obligation of the county or  
 161 | municipality to bear the costs of the utility work shall extend  
 162 | only to utility work on the parcel of property on which the  
 163 | facility of the county or municipality originally served by the  
 164 | utility facility is located.

165 |       (e) If, under an agreement between a utility and the  
 166 | authority entered into after July 1, 2009, the utility conveys,  
 167 | subordinates, or relinquishes a compensable property right to  
 168 | the authority for the purpose of accommodating the acquisition  
 169 | or use of the right-of-way by the authority, without the  
 170 | agreement expressly addressing future responsibility for the  
 171 | cost of necessary utility work, the authority shall bear the  
 172 | cost of removal or relocation. This paragraph does not impair or  
 173 | restrict, and may not be used to interpret, the terms of any  
 174 | such agreement entered into before July 1, 2009.

175 |       (f) If the utility is an electric facility being relocated  
 176 | underground in order to enhance vehicular, bicycle, and  
 177 | pedestrian safety and in which ownership of the electric  
 178 | facility to be placed underground has been transferred from a  
 179 | private to a public utility within the past 5 years, the  
 180 | department shall incur all costs of the necessary utility work.

181 |       (g) An authority may bear the costs of utility work  
 182 | required to eliminate an unreasonable interference when the

183 utility is not able to establish that it has a compensable  
 184 property right in the particular property where the utility is  
 185 located if:

186 1. The utility was physically located on the particular  
 187 property before the authority acquired rights in the property;

188 2. The utility demonstrates that it has a compensable  
 189 property right in adjacent properties along the alignment of the  
 190 utility or, after due diligence, certifies that the utility does  
 191 not have evidence to prove or disprove that it has a compensable  
 192 property right in the particular property where the utility is  
 193 located; and

194 3. The information available to the authority does not  
 195 establish the relative priorities of the authority's and the  
 196 utility's interests in the particular property.

197 (h) If a municipally owned utility or county-owned utility  
 198 is located in a rural area of opportunity, as defined in s.  
 199 288.0656(2), and the department determines that the utility is  
 200 unable, and will not be able within the next 10 years, to pay  
 201 for the cost of utility work necessitated by a department  
 202 project on the State Highway System, the department may pay, in  
 203 whole or in part, the cost of such utility work performed by the  
 204 department or its contractor.

205 (i) If the relocation of utility facilities is  
 206 necessitated by the construction of a commuter rail service  
 207 project or an intercity passenger rail service project and the  
 208 cost of the project is eligible and approved for reimbursement

209 by the Federal Government, then in that event the utility owning  
 210 or operating such facilities located by permit on a department-  
 211 owned rail corridor shall perform any necessary utility  
 212 relocation work upon notice from the department, and the  
 213 department shall pay the expense properly attributable to such  
 214 utility relocation work in the same proportion as federal funds  
 215 are expended on the commuter rail service project or an  
 216 intercity passenger rail service project after deducting  
 217 therefrom any increase in the value of a new facility and any  
 218 salvage value derived from an old facility. In no event shall  
 219 the state be required to use state dollars for such utility  
 220 relocation work. This paragraph does not apply to any phase of  
 221 the Central Florida Commuter Rail project, known as SunRail.

222 (j) If a utility is lawfully located within an existing  
 223 and valid utility easement granted by recorded plat, regardless  
 224 of whether such land was subsequently acquired by the authority  
 225 by dedication, transfer of fee, or otherwise, the authority must  
 226 bear the cost of the utility work required to eliminate an  
 227 unreasonable interference. The authority shall pay the entire  
 228 expense properly attributable to such work after deducting any  
 229 increase in the value of a new facility and any salvage value  
 230 derived from an old facility.

231 Section 4. The Legislature finds that a proper and  
 232 legitimate state purpose is served by clarifying a utility's  
 233 responsibility for relocating its facilities within a utility  
 234 easement granted by recorded plat. Therefore, the Legislature

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235 | determines and declares that this act fulfills an important  
236 | state interest.

237 |       Section 5. This act shall take effect upon becoming a law.



HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 519 Gilchrist County Development Authority  
SPONSOR(S): Perry  
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee		Walker <i>EW</i>	Miller <i>SM</i>
2) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

“Special Districts” are a type of limited local government created to perform specific services within a described geographic area. Sometimes called special taxing districts, most are created either by special act (independent special districts) or county or municipal ordinance (dependent special districts). The Special District Accountability Program in the Department of Economic Opportunity (DEO) is responsible for creating and maintaining a current list of all special districts in Florida, as provided in ch. 189, F.S., the Uniform Special District Accountability Act.

When a special district fails to meet certain statutory responsibilities, no longer functions, or informs DEO it is no longer active, DEO is required to follow the statutory process before declaring the district inactive. This includes documenting one or more statutory criteria for inactive status, publishing notice in the area of the district of DEO’s intent to declare the district inactive, and documenting the lack of any objection to declaring the district inactive. DEO is required to deliver written notice of the declaration of inactive status to specific authorities. If the district was created by special act, notice is delivered to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight. If the district was created by local ordinance, notice is delivered to the governing body of the county or municipality that created the district. A special district declared inactive may not collect taxes, assessments, or fees while the declaration is in effect. However, the district still exists until its legal authority is repealed by the creating entity.

The bill dissolves the Gilchrist County Development Authority, an independent special district, by repealing chs. 97-373, 81-382, 59-1308, Laws of Florida. Any assets of the district are transferred to the Board of County Commissioners.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### PRESENT SITUATION

##### Special Districts Declared Inactive

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,<sup>1</sup> special act,<sup>2</sup> local ordinance,<sup>3</sup> or by rule of the Governor and Cabinet.<sup>4</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>5</sup> A special district may be "dependent"<sup>6</sup> or "independent."<sup>7</sup>

The Special District Accountability Program within the Department of Economic Opportunity (DEO) is responsible for maintaining and electronically publishing the official list of all special districts in Florida.<sup>8</sup> The official list currently reports all active special districts as well as those declared inactive by DEO.

Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO is required to declare that district inactive by following a specified process.<sup>9</sup> DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of six specific factors:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
  - Provides DEO with written notice that the district has taken no action for 2 or more years.<sup>10</sup>
  - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years.<sup>11</sup>
  - Fails to respond to an inquiry from DEO within 21 days.<sup>12</sup>

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<sup>1</sup> Section 189.031(3), F.S.

<sup>2</sup> Id.

<sup>3</sup> Section 189.02(1), F.S.

<sup>4</sup> Section 190.005(1), F.S. *See, generally, s. 189.012(6), F.S.*

<sup>5</sup> *2015 – 2016 Local Gov't Formation Manual*, p. 67, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2836> (accessed 9/28/2015).

<sup>6</sup> Section 189.012(2), F.S. A special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.

<sup>7</sup> Section 189.012(3), F.S. A special district that is not a dependent district.

<sup>8</sup> Sections 189.061(1), 189.064(2), F.S. DEO maintains the current official list at

<https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeco/> (accessed 9/28/2015).

<sup>9</sup> Section 189.062(1), F.S. Prior to 2014, the former statute required DEO to document the existence of one of five criteria listed in paragraph (1)(a), publication and service under paragraph (1)(b) of a notice of intent to declare the district inactive, and the lack of any administrative appeal of the declaration within 21 days of that publication. Section 189.4044, F.S. (2013). In 2014, as ch. 189, F.S., was extensively revised and restructured, the word "or" was added at the end of s. 189.062(1)(a)6, F.S., apparently allowing DEO either to document one of the six criteria *or* publish notice of intent to declare inactive and find no appeal is filed. Chapter 2014-22, s. 24, Laws of Florida. During the 2015 regular legislative session, the Florida Senate passed CS/SB 1388, its version of a bill resolving technical issues stemming from the 2014 revisions, which would have amended s. 189.062(1)(a)6., F.S., by removing the word "or." CS/SB 1388 (2015), s. 11, at line 414 (bill did not pass the Legislature). DEO still uses the 3-step process as described in the 2013 statute.

<sup>10</sup> Section 189.062(1)(a)1., F.S.

<sup>11</sup> Section 189.062(1)(a)2., F.S.

- Following statutory procedure,<sup>13</sup> DEO determines the district failed to file specified reports,<sup>14</sup> including required financial reports.<sup>15</sup>
- For more than 1 year, no registered office or agent for the district was on file with DEO.<sup>16</sup>
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.<sup>17</sup>

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.<sup>18</sup> The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to chapter 120, F.S.,<sup>19</sup> within 21 days after the publication date.<sup>20</sup> If no objection is filed within the 21 day period, DEO declares the district inactive.<sup>21</sup>

After declaring certain special districts as being inactive, DEO must send written notice of the declaration to the authorities which created the district. If the district was created by special act, DEO sends written notice to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight.<sup>22</sup> The statute provides that the declaration of inactive status is sufficient notice under the Florida Constitution<sup>23</sup> to authorize the repeal of special laws creating or amending the charter of the inactive district.<sup>24</sup> This statute stands in lieu of the normal requirement for publication of notice of intent to file a local bill at least 30 days before introducing the bill in the Legislature.<sup>25</sup>

The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district. Any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.<sup>26</sup>

A district declared inactive may not collect taxes, fees, or assessments.<sup>27</sup> This prohibition continues until the declaration of invalidity is withdrawn or revoked by DEO<sup>28</sup> or invalidated in an administrative proceeding<sup>29</sup> or civil action<sup>30</sup> timely brought by the governing body of the special district.<sup>31</sup> Failure of the

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<sup>12</sup> Section 189.062(1)(a)3., F.S.

<sup>13</sup> Section 189.067, F.S.

<sup>14</sup> Section 189.066, F.S.

<sup>15</sup> Section 189.062(1)(a)4., F.S. *See, ss.* 189.016(9), 218.32, 218.39, F.S.

<sup>16</sup> Section 189.062(1)(a)5., F.S.

<sup>17</sup> Section 189.062(1)(a)6., F.S.

<sup>18</sup> Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district's registered agent or chair of the district's governing body, if any.

<sup>19</sup> The Florida Administrative Procedure Act.

<sup>20</sup> Section 189.062(10)(b), F.S. The published notice also must include the name of the district, the law under which it was organized and operating, and a description of the district's territory.

<sup>21</sup> Section 189.062(1)(c), F.S.

<sup>22</sup> Section 189.062(3), F.S.

<sup>23</sup> Art. III, s. 10, Fla. Const.

<sup>24</sup> Section 189.062(3), F.S.

<sup>25</sup> Section 11.02, F.S.

<sup>26</sup> Section 189.062(2), F.S.

<sup>27</sup> Section 189.062(5), F.S.

<sup>28</sup> Section 189.062(5)(a), F.S.

<sup>29</sup> Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

<sup>30</sup> Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

<sup>31</sup> The special district must initiate the legal challenge within 30 days after the date the written notice of the department's declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.

special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.<sup>32</sup>

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature<sup>33</sup> or the entity that created the district.<sup>34</sup>

### Gilchrist County Development Authority

The Gilchrist County Development Authority (Authority) was created as an independent special district by special act in 1959.<sup>35</sup> The purpose of the district was to perform such acts as necessary for the planning and development of the County.<sup>36</sup> The act authorized a nine member board to establish and operate the Authority.<sup>37</sup> Among its powers, the Authority was authorized to acquire, hold, and dispose of property, enter into contracts with the County and its municipalities, manage certain projects, and borrow funds.<sup>38</sup> The Authority had the power to issue "revenue-anticipated certificates" and the Gilchrist County Board of County Commissioners was authorized to levy an ad valorem assessment, up to 10 mills and subject to voter approval, "for county promotional purposes" to secure such certificates.<sup>39</sup>

On May 27, 2011, the registered agent of the Authority notified the Department of Community Affairs (DCA)<sup>40</sup> that the Authority had not taken any action for two or more years and requested the Authority be declared inactive. On June 9, 2011, DCA published the "Notice of Proposed Declaration of Inactive Status of the Gilchrist County Development Authority" in the Gilchrist County Journal. Pursuant to statute,<sup>41</sup> the notice required any objections to the District being placed on inactive status to be filed with DCA within 21 days of the initial publication of the notice; no objections were received. On July 1, 2011, DCA declared the Authority inactive and notified the Speaker of the House as well as the President of the Senate of the Authority's inactive status<sup>42</sup> pursuant to statute.<sup>43</sup>

### EFFECT OF THE BILL

The bill dissolves the Gilchrist County Development Authority by repealing chs. 97-373, 82-382, 59-1308, Laws of Florida. Any assets of the district are transferred to the Board of County Commissioners for Gilchrist County.

#### B. SECTION DIRECTORY:

Section 1: Repeals chs. 97-373, 82-382, 59-1308, Laws of Florida.

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<sup>32</sup> Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

<sup>33</sup> Chapter 69-1308, Laws of Florida.

<sup>34</sup> Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

<sup>35</sup> Chapter 59-1308, Laws of Florida.

<sup>36</sup> Chapter 59-1308, s. 3, Laws of Florida.

<sup>37</sup> Chapter 59-1308, s. 4, Laws of Florida.

<sup>38</sup> Chapter 59-1308, s. 9, Laws of Florida.

<sup>39</sup> Chapter 59-1308, ss. 9(12), 9(13), Laws of Florida.

<sup>40</sup> The Department of Community Affairs was abolished and the Division of Community Planning, responsible for supervision of special districts, was transferred to the newly created Department of Economic Opportunity, effective July 1, 2011. Ch. 2011-142, ss. 3, 528, Laws of Florida.

<sup>41</sup> Section 189.4044(1), F.S. (2010).

<sup>42</sup> Letter from the Department of Community Affairs to Speaker of the House Dean Cannon and Senate President Mike Haridopolos, "Re: Declaration of Inactive Status of the Gilchrist County Development Authority," on file with Local Government Affairs Subcommittee (July 8, 2011).

<sup>43</sup> The statute currently requires notification of the standing committee chairs; however, at the time the district was declared inactive, the statute only required the Speaker of the House and President of the Senate be notified. *See* s. 189.4044 F.S. (2010).

Section 2: Abolishes the Gilchrist County Development Authority and transfers all assets and liabilities of the district to the Board of County Commissioners of Gilchrist County.

Section 3: Provides the bill is effective upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? July 8, 2011

WHERE? Leon County

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

When notice of intent to file a local bill is published in the area to be affected pursuant to statute,<sup>44</sup> proof of such publication typically is in the form of an affidavit.<sup>45</sup> However, in this instance the notice of declaring inactive status in and of itself is sufficient to satisfy the constitutional requirement.<sup>46</sup> To satisfy the requirement of general law that evidence of the necessary publication "be established" in the Legislature before the bill is passed,<sup>47</sup> a Substitute Notice of Publication reciting the requirement of s. 189.062(3), F.S., was submitted with the bill.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>44</sup> Section 11.02, F.S.

<sup>45</sup> Section 11.03, F.S.

<sup>46</sup> Section 189.062(3), F.S.

<sup>47</sup> Section 11.021, F.S.

**SUBSTITUTE NOTICE OF PUBLICATION**

Re: Gilchrist County Development Authority

The Special District Accountability Program in the Department of Economic Opportunity has declared the Gilchrist County Development Authority, in Gilchrist County, to be inactive. By notice dated July 8, 2011, the Department informed the President of the Florida Senate and the Speaker of the Florida House of Representatives of the inactive status of the district. Under s. 189.062(3), F.S. (formerly s. 189.4044(3), F.S.), the declaration of inactive status from DEO is sufficient notice under s. 10, art. III of the State Constitution to authorize the Legislature to repeal any special laws so reported.

**HOUSE OF REPRESENTATIVES  
2016 LOCAL BILL CERTIFICATION FORM**

**BILL #:** HB519  
**SPONSOR(S):** Representative Keith Perry  
**RELATING TO:** Gilchrist County Development Authority  
[Indicate Area Affected (City, County, or Special District) and Subject]  
**NAME OF DELEGATION:** Gilchrist County  
**CONTACT PERSON:** Kayla-Ann Lott  
**PHONE NO.:** (352) 264-4040 **E-Mail:** Kayla-Ann.Lott@myfloridahouse.gov

- I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:**
- (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;**
  - (2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and**
  - (3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.**
  - (4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.**

**(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?**

YES  NO

**(2) Did the delegation conduct a public hearing on the subject of the bill?**

YES  NO

Date hearing held: \_\_\_\_\_

Location: \_\_\_\_\_

**(3) Was this bill formally approved by a majority of the delegation members?**

YES  NO

**(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?**

YES  NO

- II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.**

**Has this constitutional notice requirement been met?**

Notice published: YES  NO  DATE 7/8/2011

Where? Letter per s. 189.4044, F.S. (2000) \_\_\_\_\_ County Leon

Referendum in lieu of publication: YES  NO

Date of Referendum N/A

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES  NO

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES  NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES  NO

Please submit this completed, original form to the Local Government Affairs Subcommittee.

W. Keith Perry  
Delegation Chair (Original Signature)

11/5/15  
Date

W. Keith Perry  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES  
2016 ECONOMIC IMPACT STATEMENT FORM**

***\*Read all instructions carefully.\****

***House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.***

**BILL #:** HB519  
**SPONSOR(S):** Representative Keith Perry  
**RELATING TO:** Gilchrist County Development Authority

[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 16-17</u>	<u>FY 17-18</u>
	\$ <u>0</u>	\$ <u>0</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

N/A  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Local:	\$ <u>0</u>	\$ <u>0</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</u>

**IV. ECONOMIC IMPACT:**

**Potential Advantages:**

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: Dissolves a unit of local government that is inactive and no longer necessary.
2. Advantages to Businesses: Dissolves a unit of local government that is inactive and no longer necessary.
3. Advantages to Government: Dissolves an inactive unit of local government that duplicates authority of county government.

**Potential Disadvantages:**

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None

2. Disadvantages to Businesses:

None

3. Disadvantages to Government:

None

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

No anticipated impact. The district is inactive.

**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

N/A

**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:

  
[Must be signed by Preparer]

Print preparer's name:

BOBBY L Crosby Jr.

NOVEMBER 5, 2015  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

COUNTY ADMINISTRATOR

REPRESENTING:

GILCHRIST COUNTY

PHONE:

352 463 3198

E-MAIL ADDRESS:

BCROSBY @ GILCHRIST.FL.US



STATE OF FLORIDA

## DEPARTMENT OF COMMUNITY AFFAIRS

*"Dedicated to making Florida a better place to call home"*

RICK SCOTT  
Governor

EMILY BUZZETT  
Secretary

July 8, 2011

The Honorable Mike Haridopolos  
President, Florida Senate  
409 The Capitol  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

The Honorable Dean Cannon  
Speaker, Florida House of Representatives  
420 The Capitol  
402 South Monroe Street  
Tallahassee, Florida 32399-1300

Re: Declaration of Inactive Status of the  
Gilchrist County Development Authority

Dear Mr. President and Mr. Speaker:

The Department of Community Affairs (the "Department") administers Chapter 189, Florida Statutes (the Uniform Special District Accountability Act of 1989). This Act charges the Department with a number of responsibilities as they relate to special districts, including declaring special districts inactive for dissolution under certain circumstances. When special districts created by special act of the Legislature become inactive, the Department must notify the Speaker of the House of Representatives and the President of the Senate.

Section 189.4044, Florida Statutes, describes three conditions in which the Department must declare special districts inactive. One of these conditions occurs when the Department is notified in writing by a special district's registered agent that the special district has taken no action for two or more years.

On May 27, 2011, Ms. Kyle Stone, the registered agent of the Gilchrist County Development Authority (the "Authority"), an independent special district located in Gilchrist County, notified the Department in writing that the Authority has not taken any action for more than two years. Ms. Stone asked the Department to classify the Authority as inactive.

2555 SHUMARD OAK BOULEVARD ■ TALLAHASSEE, FL 32399-2100  
850-488-8466 (p) ■ 850-921-0781 (f) ■ Website: [www.dca.state.fl.us](http://www.dca.state.fl.us)  
■ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3328 (f) ■ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ■  
■ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7436 (p) 850-922-5623 (f) ■

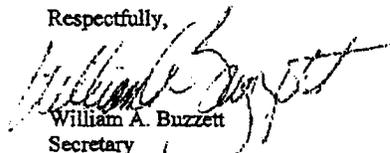
The Honorable Mike Haridopolos  
The Honorable Dean Cannon  
July 8, 2011  
Page 2

On June 9, 2011, the Department published a "Notice of Proposed Declaration of Inactive Status of the Gilchrist County Development Authority" in the *Gilchrist County Journal*. This notice required any party objecting to the inactive status to file an objection with the Department pursuant to Chapter 120, Florida Statutes, within twenty-one (21) days after the date of publication of the notice. The Department did not receive any objections. Therefore, on July 1, 2011, the Department declared the Authority inactive by changing its status on the Official List of Special Districts from "active" to "inactive."

Section 189.4044(3), Florida Statutes, provides that this declaration of inactive status is sufficient notice as required by Section 10, Article III of the State Constitution to authorize the Legislature to repeal any special laws so reported. According to our records, the Authority was established by Chapter 59-1308, Laws of Florida. The Department requests that the Legislature dissolve the Authority by repealing this special act.

Please contact Ms. Leslie Anderson-Adams, Assistant General Counsel, at 850-488-0410 if you have any questions or need further assistance.

Respectfully,



William A. Buzzett  
Secretary

WAB/jg

cc: Ms. Kyle Stone, Registered Agent, Gilchrist County Development Authority  
Mr. John K. McPherson, Gilchrist County Attorney  
Mr. Jack Gaskins Jr., Special District Information Program

1                   A bill to be entitled  
2           An act relating to the Gilchrist County Development  
3           Authority; repealing chapters 97-373, 81-382, and 59-  
4           1308, Laws of Florida; abolishing the district;  
5           transferring assets and liabilities of the district;  
6           providing an effective date.

7

8   Be It Enacted by the Legislature of the State of Florida:

9

10           Section 1. Chapters 97-373, 81-382, and 59-1308, Laws of  
11 Florida, are repealed.

12           Section 2. The Gilchrist County Development Authority is  
13 abolished. All assets and liabilities of the authority are  
14 transferred to the Board of County Commissioners of Gilchrist  
15 County.

16           Section 3. This act shall take effect upon becoming a law.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 565    **Redevelopment Trust Fund**  
**SPONSOR(S):** Spano  
**TIED BILLS:**            **IDEN./SIM. BILLS:** SB 194

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee		Monroe <i>KDM</i> Miller	<i>EAT</i>
2) Finance & Tax Committee			
3) Local & Federal Affairs Committee			

**SUMMARY ANALYSIS**

Community redevelopment agencies (CRAs) are funded through a mechanism known as tax increment financing, which requires each taxing district within the CRA to pay in to the CRA's redevelopment trust fund an amount equal to the increase in the taxable value of the real and tangible personal property within the district since the inception of the CRA, times the taxing district's millage rate. HB 565 exempts hospital districts from making payments into the redevelopment trust fund of a CRA created on or after July 1, 2016. The bill does not affect payments made by hospital districts to currently existing CRAs.

This bill has no fiscal impact to state funds.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### **Community Redevelopment Act**

The Community Redevelopment Act<sup>1</sup> authorizes a county or municipality to create community redevelopment agencies (CRAs) as a means of redeveloping slums and blighted areas. In accordance with a community redevelopment plan,<sup>2</sup> CRAs can:

- Enter into contracts;
- Disseminate information;
- Acquire property within a slum or blighted area by voluntary methods;
- Demolish and remove buildings and improvements;
- Construct improvements; and
- Dispose of property at fair value.<sup>3</sup>

Counties and municipalities are prohibited from exercising the authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.<sup>4</sup>

A “blighted area” generally includes an area in which there are a substantial number of deteriorated or deteriorating structures; in which conditions, as indicated by government-maintained statistics or other studies, endanger life or property or are leading to economic distress; and in which other statutorily-defined criteria exist.<sup>5</sup>

##### **The TIF Mechanism for Funding CRAs**

CRAs are not taxing authorities and cannot levy or collect taxes. Instead CRAs rely on community redevelopment trust funds that are funded through tax increment financing (TIF).<sup>6</sup> The TIF mechanism requires each taxing authority within the CRA to annually remit a portion of the ad valorem taxes it levies to the CRA’s redevelopment trust fund by January 1.<sup>7</sup> This revenue is used to finance redevelopment projects in accordance with a redevelopment plan,<sup>8</sup> which may include bonding.<sup>9</sup> The amount which must be contributed to the trust funds equals 95 percent of the difference between:

- The amount of ad valorem taxes levied by each taxing authority on taxable real property within the CRA; and
- The amount of ad valorem taxes that would have been produced on the assessed value of the real property within the CRA in the year prior to the creation of the CRA.<sup>10</sup>

Thus, as property values increase within a CRA, the tax increment revenue increases and is available to pay for public infrastructure and redevelopment costs of the CRA.

---

<sup>1</sup> Chapter 163, part III, F.S.

<sup>2</sup> Section 163.360, F.S.

<sup>3</sup> Section 163.370, F.S.

<sup>4</sup> Sections 163.355 and 163.360(1), F.S.

<sup>5</sup> See s. 163.340(8), F.S.

<sup>6</sup> Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the redevelopment trust fund. Section 163.387, F.S.

<sup>7</sup> Section 163.387(2)(a), F.S.

<sup>8</sup> Section 163.387(1)(a), F.S.

<sup>9</sup> Sections 163.370(2)(f) and 163.385, F.S.

<sup>10</sup> Section 163.387(1)(a), F.S.

## TIF Limitations and Exemptions

For CRAs created before July 1, 2002, taxing districts typically contribute to the redevelopment trust fund for a period equal to the length of any indebtedness pledging the incremental revenues, but not exceeding 30 years, unless the community redevelopment plan is amended.<sup>11</sup> For CRAs created after July 1, 2002, taxing authorities make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the community redevelopment plan is approved or adopted. The following taxing authorities are exempt from contributing to the CRA:<sup>12</sup>

- A special district that levies ad valorem taxes on taxable real property in more than one county.
- A special district for which the sole available source of revenue the district has the authority to levy is ad valorem taxes at the time the ordinance is adopted.
- A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.
- A neighborhood improvement district created under the Safe Neighborhoods Act.
- A metropolitan transportation authority.
- A water management district created under s. 373.069, F.S.
- A special district specifically exempted by the local governing body that created the CRA, if the exemption is made in accordance with the requirements of s. 163.387(2)(d), F.S., which include a public hearing, public notice, and an interlocal agreement.

## Hospital Districts

First created in the 1920s to provide indigent care for county residents, hospital districts now differ greatly in roles, powers, and governance.<sup>13</sup> There are currently six hospital districts created as dependent districts, and 22 created as independent special districts.<sup>14</sup> Independent districts are generally created by special acts of the Legislature, whereas dependent districts are created by local governments with their governing bodies under the control of a county or municipal board. The North Sumter County Hospital District, created in 2004 by special act of the Legislature, is the most recently created hospital district.<sup>15</sup>

Two existing hospital districts currently have similar exemptions from providing TIF financing to CRAs in their recodified charters. The South Broward Hospital District is exempt from making payments into the redevelopment trust fund of any CRA created on or after January 1, 1998.<sup>16</sup> The North Broward Hospital District is exempt from making payments into the redevelopment trust fund of any CRA created on or after January 1, 2002.<sup>17</sup>

Payments to the redevelopment trust funds of CRAs can be significant. For example, the Halifax Hospital District reports remitting funds to 10 separate CRAs for a total payment of \$652,258 during the 2014 tax year, which is down from \$4,316,364 paid in 2006. Halifax's records show that their total payments into the redevelopment trust funds of CRAs from 2003 through 2014 were \$24,685,856.<sup>18</sup>

---

<sup>11</sup> Section 163.387(2)(a), F.S.

<sup>12</sup> Section 163.387(2)(c), F.S.

<sup>13</sup> Florida Tax Watch, *Florida's Fragmented Hospital Taxing District System in Need of Reexamination*, Briefings (Feb. 2009), available at <http://www.floridatxwatch.org/resources/pdf/02242009HospitalDistricts.pdf> (last visited Nov. 13, 2015).

<sup>14</sup> Department of Economic Opportunity, Official List of Special Districts Online, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/selectfunctions.cfm> (last visited Nov. 13, 2015).

<sup>15</sup> Chapter 2004-451, L.O.F. However, the District has since been declared inactive. See Department of Economic Opportunity, Special District Accountability Program, "Official List of Special Districts Online" at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/criteria.cfm> (accessed 11/24/2015).

<sup>16</sup> Chapter 2004-397, Section 38 of Section 3, L.O.F.

<sup>17</sup> Chapter 2006-347, Section 33 of Section 3, L.O.F.

<sup>18</sup> "CRA Taxing District Pmts 2003 to date" provided by Halifax Hospital District (11/17/15). See Appendix A.

## **Proposed Changes**

HB 565 exempts all hospital districts from making payments into the redevelopment trust fund of any CRA created on or after July 1, 2016. The bill does not affect payments made by hospital districts to currently existing CRAs.

### **B. SECTION DIRECTORY:**

**Section 1** amends s. 163.387, F.S., to add hospital districts to the list of taxing authorities exempt from contributing to the redevelopment trust fund, but only for CRAs created on or after July 1, 2016. Hospital districts will continue to contribute to the redevelopment trust funds of CRAs created before July 1, 2013.

**Section 2** reenacts s. 259.042, F.S., to incorporate provisions related to tax increment financing for conservation lands to the changes made by Section 1 of the bill.

**Section 3** provides an effective date of July 1, 2016.

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

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

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

CRAs created on or after July 1, 2016, will not be able to rely on hospital districts for appropriations to their redevelopment trust funds.

#### **2. Expenditures:**

Hospital districts will not have to pay into the redevelopment trust funds of CRAs created on or after July 1, 2016.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce their ability to raise revenue, or reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Additional rulemaking authority does not appear necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

**APPENDIX A**

**CRA PAYMENTS PD BY HALIFAX TAXING DISTRICT**

2003	19,923	167,563	565,105	33,293	13,926	69,720	13,209
2004	35,246	259,863	837,203	81,505	38,502	138,042	27,778
2005	49,756	299,917	1,401,078	118,383	146,932	281,753	44,465
2006	68,797	355,236	1,674,540	190,344	233,101	460,949	57,784
2007	65,770	357,154	1,500,666	215,638	178,541	490,776	63,288
2008	58,291	303,616	1,291,730	193,784	113,901	371,168	62,328
2009	44,321	233,569	938,632	137,546	33,113	312,290	63,859
2010	28,000	150,587	621,459	71,949	0	167,444	39,940
2011	24,277	107,060	443,577	50,281	0	119,340	29,650
2012	13,370	66,412	296,757	24,300	0	76,314	17,502
2013	10,431	52,940	244,824	17,454	0	60,343	13,355
2014	11,125	61,502	251,641	18,671	0	67,918	13,609
<b>TOTAL</b>	<b>429,307</b>	<b>2,415,419</b>	<b>10,067,212</b>	<b>1,153,148</b>	<b>758,016</b>	<b>2,616,057</b>	<b>446,767</b>

**CRA PAYMENTS PD BY HALIFAX TAXING DISTRICT**

26,916	135,396	79,270	1,124,321
56,561	206,625	156,447	1,837,772
72,940	351,897	226,511	2,993,632
130,254	423,840	292,876	4,316,364
120,509	0	333,328	3,702,555
103,047	0	696,358	3,506,440
61,289	7,090	450,075	2,534,685
25,922	0	293,233	1,567,880
17,590	0	192,368	1,104,621
9,591	0	132,253	739,139
7,009	0	115,124	606,189
8,957	87,159	131,676	652,258
<b>640,585</b>	<b>430,930</b>	<b>3,099,519</b>	<b>24,685,856</b>

1                                   A bill to be entitled  
 2           An act relating to the redevelopment trust fund;  
 3           amending s. 163.387, F.S.; adding certain hospital  
 4           districts to the list of public bodies or taxing  
 5           authorities that are exempt from appropriating certain  
 6           revenues to the redevelopment trust fund; reenacting  
 7           s. 259.042(9), F.S., relating to tax increment  
 8           financing for conservation lands, to incorporate the  
 9           amendment made by this act to s. 163.387, F.S.;  
 10          providing an effective date.

11  
 12   Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Paragraph (c) of subsection (2) of section  
 15   163.387, Florida Statutes, is amended to read:

16           163.387 Redevelopment trust fund.—  
 17           (2)

18           (c) The following public bodies or taxing authorities are  
 19   exempt from paragraph (a):

20           1. A special district that levies ad valorem taxes on  
 21   taxable real property in more than one county.

22           2. A special district for which the sole available source  
 23   of revenue the district has the authority to levy is ad valorem  
 24   taxes at the time an ordinance is adopted under this section.  
 25   However, revenues or aid that may be dispensed or appropriated  
 26   to a district as defined in s. 388.011 at the discretion of an

27 | entity other than such district shall not be deemed available.

28 |         3. A library district, except a library district in a  
29 | jurisdiction where the community redevelopment agency had  
30 | validated bonds as of April 30, 1984.

31 |         4. A neighborhood improvement district created under the  
32 | Safe Neighborhoods Act.

33 |         5. A metropolitan transportation authority.

34 |         6. A water management district created under s. 373.069.

35 |         7. For a community redevelopment agency created on or  
36 | after July 1, 2016, a hospital district that is a special  
37 | district as defined in s. 189.012.

38 |         Section 2. For the purpose of incorporating the amendment  
39 | made by this act to section 163.387, Florida Statutes, in a  
40 | reference thereto, subsection (9) of section 259.042, Florida  
41 | Statutes, is reenacted to read:

42 |         259.042 Tax increment financing for conservation lands.—

43 |         (9) The public bodies and taxing authorities listed in s.  
44 | 163.387(2)(c), school districts, and special districts that levy  
45 | ad valorem taxes within a tax increment area are exempt from  
46 | this section.

47 |         Section 3. This act shall take effect July 1, 2016.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 649 Eagle Bay Sub-Drainage District, Okeechobee County  
**SPONSOR(S):** Pigman  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee		Miller <i>SM</i>	Miller <i>EM</i>
2) Local & Federal Affairs Committee			

**SUMMARY ANALYSIS**

“Special Districts” are a type of limited local government created to perform specific services within a described geographic area. Sometimes called special taxing districts, most are created either by special act (independent special districts) or county or municipal ordinance (dependent special districts). The Special District Accountability Program in the Department of Economic Opportunity (DEO) is responsible for creating and maintaining a current list of all special districts in Florida, as provided in ch. 189, F.S., the Uniform Special District Accountability Act.

When a special district fails to meet certain statutory responsibilities, no longer functions, or informs DEO it is no longer active, DEO is required to follow the statutory process before declaring the district inactive. This includes documenting one or more statutory criteria for inactive status, publishing notice in the area of the district of DEO's intent to declare the district inactive, and documenting the lack of any objection to declaring the district inactive. DEO is required to deliver written notice of the declaration of inactive status to specific authorities. If the district was created by special act, notice is delivered to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight. If the district was created by local ordinance, notice is delivered to the governing body of the county or municipality that created the district. A special district declared inactive may not collect taxes, assessments, or fees while the declaration is in effect. However, the district still exists until its legal authority is repealed by the creating entity.

The bill dissolves the Eagle Bay Sub-Drainage District, an inactive independent special district, by repealing chs. 12010, (1927), 19556 (1939), and 21916 (1943), Laws of Florida. The bill also purports to repeal ch. 16980, Laws of Florida (1935), an act previously repealed in 1939. Any assets and liabilities of the district are transferred to the Okeechobee County Board of County Commissioners.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### PRESENT SITUATION

###### Special Districts Declared Inactive

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,<sup>1</sup> special act,<sup>2</sup> local ordinance,<sup>3</sup> or by rule of the Governor and Cabinet.<sup>4</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>5</sup> A special district may be "dependent"<sup>6</sup> or "independent."<sup>7</sup>

The Special District Accountability Program within the Department of Economic Opportunity (DEO) is responsible for maintaining and electronically publishing the official list of all special districts in Florida.<sup>8</sup> The official list currently reports all active special districts as well as those declared inactive by DEO.

Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO is required to declare that district inactive by following a specified process.<sup>9</sup> DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of six specific factors:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
  - Provides DEO with written notice that the district has taken no action for 2 or more years.<sup>10</sup>
  - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years.<sup>11</sup>
  - Fails to respond to an inquiry from DEO within 21 days.<sup>12</sup>

---

<sup>1</sup> Section 189.031(3), F.S.

<sup>2</sup> Id.

<sup>3</sup> Section 189.02(1), F.S.

<sup>4</sup> Section 190.005(1), F.S. *See, generally*, s. 189.012(6), F.S.

<sup>5</sup> *2015 – 2016 Local Gov't Formation Manual*, p. 67, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2836> (accessed 9/28/2015).

<sup>6</sup> Section 189.012(2), F.S. A special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.

<sup>7</sup> Section 189.012(3), F.S. A special district that is not a dependent district.

<sup>8</sup> Sections 189.061(1), 189.064(2), F.S. DEO maintains the current official list at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (accessed 9/28/2015).

<sup>9</sup> Section 189.062(1), F.S. Prior to 2014, the former statute required DEO to document the existence of one of five criteria listed in paragraph (1)(a), publication and service under paragraph (1)(b) of a notice of intent to declare the district inactive, and the lack of any administrative appeal of the declaration within 21 days of that publication. Section 189.4044, F.S. (2013). In 2014, as ch. 189, F.S., was extensively revised and restructured, the word "or" was added at the end of s. 189.062(1)(a)6, F.S., apparently allowing DEO either to document one of the six criteria *or* publish notice of intent to declare inactive and find no appeal is filed. Chapter 2014-22, s. 24, Laws of Florida. During the 2015 regular legislative session, the Florida Senate passed CS/SB 1388, its version of a bill resolving technical issues stemming from the 2014 revisions, which would have amended s. 189.062(1)(a)6., F.S., by removing the word "or." CS/SB 1388 (2015), s. 11, at line 414 (bill did not pass the Legislature). DEO still uses the 3-step process as described in the 2013 statute.

<sup>10</sup> Section 189.062(1)(a)1., F.S.

<sup>11</sup> Section 189.062(1)(a)2., F.S.

- Following statutory procedure,<sup>13</sup> DEO determines the district failed to file specified reports,<sup>14</sup> including required financial reports.<sup>15</sup>
- For more than 1 year, no registered office or agent for the district was on file with DEO.<sup>16</sup>
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.<sup>17</sup>

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.<sup>18</sup> The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to chapter 120, F.S.,<sup>19</sup> within 21 days after the publication date.<sup>20</sup> If no objection is filed within the 21 day period, DEO declares the district inactive.<sup>21</sup>

After declaring certain special districts as being inactive, DEO must send written notice of the declaration to the authorities which created the district. If the district was created by special act, DEO sends written notice to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight.<sup>22</sup> The statute provides that the declaration of inactive status is sufficient notice under the Florida Constitution<sup>23</sup> to authorize the repeal of special laws creating or amending the charter of the inactive district.<sup>24</sup> This statute stands in lieu of the normal requirement for publication of notice of intent to file a local bill at least 30 days before introducing the bill in the Legislature.<sup>25</sup>

The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district. Any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.<sup>26</sup>

A district declared inactive may not collect taxes, fees, or assessments.<sup>27</sup> This prohibition continues until the declaration of invalidity is withdrawn or revoked by DEO<sup>28</sup> or invalidated in an administrative proceeding<sup>29</sup> or civil action<sup>30</sup> timely brought by the governing body of the special district.<sup>31</sup> Failure of the

<sup>12</sup> Section 189.062(1)(a)3., F.S.

<sup>13</sup> Section 189.067, F.S.

<sup>14</sup> Section 189.066, F.S.

<sup>15</sup> Section 189.062(1)(a)4., F.S. *See, ss.* 189.016(9), 218.32, 218.39, F.S.

<sup>16</sup> Section 189.062(1)(a)5., F.S.

<sup>17</sup> Section 189.062(1)(a)6., F.S.

<sup>18</sup> Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district's registered agent or chair of the district's governing body, if any.

<sup>19</sup> The Florida Administrative Procedure Act.

<sup>20</sup> Section 189.062(10)(b), F.S. The published notice also must include the name of the district, the law under which it was organized and operating, and a description of the district's territory.

<sup>21</sup> Section 189.062(1)(c), F.S.

<sup>22</sup> Section 189.062(3), F.S.

<sup>23</sup> Art. III, s. 10, Fla. Const.

<sup>24</sup> Section 189.062(3), F.S.

<sup>25</sup> Section 11.02, F.S.

<sup>26</sup> Section 189.062(2), F.S.

<sup>27</sup> Section 189.062(5), F.S.

<sup>28</sup> Section 189.062(5)(a), F.S.

<sup>29</sup> Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

<sup>30</sup> Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

<sup>31</sup> The special district must initiate the legal challenge within 30 days after the date the written notice of the department's declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.

special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.<sup>32</sup>

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature<sup>33</sup> or the entity that created the district.<sup>34</sup>

### Eagle Bay Sub-Drainage District

The Eagle Bay Sub-Drainage District (District) was created as an independent special district by special act in 1927.<sup>35</sup> The purposes for establishing drainage districts at that time included reclaiming and protecting “wet or overflowed lands, or lands subject to overflow in or more counties” in Florida.<sup>36</sup> The District was established originally by the filing of a petition with the appropriate circuit court.<sup>37</sup> As of May 1, 1927, the District had issued bonds in the total amount of \$120,000. The special act “ratified, approved, validated and confirmed”<sup>38</sup> all actions and proceedings establishing the District and issuing the bonds.

Apparently due to the ongoing effects of the Great Depression, in 1935 the Legislature acted to cancel “all past due special assessments or taxes and all certificates representing such past due or delinquent (obligations, except state taxes)” levied by the District.<sup>39</sup> This cancellation would only take effect if the District was able to obtain funding from Federal agencies or other sources to refinance its outstanding debt.<sup>40</sup> Subsequently, the Legislature repealed the 1935 act,<sup>41</sup> authorized the District to issue bonds for the purpose of refunding existing District obligations,<sup>42</sup> ratified and validated taxes and assessments imposed in 1938 and prior years,<sup>43</sup> and further authorized the District to dispose of or sell certificates of purchase and actual title to land acquired by the District (or its Board or any appointed receiver of the District) through the foreclosure by the District of a lien for unpaid taxes or assessments.<sup>44</sup> Apparently, the District subsequently went into receivership.<sup>45</sup> The legislative record apparently ends in 1943, when the Legislature acted to exclude specific lands from District assessments and taxes for the years 1942 and subsequent,<sup>46</sup> canceled taxes for 1942 imposed on the described property,<sup>47</sup> and ratified all prior actions of the former receiver for the District and the Board of Supervisors after control of the District was restored to its board.<sup>48</sup>

By 2000, the District for two consecutive years failed to pay required fees<sup>49</sup> to the Special District Information Program within the Division of Community Planning in the Department of Community

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<sup>32</sup> Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

<sup>33</sup> Chapter 69-1308, Laws of Florida.

<sup>34</sup> Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

<sup>35</sup> Ch. 12010, Laws of Florida (1927).

<sup>36</sup> Ch. 6458, s. 1, Laws of Florida (1913); CGL 1451.

<sup>37</sup> *Id.*

<sup>38</sup> Ch. 12010, s. 1, Laws of Florida (1927).

<sup>39</sup> Ch. 16980, s. 1, Laws of Florida (1935).

<sup>40</sup> *Id.*

<sup>41</sup> Ch. 19556, s. 5, Laws of Florida (1939).

<sup>42</sup> *Id.* s. 1.

<sup>43</sup> *Id.* s. 2.

<sup>44</sup> *Id.* s. 4.

<sup>45</sup> Ch. 21916, s. 4, Laws of Florida (1943), referring to one Robert H. Cook as the former receiver of the district.

<sup>46</sup> Ch. 21916, s. 1, Laws of Florida (1943).

<sup>47</sup> *Id.* s. 2.

<sup>48</sup> *Id.* s. 4.

<sup>49</sup> Former Fla. Admin. Code R. 9B-50.003, now Fla. Admin. Code R. 73C-24.003. The department responsible for overseeing special districts is authorized to adopt by rule a schedule of annual fees to be paid by each special district, capped at \$175/year. Section 189.018, F.S. (formerly s. 189.427, F.S.).

Affairs (DCA)<sup>50</sup> and also failed to file certain statutory reports.<sup>51</sup> On March 21, 28, April 4 and 11, 2000, DCA published the "Notice of Declaration of Inactive Status of the Eagle Bay Sub-Drainage District" in The Okeechobee Journal.<sup>52</sup> Pursuant to statute,<sup>53</sup> the notice required any objections to the District being placed on inactive status were to be filed with DCA within 21 days of the initial publication of the notice; no objections were received. On December 5, 2000, DCA declared the District inactive and notified the Speaker of the House as well as the President of the Senate of the Authority's inactive status<sup>54</sup> pursuant to statute.<sup>55</sup>

### **EFFECT OF THE BILL**

The bill dissolves the Eagle Bay Sub-Drainage District, an independent special district, by repealing chs. 12010, (1927), 19556 (1939), and 21916 (1943), Laws of Florida. The bill also purports to repeal ch. 16980, Laws of Florida (1935), an act previously repealed in 1939. Any assets and liabilities of the district are transferred to the Okeechobee County Board of County Commissioners.

#### **B. SECTION DIRECTORY:**

Section 1: Repeals chs. 12010, 1927; 16980, 1935; 19556, 1939, and 21916, 1943, Laws of Florida.

Section 2: Abolishes the Eagle Bay Sub-Drainage District and transfers all assets and liabilities of the district to the Board of County Commissioners of Okeechobee County.

Section 3: Provides the bill is effective upon becoming law.

### **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 4, 2000

WHERE? Leon County

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

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<sup>50</sup> The Department of Community Affairs was abolished and the Division of Community Planning, responsible for supervision of special districts, was transferred to the newly created Department of Economic Opportunity, effective July 1, 2011. Ch. 2011-142, ss. 3, 528, Laws of Florida.

<sup>51</sup> Declaration of Inactive Status Report, Eagle Bay Sub-Drainage District (12/5/2000). As of 2000, special districts were required to file regular reports with local governing authorities, including reports on public facilities (s. 189.415, F.S.), designating a registered agent and office (s. 189.416, F.S., also filed with DCA), and a schedule of regular meetings (s. 189.417, F.S.), as well as required financial reports (ss. 189.418, 218.32, 218.34, F.S.). See s. 189.419, F.S. (2000). A search of the specific Department of Financial Services webpage shows no reporting by the District for the period 1993 – 2000. See "Local Government Financial Reporting" at <https://apps.fldfs.com/LocalGov/Reports/AdHoc.aspx> (accessed 11/24/2015).

<sup>52</sup> Notice of Declaration of Inactive Status to Senate President John McKay and Speaker Tom Feeney (12/4/2000).

<sup>53</sup> Section 189.4044(1), F.S. (1999).

<sup>54</sup> Letter from the Department of Community Affairs to Senate President John McKay and Speaker Tom Feeney, supra n. 50.

<sup>55</sup> The statute currently requires notification of the standing committee chairs; however, at the time the district was declared inactive, the statute only required the Speaker of the House and President of the Senate be notified. See s. 189.4044 F.S. (1999).

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

None.

#### B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

The repeal of ch. 16980, Laws of Florida (1935), appears unnecessary as that law was repealed by ch. 19556, Laws of Florida (1939).

When notice of intent to file a local bill is published in the area to be affected pursuant to statute,<sup>56</sup> proof of such publication typically is in the form of an affidavit.<sup>57</sup> However, in this instance the notice of declaring inactive status in and of itself is sufficient to satisfy the constitutional requirement.<sup>58</sup> To satisfy the requirement of general law that evidence of the necessary publication “be established” in the Legislature before the bill is passed,<sup>59</sup> a Substitute Notice of Publication reciting the requirement of s. 189.062(3), F.S., was submitted with the bill.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>56</sup> Section 11.02, F.S.

<sup>57</sup> Section 11.03, F.S.

<sup>58</sup> Section 189.062(3), F.S.

<sup>59</sup> Section 11.021, F.S.

**SUBSTITUTE NOTICE OF PUBLICATION**

Re: Eagle Bay Sub-Drainage District

The Special District Accountability Program in the Department of Economic Opportunity has declared the Eagle Bay Sub-Drainage District, in Okeechobee County, to be inactive. By notice dated December 4, 2000, the Department informed the President of the Florida Senate and the Speaker of the Florida House of Representatives of the inactive status of the district. Under s. 189.062(3), F.S. (formerly s. 189.4044(3), F.S.), the declaration of inactive status from DEO is sufficient notice under s. 10, art. III of the State Constitution to authorize the Legislature to repeal any special laws so reported.

**HOUSE OF REPRESENTATIVES  
2016 LOCAL BILL AMENDMENT FORM**

***Prior to consideration of a substantive amendment to a local bill, the chair of the legislative delegation must certify, by signing this Amendment Form, that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive committee, subcommittee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Local Government Affairs Subcommittee staff prior to consideration. An Amendment Form is not required for technical amendments.***

**BILL NUMBER:** HB 649

**SPONSOR(S):** Rep. Pigman

**RELATING TO:** Eagle Bay Sub-Drainage District, Okeechobee County  
[Indicate Area Affected (City, County or Special District) and Subject]

**SPONSOR OF AMENDMENT:** Rep. Pigman

**AMENDMENT FOR:**  **Committee:** Local Government Affairs Subcommittee  
(Check One) (Name of Committee or Subcommittee)

**Floor**

**CONTACT PERSON:** Bryan Mielke

**PHONE NO:** 717-5055      **E-MAIL:** Bryan.Mielke@myfloridahouse.gov

**REVIEWED BY STAFF OF THE LOCAL GOVERNMENT AFFAIRS SUBCOMMITTEE**   
\*Must Be Checked\*

**I. BRIEF DESCRIPTION OF AMENDMENT:**  
(Attach additional page(s) if necessary)

Removes unnecessary reference to chapter 16980, Laws of Florida (1935).

**II. REASON/NEED FOR AMENDMENT:**  
(Attach additional page(s) if necessary)

The bill dissolves the special district by repealing certain acts. Chapter 16980, Laws of Florida (1935) was already repealed by chapter 19556, Laws of Florida (1939).

**III. NOTICE REQUIREMENTS**

A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?

YES     NO     NOT APPLICABLE

B. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?

YES     NO     NOT APPLICABLE

**IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?**

YES  NO

**NOTE:** If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Local Government Affairs Subcommittee prior to consideration of the amendment.

**If yes, was the Revised Economic Impact Statement submitted as follows?**

**Committee Amendment:** EIS filed with staff of committee/subcommittee hearing the bill.

**Floor Amendment:** EIS filed with staff of Local Government Affairs Subcommittee.

YES  NO

**V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?**

YES  NO  UNANIMOUSLY APPROVED

For substantive amendments considered in committee or subcommittee, the properly-executed original of this form must be filed with the committee or subcommittee staff prior to the amendment being heard. [Note to committee staff: after receiving this form the original must be filed with the House Clerk.]

For substantive floor amendments, the properly-executed original of this form must be filed with the House Clerk prior to the amendment being heard.

  
Delegation Chair (Original Signature)

**Sen. Denise Grimsley**

Print Name of Delegation Chair

12/1/15

Date

**HOUSE OF REPRESENTATIVES**  
**2016 LOCAL BILL CERTIFICATION FORM**

**BILL #:** HB 649  
**SPONSOR(S):** Rep. Pigman  
**RELATING TO:** Eagle Bay Sub-Drainage District  
[Indicate Area Affected (City, County, or Special District) and Subject]  
**NAME OF DELEGATION:** Okeechobee County  
**CONTACT PERSON:** Marty Mielke  
**PHONE NO.:** (863) 386-6015      **E-Mail:** Mielke.Marty@flsenate.gov

**I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:**

- (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
- (2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and
- (3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.
- (4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES       NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES       NO

Date hearing held: 10/16/15 / 12/1/15

Location: Okeechobee / Tallahassee

(3) Was this bill formally approved by a majority of the delegation members?

YES       NO

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?

YES       NO

**II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.**

**Has this constitutional notice requirement been met?**

Notice published: YES       NO       DATE 12/4/2000

Where? Letter per s. 189.4044, F.S. (2000)      County Leon

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES  NO

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES  NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES  NO

Please submit this completed, original form to the Local Government Affairs Subcommittee.

  
Delegation Chair (Original Signature)

12/1/15

Date

Sen. Denise Grimsley

Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES  
2016 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

**BILL #:** HB 649  
**SPONSOR(S):** Rep. Pigman  
**RELATING TO:** Eagle Bay Sub-Drainage District  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 16-17</u>	<u>FY 17-18</u>
	\$ <u>1,800,000</u>	\$ <u>6,204</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

Attached

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**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Local:	\$1,800,000	\$6,204
State:	\$ 0	\$ 0
Federal:	\$ 0	\$ 0

**IV. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

- Advantages to Individuals: Dissolves a unit of local government that is inactive and no longer necessary.
- Advantages to Businesses: Dissolves a unit of local government that is inactive and no longer necessary.
- Advantages to Government: Dissolves an inactive unit of local government that duplicates authority of county government.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

- Disadvantages to Individuals: None

2. Disadvantages to Businesses:

None

3. Disadvantages to Government:

None

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

No anticipated impact. The district is inactive.

**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY: Robbie Chartier  
[Must be signed by Preparer]

Print preparer's name: Robbie Chartier  
12/1/15  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

County Administrator  
REPRESENTING: Okeechobee County BOCC

PHONE: 863-763-6441 x.1

E-MAIL ADDRESS: rchartier@co.okeechobee.fl.us

### Clearing 17,600 Feet of Tree Covered Canals

The Road Maintenance Division *cleans* county maintained canals at the rate of 400 to 500 feet per day. We estimate *clearing* the 17,600 feet of tree covered canals at the rate of 100 feet per 10 hour day.

A long stick, because of its maximum 54 foot reach, would be the type of equipment normally used for *cleaning* a canal. This type of equipment, however, has little capacity for lifting heavy loads required in a *clearing* operation. For this reason, we propose two short stick track hoes operating from both sides of the canals, assuming this type of operation is possible. Please note, the county only owns one short stick at the present time. A second hoe will have to be rented.

One short stick costs \$ 72 per hour – two cost \$144 per hour times a 10 hour day or \$1,440

To remove debris, four 14 cubic yard dump trucks, two on either side, operating continuously between the District and the landfill will be required. Cost for one dump truck is \$ 75 per hour or \$ 750 per 10 hour day for four trucks is \$3,000

Two front end loaders will be required, one on either side, to load the trucks at \$44 per hour or \$880 per 10 hour day.

A dozer will be required to open and maintain a roadway and canal banks for the track hoes. A dozer costs \$45.50 per hour or \$ 455 per day.

Miscellaneous smaller equipment such as chainsaws, pick-up trucks, shovels and rakes will be required, however these costs are relatively small and the quantity is unknown.

We would need twelve employees at \$22 per hour times ten or \$220 per hour and \$2,600 per 10 hour day

Total cost for the 176 work days needed to clear the 17,600 feet of tree covered canals is \$1,474,000.

### Clearing 8,800 Feet of "Open" Canals

The Road Maintenance Division *cleans* county maintained canals at the rate of 400 to 500 feet per day. We estimate *clearing* the 8,800 feet of open canals at the rate of 200 feet per 10 hour day.

A long stick, because of its long reach, would be the type of equipment normally used for *cleaning* a canal. This type of equipment, however, has little capacity for lifting heavy loads required in a *clearing* operation. For this reason, we propose two short stick track hoes operating from both sides of the canals.

One short sticks cost \$ 72 per hour – two costs \$ 144 per hour times 10 hour day or \$ 1,440

To remove debris, two 14 cubic yard dump trucks, operating continuously between the District and the landfill will be required. Costs for one dump truck is \$75 per hour or \$750 per 10 hour day times two or \$1,500.

Two front end loaders will be required to load the trucks at \$44 per hour or \$880 per 10 hour day.

A dozer will be required to open a roadway and maintain canal banks for the track hoes. A dozer costs \$45.50 per hour or \$ 455 per day.

Miscellaneous smaller equipment such as chainsaws, pick-up trucks, shovels and rakes will be required, however these costs are relatively small and the quantity is unknown.

We need seven employees at \$22 per hour times seven or \$ 154 per hour and \$1,540 per 10 hour day.

Total cost is \$ 5,155 per day

Total cost for the 44 working days required is \$255,860

Total cost for surveying and clearing the Eagle Bay Sub District canals - \$1,829,860

### Need to Continue Present Operations

To maintain our present operations during the 220 working days of the project will require an estimated \$316,800 (two short sticks for 220 working days) plus \$ 48,400 (two employees during the same period) for an additional dollar requirement of \$365, 200.

Grand total for the project and replacement equipment/personnel is \$2,195,060 or approximately \$2.2 million.

### Continuing Maintenance

These costs do not recognize the need or costs to maintain our present cleaning operation.

Assuming the canals were opened, road access gain, the easements clear of encroachments, the waterways re-located to the easement and can be cleaned normally, our annual maintenance costs will be \$6,204 per year at present rates.



STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH  
Governor

STEVEN M. SEIBERT  
Secretary

December 4, 2000

The Honorable John McKay  
President, The Senate of Florida  
Room 416, Senate Office Building  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

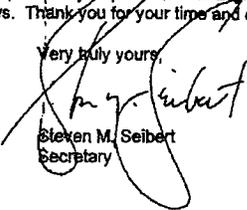
The Honorable Tom Feeney  
Speaker of the House of Representatives  
Room 414, The Capitol  
402 South Monroe Street  
Tallahassee, Florida 32399-1300

Re: ~~Inactive Special Districts:~~  
\* Eagle Bay Sub-Drainage District \*  
\* 111-County Hospital Authority \*

Dear President McKay and Speaker Feeney:

When a special district becomes inactive within the meaning of Section 189.4044 Florida Statutes, the Department of Community Affairs must file Declaration of Inactive Status Reports (enclosed) with the President of the Senate and the Speaker of the House of Representatives. Pursuant to Section 189.4044(3)-(4), Florida Statutes, this is sufficient notice as required by Section 10, Article III of the State Constitution to authorize the Legislature to repeal any special laws so reported. The above referenced districts have become inactive. Therefore, I dutifully request that the Legislature dissolve these special districts by repealing their enabling laws. Thank you for your time and consideration.

Very truly yours,

  
Steven M. Seibert  
Secretary

SMS/jg

Enc. Declaration of Inactive Status Reports for  
the Above Referenced Special Districts

cc: Jack Gaskins Jr., Special District Information Program  
Special District's Registered Agent

2555 SHUMARD OAK BOULEVARD - TALLAHASSEE, FLORIDA 32399-2100  
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781  
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE  
2796 Overseas Highway, Suite 212  
Mashon, FL 32050-2227  
(305) 289-3407

COMMUNITY PLANNING  
2336 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(904) 488-2136

EMERGENCY MANAGEMENT  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(904) 413-0069

HOUSING & COMMUNITY DEVELOPMENT  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(850) 488-7956

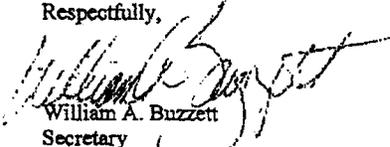
The Honorable Mike Haridopolos  
The Honorable Dean Cannon  
July 8, 2011  
Page 2

On June 9, 2011, the Department published a "Notice of Proposed Declaration of Inactive Status of the Gilchrist County Development Authority" in the *Gilchrist County Journal*. This notice required any party objecting to the inactive status to file an objection with the Department pursuant to Chapter 120, Florida Statutes, within twenty-one (21) days after the date of publication of the notice. The Department did not receive any objections. Therefore, on July 1, 2011, the Department declared the Authority inactive by changing its status on the Official List of Special Districts from "active" to "inactive."

Section 189.4044(3), Florida Statutes, provides that this declaration of inactive status is sufficient notice as required by Section 10, Article III of the State Constitution to authorize the Legislature to repeal any special laws so reported. According to our records, the Authority was established by Chapter 59-1308, Laws of Florida. The Department requests that the Legislature dissolve the Authority by repealing this special act.

Please contact Ms. Leslie Anderson-Adams, Assistant General Counsel, at 850-488-0410 if you have any questions or need further assistance.

Respectfully,



William A. Buzzett  
Secretary

WAB/jg

cc: Ms. Kyle Stone, Registered Agent, Gilchrist County Development Authority  
Mr. John K. McPherson, Gilchrist County Attorney  
Mr. Jack Gaskins Jr., Special District Information Program

1                   A bill to be entitled  
 2           An act relating to the Eagle Bay Sub-Drainage  
 3           District, Okeechobee County; repealing chapters 12010  
 4           (1927), 16980 (1935), 19556 (1939), and 21916 (1943),  
 5           Laws of Florida; abolishing the district; transferring  
 6           assets and liabilities of the district; providing an  
 7           effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Chapters 12010, 1927; 16980, 1935; 19556, 1939;  
 12           and 21916, 1943, Laws of Florida, are repealed.

13           Section 2. The Eagle Bay Sub-Drainage District, Okeechobee  
 14           County, is abolished.

15           Section 3. All assets and liabilities of the Eagle Bay  
 16           Sub-Drainage District shall be transferred to the Board of  
 17           County Commissioners of Okeechobee County.

18           Section 4. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 649 (2016)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local Government Affairs  
2 Subcommittee

3 Representative Pigman offered the following:

4

5 **Amendment (with title amendment)**

6 Remove line 11 and insert:

7 Section 1. Chapters 12010, 1927; 19556, 1939;

8

9

10 **T I T L E A M E N D M E N T**

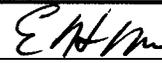
11 Remove line 4 and insert:

12 (1927), 19556 (1939), and 21916 (1943),



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 655 City of Jacksonville, Duval County  
**SPONSOR(S):** Fullwood  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee		Darden 	Miller 
2) Business & Professions Subcommittee			
3) Local & Federal Affairs Committee			

**SUMMARY ANALYSIS**

Florida's Beverage Law places a limit on "quota licenses," a license that allows a vendor to sell malt beverages, wine, and distilled spirits for both on and off premises consumption, of one license for every 7,500 residents of a county. The Department of Business and Professional Regulation is authorized to issue a Special Restaurant Beverage (SRX) license in excess of the quota limitation.

An SRX license allows a restaurant to sell alcoholic beverages if the restaurant has at least 2,500 square feet of service area, is equipped to serve 150 full-service customers, and derives at least 51 percent of the its gross revenue from the sale of food and non-alcoholic beverages. Restaurants in a designated area of Jacksonville may be issued an SRX license as long as they are larger than 1,800 square feet and can serve at least 100 full-service customers. A majority of the restaurant's gross revenue must still come from the sale of food and non-alcoholic beverages.

This bill expands the designated area within Jacksonville where a local exception to general law reducing the square foot and occupancy requirements for an SRX license applies.

This bill takes effect upon becoming law.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### Alcoholic Beverage Licensing

Current law places a cap of one quota license for every 7,500 residents of a county.<sup>1</sup> The Department of Business and Professional Regulation (DBPR), however, may issue Special Restaurant Beverage (SRX) licenses in excess of the quota limitation set forth in s. 561.20(1), F.S.<sup>2</sup> SRX licenses may only be issued to restaurants with 2,500 or more square feet of floor space and accommodations for the service and seating of at least 150 full-service customers.<sup>3</sup> Most restaurants must receive at least 51 percent of their total gross revenue from the sale of food and non-alcoholic beverages to qualify for a SRX license, but some older restaurants may qualify at a lower total gross revenue threshold.<sup>4</sup> A restaurant must offer full course meal service at any time alcohol beverages are being served to qualify for a license.<sup>5</sup> A full course meal must contain a salad or vegetable, entrée, beverage, and bread.<sup>6</sup>

###### Jacksonville Special Zone

In 1987, the Legislature created more lenient requirements for the issuance of SRX licenses in a special zone in Jacksonville.<sup>7</sup> At the time, the zone included three areas: Northside West, Northside East, and Southbank.<sup>8</sup> The zone was expanded in 2011 to include the Urban Transition area.<sup>9</sup>

A restaurant in the zone must still derive at least 51 percent of its total gross revenue from the sale of food and non-alcoholic beverages to qualify for a SRX license, but is only required to have 1,800 or more square feet of floor space and accommodations for the service and seating of at least 100 full-service customers.<sup>10</sup> The issuance of the license is also subject to any zoning requirement establishing a minimum distance between liquor-serving establishments and schools or churches, as well as any state alcoholic beverage law not otherwise inconsistent with the special act.<sup>11</sup>

##### **Effect of Proposed Changes**

The bill expands the special zone created by Chapter 87-471, Laws of Florida, to include the areas known as Riverside Avondale Commercial Character Areas. The bill also clarifies that the "Urban Transition" area added to the special zone by Ch. 2011-255, Laws of Fla., should be referred to as the "Riverside Avondale Urban Transition."

This bill was unanimously approved by members of the Duval County local legislative delegation present and voting at the delegation public meeting held on September 24, 2015.

---

<sup>1</sup> Section 561.20(1), F.S.

<sup>2</sup> Section 561.20(2)(a)4., F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Rule 61A-3.0141, F.A.C. This provision applies to all licenses issued after April 18, 1972. For licenses issued between September 1, 1969 and April 18, 1972, at least thirty percent of the restaurant's total gross revenue must be derived from the sale of food and non-alcoholic beverages; for licenses issued prior to September 1, 1969, there is no minimum gross revenue threshold, but the restaurant must be "bona fide" and meet the other requirements of the rule.

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

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

<sup>7</sup> Ch. 87-471, Laws of Fla.

<sup>8</sup> *Id.*

<sup>9</sup> Ch. 2011-255, Laws of Fla.

<sup>10</sup> Ch. 87-471, Laws of Fla.

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

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.**

**B. SECTION DIRECTORY:**

Section 1: Amends Chapter 87-471, Laws of Florida, to add additional areas to a special zone in downtown Jacksonville in which DPBR can grant an SRX license to restaurants notwithstanding the provisions of s. 561.20(1), F.S.

Section 2: Provides that the bill shall take effect upon becoming law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 28, 2015

WHERE? *Financial News & Daily Record*, a daily (except Saturday and Sunday) newspaper published in Duval County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

# Daily Record

## PROOF OF PUBLICATION

(Published Daily Except Saturday and Sunday)

Jacksonville, Duval County, Florida

STATE OF FLORIDA, }  
                                  } SS:  
COUNTY OF DUVAL, }

Before the undersigned authority personally appeared James F. Bailey, Jr., who on oath says that he is the Publisher of FINANCIAL NEWS and DAILY RECORD, a daily (except Saturday and Sunday) newspaper published at Jacksonville, in Duval County, Florida; that the attached copy of advertisement, being a

Notice of Intention to Seek Local Legislation

in the matter of A bill to be entitled

in the \_\_\_\_\_ Court, of Duval County, Florida, was published  
in said newspaper in the issues of September 28, 2015

Affiant further says that the said FINANCIAL NEWS and DAILY RECORD is a newspaper at Jacksonville, in said Duval County, Florida, and that the said newspaper has heretofore been continuously published in said Duval County, Florida, each day (except Saturday and Sunday) and has been entered as periodicals matter at the post office in Jacksonville, in said Duval County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

[Signature]  
Publisher

Sworn to and subscribed before me this day of September 28, 2015

ANGELA CAMPBELL  
Notary Public, State of Florida  
My Comm. Expires April 10, 2017  
Commission No. EE 871981

Angela Campbell  
Notary Signature

Angela Campbell  
Notary Public  
EE871981

seal                      James F. Bailey, Jr. personally known to me

**NOTICE OF INTENTION TO SEEK LOCAL LEGISLATION TO WHOM IT MAY CONCERN: NOTICE IS HEREBY GIVEN: Intent that the undersigned will apply to the next Session of the Legislature of the State of Florida for the introduction of a local bill**  
A bill to be entitled  
An act relating to the City of Jacksonville, Duval County, amending Chapter 87-471, Laws of Florida, adding a special zone in Jacksonville, Florida so as to provide an exception for space and seating requirements for liquor licenses for restaurants in the zone; providing an effective date; 15-11307  
Sept. 28, 2015

**HOUSE OF REPRESENTATIVES  
2015 LOCAL BILL CERTIFICATION FORM**

**BILL #:** J-1  
**SPONSOR(S):** Representative Reggie Fullwood  
**RELATING TO:** Amending Chapter 87-471; adding a special zone in Jacksonville, FL so as to provide an exception for space and seating requirements for liquor licenses for restaurants in the zone  
[Indicate Area Affected (City, County, or Special District) and Subject]  
**NAME OF DELEGATION:** Duval County Legislative Delegation  
**CONTACT PERSON:** Paula Shoup  
**PHONE NO.:** (904) 630-1680      **E-Mail:** paulas@coj.net

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed.*

**(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?**  
YES  NO

**(2) Did the delegation conduct a public hearing on the subject of the bill?**  
YES  NO

**Date hearing held:** September 24, 2015  
**Location:** Council Chambers, City Hall, 117 W. Duval St, Jacksonville, FL 32202

**(3) Was this bill formally approved by a majority of the delegation members?**  
YES  NO

II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

**Has this constitutional notice requirement been met?**

**Notice published:** YES  NO  **DATE** September 28, 2015

**Where?** Daily Record **County** Duval

**Referendum in lieu of publication:** YES  NO

**Date of Referendum** \_\_\_\_\_

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

**(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?**

YES [ ] NO [] NOT APPLICABLE [ ]

**(2) Does this bill change the authorized ad valorem millage rate for an existing special district?**

YES [ ] NO [] NOT APPLICABLE [ ]

**If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?**

YES [ ] NO [ ]

**Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Local Government Affairs Subcommittee.**

  
\_\_\_\_\_  
Delegation Chair (Original Signature)

9/24/15  
\_\_\_\_\_  
Date

Janet H. Adkins  
\_\_\_\_\_  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES  
2016 ECONOMIC IMPACT STATEMENT FORM**

***\*Read all instructions carefully.\****

***House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.***

**BILL #:** J-1  
**SPONSOR(S):** Representative Reggie Fullwood  
**RELATING TO:** Special Zone for restaurant licensing in the Riverside Avondale neighborhood of Duval County.  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ positive	\$ positive

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 16-17</u>	<u>FY 17-18</u>
	\$ <u>N/A</u>	\$ <u>N/A</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

This bill, and previous ones like it, have proven to be revenue positive from an increase in sales tax revenue perspective and licensing revenue, but impossible to quantify. Easing the restrictions on bona fide restaurant's ability to serve a full bar increases the opportunity to make a profit which in turn creates more jobs and sales tax revenue.

**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Local:	\$ _N/A_	\$ _N/A_
State:	\$ _N/A_	\$ _N/A_
Federal:	\$ _N/A_	\$ _N/A_

**IV. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: More diverse dining options  
\_\_\_\_\_
2. Advantages to Businesses: Increased likelihood of success in a very competitive field. Levels the playing field for smaller, independently owned businesses.
3. Advantages to Government: More sales tax revenue with no increase in services or staff. Higher license fee revenue:  
2COP returns \$392 per year to state while a 4COP returns \$1820 per year in Duval County

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None  
\_\_\_\_\_  
\_\_\_\_\_
2. Disadvantages to Businesses: None  
\_\_\_\_\_  
\_\_\_\_\_
3. Disadvantages to Government: None  
\_\_\_\_\_  
\_\_\_\_\_

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

There is already staff in place to support this bill. The only change would be issuing more 4COP/SRX licenses and fewer 2COP licenses resulting in more license revenue for the state plus more sales tax revenue from the businesses.

\_\_\_\_\_

\_\_\_\_\_

**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

All data from real world application of operating a business with a 2COP and several businesses with 4COPS. Additionally, I have gone through the process before and am an owner of a business that has seen direct positive benefit from this change within another part of the Riverside Avondale neighborhood.

**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:



**[Must be signed by Preparer]**

Print preparer's name: Allan DeVault

August 11, 2015

**Date**

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Managing partner – Black Sheep Restaurant  
Treasurer – Riverside Avondale Preservation

REPRESENTING: Myself and Riverside Avondale Preservation

PHONE: (904) 612-9065

E-MAIL ADDRESS: allan@blacksheep5points.com

1                   A bill to be entitled  
 2           An act relating to the City of Jacksonville, Duval County;  
 3           amending chapter 87-471, Laws of Florida, as amended;  
 4           establishing special zones in downtown Jacksonville;  
 5           providing exceptions for space and seating requirements  
 6           for liquor licenses for restaurants in the zones, subject  
 7           to local zoning requirements; providing an effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10

11           Section 1. Chapter 87-471, Laws of Florida, as amended by  
 12           chapter 2011-255, Laws of Florida, is amended to read:

13           Section 1. There are ~~is~~ created a special zones ~~zone~~ in  
 14           downtown Jacksonville covering the following described areas,  
 15           known as Northside West, Northside East, ~~and~~ Southbank,  
 16           Riverside Avondale Urban Transition Area, and Riverside Avondale  
 17           Commercial Character Areas for the purposes of this act. The  
 18           areas are described as:

19

20           The Northside West area is that part of the City of  
 21           Jacksonville, Duval County, Florida described as:

22

23           Begin at the point of intersection of the West right-  
 24           of-way line of Main Street, State Road No. 5, with the  
 25           South right-of-way line of West Bay Street; thence,  
 26           Westerly along said South right-of-way line of West

27 Bay Street to a line being a Southerly prolongation of  
 28 the West right-of-way line of Julia Street; thence  
 29 Northerly along said line and said West right-of-way  
 30 line of Julia Street to the South right-of-way line of  
 31 Forsyth Street; thence Westerly along said South  
 32 right-of-way line of Forsyth Street to the West right-  
 33 of-way line of Pearl Street; thence Northerly along  
 34 said West right-of-way line of Pearl Street to the  
 35 North right-of-way line of State Street; thence  
 36 Westerly and Northwesterly along said North right-of-  
 37 way line of State Street to the Northwesterly right-  
 38 of-way of Interstate 95 and State Road No. 9; thence  
 39 Southwesterly along said Northwesterly and Westerly  
 40 right-of-way line to an intersection with a line being  
 41 a Westerly prolongation of the Northeasterly right-of-  
 42 way line of that portion of Interstate 95 leading to  
 43 and from the Fuller Warren Bridge over the St. Johns  
 44 River; thence Southeasterly along said line and  
 45 Northeasterly right-of-way line to the center line of  
 46 the St. Johns River; thence Northeasterly and Easterly  
 47 along said center line to the West right-of-way line  
 48 of the John T. Alsop (Main Street) Bridge; thence  
 49 Northerly along said West right-of-way line of the  
 50 John T. Alsop (Main Street) Bridge to the Point of  
 51 Beginning.

52

53 | The Northside East area is that part of the City of  
 54 | Jacksonville, Duval County, Florida described as:

55 |  
 56 | Begin on the west, Pearl Street extending from State  
 57 | on the north to Forsyth Street on the south and Julia  
 58 | Street from Forsyth on the north to Bay Street on the  
 59 | south, and Main Street beginning at Bay Street on the  
 60 | north and extending south to the St. Johns River. The  
 61 | northern boundary is State Street, beginning at Pearl  
 62 | Street, and extends eastward to Liberty Street at  
 63 | which point the boundary extends eastward along the  
 64 | Jacksonville Expressway to a point where the  
 65 | Jacksonville Expressway intersects with the Haines  
 66 | Street Expressway. Then north along the Haines Street  
 67 | Expressway to Marshall Street, and then eastward along  
 68 | Marshall Street to Talleyrand Avenue. North along  
 69 | Talleyrand Avenue to Fairway Street, and then eastward  
 70 | along Fairway Street to the St. Johns River. The  
 71 | eastern and southern boundaries are the St. Johns  
 72 | River, beginning at Fairway Street and extending  
 73 | southward to a point beyond the Hart Bridge, then  
 74 | westward to Main Street at a point running north to  
 75 | Bay Street and then west along Bay Street to Julia  
 76 | Street, then north along Julia Street to Forsyth  
 77 | Street, then extending west to Pearl Street.

78 |

79 | The Southbank area is that part of the City of  
 80 | Jacksonville, Duval County, Florida described as:  
 81 |  
 82 | Begin at the point of intersection of the North right-  
 83 | of-way line of Gulf Life Drive with the West right-of-  
 84 | way line of South Main Street, State Road No. 5;  
 85 | thence westerly along said North right-of-way line of  
 86 | Gulf Life Drive to the Northeasterly right-of-way line  
 87 | of that portion of the Jacksonville Expressway leading  
 88 | to and from the Acosta Bridge over the St. Johns  
 89 | River; thence Southeasterly along said Northeasterly  
 90 | right-of-way line to an intersection with a  
 91 | Northeasterly prolongation of a line lying 60 feet  
 92 | Southeasterly from, when measured at right angles to,  
 93 | the Southeasterly face of the Prudential Building;  
 94 | thence Southwesterly along said line and a  
 95 | Southwesterly prolongation thereof to an intersection  
 96 | with the South right-of-way line of Prudential Drive;  
 97 | then Easterly along said South right-of-way line of  
 98 | Prudential Drive to an intersection with a  
 99 | Northeasterly prolongation of the Westerly edge of the  
 100 | Easternmost Baptist Medical Center driveway; thence  
 101 | Southwesterly along said line and Westerly edge of  
 102 | driveway and Southwesterly prolongation thereof to an  
 103 | intersection with the Northerly right-of-way line of  
 104 | Interstate 95, State Road No. 9; thence Easterly along

105 | said Northerly right-of-way line to a point of  
 106 | intersection with the Southwesterly edge of the  
 107 | Southbound roadway of South Main Street; thence  
 108 | Northeasterly along a line drawn straight from the  
 109 | last described point to the Northwesterly corner of  
 110 | Lot 18, Block 1, Bostwick's Subdivision of Block 46 in  
 111 | South Jacksonville, as shown on plat recorded in Plat  
 112 | Book 3, Page 68 of the Current Public Records of said  
 113 | County, said Northwest corner being located in the  
 114 | Northeasterly right-of-way line of the Northbound  
 115 | approach to said South Main Street from said  
 116 | Interstate 95; thence Southeasterly and Easterly along  
 117 | said Northeasterly right-of-way line and Northerly  
 118 | right-of-way line of Interstate 95 to an intersection  
 119 | with the Southeasterly right-of-way line of Vine  
 120 | Street; thence Northeasterly along said Southeasterly  
 121 | right-of-way line of Vine Street to the Northeasterly  
 122 | line of that certain alley running Southeasterly  
 123 | through Block 17, Reeds Fourth Subdivision of South  
 124 | Jacksonville, as shown on plat recorded in Plat Book  
 125 | 1, Page 46 of the former public records of said  
 126 | County; thence Southeasterly along said Northeasterly  
 127 | alley line to an intersection with the Northwesterly  
 128 | right-of-way line of Alamo Street; thence  
 129 | Northeasterly along said Northwesterly right-of-way  
 130 | line of Alamo Street and a Northeasterly prolongation

131 |       thereof to an intersection with the mean high water  
 132 |       line of the St. Johns River; thence Northwesterly  
 133 |       along said mean high water line to an intersection  
 134 |       with a line being a Northerly prolongation of the West  
 135 |       face of the Gulf Life Insurance Company's parking  
 136 |       garage; thence Southerly along said line, said West  
 137 |       garage face, and a Southerly prolongation thereof to  
 138 |       an intersection with the North right-of-way line of  
 139 |       Gulf Life Drive; thence Westerly along said North  
 140 |       right-of-way line to the Northerly prolongation of the  
 141 |       Easterly right-of-way line of Flagler Avenue; thence  
 142 |       Northerly along said prolongation of the Easterly  
 143 |       right-of-way line of Flagler Avenue to an intersection  
 144 |       with a line being the Easterly prolongation of the  
 145 |       South face of the multistory Hilton Hotel building;  
 146 |       thence Westerly along said line, the said South face  
 147 |       of the Hilton Hotel to the Westerly right-of-way line  
 148 |       of South Main Street; thence Southerly along said  
 149 |       Westerly right-of-way line of South Main Street to the  
 150 |       Point of Beginning.

151 |  
 152 |       The Riverside Avondale Urban Transition Area is that  
 153 |       part of the Riverside Avondale Historic District of  
 154 |       the City of Jacksonville, Duval County, Florida  
 155 |       described as:  
 156 |

157 The area bound by Margaret Street to the west,  
 158 Dellwood Avenue and Interstate 95 to the north and  
 159 northeast, and the St. Johns River to the east and  
 160 south.

161  
 162 The Riverside Avondale Commercial Character Areas are  
 163 those parts of the Riverside/Avondale Historic  
 164 District of the City of Jacksonville, Duval County,  
 165 Florida described as:

166  
 167 Riverside Avondale Commercial Character Area #1: Lot  
 168 22, Arden, according to the plat thereof as recorded  
 169 in Plat Book 5 Page 89 of the Current Public Records  
 170 of Duval County, Florida. Block 22, Lots 3, 4, 5, and  
 171 6 Block 16, Fishweir Park, according to the plat there  
 172 of as recorded in Plat Book 3 Page 84 of the Current  
 173 Public Records of Duval County, Florida. A part of the  
 174 George Atkinson Grant, Section 58, Township 2 South,  
 175 Range 26 East Duval County, Florida as recorded in  
 176 Official Records: Book 10027 Page 872, Book 8723 Page  
 177 91, Book 14566 Page 1943, Book 8234 Page 171, Book  
 178 17088 Page 1988, Book 3153 Page 846, and Book 8558  
 179 Page 222

180  
 181 Riverside Avondale Commercial Character Area #2: Lots  
 182 10, 11, and 12 Block 104, Lots 7, 8, and 9 Block 121,

183 Riverside Heights, according to the plat thereof as  
 184 recorded in Plat Book 2 Page 61 of the Current Public  
 185 Records of Duval County, Florida. Lots 1, 2, 3, and 4  
 186 of BJ Skinner's Subdivision of Block 3 of Diterich's  
 187 Subdivision of part of the Hutchinson Grant according  
 188 to the plat thereof as recorded in Plat Book 8 Page 14  
 189 of the Current Public Records of Duval County,  
 190 Florida. Lots 7, 8 ,9, 10, 11, and 12 Block 2, Lots 6,  
 191 7, 8, 9, and 10 Block 1, St Johns Heights, according  
 192 to the plat thereof as recorded in Plat Book 3 Page 22  
 193 of the Current Public Records of Duval County,  
 194 Florida. Lots 1, 2, 3, 10, 11, and 12 Block 1  
 195 Diterich's Subdivision of Lot 4 of the Hutchinson  
 196 Grant, Northwestern 65 feet of Lots 1 and 2, all of  
 197 Lot 3 Diterich's Replat of Lot 1 Block 8, Edgewood,  
 198 according to the plat thereof as recorded in Plat Book  
 199 2 Page 86 of the Current Public records of Duval  
 200 County, Florida. Lots 130, 131, and 132, Avondale,  
 201 according to the plat thereof as recorded in Plat Book  
 202 7 Page 31 of the Current Public Records of Duval  
 203 County, Florida.

204  
 205 Riverside Avondale Commercial Character Area #3: Lot 1  
 206 (Except any portion taken by the City of Jacksonville  
 207 for right of way purposes) Block A, North Riverside  
 208 Heights, according to the plat thereof as recorded in

209 Plat Book 2 Page 99 of the Current Public Records of  
 210 Duval County, Florida. Lots 4 and 5 Block 13, Lots 1,  
 211 2, 3, 4, 5, the North 1/2 of a closed alley lying  
 212 Southeasterly of said lots, and Lot 6 Block 14, Lots 1  
 213 and 2 Block 15, Lots 1, 36, 37, and 38 Block 16, St  
 214 Johns Heights, according to the plat thereof as  
 215 recorded in Plat Book 3 Page 22 of the Current Public  
 216 Records of Duval County, Florida. Lots 7, 8, and 9  
 217 Block 49, Riverside Heights, according to the plat  
 218 thereof as recorded in Plat Book 2 Page 61 of the  
 219 Current Public Records of Duval County, Florida. A  
 220 portion of Eloise St closed and vacated by Ordinance  
 221 No. BB-153 of the City of Jacksonville, Florida.

222  
 223 Riverside Avondale Commercial Character Area #4: Lots  
 224 2, 3, 6, and part of Lot 7 recorded in Official Record  
 225 Book 9501 Page 290 Block 16. Lots 1, 4, 5, and part of  
 226 Lot 8 recorded in Official Record Book 9501 Page 292  
 227 Block 17, Ingleside Park, according to the plat  
 228 thereof as recorded in Plat Book 2 Page 77 of the  
 229 current Public Records of Duval County, Florida. Lots  
 230 9, 10, 11, 12, 13, 14, and 15 Block 3. Lots 6, 7  
 231 (except part in right of way), 8, 9, 10, 11, 12, 13,  
 232 14, and 15 Block 6. Lots 1, 2, and 3 Block 7, Willow  
 233 Brook Terrace, according to the plat thereof as

234 | recorded in Plat Book 8 Page 36 of the Current Public  
 235 | records of Duval County, Florida.

236 |

237 | Riverside Avondale Commercial Character Area #5: Lot  
 238 | 7, Lots 8, 9, 10, and 11 (except parts in right of  
 239 | way) Block 18, Central Addition to Riverside,  
 240 | according to the plat thereof as recorded in Plat Book  
 241 | 6 Page 6 of the Current Public Records of Duval  
 242 | County, Florida. Part of Lot 7 recorded in Official  
 243 | Record Book 14809 Page 692, Lots 8, 9, and 10, Lot 11  
 244 | and 12 (except parts in right of way), and Lot 13  
 245 | Block 1. Lot 8 (except part in right of way), Lots 9,  
 246 | 10, 11, 12, 13, 14, 15, and part of Lots 16, 17, and  
 247 | 18 recorded in Official Record Book 15097 Page1955  
 248 | Block 2, Riverside Extension, according to the plat  
 249 | thereof as recorded in Plat Book 6 Page 11 of the  
 250 | Current Public Records of Duval County, Florida. Part  
 251 | of Lot 6 recorded in Official Records Book 6934 Page  
 252 | 1451, Lots 7, 8, 9, and 10, Riverside Pines, according  
 253 | to the plat thereof as recorded in Plat Book 17 Page  
 254 | 13 of the Current Public Records of Duval County,  
 255 | Florida.

256 |

257 | Riverside Avondale Commercial Character Area #6: Lots  
 258 | 7, 8, 9, 10, 11, and 12 of re-plat of Block 2,  
 259 | Lightbody's Subdivision, according to the plat thereof

260 as recorded in Plat Book 6 Page 1 of the Current  
 261 Public records of Duval County, Florida. Lots 1, 2, 3,  
 262 and 4 Block 3, Lightbody's Subdivision, according to  
 263 the plat thereof as recorded in Plat Book 3 Page 95 of  
 264 the Current Public records of Duval County, Florida.  
 265 Lots 12 and 13, Re-plat of Lots 12 & 13 Block 8  
 266 Riverside Annex, according to the plat thereof as  
 267 recorded in Plat Book 9 Page 8 of the Current Public  
 268 records of Duval County, Florida. Lots 1, 2, 3, 4, 5,  
 269 6, 7, 8, 9, 10, 11, and 25, Shackelton's Subdivision  
 270 of Block 8 Riverside Annex, according to the plat  
 271 thereof as recorded in Plat Book 2 Page 67 of the  
 272 Current Public records of Duval County, Florida. Lots  
 273 1, 2, 3, 4, 5, 6, 7, 8, 9, East 15FT Lot 10, West 35FT  
 274 Lot 11 Block 5. Lots 1, 2, 3, 4, 5, and 6 Block 6,  
 275 Riverside Annex, according to the plat thereof as  
 276 recorded in Plat Book 1 Page 106 of the Current Public  
 277 records of Duval County, Florida. Lots 1, 2, 3, 4, 5,  
 278 6, 7, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27,  
 279 28, and 29, Duval Company's Re-plat of Block 7  
 280 Riverside Annex, according to the plat thereof as  
 281 recorded in Plat Book 2 Page 90 of the Current Public  
 282 records of Duval County, Florida. That fractional part  
 283 of Park St located Southeasterly of lots 16 and 17  
 284 Duval Company's Re-plat of Block 7 Riverside Annex  
 285 known as Parcel C recorded in Official Record Book

286 16195 Page 2011. Closed alley within Plat Book 2 Page  
 287 90 closed by City of Jacksonville Ordinance No. 82-  
 288 314-147. Tracts D and E. Lots 1, 2, 3, 4, 5, and 6  
 289 Block 6. Lots 1, 2, 3, and 4 Block 7. Lots 1, 2, 3, 4,  
 290 5, 6, 7, and 8 Block 8. Lots 2, 3, 4, 5, 6, 7, 8, 9,  
 291 10, 11, 12, 13, 14, 15, and closed alley recorded in  
 292 Official Record Book 11597-1171 Block 9. Lots 18, 19,  
 293 20, 21, 22, and 23 Block 12. Lots 14 and part closed  
 294 street lying South thereof, 15, 16, 17, 18, and 19  
 295 Block 13, New Riverside, according to the plat thereof  
 296 as recorded in Plat Book 3 Page 54 of the Current  
 297 Public records of Duval County, Florida. Lots 1, 2,  
 298 and 3, Valz & Yerkes Subdivision, according to the  
 299 plat thereof as recorded in Plat Book 7 Page 32 of the  
 300 Current Public records of Duval County, Florida.  
 301 Parcels of land being part of Government Lot 4 in  
 302 Section 22, Township 2 South, Range 26 East, Duval  
 303 County Florida as described in Deed Book 127 Page177,  
 304 Deed Book 127 Page 178, Official record Book 754  
 305 Page176, Official Record Book 1140 Page 279, Official  
 306 Record Book 2314 Page 133, and Official Record Book  
 307 4024 Page 200.  
 308  
 309 Riverside Avondale Commercial Character Area #7: Lot 6  
 310 Block 83, Riverside, according to the plat thereof as  
 311 recorded in Plat Book 4 Page 6 of the Current Public

312 records of Duval County, Florida. The West 60FT and  
 313 the North 25FT of the East 10FT of Lot 7 and the North  
 314 25FT of the West 1/2 of Lot 6, Block 83, Riverside,  
 315 according to the plat thereof as recorded in Plat Book  
 316 2 Page 24 of the Current Public records of Duval  
 317 County, Florida. The East 50FT of the common area  
 318 parcel of the John Gorrie Condominium described in  
 319 Official record Book 15698 Page 444 of the Current  
 320 Public Records of Duval County, Florida.

321  
 322 Riverside Avondale Commercial Character Area #8: All  
 323 of Lots 2 through 8, together with that portion of a  
 324 15FT alley (closed by ordinance 2002-393) lying  
 325 Southerly of said lots 7 and 8. Lots 1, 2, 3, 4, 5, 6,  
 326 7, 20, 21, 22 and part of a closed alley lying  
 327 southerly to Lots 6 and 7 and Easterly to Lots 6, 7,  
 328 and 22 Block 9. Fractional Lot 1 Block 11. Lots 1, 2,  
 329 3, 4, 5 and closed alley lying Easterly of Lots 6 & 26  
 330 Block 12 (except any part in right of way), R I CO's  
 331 addition to Riverside, according to the plat thereof  
 332 as recorded in Plat Book 5 Page 47 of the Current  
 333 Public Records of Duval County, Florida. Part of Lot  
 334 4, Riverside, according to the plat thereof as  
 335 recorded in Plat Book 1 Page 109 of the Current Public  
 336 Records of Duval County, Florida. West 1/2 Lot 5,  
 337 fractional Lot 6, and the West 1/2 of Lot 7 Block 102,

338 Riverside, according to the plat thereof as recorded  
 339 in Plat Book 4 Page 6 of the Current Public Records of  
 340 Duval County, Florida.

341  
 342 Riverside Avondale Commercial Character Area #9: Lots  
 343 1 through 10 Block 51. Lots 1, 2, 3, and part of Lot 4  
 344 recorded in Official Record Book 11528 Page 2345 Block  
 345 52, Riverside, according to the plat thereof as  
 346 recorded in Plat Book 1 Page 109 of the Current Public  
 347 Records of Duval County, Florida. A part of Oak Street  
 348 North of Block 51, plat of Riverside, as recorded in  
 349 Official record Book 9853 Page 1080 of the Public  
 350 Records of Duval County, Florida.

351  
 352 Section 2. Notwithstanding ~~the provisions of~~ s. 561.20(1),  
 353 Florida Statutes, in the areas herein described as Northside  
 354 West, Northside East, Southbank, Riverside Avondale ~~and~~ Urban  
 355 Transition Area, and Riverside Avondale Commercial Character  
 356 Areas, the Division of Alcoholic Beverages and Tobacco of the  
 357 Department of Business Regulation may issue a special alcoholic  
 358 beverage license to any bona fide restaurant containing all  
 359 necessary equipment and supplies for and serving full course  
 360 meals regularly and having accommodations at all times for  
 361 service of 100 or more patrons at tables and occupying not less  
 362 than 1,800 square feet of floor space which derive no less than  
 363 51 percent of gross income per annum from the sale of food

364 | consumed on the premises; provided that such licenses shall be  
365 | subject to local zoning requirements ~~setting distance~~  
366 | ~~requirements between liquor serving establishments and churches~~  
367 | ~~and schools~~ and to any provision of the alcoholic beverage laws  
368 | of the state and rules of the division not inconsistent  
369 | herewith.

370 |       Section 2. This act shall take effect upon becoming a law.



