Local Government Council

Wednesday, February 22, 2006
1:00 p.m.
404 House Office Building

REVISED

Allan G. Bense
Speaker

Ken Sorensen
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Local Government Council

Start Date and Time:	Wednesday, February 22, 2006 01:00 pm
End Date and Time:	Wednesday, February 22, 2006 04:00 pm
Location:	404 HOB
Duration:	3.00 hrs

Consideration of the following bill(s):

HB 143 Retirement by Brummer
HB 273 Outdoor Advertising by Mayfield
HB 333 Public Food Service Establishments by McInvale
HB 341 Citrus/Hernando Waterways Restoration Council by Dean
HB 479 Pasco County by Littlefield
HM 539 Indian River Lagoon Restoration Project and the Lake Okeechobee and Estuary Recovery Plan by Harrell
HB 547 East County Water Control District, Lee and Hendry Counties by Kreegel
HB 7009 Review under the Open Government Sunset Review Act regarding Local Government Managers by Governmental Operations Committee
HB 7011 Review under the Open Goverment Sunset Review Act regarding Code Enforcement Officers by Governmental Operations Committee

NOTICE FINALIZED on 02/10/2006 16:14 by ADEYEMO.MARTHA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 143 Retirement
SPONSOR(S): Brummer
TIED BILLS: None **IDEN./SIM. BILLS:** SB 92

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	7 Y, 0 N	Williamson	Everhart
2) Local Government Council		Nelson	Hamby
3) Fiscal Council			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

This bill provides that a Special Risk Class member of the Florida Retirement System (FRS) who is a law enforcement officer, correctional officer, correctional probation officer, firefighter, emergency medical technician or paramedic is considered totally and permanently disabled if he or she has a job-related injury that causes physical or mental impairment, and is unable to perform the duties of his or her position, unless proven otherwise by the secretary of the Department of Management Services ("administrator"). Under current law, a member must be prevented from rendering useful and efficient service as an officer or employee to be considered disabled. Thus, the bill creates an easier standard for an injured employee to meet in order to receive a disability benefit, and shifts the burden of proof from the employee to the administrator.

The bill also relaxes post-retirement restrictions—which presently do not permit a disability retiree to receive disability benefits while gainfully employed—for the Special Risk Class members who qualify for in-line-of-duty disability retirement. Reemployment of a disabled officer, firefighter, emergency medical technician or paramedic is authorized:

- by an employer who does not participate in the FRS; or
- after one calendar month of retirement, by an FRS employer.

Subject to the above conditions, the disabled officer, firefighter, emergency medical technician or paramedic may be reemployed in any position other than the one he or she was employed at the time of disability retirement, and will continue to receive his or her disability retirement benefits.

The estimated first-year cost of the bill is $9,962,000, with increasing costs each year thereafter. The bill does not appropriate additional funding; therefore, costs will be absorbed within existing resources. The benefits provided by the bill are funded by increasing the FRS employer contribution rate for the Special Risk Class from 17.37 percent to 17.68 percent (+0.31 percent).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the employer contribution rates for the Special Risk Class of the Florida Retirement System.

Promote personal responsibility – The bill increases benefits to certain state and local employees who may be injured due to the intentional acts of another, without requiring the responsible party to pay the costs of the increased benefits.

Empower families – The bill provides for increased disability retirement benefits for certain state and local employees who are injured under certain conditions.

B. EFFECT OF PROPOSED CHANGES:

Background

Officer Malcolm Thompson

In 1997, Officer Malcolm Thompson of Kissimmee was shot several times in the head, neck and stomach by a suspect wanted for armed robbery and carjacking. Despite his severe injuries, he shot and killed the suspect.[1]

Florida Retirement System

The Florida Retirement System (FRS) is administered by the Department of Management Services through its Division of Retirement. The FRS provides retirement and disability benefits for state and county employees and for employees of those cities and special districts that choose to participate in the FRS. Currently, employer contribution rates to the FRS Trust Fund are 6.67 percent for the Regular Class and 17.37 percent for the Special Risk Class[2] (the members of which include, but are not limited to, police officers, correctional officers, correctional probation officers, firefighters, emergency medical technicians and paramedics).

Limited disability benefits are payable to FRS-covered employees for illnesses or injuries causing an individual to be totally and permanently disabled. For injuries not occurring in the line of duty, an employee must have five to 10 years of creditable service before the disability to be eligible for this benefit. However, if the injury occurs in the line of duty, the employee qualifies for an increased disability benefit regardless of his or her years of service.

Florida law describes "total and permanent disability" for all FRS members as being "if, in the opinion of the administrator,[3] he or she is prevented, by reason of a medically determinable physical or mental impairment, from rendering useful and efficient service as an officer or employee."[4] The member must provide proof of disability, including certification by two licensed physicians that the member's disability is total and permanent (i.e., that the member is unable to engage in any gainful employment). In order to receive the higher in-line-of-duty disability benefits, the member also must show by competent evidence that the disability occurred in the line of duty (unless a legal presumption applies such as is provided under s. 112.18, F.S.). The general disability benefit is 42 percent of the employee's average

[1] "Wounded Cop Kills Robbery Suspect," *Miami Herald*, 4 June 1997, p. 2B.
[2] Section 121.71(3), F.S.
[3] Section 121.021(5), F.S., defines the term "administrator" for purposes of ch. 121, F.S., to mean the secretary of the Department of Management Services.
[4] Section 121.0911(4)(b), F.S.

final compensation (AFC). The in-line-of-duty benefit for special risk employees is at least 65 percent of the AFC.[5]

Currently, the law does not allow a FRS disability retiree to receive disability benefits while being gainfully employed. The disability retiree will void his or her disability benefits by becoming employed by any employer—at any time.

Effect of Bill

HB 143 establishes a different disability determination criteria for certain FRS Special Risk Class members. The bill provides that a member of the Special Risk Class who is employed as a law enforcement officer, correctional officer, correctional probation officer, firefighter, emergency medical technician or paramedic is considered totally and permanently disabled in the line of duty if he or she is prevented, by reason of a medically determinable physical or mental impairment caused by a job-related injury, from performing useful and efficient service in his or her position. The employee will receive the higher in-line-of-duty disability benefit unless the secretary of the Department of Management Services ("administrator") can provide "competent medical evidence to the contrary." Thus, the burden of proof is shifted from the employee to the administrator, and an easier standard is created for the injured employee to meet in order to receive the disability benefit.

The bill also relaxes post-retirement restrictions for the Special Risk Class members who qualify for in-line-of-duty disability retirement. Reemployment of a disabled officer, firefighter, emergency medical technician or paramedic is authorized:

- by an employer who does not participate in FRS; or
- after one calendar month of retirement, by an FRS employer.

Subject to the above conditions, the disabled officer, firefighter, emergency medical technician or paramedic may be reemployed in *any position* other than the one he or she was employed at the time of disability retirement. This presumably would allow an employee to return to work in a different position within the same job classification. Thus, a "law enforcement officer" could return to work with the same employer as a "law enforcement officer" as long as that officer was assigned to a different position. The employee would continue to receive his or her in-line-of-duty disability retirement benefits while receiving a salary from subsequent employment. Minimum threshold disability benefits are not considered taxable income,[6] so an affected individual would receive a "tax-free" disability benefit of at least 65% of his or her average final compensation, in addition to any workers' compensation benefit and/or social security benefit he or she would otherwise be entitled to, as well as any future salary he or she could earn while working in any position other than the one filled at the time of injury.

The bill increases the FRS contribution rates for the Special Risk Class from 17.37 percent to 17.68 percent (+0.31 percent) to fund the benefit improvement. As the affected special risk group is not treated as a separate subclass of the Special Risk Class, the higher contributions would be required for all special risk members, although the benefit improvement would only be available to a limited group.[7]

C. SECTION DIRECTORY:

Section 1: Provides a short title.

Section 2: Provides a public purpose for the bill, and a declaration of important state interest.

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[5] Section 121.091(4), F.S.

[6] Only that portion of the benefit that falls within the minimum benefit level—65 percent of AFC, in this case—is tax free; any person who receives a higher benefit based upon years of service must pay income taxes on the portion of the benefit received above the minimum benefit level.

[7] The bill currently excludes the following members of the Special Risk Class: correctional or forensic health care employees in specified positions with the Department of Corrections or the Department of Children and Families who spend 75 percent of their time performing duties involving contact with inmates or patients; youth custody officers employed by the Department of Juvenile Justice; and, forensic workers employed by a law enforcement agency or medical examiner's office (included in the class by ch. 2005-167, L.O.F., effective October 1, 2005). The bill does not cover members of the Special Risk Administrative Support Class.

Section 3: Amends s. 121.091, F.S., relating to in-line-of-duty disability benefits and reemployment after retirement.

Section 4: Increases the employer contribution rates for the Special Risk Class by 0.31 percent.

Section 5: Provides a July 1, 2006, effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not create, modify or eliminate a state revenue source.

2. Expenditures:

Year 1	Year 2	Year 3[8]
FY 06/07	FY 07/08	FY 08/09
$2,786,000	$2,897,000	$3,012,880

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not create, modify or eliminate a local revenue source.

2. Expenditures:

Year 1	Year 2	Year 3[9]
FY 06/07	FY 07/08	FY 08/09
$7,176,000	$7,463,000	$7,762,000

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not regulate the conduct of persons in the private sector.

D. FISCAL COMMENTS:

The bill increases the FRS employer contribution rates for the Special Risk Class from 17.37 percent to 17.68 percent (+0.31 percent). This rate increase translates to a total first-year cost of $9,962,000, with increasing costs each year thereafter. Costs are assumed to increase an additional four percent each year. The bill does not appropriate additional funding; therefore, costs will be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The mandates provision of s. 18 (a), Art. VII, of the State Constitution, applies because the bill increases the in-line-of-duty disability for certain officers, firefighters, emergency medical technicians

[8] The costs shown are based upon the 2004 FRS Valuation and will be revised when the 2005 Valuation is completed. Department of Management Services 2006 Substantive Bill Analysis, October 11, 2005.

[9] *Id.*

and paramedics, resulting in local government FRS participants being required to expend funds. However, the following exception applies:

- the bill contains a statement of important state interest; and
- similarly situated persons are required to comply.

2. Other:

Section 14, Art. X of the State Constitution

Since 1976, the Florida Constitution has required that benefit improvements under public pension plans in the state of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

> SECTION 14. State retirement systems benefit changes.—A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Part VII of ch. 112, Florida Statutes

Section 14, Art. X, of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act," which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the state of Florida. The key provision of this act states the legislative intent to "prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers."

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

At the Governmental Operations Committee meeting on October 19, 2005, two issues were raised and drafting recommendations were made:

1) The bill creates disparate treatment of members within the Special Risk Class. As a result, the passage of this bill could jeopardize the qualified status of the entire retirement plan. A private letter ruling by the Internal Revenue Service (IRS) is suggested; however, the IRS cannot provide a ruling until passage of the bill. It is suggested that language be added to the bill that makes the benefits provided contingent upon a private letter ruling by the IRS.

2) In addition, the bill provides that a retired law enforcement officer, correctional officer, correctional probation officer, firefighter, emergency medical technician or paramedic may not be reemployed in the position he or she "held" at the time of the disabling illness or injury. According to the Department of Management Services, it is unclear whether a category two officer could be rehired as a category one officer or if both categories would fall under the phrase "position held." As such, it is recommended that the phrase be clarified.

Other Comments

<u>Department of Management Services</u>

According to the FRS consulting actuaries, changing the standard for total and permanent disability from inability to perform any form of employment to inability to perform one's current job, or a limited range of jobs, and shifting the burden of proof from the member to the plan administrator, would increase disability retirements and retirement costs. The higher costs would arise from members becoming eligible for in-line-of-duty disability benefits who would not be eligible for such benefits absent this proposal.[10]

The Department of Management Services has noted that disability coverage under the FRS is intended to provide income for members who are so physically or mentally impaired from injury or illness suffered while actively employed in a covered position that they can no longer be expected to earn income by gainful employment. If later employed, they are considered "recovered," and the disability benefit stops. This "total and permanent" disability eligibility standard—currently applied equitably across all plans and membership classes of the FRS—has not changed since the plan's inception in December 1970. By making it significantly easier for certain members of one class to both obtain and keep disability benefits, the bill has the potential to encourage fraud and abuse, the costs for which would ultimately be borne by the taxpayers of Florida. Effective elimination of the reemployment prohibition would exacerbate these problems.

By modifying qualification requirements to shift the burden of proof from the affected member to the administrator, the bill makes it far less likely that a disability application could be denied. The administrator would have to provide competent evidence to show that the applicant could indeed perform the duties of his/her current job. This would be exceedingly difficult, if not impossible. It is recommended that the Legislature consider amending the bill to reinstate the present proof requirement by eliminating the shift of burden of proof from the member to the administrator.

The Department of Management Services also has noted that, under current law, the affected special risk group is not treated as a separate category of the Special Risk Class. Therefore, under the existing structure of the FRS, all special risk employers would be required to pay increased rates as a result of this benefit improvement, while the liberalized disability standard would not be available to all special risk employees. As the bill does not cover all employee groups in the Special Risk Class, it effectively creates unequal subclasses within the Special Risk Class. Excluded groups could view this as discrimination, which could lead to dissension. Members of the Special Risk Class who are not included in the group proposed to be covered by the bill could argue that they should have been covered. The bill would set a precedent for other groups to seek equal treatment, whether they are Special Risk Class members not covered by HB 143 or members of other classes who are injured in the line of duty.[11]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[10] Department of Management Services Substantive Bill Analysis, February 28, 2005.
[11] *Id.*

1 A bill to be entitled
2 An act relating to retirement; providing a short title;
3 providing legislative intent; providing a statement of
4 important state interest; amending s. 121.091, F.S.;
5 revising provisions relating to benefits payable for total
6 and permanent disability for certain Special Risk Class
7 members of the Florida Retirement System who are injured
8 in the line of duty; authorizing reemployment of a person
9 who retired with in-line-of-duty disability benefits by
10 employers not participating in a state-administered
11 retirement system; authorizing reemployment of a person
12 who retired with in-line-of-duty disability benefits by an
13 employer participating in a state-administered retirement
14 system after 1 calendar month; providing for contribution
15 rate increases to fund benefits provided in s. 121.091,
16 F.S., as amended; directing the Division of Statutory
17 Revision to adjust contribution rates set forth in s.
18 121.71, F.S.; providing an effective date.
19
20 Be It Enacted by the Legislature of the State of Florida:
21
22 Section 1. <u>This act may be cited as the "Officer Malcolm</u>
23 <u>Thompson Act."</u>
24 Section 2. <u>It is declared by the Legislature that</u>
25 <u>firefighters, emergency medical technicians, paramedics, law</u>
26 <u>enforcement officers, correctional officers, and correctional</u>
27 <u>probation officers, as defined in this act, perform state and</u>
28 <u>municipal functions; that it is their duty to protect life and</u>

29 property at their own risk and peril; that it is their duty to
30 continuously instruct school personnel, public officials, and
31 private citizens about safety; and that their activities are
32 vital to the public safety. Therefore, the Legislature declares
33 that it is a proper and legitimate state purpose to provide a
34 uniform retirement system for the benefit of firefighters,
35 emergency medical technicians, paramedics, law enforcement
36 officers, correctional officers, and correctional probation
37 officers, as defined in this act, and intends, in implementing
38 the provisions of s. 14, Art. X of the State Constitution as
39 they relate to municipal and special district pension trust fund
40 systems and plans, that such retirement systems or plans be
41 managed, administered, operated, and funded in such manner as to
42 maximize the protection of pension trust funds. Pursuant to s.
43 18, Art. VII of the State Constitution, the Legislature hereby
44 determines and declares that the provisions of this act fulfill
45 an important state interest.
46 Section 3. Paragraph (b) of subsection (4) and subsection
47 (9) of section 121.091, Florida Statutes, are amended to read:
48 121.091 Benefits payable under the system.--Benefits may
49 not be paid under this section unless the member has terminated
50 employment as provided in s. 121.021(39)(a) or begun
51 participation in the Deferred Retirement Option Program as
52 provided in subsection (13), and a proper application has been
53 filed in the manner prescribed by the department. The department
54 may cancel an application for retirement benefits when the
55 member or beneficiary fails to timely provide the information
56 and documents required by this chapter and the department's

57 rules. The department shall adopt rules establishing procedures
58 for application for retirement benefits and for the cancellation
59 of such application when the required information or documents
60 are not received.
61 (4) DISABILITY RETIREMENT BENEFIT.--
62 (b) Total and permanent disability.--
63 1. Except as provided in subparagraph 2., a member shall
64 be considered totally and permanently disabled if, in the
65 opinion of the administrator, he or she is prevented, by reason
66 of a medically determinable physical or mental impairment, from
67 rendering useful and efficient service as an officer or
68 employee.
69 2. A member of the Special Risk Class who is a law
70 enforcement officer, firefighter, correctional officer,
71 emergency medical technician, paramedic as described in s.
72 121.021(15)(c), or community-based correctional probation
73 officer as described in s. 121.021(15)(d)1., shall be considered
74 totally and permanently disabled in the line of duty if he or
75 she is prevented, by reason of a medically determinable physical
76 or mental impairment caused by a job-related injury, from
77 performing useful and efficient service in the position held,
78 unless the administrator can provide competent medical evidence
79 to the contrary.
80 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--
81 (a)1. Except as provided in subparagraph 2., any person
82 who is retired under this chapter, except under the disability
83 retirement provisions of subsection (4), may be employed by an
84 employer that does not participate in a state-administered

85 retirement system and may receive compensation from that
86 employment without limiting or restricting in any way the
87 retirement benefits payable to that person.
88 2. Any member of the Special Risk Class who retired under
89 the disability retirement provisions of subparagraph (4)(b)2.
90 may be reemployed by any employer not participating in a state-
91 administered retirement system in any position other than the
92 position in which he or she was employed at the time of the
93 disabling illness or injury and may receive compensation from
94 that employment without limiting or restricting in any way the
95 disability benefits payable to that person under the Florida
96 Retirement System.
97 (b)1.a. Except as provided in sub-subparagraph b., any
98 person who is retired under this chapter, except under the
99 disability retirement provisions of subsection (4), may be
100 reemployed by any private or public employer after retirement
101 and receive retirement benefits and compensation from his or her
102 employer without any limitations, except that a person may not
103 receive both a salary from reemployment with any agency
104 participating in the Florida Retirement System and retirement
105 benefits under this chapter for a period of 12 months
106 immediately subsequent to the date of retirement. However, a
107 DROP participant shall continue employment and receive a salary
108 during the period of participation in the Deferred Retirement
109 Option Program, as provided in subsection (13).
110 b. Any member of the Special Risk Class who retired under
111 the disability retirement provisions of subparagraph (4)(b)2.
112 may be reemployed by any employer participating in a state-

113 administered retirement system after having been retired for 1
114 calendar month, in accordance with s. 121.021(39). After 1
115 calendar month of retirement, any such retired member may be
116 reemployed in any position other than the one in which he or she
117 was employed at the time of disability retirement and may
118 receive compensation from that employment without limiting or
119 restricting in any way the retirement benefits payable to that
120 person under this chapter. Any retired member who is reemployed
121 within 1 calendar month after retirement shall void his or her
122 application for retirement benefits.
123 2. Any person to whom the limitation in subparagraph 1.
124 applies who violates such reemployment limitation and who is
125 reemployed with any agency participating in the Florida
126 Retirement System before completion of the 12-month limitation
127 period shall give timely notice of this fact in writing to the
128 employer and to the division and shall have his or her
129 retirement benefits suspended for the balance of the 12-month
130 limitation period. Any person employed in violation of this
131 paragraph and any employing agency which knowingly employs or
132 appoints such person without notifying the Division of
133 Retirement to suspend retirement benefits shall be jointly and
134 severally liable for reimbursement to the retirement trust fund
135 of any benefits paid during the reemployment limitation period.
136 To avoid liability, such employing agency shall have a written
137 statement from the retiree that he or she is not retired from a
138 state-administered retirement system. Any retirement benefits
139 received while reemployed during this reemployment limitation
140 period shall be repaid to the retirement trust fund, and

141 retirement benefits shall remain suspended until such repayment
142 has been made. Benefits suspended beyond the reemployment
143 limitation shall apply toward repayment of benefits received in
144 violation of the reemployment limitation.
145 3. A district school board may reemploy a retired member
146 as a substitute or hourly teacher, education paraprofessional,
147 transportation assistant, bus driver, or food service worker on
148 a noncontractual basis after he or she has been retired for 1
149 calendar month, in accordance with s. 121.021(39). A district
150 school board may reemploy a retired member as instructional
151 personnel, as defined in s. 1012.01(2)(a), on an annual
152 contractual basis after he or she has been retired for 1
153 calendar month, in accordance with s. 121.021(39). Any other
154 retired member who is reemployed within 1 calendar month after
155 retirement shall void his or her application for retirement
156 benefits. District school boards reemploying such teachers,
157 education paraprofessionals, transportation assistants, bus
158 drivers, or food service workers are subject to the retirement
159 contribution required by subparagraph 7.
160 4. A community college board of trustees may reemploy a
161 retired member as an adjunct instructor, that is, an instructor
162 who is noncontractual and part-time, or as a participant in a
163 phased retirement program within the Florida Community College
164 System, after he or she has been retired for 1 calendar month,
165 in accordance with s. 121.021(39). Any retired member who is
166 reemployed within 1 calendar month after retirement shall void
167 his or her application for retirement benefits. Boards of
168 trustees reemploying such instructors are subject to the

169 retirement contribution required in subparagraph 7. A retired
170 member may be reemployed as an adjunct instructor for no more
171 than 780 hours during the first 12 months of retirement. Any
172 retired member reemployed for more than 780 hours during the
173 first 12 months of retirement shall give timely notice in
174 writing to the employer and to the division of the date he or
175 she will exceed the limitation. The division shall suspend his
176 or her retirement benefits for the remainder of the first 12
177 months of retirement. Any person employed in violation of this
178 subparagraph and any employing agency which knowingly employs or
179 appoints such person without notifying the Division of
180 Retirement to suspend retirement benefits shall be jointly and
181 severally liable for reimbursement to the retirement trust fund
182 of any benefits paid during the reemployment limitation period.
183 To avoid liability, such employing agency shall have a written
184 statement from the retiree that he or she is not retired from a
185 state-administered retirement system. Any retirement benefits
186 received by a retired member while reemployed in excess of 780
187 hours during the first 12 months of retirement shall be repaid
188 to the Retirement System Trust Fund, and retirement benefits
189 shall remain suspended until repayment is made. Benefits
190 suspended beyond the end of the retired member's first 12 months
191 of retirement shall apply toward repayment of benefits received
192 in violation of the 780-hour reemployment limitation.
193 5. The State University System may reemploy a retired
194 member as an adjunct faculty member or as a participant in a
195 phased retirement program within the State University System
196 after the retired member has been retired for 1 calendar month,

197 in accordance with s. 121.021(39). Any retired member who is
198 reemployed within 1 calendar month after retirement shall void
199 his or her application for retirement benefits. The State
200 University System is subject to the retirement ~~retired~~
201 contribution required in subparagraph 7., as appropriate. A
202 retired member may be reemployed as an adjunct faculty member or
203 a participant in a phased retirement program for no more than
204 780 hours during the first 12 months of his or her retirement.
205 Any retired member reemployed for more than 780 hours during the
206 first 12 months of retirement shall give timely notice in
207 writing to the employer and to the division of the date he or
208 she will exceed the limitation. The division shall suspend his
209 or her retirement benefits for the remainder of the first 12
210 months of retirement. Any person employed in violation of this
211 subparagraph and any employing agency which knowingly employs or
212 appoints such person without notifying the Division of
213 Retirement to suspend retirement benefits shall be jointly and
214 severally liable for reimbursement to the retirement trust fund
215 of any benefits paid during the reemployment limitation period.
216 To avoid liability, such employing agency shall have a written
217 statement from the retiree that he or she is not retired from a
218 state-administered retirement system. Any retirement benefits
219 received by a retired member while reemployed in excess of 780
220 hours during the first 12 months of retirement shall be repaid
221 to the Retirement System Trust Fund, and retirement benefits
222 shall remain suspended until repayment is made. Benefits
223 suspended beyond the end of the retired member's first 12 months
224 of retirement shall apply toward repayment of benefits received

225 in violation of the 780-hour reemployment limitation.
226 6. The Board of Trustees of the Florida School for the
227 Deaf and the Blind may reemploy a retired member as a substitute
228 teacher, substitute residential instructor, or substitute nurse
229 on a noncontractual basis after he or she has been retired for 1
230 calendar month, in accordance with s. 121.021(39). Any retired
231 member who is reemployed within 1 calendar month after
232 retirement shall void his or her application for retirement
233 benefits. The Board of Trustees of the Florida School for the
234 Deaf and the Blind reemploying such teachers, residential
235 instructors, or nurses is subject to the retirement contribution
236 required by subparagraph 7. Reemployment of a retired member as
237 a substitute teacher, substitute residential instructor, or
238 substitute nurse is limited to 780 hours during the first 12
239 months of his or her retirement. Any retired member reemployed
240 for more than 780 hours during the first 12 months of retirement
241 shall give timely notice in writing to the employer and to the
242 division of the date he or she will exceed the limitation. The
243 division shall suspend his or her retirement benefits for the
244 remainder of the first 12 months of retirement. Any person
245 employed in violation of this subparagraph and any employing
246 agency which knowingly employs or appoints such person without
247 notifying the Division of Retirement to suspend retirement
248 benefits shall be jointly and severally liable for reimbursement
249 to the retirement trust fund of any benefits paid during the
250 reemployment limitation period. To avoid liability, such
251 employing agency shall have a written statement from the retiree
252 that he or she is not retired from a state-administered

253 retirement system. Any retirement benefits received by a retired
254 member while reemployed in excess of 780 hours during the first
255 12 months of retirement shall be repaid to the Retirement System
256 Trust Fund, and his or her retirement benefits shall remain
257 suspended until payment is made. Benefits suspended beyond the
258 end of the retired member's first 12 months of retirement shall
259 apply toward repayment of benefits received in violation of the
260 780-hour reemployment limitation.
261 7. The employment by an employer of any retiree or DROP
262 participant of any state-administered retirement system shall
263 have no effect on the average final compensation or years of
264 creditable service of the retiree or DROP participant. Prior to
265 July 1, 1991, upon employment of any person, other than an
266 elected officer as provided in s. 121.053, who has been retired
267 under any state-administered retirement program, the employer
268 shall pay retirement contributions in an amount equal to the
269 unfunded actuarial liability portion of the employer
270 contribution which would be required for regular members of the
271 Florida Retirement System. Effective July 1, 1991, contributions
272 shall be made as provided in s. 121.122 for retirees with
273 renewed membership or subsection (13) with respect to DROP
274 participants.
275 8. Any person who has previously retired and who is
276 holding an elective public office or an appointment to an
277 elective public office eligible for the Elected Officers' Class
278 on or after July 1, 1990, shall be enrolled in the Florida
279 Retirement System as provided in s. 121.053(1)(b) or, if holding
280 an elective public office that does not qualify for the Elected

281 Officers' Class on or after July 1, 1991, shall be enrolled in
282 the Florida Retirement System as provided in s. 121.122, and
283 shall continue to receive retirement benefits as well as
284 compensation for the elected officer's service for as long as he
285 or she remains in elective office. However, any retired member
286 who served in an elective office prior to July 1, 1990,
287 suspended his or her retirement benefit, and had his or her
288 Florida Retirement System membership reinstated shall, upon
289 retirement from such office, have his or her retirement benefit
290 recalculated to include the additional service and compensation
291 earned.
292 9. Any person who is holding an elective public office
293 which is covered by the Florida Retirement System and who is
294 concurrently employed in nonelected covered employment may elect
295 to retire while continuing employment in the elective public
296 office, provided that he or she shall be required to terminate
297 his or her nonelected covered employment. Any person who
298 exercises this election shall receive his or her retirement
299 benefits in addition to the compensation of the elective office
300 without regard to the time limitations otherwise provided in
301 this subsection. No person who seeks to exercise the provisions
302 of this subparagraph, as the same existed prior to May 3, 1984,
303 shall be deemed to be retired under those provisions, unless
304 such person is eligible to retire under the provisions of this
305 subparagraph, as amended by chapter 84-11, Laws of Florida.
306 10. The limitations of this paragraph apply to
307 reemployment in any capacity with an "employer" as defined in s.
308 121.021(10), irrespective of the category of funds from which

309 the person is compensated.
310 11. Except as provided in subparagraph 12., an employing
311 agency may reemploy a retired member as a firefighter or
312 paramedic after the retired member has been retired for 1
313 calendar month, in accordance with s. 121.021(39). Any retired
314 member who is reemployed within 1 calendar month after
315 retirement shall void his or her application for retirement
316 benefits. The employing agency reemploying such firefighter or
317 paramedic is subject to the retirement ~~retired~~ contribution
318 required in subparagraph 7. ~~8.~~ Reemployment of a retired
319 firefighter or paramedic is limited to no more than 780 hours
320 during the first 12 months of his or her retirement. Any retired
321 member reemployed for more than 780 hours during the first 12
322 months of retirement shall give timely notice in writing to the
323 employer and to the division of the date he or she will exceed
324 the limitation. The division shall suspend his or her retirement
325 benefits for the remainder of the first 12 months of retirement.
326 Any person employed in violation of this subparagraph and any
327 employing agency which knowingly employs or appoints such person
328 without notifying the Division of Retirement to suspend
329 retirement benefits shall be jointly and severally liable for
330 reimbursement to the Retirement System Trust Fund of any
331 benefits paid during the reemployment limitation period. To
332 avoid liability, such employing agency shall have a written
333 statement from the retiree that he or she is not retired from a
334 state-administered retirement system. Any retirement benefits
335 received by a retired member while reemployed in excess of 780
336 hours during the first 12 months of retirement shall be repaid

337 to the Retirement System Trust Fund, and retirement benefits
338 shall remain suspended until repayment is made. Benefits
339 suspended beyond the end of the retired member's first 12 months
340 of retirement shall apply toward repayment of benefits received
341 in violation of the 780-hour reemployment limitation.
342 12. An employing agency may reemploy a retired member who
343 retired under the disability provisions of subparagraph (4)(b)2.
344 as a law enforcement officer, firefighter, correctional officer,
345 emergency medical technician, paramedic, or a community-based
346 correctional probation officer after the retired member has been
347 retired for 1 calendar month, in accordance with s. 121.021(39).
348 Such retired member may not be reemployed with any employer in
349 the position he or she held at the time of the disabling illness
350 or injury. Any retired member who is reemployed within 1
351 calendar month after retirement shall void his or her
352 application for retirement benefits. The employing agency
353 reemploying such a member is subject to the retirement
354 contribution required in subparagraph 7.
355 Section 4. Effective July 1, 2006, in order to fund the
356 benefit improvements provided in s. 121.091, Florida Statutes,
357 as amended by this act, the contribution rate that applies to
358 the Special Risk Class of the defined benefit program of the
359 Florida Retirement System shall be increased by 0.31 percentage
360 points. This increase shall be in addition to all other changes
361 to such contribution rates which may be enacted into law to take
362 effect on that date. The Division of Statutory Revision is
363 directed to adjust accordingly the contribution rates set forth
364 in s. 121.71, Florida Statutes.

365 Section 5. This act shall take effect July 1, 2006.

HB 273

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 273 Outdoor Advertising
SPONSOR(S): Mayfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 566

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	11 Y, 2 N	Pugh	Miller
2) Local Government Council		Smith T.S.	Hamby
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

Chapter 479, F.S., regulates billboards and other forms of outdoor advertising signs. Advertising companies and other owners of outdoor signs must be licensed by the Florida Department of Transportation (FDOT) and obtain permits that regulate height, size and other characteristics of the billboards. County and municipal governments are not precluded from enacting local ordinances regulating outdoor advertising, but these regulations must be in harmony with state and federal requirements.

HB 273 would make significant changes to two sections of law in chapter 479, F.S. The bill would:

- Allow FDOT and sign owners to enter into agreements identifying the specific location of a billboard's "view zone," meaning an unobstructed view by passing motorists, and specify in statute the standard dimensions of a view zone.
- Prohibit trees and other vegetation that are part of a beautification project from being planted in a billboard's view zone.
- Require any governmental entity violating the view zone provisions to pay the sign owner a penalty equal to the lesser of either lost revenue because the sign was blocked or the sign's fair market value.
- Allow the owner of a lawfully erected billboard that conforms to state and federal requirements for land-use, size, height, and spacing to elevate the billboard at its permitted location if a sound wall blocks or screens the signage.
- Delete references to the Federal Highway Administration's approval before raising the height of a non-conforming billboard along a federal-aid primary highway.
- Specify that a billboard reconstructed so it can be raised above a sound wall must comply with the Florida Building Code standards and wind-load requirements.
- Require local governments and local jurisdictions to issue permits, if necessary, to reconstruct a sign pursuant to these proposed changes in law. Local governments and local jurisdictions that refuse to issue such permits shall pay just compensation to the sign's owner.

HB 273 raises no apparent constitutional issues. The bill has no immediate financial impact on the state or on local governments, and will not fiscally impact these governmental entities unless they refuse to allow the specified view zones and increases in sign height, and are required to pay penalties or compensation to the sign owners.

HB 273 would take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government/Safeguard Individual Liberty – HB 273 prohibits trees and other vegetation that are part of a "beautification project" from being planted in a legally erected and permitted billboard's view zone. The bill requires any governmental entity violating the view zone provisions to pay the sign owner a penalty equal to the lesser of lost revenue because the sign was blocked or the sign's fair market value. Additionally, the bill allows the owner of a lawfully erected billboard conforming to state and federal requirements for land-use, size, height, and spacing, to increase the billboard's height at its permitted location if a noise wall blocks or screens the signage. The bill requires local governments and local jurisdictions to issue permits, if necessary, to reconstruct a sign pursuant to this section of law. Local governments and local jurisdictions that refuse to issue such permits shall pay just compensation to the sign's owners.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida has an estimated 20,900 permitted outdoor advertising signs on 13,700 billboard structures. About 5,900 are considered by FDOT as lawful, non-conforming signs, meaning they were in compliance with federal, state, and, if applicable, local regulations when they were erected, but are not in compliance with current regulations.

Chapter 479, F.S., governs billboards and other forms of outdoor advertising. Advertising companies and other owners of outdoor signs must be licensed by FDOT and obtain permits, regulating height, size and other characteristics of the billboards. The majority of the provisions specify DOT's duties and authority as they relate to permitting, removing, and otherwise regulating billboards along the interstate highway system and the federal–aid primary highway system, which includes state roads. The chapter also addresses ways to accommodate billboard owners whose signs' "view zones" are affected by highway beautification projects, such as planting of vegetation, and highway widening or other improvements.

Because federal dollars are used to build and maintain these federal and state roads in Florida, FDOT must adhere to federal laws and regulations concerning billboards. The Highway Beautification Act of 1965 (chapter 23 U.S. Code section 131), chapter 23 Code of Federal Regulations section 750, and Federal Highway Administration (FHWA) Policy Guidance relate to the regulation of billboards. Under federal law, regulation, and policy guidance:

- To be able to remain, nonconforming signs must remain substantially the same as they were on the effective date of the state law or regulations that made them nonconforming.
- Reasonable repair and maintenance of the sign, including a change of advertising message, is allowable.
- Nonconforming signs may continue as long as they are not destroyed, abandoned, or discontinued. States may pass laws for exceptions to be made for nonconforming signs destroyed due to vandalism and other criminal or tortious acts.
- Each state must develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights. When nonconforming rights are terminated under state law, the sign must be removed as an illegal sign without compensation.
- However, lawfully erected signs, even if they are now nonconforming, cannot be removed by a state without payment of just compensation.

Under state law, local governments also may not remove, or order to be removed, lawfully erected signs along the interstate or federal-aid highways without paying the signs' owners just compensation.

A March 2005 memorandum from the FHWA addressed a relatively new issue relating to nonconforming signs – conflicts between sign owners and state transportation agencies over noise attenuation barriers (or "sound walls") along highways that are blocking billboards. The memorandum concluded that allowing owners of non-conforming billboards to increase the signs' height in such circumstances is inconsistent with federal law and regulations.[1]

Current state law clarifies that nothing in chapter 479, F.S., prevents FDOT or other governmental entities from entering into an agreement with a sign owner increasing the height of a lawfully erected sign at its permitted location if a noise-attenuation barrier, visibility screen, or other highway improvement is erected in such a way as to screen or block the sign's visibility. Under such agreements, the affected sign's height can be increased only as much as is necessary to achieve the same degree of visibility from the road as it had previously. If the affected sign is non-conforming and it is located along a federal aid primary highway system (which includes most of Florida's major highways), the FHWA must approve the agreement.

Effect of Proposed Changes

HB 273 amends two sections of chapter 479, F.S., related to visibility and height of lawfully permitted billboards.

Specifically, the bill amends s. 479.106, F.S., to:

- Codify FDOT rules on the "view zone" dimensions of lawfully permitted billboards. It establishes in statute how a view zone is to be measured: the first 500 linear feet within the first 1,000 feet as measured along the edge of the pavement in the direction of approaching traffic from a point on the edge of the pavement perpendicular to the sign's edge facing the highway. The dimensions are in FDOT's outdoor advertising rule, chapter 14-40.030, Florida Administrative Code.
- Specify that a billboard's view zone shall be a continuous 500 feet unless interrupted by naturally occurring vegetation.
- Allow FDOT and sign owners to enter into agreements identifying the "specific location" of a billboard's view zone, and if no agreement is reached, then the view zone is the first continuous 500 linear feet from the sign.
- Prohibit trees and other vegetation that are part of a "beautification project" from being planted in a legally erected and permitted billboard's view zone.
- Require any governmental entity violating the view zone provisions to pay the sign owner a penalty equal to the lesser of lost revenue because the sign was blocked or the sign's fair market value.

The bill also amends s. 479.25, F.S., to:

- Allow the owner of a lawfully erected billboard conforming to state and federal requirements for land-use, size, height, and spacing, to increase the billboard's height at its permitted location if a noise wall blocks or screens the signage. Existing references to visibility screen or other highway improvement are deleted.
- Clarify that in such circumstances, the billboard may be elevated as high as is necessary – even if that means exceeding the state limits of 50 feet high outside an incorporated area and 65 feet high within an incorporated area – so that its visibility is the same as it was before the noise wall was built.

[1] U.S. DOT /FHWA memorandum from Susan Lauffer, director of Office of Real Estate Services to Division Administrators and Directors of Field Services, dated March 8, 2005.

- Delete references to FHWA approval before raising the height of a non-conforming billboard along a federal aid primary highway. This would make Florida law consistent with current federal guidance that non-conforming billboards along federal-aid highways can not be raised.
- Specify that a billboard reconstructed under this section of law must comply with the Florida Building Code standards and wind load requirements.

- Require local governments and local jurisdictions to issue permits, if necessary, to reconstruct a sign pursuant to this section of law. Local governments and local jurisdictions that refuse to issue such permits shall pay just compensation to the sign's owner.

HB 273 takes effect upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends s. 479.106, F.S., to codify view zone dimensions and method for determining the view zone; and specifies penalties.

Section 2: Amends s. 479.25, F.S., to clarify under what circumstances lawfully erected, conforming billboards may be raised; deletes obsolete language; and provides for payment of just compensation for refusal to issue permits.

Section 3: Specifies this act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   No direct or immediate impact. But see "D. FISCAL COMMENTS" below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   No direct or immediate impact. But see "D. FISCAL COMMENTS" below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

No direct or immediate impact. But see "D. FISCAL COMMENTS" below.

D. FISCAL COMMENTS:

In the event FDOT or a local governmental entity violates the proposed view zone provisions in s. 479,106, F.S., it would have to pay the sign owner a penalty equal to the lesser of the lost revenue from the screened or blocked billboard or the fair market value of the sign.

Additionally, a local governmental entity that refused to permit reconstruction of a conforming billboard to raise its height above a noise wall would have to pay the sign owner just compensation. A governmental entity violating these two provisions also may have to pay legal costs and expenses if the issue is litigated.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 273 does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Resolution 2005-1521-A, regarding Outdoor Advertising and Highway Beautification, was passed unanimously by the Jacksonville City Council on December 13, 2005 and signed by Mayor Peyton on December 19, 2005. This resolution opposes HB 273 and SB 566.[2]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[2] *See* Resolution from Tracey Arpen, Office of General Counsel, City of Jacksonville, Florida (December 29, 2005) (on file with House of Representatives, Local Government Council).

1 A bill to be entitled
2 An act relating to outdoor advertising; amending s.
3 479.106, F.S.; revising provisions relating to the
4 proximity of vegetation and beautification projects to
5 outdoor advertising signs; specifying distances that
6 constitute a view zone on the State Highway System and
7 expressways for outdoor advertising signs; authorizing the
8 Department of Transportation and owners of outdoor
9 advertising signs to enter into agreements identifying
10 view zone locations; requiring governmental entities and
11 other violators to pay for lost revenues or sign market
12 values for violation of view zone requirements; amending
13 s. 479.25, F.S.; allowing permitted, conforming, lawfully
14 erected outdoor advertising signs to be increased in
15 height if visibility is blocked due to construction of
16 specified noise-attenuation barriers; requiring sign
17 reconstruction to meet the requirements of the Florida
18 Building Code; requiring the issuance of local permits for
19 the reconstruction of signs, notwithstanding local
20 ordinances or land development regulations to the
21 contrary; requiring local governments or local
22 jurisdictions to pay just compensation for refusal to
23 issue a reconstruction permit; providing an effective
24 date.
25
26 Be It Enacted by the Legislature of the State of Florida:
27
28 Section 1. Subsection (6) of section 479.106, Florida
29 Statutes, is amended to read:

30 479.106 Vegetation management.--
31 (6) Beautification projects, trees, or other vegetation
32 shall not be planted or located in the view zone of ~~an area which~~
33 ~~will screen from view~~ legally erected and permitted outdoor
34 advertising signs which have been permitted prior to the date of
35 the beautification project or other planting, where such planting
36 will, at the time of planting or after future growth, screen such
37 sign from view. For the State Highway System and expressways, the
38 view zone shall consist of 500 linear feet within the first 1,000
39 feet as measured along the edge of the pavement in the direction
40 of approaching traffic from a point on the edge of the pavement
41 perpendicular to the edge of the sign facing nearest the highway.
42 For the State Highway System and expressways, the view zone shall
43 be a continuous 500 linear feet unless interrupted by existing,
44 naturally occurring vegetation. The department and the sign owner
45 may enter into an agreement identifying the specific location of
46 the view zone for each sign facing. In the absence of such
47 agreement, the view zone shall be defined as the first continuous
48 500 linear feet from the sign. Any governmental entity or other
49 party violating this subsection shall pay to the sign owner a
50 penalty equal to the lesser of the revenue from the sign lost
51 during the time of the screening or the fair market value of the
52 sign.
53 Section 2. Section 479.25, Florida Statutes, is amended to
54 read:
55 479.25 Application of chapter.--The owner of a lawfully
56 erected sign that is governed by and conforms to state and
57 federal requirements for land use, size, height, and spacing may
58 increase the height above ground level of such sign ~~This chapter~~

59 ~~does not prevent a governmental entity from entering into an~~
60 ~~agreement allowing the height above ground level of a lawfully~~
61 ~~erected sign to be increased~~ at its permitted location if a
62 noise-attenuation barrier~~, visibility screen, or other highway~~
63 ~~improvement~~ is permitted by or erected by any governmental entity
64 in such a way as to screen or block visibility of the sign.
65 ~~However, if a nonconforming sign is located on the federal-aid~~
66 ~~primary highway system, as such system existed on June 1, 1991,~~
67 ~~or on any highway that was not a part of such system as of that~~
68 ~~date but that is or becomes after June 1, 1991, a part of the~~
69 ~~National Highway System, the agreement must be approved by the~~
70 ~~Federal Highway Administration.~~ Any increase in height permitted
71 under this section may only be the increase in height which is
72 required to achieve the same degree of visibility from the right-
73 of-way which the sign had prior to the construction of the noise-
74 attenuation barrier, notwithstanding the restrictions contained
75 in s. 479.07(9)(b). A sign reconstructed under this section shall
76 comply with the building standards and wind load requirements set
77 forth in the Florida Building Code. A local government or local
78 jurisdiction must issue the permits required for the
79 reconstruction of a sign under this section, notwithstanding any
80 provision to the contrary contained in the ordinances or land
81 development regulations of the local government or local
82 jurisdiction. If the local government or local jurisdiction
83 refuses to issue the required permits for reconstruction of a
84 sign under this section, the sign may not be reconstructed and
85 the local government or local jurisdiction must pay just
86 compensation to the owner of the sign ~~visibility screen, or other~~
87 ~~highway improvement~~.

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

HB 333

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 333 Public Food Service Establishments
SPONSOR(S): McInvale and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1172

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation Committee	14 Y, 1 N	Watson	Liepshutz
2) Local Government Council		Nelson	Hamby
3) Commerce Council			
4)			
5)			

SUMMARY ANALYSIS

This bill creates a three-year pilot program authorizing municipalities to adopt an ordinance establishing procedures for public food service establishments to apply for a limited exemption from existing Florida Department of Business and Professional Regulation (DBPR) rules. The exemption would allow dogs in designated outdoor sections of public food service establishments.

The bill provides minimum requirements for permit applications and safety and sanitation regulations to be implemented by the municipalities; provides for state assistance in the development of enforcement procedures and regulations; provides an effective date of July 1, 2006, and for automatic repeal if not renewed by July 1, 2009.

This bill will have an indeterminate effect on municipalities and restaurants that choose to participate relating to permitting revenues and fees and regulatory compliance. DBPR estimates a non-recurring cost of $74,673 and recurring costs of $613,009 that will increase slightly each year to implement the bill. Also, the Department of Health has indicated that it may experience an increase in foodborne illness complaint investigations resulting in yearly additional costs of approximately $13,187.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Less Government: This bill increases the number of governmental bodies that have regulatory authority over health guidelines for public food service establishments. DBPR represents that the bill will indirectly require the need for more government employees.

Individual Liberty: This bill increases commercial and individual liberty by allowing public food service establishments and individuals the ability to choose to bring dogs into outdoor areas of such establishments if their municipality passes an appropriate ordinance.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The legislature requires the Division of Hotels and Restaurants of the Florida Department of Business and Professional Regulation (the "Division") to administer laws and rules relating to the inspection and regulation of food service establishments for the purpose of safeguarding the public health, safety and welfare. Section 509.032(7), F.S., expressly limits the general home rule powers of a local government as it relates to the regulation of such businesses.

Pursuant to its rulemaking authority, the Division has adopted the 2001 Food Code published by the U.S. Food and Drug Administration (FDA). The Food Code is a reference document that "provides practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne illness."[1] Section 6-501.115 of the Code generally prohibits live animals on the premises of food service establishments. "Premises" is defined to mean "[t]the physical facility, its contents, and the contiguous land or property...."[2] There are limited exceptions to this prohibition including those for patrol dogs accompanying police or security officers and service animals controlled by disabled persons.[3]

Effect of Proposed Changes

This bill creates a three-year pilot program that would permit patrons' dogs within designated outdoor areas of food service establishments. The bill grants municipalities the authority to establish a local exemption procedure, by ordinance, to current Division rules that prohibit dogs on the premises of food service establishments. Interested establishments are required to apply for and receive a permit from the governing body of their municipality. Minimum requirements for the information supplied in the application process are outlined in the bill.

The bill also sets forth specific regulations that must be included in all permits issued by participating municipalities. The regulations include various restrictions on the dogs' mobility, sanitation measures to reduce health risks posed by dogs, and signs notifying guests and employees of applicable rules and procedures. The bill also allows municipalities to include additional regulations and limitations in the permits to protect the health, safety and general welfare of the public. Municipalities are granted powers reasonably necessary to regulate and enforce this bill. The Division of Hotels and Restaurants is directed to provide reasonable assistance to participating municipalities in the development of enforcement procedures and regulations.

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[1] See, the FDA's introduction to the Food Code at http://www.cfsan.fda.gov/~dms/fc05-int.html.
[2] See, s. 1-201.10(b)(67) at http://www.cfsan.fda.gov/~dms/fc01-1.html#1-2.
[3] See, s. 6-501.115 at http://www.cfsan.fda.gov/~dms/fc01-6.html#6-5.

The act has an effective date of July 1, 2006, and expires on July 1, 2009, unless reenacted by the legislature.

C. SECTION DIRECTORY

Section 1

Creates s. 509.233, FS. Provides findings and intent, authorizes local exemption, provides limits on the exemption and permit requirements, grants enforcement powers, provides for state assistance, and provides for automatic repeal unless renewed.

Section 2

Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not impact state revenues.

2. Expenditures:

   The Department of Business and Professional Regulation represents that implementation of this bill would require $74,673 in non-recurring costs to the department, and $613,039 in recurring costs that would increase slightly each year. The recurring costs include the addition of eight full time employees to assist municipalities in the development of regulations, handle an increased volume of calls to the DBPR's Customer Call Center, and to compensate for the additional time required to inspect exempted restaurants.

   Also, the Department of Health (DOH) has stated that it may experience an increase in foodborne illness complaint investigations. While the DOH indicates that this is speculative and difficult to quantify, it has estimated that the bill could result in an increase in investigations of up to 2.5 percent resulting in yearly additional costs of approximately $13,187.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill has the potential to increase fees for participating municipalities through the permitting process.

2. Expenditures:

   This bill has the potential to create an indeterminate impact upon expenditures associated with monitoring and enforcement in municipalities that choose to participate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Establishments electing to participate will incur indeterminate costs associated with compliance to the signage and sanitation requirements, and possibly training costs for personnel.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The proposed language specifically references the 2001 FDA Food Code. If the DBPR decides to adopt the recently published 2005 Food Code or some other guideline, a resulting statute would require amending.

Other Comments

Florida Department of Business and Professional Regulation

Protecting the health (a condition of optimal well-being), safety (freedom from danger, risk or injury), and welfare (health, happiness and general well-being) of the public requires the Division to adopt rules that provide the greatest protection to the greatest amount of people possible. The FDA Food Code is scientifically-based and "represents FDA's best advice for a uniform system of provisions that address the safety and protection of food offered . . . in food service." (2001 FDA Food Code) For this reason, the Division adopted the FDA Food Code as the statewide food service standard.

The 2001 FDA Food Code defines "critical" as "a provision of this Code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard." The FDA Food Code identifies live animals in public food service establishments as critical. The risks associated with allowing animals, including dogs, in public food service establishments illustrates the critical nature of the issue.

This bill would reduce the ability of the Division to protect the public's health, safety and welfare by introducing potential contaminants and safety hazards into public food service establishments. Animals carry disease-causing organisms which can be transmitted to humans through direct and indirect contamination of food and food-contact surfaces. Diseases carried by animals have caused infectious disease outbreaks, including Escherichia coli, Salmonella, Coxiella burnetti, Mycobacterium tuberculosis and ringworm. Exposure to rabies is also a concern. Diseases can be spread to humans through an animal's saliva, urine, fecal matter, fur and skin. This bill does not address the presence of unhealthy dogs in public food service establishments or any form of regulation of current immunization status. This bill does provide for hand washing by employees, signage requiring hand washing, and requires hand sanitizer at each table in the designated area. However, there is no way to ensure patrons will follow the sanitation recommendations.

This bill would reduce public safety by introducing potential environmental hazards. Allergies can be associated with dander, fur, body wastes and saliva. Dogs also present an increased risk of bites, kicks, falls, scratches and other forms of aggression.

The bill does not establish any caps on monetary fees charged by local governments for the variance.

Finally, an opportunity for each individual municipality to adopt and enforce regulations would be created, resulting in multiple ordinances and jurisdictions throughout the state. Statewide, uniform jurisdiction is an integral component of attaining federal standardization. Providing for an exemption to the 2001 FDA Food Code would undermine efforts to achieve statewide standardization, as the federal standards would no longer be met. It would also create precedent for allowing "local preference" regarding technical food safety requirements. The Division would be required to assist municipalities with development of the exemption process and enforcement. The mandated state assistance would divert state resources from core mission, potentially reducing the effectiveness of the division in protecting the health, safety and welfare of the public.

Florida Department of Health

The Florida Department of Health (DOH) regulates food service establishments other than those addressed in the bill, in accordance with s. 381.0072, F.S. Food service establishments regulated by the DOH include detention facilities, child care facilities, schools, institutions, civic or fraternal organizations, bars and lounges, facilities used at temporary food events, mobile food units, and vending machines at any facility regulated under this section. Section 64E-11.008(8), F.A.C., prohibits animals from food service establishments regulated by the DOH, except for animals for the disabled as provided for in ch. 413.08, F.S. This standard is used in all 50 states and by the FDA.

As indicated in the bill, s. 509.032, F.S., requires the DOH to work with DBPR to perform epidemiological investigations in public food service establishments as the result of foodborne illnesses. This bill increases the risk of foodborne illness transmitted through dogs both directly and indirectly as a result of increased risk of unsanitary conditions, and it is anticipated that there may be an resulting increase in foodborne illness complaint investigations.

The DOH has concerns that the bill will significantly increase the risk of foodborne illness, especially in populations most susceptible, i.e., the elderly, young, and immune compromised. Additionally, the bill seeks to use hand sanitizers as a public health intervention. Currently, DOH follows the recommendations of the CDC and FDA that advise that hand sanitizers are not intended as a substitute for handwashing in food service establishments. Further, hand sanitizers are only effective against specific types of organisms and are not appropriate for high bacterial loads or viruses. Therefore, solely providing patrons with hand sanitizers for use after contact with dogs may be ineffective in adequately removing contaminants from the hands.

Additionally, the bill does not appear to address:

- varying levels of obedience among dogs and their propensity for confrontation both with other dogs (which could result in widespread contamination) and other patrons (which could result in dog bites);
- the restriction of animals from the inside dining areas, even when it is the only route of access to the designated dog-allowed, outdoor area;
- required intervention, such as vaccination, to prevent the possible spread for rabies and other zoonotic diseases;
- the recognition of the male dog's propensity for territorial marking through urination;
- employees incidental (and un-solicited) contact with dogs that result in a soiled and contaminated uniform; and

- oversight of this initiative by officials trained in public health who are accustomed to ensuring that plans, locations, and processes have effective barriers against microbiological and environmental contaminants.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to public food service establishments;
3 creating s. 509.233, F.S.; providing legislative findings
4 and intent; creating a pilot program; authorizing
5 municipalities to adopt an ordinance establishing a local
6 exemption to certain provisions of general law and agency
7 rules relating to public food service establishments in
8 order to permit patrons' dogs at certain designated
9 outdoor portions of such establishments; providing for
10 implementation and enforcement procedures; providing for
11 state assistance; providing for future review and repeal;
12 providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Section 509.233, Florida Statutes, is created
17 to read:
18 509.233 Public food service establishment requirements;
19 local exemption for dogs in designated outdoor portions; pilot
20 program.--
21 (1) FINDINGS AND INTENT.--
22 (a) The Legislature finds and declares the following:
23 1. This chapter requires the division to carry out all
24 laws and rules relating to the inspection and regulation of
25 public food service establishments for the purpose of
26 safeguarding the public health, safety, and welfare.
27 2. Section 509.013(5) defines the term "public food
28 service establishment" as "any building, vehicle, place, or

29 structure, or any room or division of a building, vehicle,
30 place, or structure where food is prepared, served, or sold for
31 immediate consumption on or in the vicinity of the premises;
32 called for or taken out by customers; or prepared prior to being
33 delivered to another location for consumption."
34 3. Section 509.032 requires the division to adopt and
35 enforce such rules as are necessary to ensure the protection of
36 the public from food-borne illness in public food service
37 establishments.
38 4. Section 509.032 further requires the division to adopt
39 such rules in order to "provide the standards and requirements
40 for obtaining, storing, preparing, processing, serving, or
41 displaying food in public food service establishments, approving
42 public food service establishment facility plans, conducting
43 necessary public food service establishment inspections for
44 compliance with sanitation regulations, cooperating and
45 coordinating with the Department of Health in epidemiological
46 investigations, and initiating enforcement actions, and for
47 other such responsibilities deemed necessary by the division."
48 5. Pursuant to the grant of rulemaking authority cited in
49 subparagraph 4., the division has adopted chapter 61C-4, Florida
50 Administrative Code, concerning public food service
51 establishments.
52 6. Section 61C-4.010, Florida Administrative Code,
53 concerning the sanitation and safety requirements of public food
54 service establishments, includes section 61C-4.010(6), relating
55 to physical facilities, which adopts by reference chapter 6 of
56 the 2001 FDA Food Code as developed by the Food and Drug

57 Administration of the United States Department of Health and
58 Human Services.
59 7. Section 6-501.115, 2001 FDA Food Code, generally
60 prohibits live animals from public food service establishments.
61 8. Section 509.032(7) expressly preempts to the state
62 regulation of public lodging establishments and public food
63 service establishments for compliance with the sanitation
64 standards adopted by the division.
65 9. Section 509.032(7) expressly limits the general home
66 rule powers of local governments as it relates to the regulation
67 of public food service establishments.
68 10. The purpose of this section is to allow participating
69 municipalities to enact an ordinance establishing procedures by
70 which public food service establishments could exempt their
71 establishments from section 6-501.115, 2001 FDA Food Code, and
72 allow patrons' dogs within certain designated outdoor portions
73 of their respective establishments.
74 (b) It is therefore the intent of the Legislature by this
75 section to establish a 3-year pilot program for municipalities
76 to allow patrons' dogs within certain designated outdoor
77 portions of public food service establishments.
78 (2) LOCAL EXEMPTION AUTHORIZED.--The governing body of a
79 municipality participating in the pilot program is authorized to
80 establish, by ordinance, a local exemption procedure to section
81 6-501.115, 2001 FDA Food Code, as adopted and incorporated by
82 the Division of Hotels and Restaurants at chapter 61C-4.010(6),
83 Florida Administrative Code.
84 (3) LOCAL DISCRETION; CODIFICATION.--

85 (a) The adoption of the local exemption procedure shall be
86 at the sole discretion of the governing body of a participating
87 municipality. Nothing in this section shall be construed to
88 require or compel a municipal governing body to adopt an
89 ordinance pursuant to this section.
90 (b) Any ordinance adopted pursuant to this section shall
91 provide for codification within the land development code of a
92 participating municipality.
93 (4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--
94 (a) Any local exemption procedure adopted pursuant to this
95 section shall only provide a variance to section 6-501.115, 2001
96 FDA Food Code, to allow patrons' dogs within certain designated
97 outdoor portions of public food service establishments.
98 (b) In order to protect the health, safety, and general
99 welfare of the public, the local exemption procedure shall
100 require participating public food service establishments to
101 apply for and receive a permit from the governing body of the
102 municipality before allowing patrons' dogs on their premises.
103 The municipality shall require such information from the
104 applicant as the municipality deems reasonably necessary to
105 enforce the provisions of this section, but shall require, at a
106 minimum, the following information:
107 1. Name, location, and mailing address of the public food
108 service establishment.
109 2. Name, mailing address, and telephone contact
110 information of the permit applicant.
111 3. A diagram and description of the outdoor area to be
112 designated as available to patrons' dogs, including dimensions

113 of the designated area; a depiction of the number and placement
114 of tables, chairs, and restaurant equipment, if any; the
115 entryways and exits to the designated outdoor area; the
116 boundaries of the designated area and of other areas of outdoor
117 dining not available for patrons' dogs; any fences or other
118 barriers; surrounding property lines and public rights-of-way,
119 including sidewalks and common pathways; and such other
120 information reasonably required by the permitting authority. The
121 diagram or plan shall be accurate and to scale but need not be
122 prepared by a licensed design professional.
123 4. A description of the days of the week and hours of
124 operation that patrons' dogs will be permitted in the designated
125 outdoor area.
126 (c) In order to protect the health, safety, and general
127 welfare of the public, the local exemption ordinance shall
128 include such regulations and limitations as deemed necessary by
129 the participating municipality and shall include, but not be
130 limited to, the following requirements:
131 1. All public food service establishment employees shall
132 wash their hands promptly after touching, petting, or otherwise
133 handling dogs. Employees shall be prohibited from touching,
134 petting, or otherwise handling dogs while serving food or
135 beverages or handling tableware or before entering other parts
136 of the food service establishment.
137 2. Patrons in a designated outdoor area shall be advised
138 that they should wash their hands before eating. Waterless hand
139 sanitizer shall be provided at all tables in the designated
140 outdoor area.

141 3. Employees and patrons shall be instructed that they
142 shall not allow dogs to come into contact with serving dishes,
143 utensils, tableware, linens, paper products, or any other items
144 involved with food service operations.
145 4. Patrons shall keep their dogs on a leash at all times
146 and shall keep their dogs under reasonable control.
147 5. Dogs shall not be allowed on chairs, tables, or other
148 furnishings.
149 6. All table and chair surfaces shall be cleaned and
150 sanitized with an approved product between seating of patrons.
151 Spilled food and drink shall be removed from the floor or ground
152 between seating of patrons.
153 7. Accidents involving dog waste shall be cleaned
154 immediately and the area sanitized with an approved product. A
155 kit with the appropriate materials for this purpose shall be
156 kept near the designated outdoor area.
157 8. A sign or signs reminding employees of the applicable
158 rules shall be posted on premises in a manner and place as
159 determined by the local permitting authority.
160 9. A sign or signs reminding patrons of the applicable
161 rules shall be posted on premises in a manner and place as
162 determined by the local permitting authority.
163 10. A sign or signs shall be posted in a manner and place
164 as determined by the local permitting authority that places the
165 public on notice that the designated outdoor area is available
166 for the use of patrons and patrons' dogs.

167 (5) POWERS; ENFORCEMENT.--Participating municipalities
168 shall have such powers as are reasonably necessary to regulate
169 and enforce the provisions of this section.
170 (6) STATE ASSISTANCE.--The division shall provide
171 reasonable assistance to participating municipalities in the
172 development of enforcement procedures and regulations.
173 (7) FUTURE REVIEW AND REPEAL.--This section shall expire
174 July 1, 2009, unless reviewed and saved from repeal through
175 reenactment by the Legislature.
176 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 341 Citrus/Hernando Waterways Restoration Council
SPONSOR(S): Dean
TIED BILLS: None **IDEN./SIM. BILLS:** SB 496

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee	9 Y, 0 N	Blanchette	Lotspeich
2) Local Government Council		Smith T.S.	Hamby
3) State Resources Council			
4)			
5)			

SUMMARY ANALYSIS

The bill amends section 1 of ch. 2003-287, Laws of Florida. The bill increases from 12 to 14, the number of members on the Citrus/Hernando Waterways Restoration Council (Council). This is accomplished by adding two additional waterfront property owners to ensure that the Council membership includes one property owner from the west side and one from the east side of each county. The Citrus County Task Force and the Hernando County Task Force will extend their focus to include all waterways in Citrus County and in Hernando County instead of focusing solely on the Tsala-Apopka Chain of Lakes and the Weeki Wachee River and Springs. An additional representative from each county's public works department is added to the technical advisory group which advises the Council and the two county task forces.

This bill does not appear to have a fiscal impact on state government. There may be a minimal fiscal impact for the Southwest Water Management District relating to the per diem and travel expenses for the two additional members to the council.

This act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The bill expands the Citrus/Hernando Waterways Restoration Council's duties as the members are responsible for all the waterways in Citrus and Hernando Counties instead of solely managing the Tsala-Apopka Chain of Lakes and the Weeki Wachee River and Springs.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Citrus/Hernando Waterways Restoration Council (Council) was created by the legislature in 2003 (HB 221, Section 1, Chapter 2003-287, Laws of Florida) to develop tasks for the enhancement of fish and wildlife habitats in Citrus and Hernando counties. The public, the Fish and Wildlife Conservation Commission, the Southwest Florida Water Management District, as well as other local, regional, and state entities, have expressed concern that the lakes have been slowly filling in and are becoming marshy due to drought, fire suppression and several other factors. It is the Council's duty to recommend proposals to restore portions of the Citrus/Hernando waterways.

The Council is coordinated by representatives of the following agencies: The Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection and the Southwest Florida Water Management District. The Council consists of 12 voting members with six members appointed by the President of the Senate and six members appointed by the Speaker of the House of Representatives. The President and Speaker have each appointed:

- a waterfront property owner from each county;
- an attorney from each county;
- a member of the Board of Directors of the Chamber of Commerce from each county;
- an environmental engineer from each county;
- an engineer from each county; and
- a person from each county with training in biology or another scientific discipline.

Current law directs the Council members from both counties to form separate task forces to assess and make recommendations on waterways within their respective counties. The Citrus County Task Force is directed to develop plans for restoring the Tsala-Apopka Chain of Lakes, while the Hernando County Task Force must develop plans for restoring the Weeki Wachee River and Springs. A technical advisory group was created to assist the Council and the two county task forces by informing the members on the scientific and technical issues regarding water quality within the area.

The technical advisory group is comprised of the following: one representative each from the Southwest Florida Water Management District, the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Coastal Rivers Basin Board, the Withlacoochee River Basin Board, and the United States Army Corps of Engineers. Each member of the technical advisory group was appointed by his or her respective agency; it is a requirement that each member, with the exception of the representatives from the Withlacoochee River Basin Board and the Coastal Rivers Basin Board, have training in biology or another scientific discipline.

The Council's responsibilities include:

- reviewing audits and all data specifically related to lake and river restoration techniques and sport fish population recovery strategies, including data and strategies for shoreline restoration,

sand and other sediment control and removal, exotic species management, floating tussock management or removal, navigation, water quality, and fish and wildlife habitat improvement, as they are applicable to the Citrus/Hernando waterways;

- evaluating whether additional studies are needed;
- exploring all possible sources of funding to conduct the restoration activities;
- providing an annual progress report to the Speaker of the House of Representatives and the President of the Senate by November 25 of each year.

Concerns have been expressed by the citizens of both Citrus and Hernando counties that only the waterfront property owners in the eastern part of each county were represented on the Council. The waterfront property owners in the western part of each county want to have a representative appointed to better represent their interests. The majority of Citrus and Hernando water bodies are on the eastern side of each county; however, the Council wants to include a representative from both areas.

Another concern expressed to the Council is that the task forces are assessing only water bodies in the eastern part of the counties. Because only 25% of the water bodies in each county were originally included, there are a significant number of waterfront property owners who do not have a voice on these task forces. The separate task forces are not allowed to report on the other 75% of water bodies in Citrus and Hernando County. The task forces and the people in these two counties want to expand the responsibilities of both task forces to include all water bodies in Citrus and Hernando County.

Effect of Proposed Changes

The bill amends section 1 of Chapter 2003-287, Laws of Florida, to: (1) increase the membership of the Council, (2) expand the focus of each task force, and (3) add a representative from each county's public works department to the technical advisory group. In order to address the concerns of the citizens of the two counties, the bill will increase the membership of the Council from 12 to 14 members, adding two waterfront property owners by requiring one property owner from the east side and one from the west side of each county. The bill expands the focus of each task force to include all waterways in each county. The bill also adds a representative from each county's public works department to the technical advisory group.

C. SECTION DIRECTORY:

Section 1. Amends section 1 of ch. 2003-287, F.S., relating to the Citrus/Hernando Waterways Restoration Council, by revising the membership, duties and powers of the Council, the membership of the two county task forces, and the technical advisory group.

Section 2. Provides an effective date.

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:

   None.

2. Expenditures:

   There may be a minimal fiscal impact for the Southwest Water Management District relating to the per diem and travel expenses for the two additional members to the Council.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   To the extent that the Council is able to develop an action plan and sources of funding for the restoration of all waterways in Citrus and Hernando Counties, properties around the waterways may benefit in terms of increased market value of their land.

D. FISCAL COMMENTS:

   None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to the Citrus/Hernando Waterways
3 Restoration Council; amending section 1 of ch. 2003-287,
4 Laws of Florida; revising the membership, powers, and
5 duties of the council; revising the membership of the
6 separate county task forces of the council; providing an
7 effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Subsections (2), (3), and (4) of section 1 of
12 chapter 2003-287, Laws of Florida, are amended to read:
13 Section 1.
14 (2) Members of the council shall consist of 14 ~~12~~ voting
15 members with 7 ~~6~~ appointed by the President of the Senate and 7
16 ~~6~~ appointed by the Speaker of the House of Representatives. The
17 council shall consist of representatives as follows:
18 (a) Two ~~A~~ waterfront property owners ~~owner~~ from each
19 county, one of whom must be a property owner from the east side
20 of the county and one of whom must be a property owner from the
21 west side of the county.
22 (b) An attorney from each county.
23 (c) A member of the Board of Directors of the Chamber of
24 Commerce from each county.
25 (d) An environmental engineer from each county.
26 (e) An engineer from each county.
27 (f) A person from each county with training in biology or
28 another scientific discipline.

29 (3) The council members from each county are to form two
30 separate county task forces from the council to review and make
31 recommendations on specific waterways. The Hernando County Task
32 Force shall develop plans for the restoration of the waterways
33 in Hernando County ~~Weeki Wachee River and Springs~~. The Citrus
34 County Task Force shall develop plans for the restoration of the
35 waterways in Citrus County ~~Tsala Apopka Chain of Lakes~~.
36 (4) There shall be a technical advisory group to the
37 council and the two county task forces which shall consist of
38 one representative each from the Southwest Florida Water
39 Management District, the Department of Environmental Protection,
40 the Department of Transportation, the Fish and Wildlife
41 Conservation Commission, the Coastal Rivers Basin Board, the
42 Withlacoochee River Basin Board, the public works department of
43 each county, and the United States Army Corps of Engineers, each
44 of whom shall be appointed by his or her respective agency and
45 each of whom, with the exception of the representatives from the
46 Withlacoochee River Basin Board and Coastal Rivers Basin Board,
47 shall have had training in biology or another scientific
48 discipline.
49 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 479 Pasco County
SPONSOR(S): Littlefield and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.S.	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill creates the Lake Padgett Estates Independent Special District (District) in Pasco County for the purpose of maintaining, operating, and improving recreational amenities and associated infrastructure in the area. The bill provides the minimum requirements which must be included in the charter when creating an independent special district. The bill authorizes the District to provide for and fund: recreational amenities, including the operation, maintenance, and improvement of the amenities and associated infrastructure.

The District may levy user charges, rentals and fees, special assessments, maintenance special assessments, and non-ad valorem assessments. The District also is authorized to impose ad valorem taxes not to exceed 3 mills upon voter approval at referendum conducted after the entire governing board of the District is elected by qualified electors of the District.

The bill creates a board of five supervisors to govern the District. Upon the effective date of the bill, the Pasco County Board of Commissioners will be the initial governing board of the District and remain so until the succeeding board of supervisors is elected at the general election of November 2006.

The Economic Impact Statement does not project any fiscal impact in FY 06-07 and FY 07-08; however, the District is authorized to levy ad valorem taxes (upon approval at referendum), non-ad valorem assessments, maintenance special assessments, special assessments, fees, rentals, and user charges. The amount of revenue which may be generated by these assessments and when is indeterminate.

This bill may provide an exemption from the provisions of general law. Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/Ensure lower taxes - This bill creates an independent special district with the power to levy ad valorem taxes, if approved at referendum, non-ad valorem assessments, maintenance special assessments, special assessments, fees, rentals, and user charges.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Special Districts Generally

Independent special districts are limited forms of government created to perform specialized functions. Special districts have no home rule power; rather, they only have the powers expressly provided by, or which can be reasonably implied from, the authority legislatively provided in their charter.

Chapter 189, F.S., is the "Uniform Special District Accountability Act" (Act). The Act provides that it is the specific intent of the Legislature that independent special districts may only be created by legislative authorization as provided in the Act.

Section 189.404(2), F.S., requires submission of a statement to the Legislature documenting the purpose of the proposed district, the authority of the proposed district, and an explanation of why the district is the best alternative. In addition, the section requires submission of a resolution or official statement issued by the appropriate local governing body in which the proposed district is located affirming that the creation of the proposed district is consistent with approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

Section 189.404(5), F.S., requires the charter of any newly created special district to contain a reference to the status of the special district as dependent or independent. The charters of independent districts must address and include certain provisions, including geographical boundaries, taxing authority, bond authority, and Board selection procedures. Section 189.404(2)(a), F.S., prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in s. 189.404(3), F.S.

Section 189.404, F.S., also prohibits special acts creating independent special districts that are exempt from general law requirements regarding:

- General requirements and procedures for elections (s. 189.405, F.S.);
- Bond referenda requirements (s. 189.408, F.S.);
- Bond issuance reporting requirements (s.189.4085, F.S.);
- Public facilities reports (s. 189.415, F.S.); and
- Notice, meetings, and other required reports and audits (ss. 189.417 & 189.418, F.S.).

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled including notice requirements applicable to all local bills.

Election Procedure for Independent Special Districts Generally

Section 189.4051, F.S., provides a transition process for boards of special districts to convert from board members elected on a one-acre-one vote basis, to board members elected by qualified electors of the district. That section requires a referendum to be called by the board of a district that is elected

on a one-acre/one vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided that all of the following conditions are satisfied at least 60 days prior to the referendum:

1. The district has a total population of at least 500 qualified electors; and
2. A petition signed by 10 percent of the qualified electors is filed with the governing board and certified by the supervisor of elections.

If the qualified electors approve the election procedures described in s. 189.4051(2), F.S., the board must be increased to five members and elections must be held pursuant to that provision. After approval, the board must prepare maps of the district describing the "urban areas"[1] within the district. A process is provided in statute for landowners or qualified electors to contest the accuracy of the urban area maps. Upon adoption of the urban area maps by the board, the maps are used to determine the extent of urban area within the district and the number of governing board members to be elected by qualified electors and those elected on a one-acre/one-vote basis. If the electors disapprove the election procedure, elections of board members continue as described by general law or enabling legislation of the district.

Community Development Districts

Chapter 190, F.S., the Uniform Community Development District Act, allows for the establishment of independent special districts with governmental authority to manage and finance infrastructure for planned developments. Community Development Districts (CDDs) must be contained within the boundaries of a single county. CDDs consisting of 1,000 acres or more must be created by rule adopted by the Florida Land and Water Adjudicatory Commission granting a petition for the establishment of the CDD, whereas CDDs with less than 1,000 acres must be created pursuant to county or municipal ordinance.

Initial financing is typically through the issuance of tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing, and other structures in the district -- not on the other taxpayers of the county or municipality in which the district is located.

Section 190.012, F.S., specifies the types of infrastructure CDDs are authorized to provide, including infrastructure relating to water management and control; water supply, sewer and waste water management, reclamation, and reuse; bridges or culverts; roads; street lights; parks and other outdoor recreational, cultural, and educational facilities; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal. CDDs are governed by an elected five-member board of supervisors, who possess the general managerial authority provided to other special districts in the state. This includes the authority to hire and fix the compensation of a general manager, to contract, to borrow money, to adopt administrative rules pursuant to ch. 120, F.S., and the power of eminent domain.[2]

Lake Padgett Estates Independent Special District

Resolution 2006-20, regarding the "Creation of the Proposed Independent Special District to be known as the Lake Padgett Estates Independent Special District", was passed unanimously by the Pasco Board of County Commissioners and adopted on November 8, 2005. This resolution supports the creation of the Lake Padgett Estates Independent Special District. The resolution states that:

---

[1] Section 189.4051(1)(b), F.S., defines "urban area" as "a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas must be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district."

[2] *Community Development Districts*, The Florida Senate, Committee on Comprehensive Planning, Interim Project Report 2004-121, Nov. 2003.

"currently, said lands and amenities are maintained by the Pasco County Parks and Recreational Department on behalf of the residents of Lake Padgett Estates and funded through the Lake Padgett Municipal Service Unit, established by Pasco County Ordinance No. 78-19, for the benefit of the residents of Lake Padgett Estates. There is a particular special need to use a specialized and limited single-purpose independent special district unit of local government to prevent deterioration of existing infrastructure to continue to provide recreational amenities and associated infrastructure, improvements and service, and to prevent needless and counterproductive local government duplication and involvement in the maintenance and operation of the Lake Padgett Estates recreational amenities."[3]

Effect of Proposed Changes

This bill creates the Lake Padgett Independent Special District (District), a limited single-purpose local government and independent special district whose jurisdictional boundaries are located within Pasco County. Creation of the District appears to comply with the requirements for creating special districts found in ch. 189, F.S., including the minimum charter requirements listed in s. 189.404(3), F.S. The exclusive charter of the District is created by this bill.

This bill creates the District for the purpose of maintaining, operating, and improving recreational amenities and associated infrastructure in the area. The bill authorizes the District to provide for and fund: recreational amenities, including the operation, maintenance, and improvement of the amenities and associated infrastructure.

The bill includes a policy statement which states that the creation of the District by this act, and its exercise of its management and related financing powers to implement its limited, single, and special purpose, is not a development order and does not trigger or invoke any provision within the meaning of chapter 380, F.S., and all applicable governmental planning, environmental, and land development laws, regulations, rules, policies, and ordinances apply to all development of the land within the jurisdiction of the District as created by this act.

Modification of District Boundaries and Termination of the District

The bill specifies that the charter of the District, as created in this bill, may only be amended by special act of the Legislature. The Board may ask the Legislature through its local legislative delegation in Pasco County to amend the charter created by this bill to expand or to contract the boundaries of the District. The District will remain in existence until the District is terminated and dissolved by the Legislature or the District has become inactive pursuant to s. 189.4044, F.S. The inclusion of any or all territory of the District within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the District.

Election of the Governing Board by Landowners

The District is governed by a Board of Supervisors (Board) consisting of 5 members. Board members must be residents of the state and citizens of the United States. The bill specifies that "[t]he transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes." Initial Board members will be the Pasco County Board of Commissioners until the succeeding board of supervisors is elected at the general election in November 2006. With respect to the elections of initial board members, the board members will hold office for a 2-year term limit. Board members will assume office on the second Tuesday following their election.

The Board may not exercise the ad valorem taxing power authorized by this bill until such time as all members of the Board are qualified electors who are elected by qualified electors of the District.

[3] *See* Resolution from Pat Mulieri, Chairman, Pasco County Board of County Commissioners, Florida (November 9, 2005) (on file with House of Representatives, Local Government Council).

General Administration of the Board

Members of the Board, regardless of how elected, are public officers and, upon entering into office, must take and subscribe to the oath of office as prescribed by s. 876.05, F.S. Members of the Board are subject to ethics and conflict of interest laws of the state that apply to all local public officers. If, during the term of office, a vacancy occurs, the remaining members of the Board must fill each vacancy by an appointment for the remainder of the unexpired term. Any elected member of the Board may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetence, or failure to perform the duties imposed upon him or her by this bill, and any vacancies that may occur in such office for such reasons must be filled by the Governor as soon as practicable.

A majority of the members of the Board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the District must be upon a vote of a majority of the members' present, but not less than three votes, unless general law or a rule of the District requires a greater number.

Each Board member is entitled to receive for his or her services an amount not to exceed $50 per meeting of the Board of Supervisors, not to exceed $1,200 per year per member, or an amount established by the electors at referendum. In addition, each supervisor receives travel and per diem expenses as provided in s. 112.061, F.S.

Records of the Board are subject to the Public Records Act in ch. 119, F.S., and the District is subject to the open meetings provisions in ch. 286, F.S. The District must provide financial reports in such form and such manner as prescribed pursuant to this bill and chapters 189 and 218, F.S., and s. 190.008, F.S.

The bill specifies that by December 31, 2006, the board will enter into intergovernmental agreements, as authorized by ch. 163, F.S., with the Pasco County Property Appraisers and the Pasco County Tax Collector for the assessment, collection, and distribution of ad valorem taxes, special assessments, and maintenance special assessments as may be imposed by the board.

The District must take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance, operation, and improvement of the recreational amenities and associated infrastructure of improvements to real property undertaken by the District. Such information must be made available to all existing residents and all prospective residents of the District. The District must furnish each landowner within the district a copy of this information.

General Powers

This bill grants the District general powers consistent with those granted to community development districts under s. 190.011, F.S., where not inconsistent with the following:

- To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts are subject to public bidding or competitive negotiation requirements pursuant to general law.
- To maintain an office at such place or places as the board of supervisors designates in Pasco County, and within the District when facilities are available.
- To borrow money and issue certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.
- To determine, order, levy, impose, collect, and enforce assessments pursuant to this bill and ch. 170, F.S., pursuant to authority granted in s. 197.3631, F.S., or pursuant to other provisions of general law now or hereinafter enacted which provide or authorize a supplemental means to order, levy, impose, or collect special assessments. Such special assessments, in the discretion of the District, may be collected and enforced pursuant to the provisions of ss. 197.3632 and

197.3635, F.S., and chs. 170 and 173, F.S., or as provided by this bill, or by other means authorized by general law now or hereinafter enacted.
- To exercise special powers and other express powers as may be authorized and granted, including powers provided in any interlocal agreement entered into pursuant to ch. 163, F.S.

The District will not have the power of eminent domain.

Special Powers

The bill authorizes the District to exercise the following "special powers" subject to, and not inconsistent with, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein:

- To provide district parks and open space and the continued maintenance, operation, and improvement thereof. This special power includes, but is not limited to, passive and active recreational areas, lakes, and canals, containing picnic shelters, boat ramps and docks, volleyball, basketball, tennis, horseshoe, and shuffleboard courts, playgrounds and open space, wildlife habitat, including the maintenance of any plant or animal species, mitigation areas, landscaping and irrigation, bicycle lanes, jogging paths, riding trails, regulatory or informational signage, and all other customary elements of such park and open-space areas and any related interest in real or personal property.
- To provide buildings, structures, and like improvements and the continued maintenance, operation, and improvement thereof. This special power includes, but is not limited to, bathroom facilities, maintenance buildings, lighting and security facilities such as walls and guardhouses, parking areas, wildlife observation towers, stables, and stormwater facilities necessary and incidental to the recreational amenities, and associated infrastructure or any other project authorized or granted by this act.
- To establish and create, at noticed meetings, such governmental departments of the Board of Supervisors of the District, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the District, as from time to time the members of the Board may deem necessary or desirable in the performance of the acts or other things necessary to exercise the Board's general or special powers to implement an innovative project to carry out the special purpose of the District as provided in this bill and to delegate the exercise of its powers to such departments, boards, task forces, committees, or other agencies and such administrative duties and other powers as the Board may deem necessary or desirable but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the Board that must retain the powers of the Board.

The bill provides the enumeration of special powers is not exclusive or restrictive but incorporates all powers express or implied necessary or incident to carrying out such enumerated special powers, including also the general powers provided by this bill to implement the District's single purpose. Further, these special powers must be construed liberally in order to carry out effectively the special purpose of the District.

District Financing

Borrowing. The District at any time may obtain loans for the purpose of paying any of the expenses of the District or any costs incurred or that may be incurred in connection with any of the projects of the District. The Board must have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the District. The approval of the electors residing in the District is not necessary except when required by the State Constitution.

Ad Valorem Taxation. When the entire Board is elected by qualified electors of the District, the Board is authorized to levy and assess an ad valorem tax on all the taxable property in the District to operate and maintain assessable improvements of recreational amenities and associated infrastructure. An ad valorem tax levied by the Board for operating purposes may not exceed 3 mills. The ad valorem tax

provided for herein is in addition to county and all other ad valorem taxes provided for by law. Ad valorem taxes must be assessed, levied, and collected in the same manner and at the same time as county taxes and as provided for by the intergovernmental agreements. The levy of ad valorem taxes must be approved by referendum as required by s. 9 of Art. VII of the State Constitution.

Enforcement of taxes. The collection and enforcement of all taxes levied by the District must be at the same time and in like manner as county taxes. The provisions of the laws of Florida relating to the sale of lands for unpaid and delinquent county taxes, the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes, the redemption thereof, the issuance to individuals of tax deeds based thereon, and all other procedures in connection therewith are applicable to the District to the same extent as if such statutory provisions were expressly set forth in the bill. All taxes are subject to the same discounts as county taxes. All taxes become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

Maintenance special assessments. To maintain and preserve the recreational facilities and associated infrastructure of the District, the Board may levy a maintenance special assessment.

Special assessments. To operate and improve the recreational facilities and associated infrastructure of the District, the Board may levy a special assessment.

Assessments authorized by this bill constitute a lien on the property against which assessed until paid. These assessments may be collected, at the District's discretion, under ss. 197.363 and 197.3631, F.S., by the tax collector pursuant to the provisions of ss. 197.3632 and 197.3635, F.S., or in accordance with other collection measures provided by law. These assessments may also be enforced pursuant to the provisions of ch. 173, F.S.

The amount of the maintenance special assessment is determined by the board based upon a report of the District's engineer and assessed by the board, which will be on all of the lands within the District benefited by the maintenance, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

Land owned by governmental entity. Except as otherwise required by law, the District may not levy ad valorem taxes or non-ad valorem assessments on property of a governmental entity located within the District.

Tax Liens; Payment of taxes and redemption of tax liens; Sharing in proceeds of tax sale; Foreclosure of Liens. Tax liens, the payment of taxes and redemption of tax liens, sharing in proceeds of a tax sale, and the foreclosure of liens are prescribed in ss. 190.024, 190.025, and 190.026, F.S., and subject to all other requirements of law.

Fees, rentals, and charges; Procedure for adoption and modifications. The District is authorized to prescribe, fix, establish, and collect reasonable user fees, rentals, or other charges, and to revise the same from time to time, for the use of the recreational amenities and associated infrastructure furnished by the District pursuant to the adoption procedure prescribed by s. 190.035, F.S. The user fees, rentals, and charges will be just and equitable and uniform for users of the same class and, when appropriate, may be based or computed either upon the amount of service furnished, upon the average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

In the event that any rates, fees, rentals, charges, or delinquent penalties are not paid as and when due and are in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the District in a civil action.

Enforcement and Penalties. The Board or any aggrieved person may have recourse to such remedies in law and at equity pursuant to s. 190.041, F.S.

Procurement. Competitive procurement, bids, and negotiations are pursuant to s. 190.033, F.S., and subject to all other requirements of law.

District Immunity. Any suit or action brought or maintained against the District for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, will be subject to the limitations provided in s. 768.28, F.S.

Exemption of District Property from Execution. All District property is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against the property, nor may any judgment against the District be a charge or lien on its property or revenues.

Termination, Contraction, or Expansion of District. The Board may ask the Legislature through its local legislative delegations in and for Pasco County to amend the charter created by this bill to expand or to contract the boundaries of the District. The District will remain in existence until the District is terminated and dissolved by the Legislature or the District has become inactive pursuant to s. 189.4044, F.S. The inclusion of any or all territory of the District within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the District.

Sale of Property Within the District. Subsequent to the creation of the District, each contract for the sale of a parcel of real property within the District must include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: " THE LAKE PADGETT ESTATES INDEPENDENT SPECIAL DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY FOR THE OPERATION, MAINTENANCE, AND IMPROVEMENT COSTS OF CERTAIN RECREATIONAL AMENITIES AND ASSOCIATED INFRASTRUCTURE AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE BOARD OF SUPERVISORS OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

Notice of District Creation. Within 30 days after the election of the first Board, the District must cause to be recorded in the grantor-grantee index of the property records of Pasco County a "Notice of Creation and Establishment of the Lake Padgett Estates Independent Special District." The notice must, at a minimum, include the legal description of the property within the District's boundaries.

C. SECTION DIRECTORY:

Section 1. Provides short title of the Act.
Section 2. Provides definitions.
Section 3. Sets forth District boundaries.
Section 4. Provides for the initial governing board, board of supervisors members and meetings, organization, powers, duties, terms of office, and related election requirements.
Section 5. Provides for the general duties of the governing board, administrative duties of the board, and general and special powers of the District.
Section 6. Provides for borrowing; ad valorem taxation; assessments; maintenance special assessments; special assessments; tax liens; fees, rentals, and charges; and other administrative provisions.
Section 7. Provides for procurement, suits, exemption of District property, modifications to District boundaries, and notice to purchasers.
Section 8. Provides for severability.
Section 9. Provides that the bill takes effect upon becoming a law, except that the provisions regarding the levy of ad valorem taxes are not effective until approved at a referendum.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? November 8, 2005

WHERE? *The Tampa Tribune*, Tampa, Hillsborough County, Florida

B. REFERENDUM(S) REQUIRED? Yes [X] No []

IF YES, WHEN? The bill takes effect upon becoming a law; however, the provisions authorizing the levy of ad valorem taxation do not take effect until express approval by a majority vote of qualified electors of the District voting in a referendum election held at such time as all members of the District's governing board are qualified electors who are elected by qualified electors of the District.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Possible Exemptions from General Law

The bill includes the following provisions, all of which appear to be exemptions from general law:

- The bill specifies that the Pasco County Board of Commissioners will be the initial governing board of the District and remain so until the succeeding board of supervisors is elected at the general election of November 2006.[4]
- The bill establishes a process to transition the governing board to a board elected by qualified electors of the District. The bill specifically provides that "[t]he transition process described herein is intended to be *in lieu of* the process set forth in section 189.4051, Florida Statutes."[5] [Emphasis added.]

Drafting Issues

- As noted above, in lines 307 – 309 the bill states "the transition process described herein is intended to be in lieu of the process set forth in section 189.4051, Florida Statutes." However, the cited statutory section provides a transition process for a board elected by landowners to one elected by qualified electors. The bill does not provide for a board elected by landowners.
- Lines 634 – 636 of the bill address suits against the district. Line 635 includes the word "and," which appears to be in error.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[4] See lines 303 – 307 of the bill.
[5] See lines 307 – 309 of the bill.

Not applicable.

HB 479

RECEIVED NOV 10 2005

THE TAMPA TRIBUNE

Published Daily

Tampa, Hillsborough County, Florida

State of Florida }
County of Hillsborough } ss.

Before the undersigned authority personally appeared C. Offner, who on oath says that she is the Advertising Billing Supervisor of The Tampa Tribune, a daily newspaper published at Tampa in Hillsborough County, Florida; that the attached copy of advertisement being a

LEGAL NOTICE IN THE PASCO TRIBUNE

in the matter of NOTICE OF LEGISLATION

was published in said newspaper in the issues of NOVEMBER 5, 2005

Affiant further says that the said The Tampa Tribune is a newspaper published at Tampa in said Hillsborough County, Florida, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each day and has been entered as second class mail matter at the post office in Tampa, in said Hillsborough County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, this advertisement for publication in the said newspaper.

C. Offner

Sworn to and subscribed by me, this 8 day of NOVEMBER, A.D. 20 05

Personally Known ✓ or Produced Identification ____
Type of Identification Produced ____

Tanya Patrick

NOTARY PUBLIC STATE OF FLORIDA
OFFICIAL NOTARY SEAL
TANYA PATRICK
COMMISSION NUMBER
DD 136745
MY COMMISSION EXP.
JULY 7, 2006

NOTICE OF LEGISLATION
TO WHOM IT MAY CONCERN:

Notice is herby given of the intent to apply to the 2006 Legislature for the passage of an act relating to Pasco County; creating the Lake Padgett Estates Independent Special District; providing a popular name; providing definitions; stating legislative policy regarding creation of the district; providing for creation and establishment of the district and legal boundaries of the district; providing for the jurisdiction and charter of the district; providing for an initial governing board, a board of supervisors, and board membership, meetings, organization, powers, duties, terms of office, per diem, salary, and election requirements; providing for administrative duties of the board, district employees, selection of a public depository, district budgets, financial reports, and reviews; providing for the general powers of the district; providing for the special powers of the district to maintain, operate, and improve community recreational amenities and associated infrastructure and services within the district; providing for borrowing and revenue sources including a referendum to allow for the levying of an ad valorem tax within the district; providing for competitive procurement; providing for required notices to purchasers of real property within the district; providing severability; providing an effective date.

DATED at Pasco County, Florida, the 5th day of November, 2005.
(Representative Ken Littlefield)
8440 5th Avenue
Zephyrhills, FL 33542
ZH5961 11/05/05

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 479

SPONSOR(S): Littlefield

RELATING TO: Pasco County, Lake Padgett Estates Independent Special District
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Pasco County Legislative Delegation

CONTACT PERSON: Summer Robertson, Rep. Gus Biliraki's

PHONE # and E-Mail: (727) 669-1911

I. *House policy requires that three things occur before a council or a committee 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) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: 11/1/05

Location: Pasco Hernando Community College, New Port Richey, FL

(3) Was this bill formally approved by a majority of the delegation members?
YES [ ] NO [ ] UNIT RULE [ ] UNANIMOUS [✓]

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 [ ]

Where? _____ **County** Pasco

Referendum in lieu of publication: YES [ ] NO [X]

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.*

Has this constitutional taxation requirement been met?
YES [X] NO [ ] NOT APPLICABLE [ ]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Gus M. Biliraki 11/1/05

Delegation Chair (*Original Signature*) **Date**

Revised 8/05

House Committee on Community Affairs

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is files.

BILL#: HB 479
SPONSOR(S): Littlefield
RELATING TO: Pasco County, Lake Padgett Estates Independent Special District
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

FY 05-06 FY06-07

Expenditures: Estimated expenditures would not exceed $250 per property owner annually.

II. ANTICIPATED SOURCE(S) OF FUNDING:

FY 05-06 FY06-07

Federal:

State: Funding will be provided from a non-ad valorem tax of all property owners within the Special District that have historically been taxed in the same manner.

Local:

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

FY 05-06 FY06-07

Revenues:

Anticipated new increase will not exceed the $250 per property owner within the Special District.

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Maintain a private ownership and maintenance program for recreation and common areas and maintaining property values.

Disadvantages: If opened to the general public, substantial decrease in property values and safety concerns for others and community.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None.

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDING SOURCE[S] OF DATA):

Prior budgets used will handled as a MSTU

PREPARED BY: Christie [illegible] 11/1/05
Date

TITLE: President of

REPRESENTING: Lake Padgett Civic Association

PHONE: 813-929-0345

1 A bill to be entitled
2 An act relating to Pasco County; creating the Lake Padgett
3 Estates Independent Special District; providing a popular
4 name; providing definitions; stating legislative policy
5 regarding creation of the district; providing for creation
6 and establishment of the district and legal boundaries of
7 the district; providing for the jurisdiction and charter
8 of the district; providing for an initial governing board,
9 a board of supervisors, and board membership, meetings,
10 organization, powers, duties, terms of office, per diem,
11 salary, and election requirements; providing for
12 administrative duties of the board, district employees,
13 selection of a public depository, district budgets,
14 financial reports, and reviews; providing for the general
15 powers of the district; providing for the special powers
16 of the district to maintain, operate, and improve
17 community recreational amenities and associated
18 infrastructure and services within the district; providing
19 for borrowing and revenue sources including a referendum
20 to allow for the levying of an ad valorem tax within the
21 district; providing for competitive procurement; providing
22 for required notices to purchasers of real property within
23 the district; providing severability; providing an
24 effective date.
25
26 Be It Enacted by the Legislature of the State of Florida:
27
28 Section 1. <u>This act may be cited as the "Lake Padgett</u>

29 Estates Independent Special District Act."
30 Section 2. Definitions; policy.--
31 (1) DEFINITIONS.--As used in this act:
32 (a) "Assessable improvements" means, without limitation,
33 any and all improvements and community facilities that the
34 district is empowered to provide in accordance with this act
35 that provide a special benefit to property within the district.
36 (b) "Assessments" means those nonmillage district
37 assessments that include special assessments and maintenance
38 special assessments.
39 (c) "Board of supervisors" or "board" means the governing
40 board of the district after all members of the board of
41 supervisors have been elected pursuant to the provisions of
42 section 5 or, if such board has been abolished, the board, body,
43 or commission assuming the principal functions thereof or to
44 whom the powers given to the board by this act have been given
45 by law.
46 (d) "Cost" or "costs," when used with reference to any
47 project, includes, but is not limited to:
48 1. The expenses of determining the feasibility or
49 practicability of acquisition, construction, or reconstruction.
50 2. The cost of surveys, estimates, plans, and
51 specifications.
52 3. The cost of maintenance, operations, and improvements.
53 4. Engineering, fiscal, and legal expenses and charges.
54 5. The cost of all labor, materials, machinery, and
55 equipment.
56 6. The cost of all lands, properties, rights, easements,

57 and franchises acquired.
58 7. Financing charges.
59 8. The creation of initial reserve and debt service funds.
60 9. Working capital.
61 10. Interest charges incurred or estimated to be incurred
62 on money borrowed prior to and during construction and
63 acquisition and for such reasonable period of time after
64 completion of construction or acquisition as the board may
65 determine.
66 11. The cost of any tax referendum held pursuant to this
67 act.
68 12. Administrative expenses.
69 13. Such other expenses as may be necessary or incidental
70 to the acquisition, construction, or reconstruction of any
71 project, to the financing thereof, or to the development of any
72 lands within the district.
73 14. Payments, contributions, dedications, and any other
74 exactions required as a condition of receiving any governmental
75 approval or permit necessary to accomplish any district purpose.
76 (e) "District" means the Lake Padgett Estates Independent
77 Special District.
78 (f) "District recreational amenities and associated
79 infrastructure" means all existing and future parks, open-space
80 areas, lakes, signage, structures, and future improvements of
81 all kinds to said amenities located within the district.
82 (g) "Initial governing board" means the Pasco County Board
83 of Commissioners, which shall govern the district until the
84 election of the board of supervisors pursuant to section 5.

85 (h) "Lake Padgett Estates Independent Special District"
86 means the unit of special and single-purpose local government
87 created and chartered by this act, including the creation of its
88 charter, and limited to the performance, in implementing its
89 single purpose, of those general and special powers authorized
90 by its charter under this act, the boundaries of which are set
91 forth by the act, the governing head of which is created and
92 authorized to operate with legal existence by this act, and the
93 purpose of which is as set forth in this act.
94 (i) "Landowner" means the owner of a freehold estate as it
95 appears on the deed record, including a trustee, a private
96 corporation, and an owner of a condominium unit. "Landowner"
97 does not include a reversioner, remainderman, mortgagee, or any
98 governmental entity, who shall not be counted and need not be
99 notified of proceedings under this act. "Landowner" also means
100 the owner of a ground lease from a governmental entity, which
101 leasehold interest has a remaining term, excluding all renewal
102 options, in excess of 50 years.
103 (j) "Maintenance special assessments" means assessments
104 imposed, levied, and collected pursuant to the provisions of
105 section 7.
106 (k) "Non-ad valorem assessment" means only those
107 assessments which are not based upon millage and which can
108 become a lien against a homestead as permitted in s. 4, Art. X
109 of the State Constitution.
110 (l) "Powers" means powers used and exercised by the board
111 of supervisors to accomplish the single, limited, and special
112 purpose of the district, including:

113 1. "General powers," which means those organizational and
114 administrative powers of the district as provided in this
115 charter in order to carry out its single special purpose as a
116 local government public corporate body politic.
117 2. "Special powers," which means those powers enumerated
118 by the district charter to maintain, operate, and improve
119 recreational amenities and associated infrastructure and related
120 functions in order to carry out its single specialized purpose.
121 3. Any other powers, authority, or functions set forth in
122 this act.
123 (m) "Project" means any improvement, property, facility,
124 enterprise, service, works, or infrastructure now existing or
125 hereafter undertaken or established under the provisions of this
126 act.
127 (n) "Qualified elector" means any registered voter
128 residing within the district boundaries.
129 (o) "Signage" means any entranceway signage or features
130 and all signage within the district associated with the
131 recreational amenities of the district.
132 (p) "Special assessments" means assessments as imposed,
133 levied, and collected by the district for the costs of
134 assessable improvements pursuant to the provisions of this act,
135 chapter 170, Florida Statutes, and the additional authority
136 under section 197.3631, Florida Statutes, or other provisions of
137 general law, now or hereinafter enacted, which provide or
138 authorize a supplemental means to impose, levy, or collect
139 special assessments.
140 (q) "Taxes" or "tax" means those levies and impositions,

141 authorized by a vote of the qualified electors of the district,
142 of the board of supervisors that support and pay for government
143 and the administration of law and that may be ad valorem or
144 property taxes based upon both the appraised value of property
145 and millage at a rate uniform within the jurisdiction.
146 (2) POLICY.--Based upon its findings, ascertainments,
147 determinations, intent, purpose, and definitions, the
148 Legislature states its policy expressly:
149 (a) The district and the district charter, as created in
150 this act, with its general and special powers, are essential and
151 the best alternative for maintaining, operating, and improving
152 the recreational amenities and associated infrastructure in the
153 district.
154 (b) The district, which is a local government and a
155 political subdivision, is limited to its special purpose as
156 expressed in this act, with the power to maintain, operate,
157 improve, and finance as a local government management entity its
158 recreational amenities and associated infrastructure and
159 services, and possess financing powers to fund its management
160 power over the long term and with sustained levels of high
161 quality.
162 (c) The creation of the Lake Padgett Estates Independent
163 Special District by and pursuant to this act, and its exercise
164 of its management and related financing powers to implement its
165 limited, single, and special purpose, is not a development order
166 and does not trigger or invoke any provision within the meaning
167 of chapter 380, Florida Statutes, and all applicable
168 governmental planning, environmental, and land development laws,

169 regulations, rules, policies, and ordinances apply to all
170 development of the land within the jurisdiction of the district
171 as created by this act.
172 Section 3. Legal description of the Lake Padgett Estates
173 Independent Special District.--The metes and bounds legal
174 description of the district is as follows:
175
176 A portion of Sections 19, 20 & 30, Township 26 South,
177 Range 19 East, Pasco County, Florida being described
178 as follows:
179
180 Begin at the Northwest corner of said Section 19, run
181 thence South 00°43'18" West, along the West line of
182 said Section 19, a distance of 5,119.41 feet; Thence
183 South 88°50'58" East, a distance of 1,102.22 feet;
184 Thence South 00°51'34" West, a distance of 100.01
185 feet; thence South 88°51'24" East, along the South
186 line of said Section 19, a distance of 181.42 feet;
187 Thence South 18°44'16" East, a distance of 526.27
188 feet; to the West line of the Northeast 1/4 of the
189 Northwest 1/4 of Section 30, Township 26 South, Range
190 19 East; thence South 01°14'05" West, along the West
191 line of the Northeast 1/4 of the Northwest 1/4 of said
192 Section 30, a distance of 823.69 feet to the South
193 line of the Northeast 1/4 of the Northwest 1/4 of said
194 Section 30, run thence South 88°59'33" East, a
195 distance of 1343.37 feet; to the West line of Park
196 Tract of Lake Padgett Estates South Unit Two as

197 recorded in Plat Book 13, Pages 137-139 of the Public
198 Records of Pasco County, Florida, also being the West
199 Boundary of the Northwest 1/4 of the Northeast 1/4 of
200 said Section 30; Thence North 00°49'49" East along
201 said West line, a distance of 1,315.26 feet to the
202 South line of said Section 19, also being the South
203 boundary line of Valencia Gardens Phase Three as
204 recorded; Thence North 88°47'25" West along said South
205 line of Section 19, a distance of 11.84 feet to the
206 West boundary of said Valencia Gardens Phase Three,
207 Thence run North 00°16'12" East along said West
208 boundary of Valencia Gardens Phase Three, a distance
209 of 1,317.39 feet to the North boundary of said
210 Valencia Gardens Phase Three; Thence South 88°44'56"
211 East along said North boundary of Valencia Gardens
212 Phase Three, a distance of 2,662.48 feet; Thence South
213 89°27'44" East, a distance of 651.97 feet to the West
214 line of the right-of-way of Collier Parkway as
215 recorded in the Official Records Book 1824, Page 1234;
216 Thence run North 05°16'09" East along said West Line
217 of the right-of-way of Collier Parkway, a distance of
218 297.38 feet; Thence North 86°18'32" West, a distance
219 of 66.02 feet; Thence North 89°42'44" West to the
220 Westerly Boundary of Collier Place as recorded in Plat
221 Book 35, Pages 37-39 of the Public Records of Pasco
222 County, Florida, a distance of 817.90 feet; Thence
223 North 27°08'25" West, a distance of 88.63 feet; Thence
224 North 00°25'14" East, a distance of 391.01 feet;

225 Thence North 37°00'57" East, a distance of 520.22
226 feet; Thence North 35°41'05" East, a distance of
227 138.96 feet; Thence North 00°57'10" East, a distance
228 of 379.43; Thence North 50°28'38" East, a distance of
229 205.65 feet; Thence North 00°40'29" East, a distance
230 of 106.14 feet; Thence North 45°39'30" West, a
231 distance of 348.39 feet; Thence North 89°41'20" West,
232 a distance of 598.63 feet; Thence South 00°55'00"
233 West, a distance of 100.01 feet; Thence North
234 89°20'18" West, a distance of 1,255.51 feet; Thence
235 N00°54'33 East, a distance of 1270.03 feet; Thence
236 South 89°17'01" East, a distance of 99.98 feet; Thence
237 North 00°55'14" East, a distance of 150.02 feet to the
238 North line of Section 19, Township 26 South, Range 19
239 East; Thence along said North line of said Section 19
240 North 88°42'23" West, a distance of 155.04 feet;
241 Thence South 00°13'06" West, a distance of 49.87 feet;
242 Thence North 89°34'34" West, a distance of 50.00 feet;
243 Thence North 00°17'06" East, a distance of 50.25 feet
244 to North line of said Section 19; Thence along the
245 North line of said Section 19 North 89°11'04" West, a
246 distance of 3,455.90 feet; Thence North 89°27'48"
247 West; a distance of 13.88 feet to the POINT OF
248 BEGINNING.
249
250 AND
251
252 A portion of Sections 24 & 25, Township 26 South,

253 Range 18 East, Pasco County, Florida being described
254 as follows:
255
256 Begin at the Northwest corner of Section 19 Township
257 26 South, Range 19 East, run thence South 00°43'18"
258 West, along the West line of said Section 19, a
259 distance of 5,097.53 feet; to the South line of
260 Section 24, Township 26 South, Range 18 East also
261 being the North line of Section 25, Township 26 South,
262 Range 18 East, Thence run along South line of said
263 Section 24, North 89°29'16" West, a distance of
264 1,672.72 feet; Thence South 00°24'04" West; a distance
265 of 659.90 feet; Thence South 89°24'42" East, a
266 distance of 328.18 feet; Thence South 00°20'51" West,
267 a distance of 329.89 feet; Thence North 89°23'22 West,
268 a distance of 656.92 feet; Thence North 00°26'49"
269 East, a distance of 989.53 feet to the South line of
270 said Section 24, also being the said North line of
271 said Section 25; Thence run along North 89°29'16"
272 West, a distance of 655.25 feet; Thence North
273 01°20'40" East; a distance of 1,998.05 feet to the
274 South line of the Northwest 1/4 of the North 1/4 of
275 the Southeast 1/4 of Section 24, Township 26 South,
276 Range 18 East; thence along the said South line South
277 89°09'28" East, a distance of 688.44 feet to the East
278 line of the said Northwest 1/4; Thence along said East
279 line North 01°19'43" East, a distance of 664.55 feet
280 to the South line of the Northeast 1/4 of Section 24,

281 Township 26 South, Range 18 East to the West line of
282 the East ½ of the Northeast 1/4 of Section 24,
283 Township 26 South, Range 18 East; Thence S 88°56'38"
284 East, a distance of 651.04 feet; thence along said
285 West line North 00°39'22" East, a distance of 1,326.47
286 feet; Thence South 88°45'13" East, a distance of
287 626.59 feet; Thence North 00°40'31 East, a distance of
288 695.05 feet; Thence South 88°34'46" East, a distance
289 of 25.01 feet; Thence North 00°40'23" East, a distance
290 of 600.91 feet the North line of Section 24, Township
291 26 South, Range 18 East; Thence along said North line
292 South 88°45'18 East, a distance of 655.33 feet; Thence
293 South 01°48'11" West, a distance of 160.83 feet;
294 Thence North 89°27'48" West, a distance of 13.88 feet
295 to the POINT OF BEGINNING.
296
297 Containing 33,768,142 square feet or 775.21 acres more
298 or less.
299
300 Section 4. Initial governing board; board of supervisors;
301 members and meetings; organization; powers; duties; terms of
302 office; related election requirements.--
303 (1)(a) Upon the effective date of this act, the Pasco
304 County Board of Commissioners shall become the initial governing
305 board of the district and remain so until the succeeding board
306 of supervisors is elected at the general election of November
307 2006 as provided for in this section. The transition process
308 described herein is intended to be in lieu of the process set

309 forth in section 189.4051, Florida Statutes.
310 (b) The governing board may exercise the following powers:
311 1. Levy annual assessments not to exceed $250 per parcel
312 lying within the district.
313 2. Accept the transfer of property owned by Pasco County
314 and lying within the boundaries of the district as same is
315 transferred to the district from Pasco County.
316 3. Maintain and operate the recreational amenities and
317 associated infrastructure of the district.
318 4. Approve and adopt a budget for the fiscal year 2006-
319 2007.
320 5. Accept the transfer of all Lake Padgett Estates
321 Municipal Service Unit funds and assets purchased with said fund
322 moneys held by Pasco County as same is transferred to the
323 district from Pasco County.
324 (2)(a) The board of supervisors shall exercise the powers
325 granted to the district pursuant to this act. The board shall
326 consist of five members, each of whom shall hold office for a
327 term of 2 years or until a new board is elected by the qualified
328 electors of the district at the general election in November
329 every 2 years. Members of the board must be citizens of the
330 United States and qualified electors residing within the
331 district.
332 (b) Elections of board members by qualified electors held
333 pursuant to this subsection shall be conducted by the supervisor
334 of elections and comply with the Florida Election Code, chapters
335 97-106 and chapter 189, Florida Statutes, and the Rules of the
336 Division of Elections. Board members shall assume office on the

337 second Tuesday following their election.
338 (3) Members of the board of supervisors shall be known as
339 supervisors and, upon entering into office, shall take and
340 subscribe to the oath of office as prescribed by section 876.05,
341 Florida Statutes. Members of the board shall be subject to
342 ethics and conflict of interest laws of the state that apply to
343 all local public officers. They shall hold office for terms of 2
344 years each and until their successors are chosen and qualified.
345 If, during the term of office, a vacancy occurs, the remaining
346 members of the board shall fill each vacancy by an appointment
347 for the remainder of the unexpired term.
348 (4) Any member of the board of supervisors may be removed
349 by the Governor for malfeasance, misfeasance, dishonesty,
350 incompetency, or failure to perform the duties imposed upon him
351 or her by this act, and any vacancies that may occur in such
352 office for such reasons shall be filled by the Governor as soon
353 as practicable.
354 (5) A majority of the members of the board constitutes a
355 quorum for the purposes of conducting its business and
356 exercising its powers and for all other purposes. Action taken
357 by the district shall be upon a vote of a majority of the
358 members present, but not less than three votes, unless general
359 law or a rule of the district requires a greater number.
360 (6) As soon as practicable after each election, but by the
361 first Monday in December, the board shall organize by electing
362 one of its members as chair and one of its members as vice
363 chair, and by electing a secretary, who need not be a member of
364 the board, and such other officers as the board may deem

365 necessary. Business of the board shall be conducted pursuant to
366 Robert's Rules of Order and the chair's powers shall be as
367 described in said rules.
368 (7) The board shall keep a permanent record book entitled
369 "Record of Proceedings of Lake Padgett Estates Independent
370 Special District," in which shall be recorded minutes of all
371 meetings, resolutions, proceedings, bonds given by all
372 employees, and any and all corporate acts. The record book and
373 all other district records shall at reasonable times be opened
374 to inspection in the same manner as state, county, and municipal
375 records pursuant to chapter 119, Florida Statutes. The record
376 book shall be kept at the office or other regular place of
377 business maintained by the board in a designated location within
378 the district.
379 (8) Each member of the board shall be entitled to receive
380 for his or her services an amount not to exceed $50 per meeting
381 of the board of supervisors, not to exceed $1,200 per year per
382 member, or an amount established by the district's qualified
383 electors at referendum. In addition, each member shall receive
384 travel and per diem expenses as set forth in section 112.061,
385 Florida Statutes.
386 (9) All meetings of the board shall be open to the public
387 and governed by the provisions of chapter 286, Florida Statutes.
388 (10) The board shall, by December 31, 2006, enter into
389 intergovernmental agreements, as authorized by chapter 163,
390 Florida Statutes, with the Pasco County Property Appraiser and
391 the Pasco County Tax Collector for the assessment, collection,
392 and distribution of ad valorem taxes, special assessments, and

393 maintenance special assessments as may be imposed by the board
394 pursuant to this act.
395 Section 5. Board of supervisors; administrative duties;
396 general and special powers.--
397 (1) DISTRICT MANAGER, EMPLOYEES, AND TREASURER.--The board
398 may employ and fix the compensation of a district manager,
399 employees, and a treasurer pursuant to the requirements of
400 section 190.007, Florida Statutes.
401 (2) PUBLIC DEPOSITORY.--The board is authorized to select
402 as a depository for its funds any qualified public depository as
403 defined in section 280.02, Florida Statutes, which meets all the
404 requirements of chapter 280, Florida Statutes.
405 (3) BUDGET; REPORTS AND REVIEWS.--The district shall
406 provide financial reports in such form and such manner as
407 prescribed pursuant to this act, chapters 189 and 218, Florida
408 Statutes, and section 190.008, Florida Statutes.
409 (4) DISCLOSURE OF PUBLIC FINANCING.--The district shall
410 take affirmative steps to provide for the full disclosure of
411 information relating to the public financing of the maintenance,
412 operation, and improvement of the recreational amenities and
413 associated infrastructure undertaken by the district. Such
414 information shall be made available to all existing residents
415 and all prospective residents of the district. The district
416 shall furnish each landowner within the district a copy of that
417 information.
418 (5) GENERAL POWERS.--The district shall have, and the
419 board may exercise, the general powers as provided for in
420 section 190.011, Florida Statutes, where not inconsistent with

421 the following:
422 (a) To contract for the services of consultants to perform
423 planning, engineering, legal, or other appropriate services of a
424 professional nature. Such contracts shall be subject to public
425 bidding or competitive negotiation requirements as set forth in
426 general law applicable to independent special districts.
427 (b) To maintain an office at such place or places as the
428 board of supervisors designates in Pasco County, and within the
429 district when facilities are available.
430 (c) To borrow money and issue certificates, warrants,
431 notes, or other evidence of indebtedness as hereinafter
432 provided; to levy such taxes and assessments as may be
433 authorized; and to charge, collect, and enforce fees and other
434 user charges.
435 (d) To determine, order, levy, impose, collect, and
436 enforce assessments pursuant to this act and chapter 170,
437 Florida Statutes, pursuant to authority granted in section
438 197.3631, Florida Statutes, or pursuant to other provisions of
439 general law which provide or authorize a supplemental means to
440 order, levy, impose, or collect special assessments. Such
441 special assessments, in the discretion of the district, may be
442 collected and enforced pursuant to the provisions of sections
443 197.3632 and 197.3635, Florida Statutes, and chapters 170 and
444 173, Florida Statutes, or as provided by this act, or by other
445 means authorized by general law now or hereinafter enacted.
446 (e) To exercise such special powers and other express
447 powers as may be authorized and granted by this act in the
448 charter of the district, including powers as provided in any

449 interlocal agreement entered into pursuant to chapter 163,
450 Florida Statutes.
451 (f) The district shall not have the power of eminent
452 domain.
453 (7) SPECIAL POWERS.--The district shall have, and the
454 board may exercise, the following special powers to implement
455 its lawful and special purpose and to provide, pursuant to that
456 purpose, recreational amenities and to operate, maintain, and
457 improve said amenities and associated infrastructure, each of
458 which constitutes a lawful public purpose when exercised
459 pursuant to this charter, subject to, and not inconsistent with,
460 the regulatory jurisdiction and permitting authority of all
461 other applicable governmental bodies, agencies, and any special
462 districts having authority with respect to any area included
463 therein, and to plan, establish, acquire, construct or
464 reconstruct, enlarge or extend, equip, operate, finance, fund,
465 and maintain improvements, systems, facilities, services, works,
466 projects, and infrastructure. Any or all of the following
467 special powers are granted by this act in order to implement the
468 special purpose of the district:
469 (a) To provide district parks and open space and the
470 continued maintenance, operation, and improvement thereof. This
471 special power includes, but is not limited to, passive and
472 active recreational areas, lakes, and canals, containing picnic
473 shelters, boat ramps and docks, volleyball, basketball, tennis,
474 horseshoe, and shuffleboard courts, playgrounds and open space,
475 wildlife habitat, including the maintenance of any plant or
476 animal species, mitigation areas, landscaping and irrigation,

477 bicycle lanes, jogging paths, riding trails, regulatory or
478 informational signage, and all other customary elements of such
479 park and open-space areas and any related interest in real or
480 personal property.
481 (b) To provide buildings, structures, and like
482 improvements and the continued maintenance, operation, and
483 improvement thereof. This special power includes, but is not
484 limited to, bathroom facilities, maintenance buildings, lighting
485 and security facilities such as walls and guardhouses, parking
486 areas, wildlife observation towers, stables, and stormwater
487 facilities necessary and incidental to the recreational
488 amenities, and associated infrastructure or any other project
489 authorized or granted by this act.
490 (c) To establish and create, at noticed meetings, such
491 governmental departments of the board of supervisors of the
492 district, as well as committees, task forces, boards, or
493 commissions, or other agencies under the supervision and control
494 of the district, as from time to time the members of the board
495 may deem necessary or desirable in the performance of the acts
496 or other things necessary to exercise the board's general or
497 special powers to implement an innovative project to carry out
498 the special purpose of the district as provided in this act and
499 to delegate the exercise of its powers to such departments,
500 boards, task forces, committees, or other agencies and such
501 administrative duties and other powers as the board may deem
502 necessary or desirable, but only if there is a set of expressed
503 limitations for accountability, notice, and periodic written
504 reporting to the board that shall retain the powers of the

505 board.
506
507 The enumeration of special powers herein shall not be deemed
508 exclusive or restrictive but shall be deemed to incorporate all
509 powers express or implied necessary or incident to carrying out
510 such enumerated special powers, including also the general
511 powers provided by this charter to the district to implement its
512 single purpose. Further, the provisions of this subsection shall
513 be construed liberally in order to carry out effectively the
514 special purpose of this district under this act.
515 Section 6. Borrowing; revenue.--
516 (1) BORROWING.--The district at any time may obtain loans,
517 in such amount and on such terms and conditions as the board may
518 approve, for the purpose of paying any of the expenses of the
519 district or any costs incurred or that may be incurred in
520 connection with any of the projects of the district, which loans
521 shall bear interest as the board determines, not to exceed the
522 maximum rate allowed by general law, and may be payable from and
523 secured by a pledge of such funds, revenues, taxes, and
524 assessments as the board may determine. For the purpose of
525 defraying such costs and expenses, the district may issue
526 negotiable notes, warrants, or other evidences of debt to be
527 payable at such times and to bear such interest as the board may
528 determine, not to exceed the maximum rate allowed by general
529 law, and to be sold or discounted at such price or prices not
530 less than 95 percent of par value and on such terms as the board
531 may deem advisable. The board shall have the right to provide
532 for the payment thereof by pledging the whole or any part of the

533 funds, revenues, taxes, and assessments of the district. The
534 approval of the electors residing in the district shall not be
535 necessary except when required by the State Constitution.
536 (2) AD VALOREM TAXES; ASSESSMENTS, MAINTENANCE SPECIAL
537 ASSESSMENTS, AND SPECIAL ASSESSMENTS.--
538 (a) Ad valorem taxes.--The board of supervisors shall have
539 the power to levy and assess an ad valorem tax on all the
540 taxable property in the district to maintain, operate, and
541 perform improvements of recreational amenities and associated
542 infrastructure. An ad valorem tax levied by the board for
543 operating purposes shall not exceed 3 mills. The ad valorem tax
544 provided for herein shall be in addition to county and all other
545 ad valorem taxes provided for by law. Such tax shall be
546 assessed, levied, and collected in the same manner and at the
547 same time as county taxes and as provided for by the
548 intergovernmental agreements required in section 4 of this act.
549 The levy of ad valorem taxes must be approved by referendum as
550 required by Section 9 of Article VII of the State Constitution.
551 (b) Enforcement of taxes.--The collection and enforcement
552 of all taxes levied by the district shall be at the same time
553 and in like manner as county taxes; and the provisions of the
554 laws of the state relating to the sale of lands for unpaid and
555 delinquent county taxes, the issuance, sale, and delivery of tax
556 certificates for such unpaid and delinquent county taxes, the
557 redemption thereof, the issuance to individuals of tax deeds
558 based thereon, and all other procedures in connection therewith
559 shall be applicable to the district to the same extent as if
560 such statutory provisions were expressly set forth herein. All

561 taxes shall be subject to the same discounts as county taxes.
562 All taxes provided for in this act shall become delinquent and
563 bear penalties on the amount of such taxes in the same manner as
564 county taxes.
565 (c)1. Maintenance special assessments.--To maintain and
566 preserve the recreational amenities and associated
567 infrastructure of the district, the board may levy a maintenance
568 special assessment.
569 2. Special assessments.--To operate and improve the
570 recreational amenities and associated infrastructure of the
571 district, the board may levy a special assessment.
572
573 Assessment may be evidenced to and certified to the property
574 appraiser by the board of supervisors by a date each year as
575 determined by interlocal agreement and shall be entered by the
576 property appraiser on the county tax rolls and shall be
577 collected and enforced by the tax collector in the same manner
578 and at the same time as county taxes, and the proceeds therefrom
579 shall be paid to the district. However, this subsection shall
580 not prohibit the district in its discretion from using a method
581 prescribed in section 197.363, section 197.3631, section
582 197.3632, or section 197.3635, Florida Statutes, or chapter 173,
583 Florida Statutes, for collecting and enforcing these
584 assessments. These maintenance special assessments shall be a
585 lien on the property against which assessed until paid and shall
586 be enforceable in like manner as county taxes. The amount of the
587 maintenance special assessment for the exercise of the
588 district's powers under this section shall be determined by the

589 board based upon a report of the district's engineer and
590 assessed by the board upon such lands, which shall be all of the
591 lands within the district benefited by the maintenance thereof,
592 apportioned between the benefited lands in proportion to the
593 benefits received by each tract of land.
594 (d) Land owned by governmental entity.--Except as
595 otherwise required by law, the district shall not levy ad
596 valorem taxes or non-ad valorem assessments under this act or
597 chapter 170 or chapter 197, Florida Statutes, on property of a
598 governmental entity located within the district.
599 (3) TAX LIENS; PAYMENT OF TAXES AND REDEMPTION OF TAX
600 LIENS BY THE DISTRICT; SHARING IN PROCEEDS OF TAX SALE;
601 FORECLOSURE OF LIENS.--The foregoing shall be as prescribed in
602 sections 190.024, 190.025, and 190.026, Florida Statutes, and
603 subject to all other requirements of law.
604 (4) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION AND
605 MODIFICATIONS.--The district is authorized to prescribe, fix,
606 establish, and collect reasonable user fees, rentals, or other
607 charges, and to revise the same from time to time, for the use
608 of the recreational amenities and associated infrastructure
609 furnished by the district pursuant to the adoption procedure
610 prescribed by section 190.035, Florida Statutes. Such user fees,
611 rentals, and charges shall be just and equitable and uniform for
612 users of the same class and, when appropriate, may be based or
613 computed either upon the amount of service furnished, upon the
614 average number of persons residing or working in or otherwise
615 occupying the premises served, or upon any other factor
616 affecting the use of the facilities furnished, or upon any

617 combination of the foregoing factors, as may be determined by
618 the board on an equitable basis.
619 (5) RECOVERY OF DELINQUENT CHARGES.--In the event that any
620 rates, fees, rentals, charges, or delinquent penalties shall not
621 be paid as and when due and shall be in default for 60 days or
622 more, the unpaid balance thereof and all interest accrued
623 thereon, together with reasonable attorney's fees and costs, may
624 be recovered by the district in a civil action.
625 (6) ENFORCEMENT AND PENALTIES.--The board or any aggrieved
626 person may have recourse to such remedies in law and at equity
627 as prescribed in section 190.041, Florida Statutes.
628 Section 7. Procurement; suits; exemption of district
629 property; modifications to district boundaries; notice to
630 purchasers.--
631 (1) PROCUREMENT.--Competitive procurement, bids, and
632 negotiations shall be as prescribed in section 190.033, Florida
633 Statutes, and subject to all other requirements of law.
634 (2) SUITS.--Suits against the district as described in
635 section 190.043, Florida Statutes, and shall be subject to the
636 limitations provided in section 768.28, Florida Statutes.
637 (3) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.--All
638 district property shall be exempt from levy and sale by virtue
639 of an execution, and no execution or other judicial process
640 shall issue against such property, nor shall any judgment
641 against the district be a charge or lien on its property or
642 revenues.
643 (4) TERMINATION, CONTRACTION, OR EXPANSION OF THE
644 DISTRICT.--

645 (a) The board may ask the Legislature through its local
646 legislative delegations in and for Pasco County to amend this
647 act to contract, to expand or to contract, and to expand the
648 boundaries of the district by amendment of this act.
649 (b) The district shall remain in existence until:
650 1. The district is terminated and dissolved pursuant to
651 amendment to this act by the Legislature.
652 2. The district has become inactive pursuant to section
653 189.4044, Florida Statutes.
654 (5) INCLUSION OF TERRITORY.--The inclusion of any or all
655 territory of the district within a municipality does not change,
656 alter, or affect the boundary, territory, existence, or
657 jurisdiction of the district.
658 (6) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED
659 DISCLOSURE TO PURCHASER.--Subsequent to the creation of the
660 district under this act, each contract for the sale of a parcel
661 of real property within the district shall include, immediately
662 prior to the space reserved in the contract for the signature of
663 the purchaser, the following disclosure statement in boldfaced
664 and conspicuous type which is larger than the type in the
665 remaining text of the contract: "THE LAKE PADGETT ESTATES
666 INDEPENDENT SPECIAL DISTRICT MAY IMPOSE AND LEVY TAXES OR
667 ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY.
668 THESE TAXES AND ASSESSMENTS PAY FOR THE OPERATION, MAINTENANCE,
669 AND IMPROVEMENT COSTS OF CERTAIN RECREATIONAL AMENITIES AND
670 ASSOCIATED INFRASTRUCTURE AND SERVICES OF THE DISTRICT AND ARE
671 SET ANNUALLY BY THE BOARD OF SUPERVISORS OF THE DISTRICT. THESE
672 TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL

673 GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND
674 ASSESSMENTS PROVIDED FOR BY LAW."
675 (7) NOTICE OF CREATION AND ESTABLISHMENT.--Within 30 days
676 after the election of the first board of supervisors, the
677 district shall cause to be recorded in the grantor-grantee index
678 of the property records of Pasco County a "Notice of Creation
679 and Establishment of the Lake Padgett Estates Independent
680 Special District." The notice shall, at a minimum, include the
681 legal description of the property covered by this act.
682 Section 8. If any provision of this act is determined
683 unconstitutional or otherwise determined invalid by a court of
684 law, all the rest and remainder of the act shall remain in full
685 force and effect as the law of this state.
686 Section 9. This act shall take effect July 1, 2006, except
687 that the provisions of this act which authorize the levy of ad
688 valorem taxation shall take effect only upon express approval by
689 a majority vote of those qualified electors of the Lake Padgett
690 Estates Independent Special District voting in a referendum
691 election held at such time as all members of the board of
692 supervisors are qualified electors who are elected by qualified
693 electors of the district as provided in this act.

Bill No. 479

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Local Government
2 Representative Littlefield offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Be It Enacted by the Legislature of the State of Florida:
7
8 Section 1. This act may be cited as the "Lake Padgett
9 Estates Independent Special District Act."
10 Section 2. Definitions; policy.--
11 (1) DEFINITIONS.--As used in this act:
12 (a) "Assessable improvements" means, without limitation,
13 any and all improvements and community facilities that the
14 district is empowered to provide in accordance with this act
15 that provide a special benefit to property within the district.
16 (b) "Assessments" means those nonmillage district
17 assessments that include special assessments and maintenance
18 special assessments.
19 (c) "Board of supervisors" or "board" means the governing
20 board of the district after all members of the board of
21 supervisors have been elected pursuant to the provisions of
22 section 4 ~~5~~ or, if such board has been abolished, the board,

23 body, or commission assuming the principal functions thereof or
24 to whom the powers given to the board by this act have been
25 given by law.
26 (d) "Cost" or "costs," when used with reference to any
27 project, includes, but is not limited to:
28 1. The expenses of determining the feasibility or
29 practicability of acquisition, construction, or reconstruction.
30 2. The cost of surveys, estimates, plans, and
31 specifications.
32 3. The cost of maintenance, operations, and improvements.
33 4. Engineering, fiscal, and legal expenses and charges.
34 5. The cost of all labor, materials, machinery, and
35 equipment.
36 6. The cost of all lands, properties, rights, easements,
37 and franchises acquired.
38 7. Financing charges.
39 8. The creation of initial reserve and debt service funds.
40 9. Working capital.
41 10. Interest charges incurred or estimated to be incurred
42 on money borrowed prior to and during construction and
43 acquisition and for such reasonable period of time after
44 completion of construction or acquisition as the board may
45 determine.
46 11. The cost of any tax referendum held pursuant to this
47 act.
48 12. Administrative expenses.
49 13. Such other expenses as may be necessary or incidental
50 to the acquisition, construction, or reconstruction of any
51 project, to the financing thereof, or to the development of any
52 lands within the district.
53 14. Payments, contributions, dedications, and any other

54 exactions required as a condition of receiving any governmental
55 approval or permit necessary to accomplish any district purpose.
56 (e) "District" means the Lake Padgett Estates Independent
57 Special District.
58 (f) "District recreational amenities and associated
59 infrastructure" means all existing and future parks, open-space
60 areas, lakes, signage, structures, and future improvements of
61 all kinds to said amenities located within the district.
62 (g) "Initial governing board" means the Pasco County Board
63 of Commissioners, which shall govern the district until the
64 election of the board of supervisors pursuant to section 4 ~~5~~.
65 (h) "Lake Padgett Estates Independent Special District"
66 means the unit of special and single-purpose local government
67 created and chartered by this act, including the creation of its
68 charter, and limited to the performance, in implementing its
69 single purpose, of those general and special powers authorized
70 by its charter under this act, the boundaries of which are set
71 forth by the act, the governing head of which is created and
72 authorized to operate with legal existence by this act, and the
73 purpose of which is as set forth in this act.
74 (i) "Landowner" means the owner of a freehold estate as it
75 appears on the deed record, including a trustee, a private
76 corporation, and an owner of a condominium unit. "Landowner"
77 does not include a reversioner, remainderman, mortgagee, or any
78 governmental entity, who shall not be counted and need not be
79 notified of proceedings under this act. "Landowner" also means
80 the owner of a ground lease from a governmental entity, which
81 leasehold interest has a remaining term, excluding all renewal
82 options, in excess of 50 years.
83 (j) "Maintenance special assessments" means assessments
84 imposed, levied, and collected pursuant to the provisions of

85 section 6 ~~7~~.
86 (k) "Non-ad valorem assessment" means only those
87 assessments which are not based upon millage and which can
88 become a lien against a homestead as permitted in s. 4, Art. X
89 of the State Constitution.
90 (l) "Powers" means powers used and exercised by the board
91 of supervisors to accomplish the single, limited, and special
92 purpose of the district, including:
93 1. "General powers," which means those organizational and
94 administrative powers of the district as provided in this
95 charter in order to carry out its single special purpose as a
96 local government public corporate body politic.
97 2. "Special powers," which means those powers enumerated
98 by the district charter to maintain, operate, and improve
99 recreational amenities and associated infrastructure and related
100 functions in order to carry out its single specialized purpose.
101 3. Any other powers, authority, or functions set forth in
102 this act.
103 (m) "Project" means any improvement, property, facility,
104 enterprise, service, works, or infrastructure now existing or
105 hereafter undertaken or established under the provisions of this
106 act.
107 (n) "Qualified elector" means any registered voter
108 residing within the district boundaries.
109 (o) "Signage" means any entranceway signage or features
110 and all signage within the district associated with the
111 recreational amenities of the district.
112 (p) "Special assessments" means assessments as imposed,
113 levied, and collected by the district for the costs of
114 assessable improvements pursuant to the provisions of this act,
115 chapter 170, Florida Statutes, and the additional authority

116 under section 197.3631, Florida Statutes, or other provisions of
117 general law, now or hereinafter enacted, which provide or
118 authorize a supplemental means to impose, levy, or collect
119 special assessments.
120 (q) "Taxes" or "tax" means those levies and impositions,
121 authorized by a vote of the qualified electors of the district,
122 of the board of supervisors that support and pay for government
123 and the administration of law and that may be ad valorem or
124 property taxes based upon both the appraised value of property
125 and millage at a rate uniform within the jurisdiction.
126 (2) POLICY.--Based upon its findings, ascertainments,
127 determinations, intent, purpose, and definitions, the
128 Legislature states its policy expressly:
129 (a) The district and the district charter, as created in
130 this act, with its general and special powers, are essential and
131 the best alternative for maintaining, operating, and improving
132 the recreational amenities and associated infrastructure in the
133 district.
134 (b) The district, which is a local government and a
135 political subdivision, is limited to its special purpose as
136 expressed in this act, with the power to maintain, operate,
137 improve, and finance as a local government management entity its
138 recreational amenities and associated infrastructure and
139 services, and possess financing powers to fund its management
140 power over the long term and with sustained levels of high
141 quality.
142 (c) The creation of the Lake Padgett Estates Independent
143 Special District by and pursuant to this act, and its exercise
144 of its management and related financing powers to implement its
145 limited, single, and special purpose, is not a development order
146 and does not trigger or invoke any provision within the meaning

147 of chapter 380, Florida Statutes, and all applicable
148 governmental planning, environmental, and land development laws,
149 regulations, rules, policies, and ordinances apply to all
150 development of the land within the jurisdiction of the district
151 as created by this act.
152 Section 3. Legal description of the Lake Padgett Estates
153 Independent Special District.--The metes and bounds legal
154 description of the district is as follows:
155
156 A portion of Sections 19, 20 & 30, Township 26 South,
157 Range 19 East, Pasco County, Florida being described
158 as follows:
159
160 Begin at the Northwest corner of said Section 19, run
161 thence South 00°43'18" West, along the West line of
162 said Section 19, a distance of 5,119.41 feet; Thence
163 South 88°50'58" East, a distance of 1,102.22 feet;
164 Thence South 00°51'34" West, a distance of 100.01
165 feet; thence South 88°51'24" East, along the South
166 line of said Section 19, a distance of 181.42 feet;
167 Thence South 18°44'16" East, a distance of 526.27
168 feet; to the West line of the Northeast 1/4 of the
169 Northwest 1/4 of Section 30, Township 26 South, Range
170 19 East; thence South 01°14'05" West, along the West
171 line of the Northeast 1/4 of the Northwest 1/4 of said
172 Section 30, a distance of 823.69 feet to the South
173 line of the Northeast 1/4 of the Northwest 1/4 of said
174 Section 30, run thence South 88°59'33" East, a
175 distance of 1343.37 feet; to the West line of Park
176 Tract of Lake Padgett Estates South Unit Two as
177 recorded in Plat Book 13, Pages 137-139 of the Public

178 Records of Pasco County, Florida, also being the West
179 Boundary of the Northwest 1/4 of the Northeast 1/4 of
180 said Section 30; Thence North 00°49'49" East along
181 said West line, a distance of 1,315.26 feet to the
182 South line of said Section 19, also being the South
183 boundary line of Valencia Gardens Phase Three as
184 recorded; Thence North 88°47'25" West along said South
185 line of Section 19, a distance of 11.84 feet to the
186 West boundary of said Valencia Gardens Phase Three,
187 Thence run North 00°16'12" East along said West
188 boundary of Valencia Gardens Phase Three, a distance
189 of 1,317.39 feet to the North boundary of said
190 Valencia Gardens Phase Three; Thence South 88°44'56"
191 East along said North boundary of Valencia Gardens
192 Phase Three, a distance of 2,662.48 feet; Thence South
193 89°27'44" East, a distance of 651.97 feet to the West
194 line of the right-of-way of Collier Parkway as
195 recorded in the Official Records Book 1824, Page 1234;
196 Thence run North 05°16'09" East along said West Line
197 of the right-of-way of Collier Parkway, a distance of
198 297.38 feet; Thence North 86°18'32" West, a distance
199 of 66.02 feet; Thence North 89°42'44" West to the
200 Westerly Boundary of Collier Place as recorded in Plat
201 Book 35, Pages 37-39 of the Public Records of Pasco
202 County, Florida, a distance of 817.90 feet; Thence
203 North 27°08'25" West, a distance of 88.63 feet; Thence
204 North 00°25'14" East, a distance of 391.01 feet;
205 Thence North 37°00'57" East, a distance of 520.22
206 feet; Thence North 35°41'05" East, a distance of
207 138.96 feet; Thence North 00°57'10" East, a distance
208 of 379.43; Thence North 50°28'38" East, a distance of

209 205.65 feet; Thence North 00°40'29" East, a distance
210 of 106.14 feet; Thence North 45°39'30" West, a
211 distance of 348.39 feet; Thence North 89°41'20" West,
212 a distance of 598.63 feet; Thence South 00°55'00"
213 West, a distance of 100.01 feet; Thence North
214 89°20'18" West, a distance of 1,255.51 feet; Thence
215 N00°54'33 East, a distance of 1270.03 feet; Thence
216 South 89°17'01" East, a distance of 99.98 feet; Thence
217 North 00°55'14" East, a distance of 150.02 feet to the
218 North line of Section 19, Township 26 South, Range 19
219 East; Thence along said North line of said Section 19
220 North 88°42'23" West, a distance of 155.04 feet;
221 Thence South 00°13'06" West, a distance of 49.87 feet;
222 Thence North 89°34'34" West, a distance of 50.00 feet;
223 Thence North 00°17'06" East, a distance of 50.25 feet
224 to North line of said Section 19; Thence along the
225 North line of said Section 19 North 89°11'04" West, a
226 distance of 3,455.90 feet; Thence North 89°27'48"
227 West; a distance of 13.88 feet to the POINT OF
228 BEGINNING.
229
230 AND
231
232 A portion of Sections 24 & 25, Township 26 South,
233 Range 18 East, Pasco County, Florida being described
234 as follows:
235
236 Begin at the Northwest corner of Section 19 Township
237 26 South, Range 19 East, run thence South 00°43'18"
238 West, along the West line of said Section 19, a
239 distance of 5,097.53 feet; to the South line of

240 Section 24, Township 26 South, Range 18 East also
241 being the North line of Section 25, Township 26 South,
242 Range 18 East, Thence run along South line of said
243 Section 24, North 89°29'16" West, a distance of
244 1,672.72 feet; Thence South 00°24'04" West; a distance
245 of 659.90 feet; Thence South 89°24'42" East, a
246 distance of 328.18 feet; Thence South 00°20'51" West,
247 a distance of 329.89 feet; Thence North 89°23'22 West,
248 a distance of 656.92 feet; Thence North 00°26'49"
249 East, a distance of 989.53 feet to the South line of
250 said Section 24, also being the said North line of
251 said Section 25; Thence run along North 89°29'16"
252 West, a distance of 655.25 feet; Thence North
253 01°20'40" East; a distance of 1,998.05 feet to the
254 South line of the Northwest 1/4 of the North 1/4 of
255 the Southeast 1/4 of Section 24, Township 26 South,
256 Range 18 East; thence along the said South line South
257 89°09'28" East, a distance of 688.44 feet to the East
258 line of the said Northwest 1/4; Thence along said East
259 line North 01°19'43" East, a distance of 664.55 feet
260 to the South line of the Northeast 1/4 of Section 24,
261 Township 26 South, Range 18 East to the West line of
262 the East ½ of the Northeast 1/4 of Section 24,
263 Township 26 South, Range 18 East; Thence S 88°56'38"
264 East, a distance of 651.04 feet; thence along said
265 West line North 00°39'22" East, a distance of 1,326.47
266 feet; Thence South 88°45'13" East, a distance of
267 626.59 feet; Thence North 00°40'31 East, a distance of
268 695.05 feet; Thence South 88°34'46" East, a distance
269 of 25.01 feet; Thence North 00°40'23" East, a distance
270 of 600.91 feet the North line of Section 24, Township

271 26 South, Range 18 East; Thence along said North line
272 South 88°45'18 East, a distance of 655.33 feet; Thence
273 South 01°48'11" West, a distance of 160.83 feet;
274 Thence North 89°27'48" West, a distance of 13.88 feet
275 to the POINT OF BEGINNING.
276
277 Containing 33,768,142 square feet or 775.21 acres more
278 or less.
279
280 Section 4. Initial governing board; board of supervisors;
281 members and meetings; organization; powers; duties; terms of
282 office; related election requirements.--
283 (1)(a) Upon the effective date of this act, the Pasco
284 County Board of Commissioners shall become the initial governing
285 board of the district and remain so until the succeeding board
286 of supervisors is elected at the general election of November
287 2006 as provided for in this section. ~~The transition process~~
288 ~~described herein is intended to be in lieu of the process set~~
289 ~~forth in section 189.4051, Florida Statutes.~~
290 (b) The governing board may exercise the following powers:
291 1. Levy annual assessments not to exceed $250 per parcel
292 lying within the district.
293 2. Accept the transfer of property owned by Pasco County
294 and lying within the boundaries of the district as same is
295 transferred to the district from Pasco County.
296 3. Maintain and operate the recreational amenities and
297 associated infrastructure of the district.
298 4. Approve and adopt a budget for the fiscal year 2006-
299 2007.
300 5. Accept the transfer of all Lake Padgett Estates
301 Municipal Service Unit funds and assets purchased with said fund

302 moneys held by Pasco County as same is transferred to the
303 district from Pasco County.
304 (2)(a) The board of supervisors shall exercise the powers
305 granted to the district pursuant to this act. The board shall
306 consist of five members, each of whom shall hold office for a
307 term of 2 years or until a new board is elected by the qualified
308 electors of the district at the general election in November
309 every 2 years. Members of the board must be citizens of the
310 United States and qualified electors residing within the
311 district.
312 (b) Elections of board members by qualified electors held
313 pursuant to this subsection shall be conducted by the supervisor
314 of elections and comply with the Florida Election Code, chapters
315 97-106 and chapter 189, Florida Statutes, and the Rules of the
316 Division of Elections. Board members shall assume office on the
317 second Tuesday following their election.
318 (3) Members of the board of supervisors shall be known as
319 supervisors and, upon entering into office, shall take and
320 subscribe to the oath of office as prescribed by section 876.05,
321 Florida Statutes. Members of the board shall be subject to
322 ethics and conflict of interest laws of the state that apply to
323 all local public officers. They shall hold office for terms of 2
324 years each and until their successors are chosen and qualified.
325 If, during the term of office, a vacancy occurs, the remaining
326 members of the board shall fill each vacancy by an appointment
327 for the remainder of the unexpired term.
328 (4) Any member of the board of supervisors may be removed
329 by the Governor for malfeasance, misfeasance, dishonesty,
330 incompetency, or failure to perform the duties imposed upon him
331 or her by this act, and any vacancies that may occur in such
332 office for such reasons shall be filled by the Governor as soon

333 as practicable.
334 (5) A majority of the members of the board constitutes a
335 quorum for the purposes of conducting its business and
336 exercising its powers and for all other purposes. Action taken
337 by the district shall be upon a vote of a majority of the
338 members present, but not less than three votes, unless general
339 law or a rule of the district requires a greater number.
340 (6) As soon as practicable after each election, but by the
341 first Monday in December, the board shall organize by electing
342 one of its members as chair and one of its members as vice
343 chair, and by electing a secretary, who need not be a member of
344 the board, and such other officers as the board may deem
345 necessary. Business of the board shall be conducted pursuant to
346 Robert's Rules of Order and the chair's powers shall be as
347 described in said rules.
348 (7) The board shall keep a permanent record book entitled
349 "Record of Proceedings of Lake Padgett Estates Independent
350 Special District," in which shall be recorded minutes of all
351 meetings, resolutions, proceedings, bonds given by all
352 employees, and any and all corporate acts. The record book and
353 all other district records shall at reasonable times be opened
354 to inspection in the same manner as state, county, and municipal
355 records pursuant to chapter 119, Florida Statutes. The record
356 book shall be kept at the office or other regular place of
357 business maintained by the board in a designated location within
358 the district.
359 (8) Each member of the board shall be entitled to receive
360 for his or her services an amount not to exceed $50 per meeting
361 of the board of supervisors, not to exceed $1,200 per year per
362 member, or an amount established by the district's qualified
363 electors at referendum. In addition, each member shall receive

364 travel and per diem expenses as set forth in section 112.061,
365 Florida Statutes.
366 (9) All meetings of the board shall be open to the public
367 and governed by the provisions of chapter 286, Florida Statutes.
368 (10) The board shall, by December 31, 2006, enter into
369 intergovernmental agreements, as authorized by chapter 163,
370 Florida Statutes, with the Pasco County Property Appraiser and
371 the Pasco County Tax Collector for the assessment, collection,
372 and distribution of ad valorem taxes, special assessments, and
373 maintenance special assessments as may be imposed by the board
374 pursuant to this act.
375 Section 5. Board of supervisors; administrative duties;
376 general and special powers.--
377 (1) DISTRICT MANAGER, EMPLOYEES, AND TREASURER.--The board
378 may employ and fix the compensation of a district manager,
379 employees, and a treasurer pursuant to the requirements of
380 section 190.007, Florida Statutes.
381 (2) PUBLIC DEPOSITORY.--The board is authorized to select
382 as a depository for its funds any qualified public depository as
383 defined in section 280.02, Florida Statutes, which meets all the
384 requirements of chapter 280, Florida Statutes.
385 (3) BUDGET; REPORTS AND REVIEWS.—
386 (a) The district shall provide financial reports in such
387 form and such manner as prescribed pursuant to this act,
388 chapters 189 and 218, Florida Statutes, and section 190.008,
389 Florida Statutes.
390 (b) On or before July 15 of each year, the district
391 manager shall prepare a proposed budget for the ensuing fiscal
392 year to be submitted to the board for board approval. The
393 proposed budget shall include at the direction of the board an
394 estimate of all necessary expenditures of the District for the

395 ensuing fiscal year and an estimate of income to the District
396 from the taxes and assessments provided in this act. The board
397 shall consider the proposed budget item by item and may either
398 approve the budget as proposed by the district manager or modify
399 the same in part or in whole. The board shall indicate its
400 approval of the budget by resolution, which resolution shall
401 provide for a hearing on the budget as approved. Notice of the
402 hearing on the budget shall be published in a newspaper of
403 general circulation in the area of the District once a week for
404 2 consecutive weeks, except that the first publication shall be
405 not fewer than 15 days prior to the date of the hearing. The
406 notice shall further contain a designation of the day, time, and
407 place of the public hearing. At the time and place designated in
408 the notice, the board shall hear all objections to the budget as
409 proposed and may make such changes as the board deems necessary.
410 At the conclusion of the budget hearing, the board shall, by
411 resolution, adopt the budget as finally approved by the board.
412 The budget shall be adopted prior to October 1 of each year.
413 (c) At least 60 days prior to adoption, the Board of
414 Supervisors of the District shall submit to the Pasco County
415 Board of County Commissioners, for purposes of disclosure and
416 information only, the proposed annual budget for the ensuing
417 fiscal year, and each Board of County Commissioners may submit
418 written comments to the Board of Supervisors solely for the
419 assistance and information of the Board of Supervisors of the
420 District in adopting its annual District budget.
421 (4) DISCLOSURE OF PUBLIC FINANCING.--The district shall
422 take affirmative steps to provide for the full disclosure of
423 information relating to the public financing of the maintenance,
424 operation, and improvement of the recreational amenities and
425 associated infrastructure undertaken by the district. Such

426 information shall be made available to all existing residents
427 and all prospective residents of the district. The district
428 shall furnish each landowner within the district a copy of that
429 information.
430 (5) GENERAL POWERS.--The district shall have, and the
431 board may exercise, the general powers as provided for in
432 section 190.011, Florida Statutes, where not inconsistent with
433 the following:
434 (a) To contract for the services of consultants to perform
435 planning, engineering, legal, or other appropriate services of a
436 professional nature. Such contracts shall be subject to public
437 bidding or competitive negotiation requirements as set forth in
438 general law applicable to independent special districts.
439 (b) To maintain an office at such place or places as the
440 board of supervisors designates in Pasco County, and within the
441 district when facilities are available.
442 (c) To borrow money and issue certificates, warrants,
443 notes, or other evidence of indebtedness as hereinafter
444 provided; to levy such taxes and assessments as may be
445 authorized; and to charge, collect, and enforce fees and other
446 user charges.
447 (d) To determine, order, levy, impose, collect, and
448 enforce assessments pursuant to this act and chapter 170,
449 Florida Statutes, pursuant to authority granted in section
450 197.3631, Florida Statutes, or pursuant to other provisions of
451 general law which provide or authorize a supplemental means to
452 order, levy, impose, or collect special assessments. Such
453 special assessments, in the discretion of the district, may be
454 collected and enforced pursuant to the provisions of sections
455 197.3632 and 197.3635, Florida Statutes, and chapters 170 and
456 173, Florida Statutes, or as provided by this act, or by other

457 means authorized by general law now or hereinafter enacted.
458 (e) To exercise such special powers and other express
459 powers as may be authorized and granted by this act in the
460 charter of the district, including powers as provided in any
461 interlocal agreement entered into pursuant to chapter 163,
462 Florida Statutes.
463 (f) The district shall not have the power of eminent
464 domain.
465 (6) SPECIAL POWERS.--The district shall have, and the
466 board may exercise, the following special powers to implement
467 its lawful and special purpose and to provide, pursuant to that
468 purpose, recreational amenities and to operate, maintain, and
469 improve said amenities and associated infrastructure, each of
470 which constitutes a lawful public purpose when exercised
471 pursuant to this charter, subject to, and not inconsistent with,
472 the regulatory jurisdiction and permitting authority of all
473 other applicable governmental bodies, agencies, and any special
474 districts having authority with respect to any area included
475 therein, and to plan, establish, acquire, construct or
476 reconstruct, enlarge or extend, equip, operate, finance, fund,
477 and maintain improvements, systems, facilities, services, works,
478 projects, and infrastructure. Any or all of the following
479 special powers are granted by this act in order to implement the
480 special purpose of the district:
481 (a) To provide district parks and open space and the
482 continued maintenance, operation, and improvement thereof. This
483 special power includes, but is not limited to, passive and
484 active recreational areas, lakes, and canals, containing picnic
485 shelters, boat ramps and docks, volleyball, basketball, tennis,
486 horseshoe, and shuffleboard courts, playgrounds and open space,
487 wildlife habitat, including the maintenance of any plant or

488 animal species, mitigation areas, landscaping and irrigation,
489 bicycle lanes, jogging paths, riding trails, regulatory or
490 informational signage, and all other customary elements of such
491 park and open-space areas and any related interest in real or
492 personal property.
493 (b) To provide buildings, structures, and like
494 improvements and the continued maintenance, operation, and
495 improvement thereof. This special power includes, but is not
496 limited to, bathroom facilities, maintenance buildings, lighting
497 and security facilities such as walls and guardhouses, parking
498 areas, wildlife observation towers, stables, and stormwater
499 facilities necessary and incidental to the recreational
500 amenities, and associated infrastructure or any other project
501 authorized or granted by this act.
502 (c) To establish and create, at noticed meetings, such
503 governmental departments of the board of supervisors of the
504 district, as well as committees, task forces, boards, or
505 commissions, or other agencies under the supervision and control
506 of the district, as from time to time the members of the board
507 may deem necessary or desirable in the performance of the acts
508 or other things necessary to exercise the board's general or
509 special powers to implement an innovative project to carry out
510 the special purpose of the district as provided in this act and
511 to delegate the exercise of its powers to such departments,
512 boards, task forces, committees, or other agencies and such
513 administrative duties and other powers as the board may deem
514 necessary or desirable, but only if there is a set of expressed
515 limitations for accountability, notice, and periodic written
516 reporting to the board that shall retain the powers of the
517 board.
518

519 The enumeration of special powers herein shall not be deemed
520 exclusive or restrictive but shall be deemed to incorporate all
521 powers express or implied necessary or incident to carrying out
522 such enumerated special powers, including also the general
523 powers provided by this charter to the district to implement its
524 single purpose. Further, the provisions of this subsection shall
525 be construed liberally in order to carry out effectively the
526 special purpose of this district under this act.
527 Section 6. Borrowing; revenue.--
528 (1) BORROWING.--The district at any time may obtain loans,
529 in such amount and on such terms and conditions as the board may
530 approve, for the purpose of paying any of the expenses of the
531 district or any costs incurred or that may be incurred in
532 connection with any of the projects of the district, which loans
533 shall bear interest as the board determines, not to exceed the
534 maximum rate allowed by general law, and may be payable from and
535 secured by a pledge of such funds, revenues, taxes, and
536 assessments as the board may determine. For the purpose of
537 defraying such costs and expenses, the district may issue
538 negotiable notes, warrants, or other evidences of debt to be
539 payable at such times and to bear such interest as the board may
540 determine, not to exceed the maximum rate allowed by general
541 law, and to be sold or discounted at such price or prices not
542 less than 95 percent of par value and on such terms as the board
543 may deem advisable. The board shall have the right to provide
544 for the payment thereof by pledging the whole or any part of the
545 funds, revenues, taxes, and assessments of the district. The
546 approval of the electors residing in the district shall not be
547 necessary except when required by the State Constitution.
548 (2) AD VALOREM TAXES; ASSESSMENTS, MAINTENANCE SPECIAL
549 ASSESSMENTS, AND SPECIAL ASSESSMENTS.--

550 (a) Ad valorem taxes.--The board of supervisors shall have
551 the power to levy and assess an ad valorem tax on all the
552 taxable property in the district to maintain, operate, and
553 perform improvements of recreational amenities and associated
554 infrastructure. An ad valorem tax levied by the board for
555 operating purposes shall not exceed 3 mills. The ad valorem tax
556 provided for herein shall be in addition to county and all other
557 ad valorem taxes provided for by law. Such tax shall be
558 assessed, levied, and collected in the same manner and at the
559 same time as county taxes and as provided for by the
560 intergovernmental agreements required in section 4 of this act.
561 The levy of ad valorem taxes must be approved by referendum as
562 required by Section 9 of Article VII of the State Constitution.
563 (b) Enforcement of taxes.--The collection and enforcement
564 of all taxes levied by the district shall be at the same time
565 and in like manner as county taxes; and the provisions of the
566 laws of the state relating to the sale of lands for unpaid and
567 delinquent county taxes, the issuance, sale, and delivery of tax
568 certificates for such unpaid and delinquent county taxes, the
569 redemption thereof, the issuance to individuals of tax deeds
570 based thereon, and all other procedures in connection therewith
571 shall be applicable to the district to the same extent as if
572 such statutory provisions were expressly set forth herein. All
573 taxes shall be subject to the same discounts as county taxes.
574 All taxes provided for in this act shall become delinquent and
575 bear penalties on the amount of such taxes in the same manner as
576 county taxes.
577 (c)1. Maintenance special assessments.--To maintain and
578 preserve the recreational amenities and associated
579 infrastructure of the district, the board may levy a maintenance
580 special assessment.

581 2. Special assessments.--To operate and improve the
582 recreational amenities and associated infrastructure of the
583 district, the board may levy a special assessment.
584
585 Assessment may be evidenced to and certified to the property
586 appraiser by the board of supervisors by a date each year as
587 determined by interlocal agreement and shall be entered by the
588 property appraiser on the county tax rolls and shall be
589 collected and enforced by the tax collector in the same manner
590 and at the same time as county taxes, and the proceeds therefrom
591 shall be paid to the district. However, this subsection shall
592 not prohibit the district in its discretion from using a method
593 prescribed in section 197.363, section 197.3631, section
594 197.3632, or section 197.3635, Florida Statutes, or chapter 173,
595 Florida Statutes, for collecting and enforcing these
596 assessments. These maintenance special assessments shall be a
597 lien on the property against which assessed until paid and shall
598 be enforceable in like manner as county taxes. The amount of the
599 maintenance special assessment for the exercise of the
600 district's powers under this section shall be determined by the
601 board based upon a report of the district's engineer and
602 assessed by the board upon such lands, which shall be all of the
603 lands within the district benefited by the maintenance thereof,
604 apportioned between the benefited lands in proportion to the
605 benefits received by each tract of land.
606 (d) Land owned by governmental entity.--Except as
607 otherwise required by law, the district shall not levy ad
608 valorem taxes or non-ad valorem assessments under this act or
609 chapter 170 or chapter 197, Florida Statutes, on property of a
610 governmental entity located within the district.
611 (3) TAX LIENS; PAYMENT OF TAXES AND REDEMPTION OF TAX

612 LIENS BY THE DISTRICT; SHARING IN PROCEEDS OF TAX SALE;
613 FORECLOSURE OF LIENS.--The foregoing shall be as prescribed in
614 sections 190.024, 190.025, and 190.026, Florida Statutes, and
615 subject to all other requirements of law.
616 (4) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION AND
617 MODIFICATIONS.--The district is authorized to prescribe, fix,
618 establish, and collect reasonable user fees, rentals, or other
619 charges, and to revise the same from time to time, for the use
620 of the recreational amenities and associated infrastructure
621 furnished by the district pursuant to the adoption procedure
622 prescribed by section 190.035, Florida Statutes. Such user fees,
623 rentals, and charges shall be just and equitable and uniform for
624 users of the same class and, when appropriate, may be based or
625 computed either upon the amount of service furnished, upon the
626 average number of persons residing or working in or otherwise
627 occupying the premises served, or upon any other factor
628 affecting the use of the facilities furnished, or upon any
629 combination of the foregoing factors, as may be determined by
630 the board on an equitable basis.
631 (5) RECOVERY OF DELINQUENT CHARGES.--In the event that any
632 rates, fees, rentals, charges, or delinquent penalties shall not
633 be paid as and when due and shall be in default for 60 days or
634 more, the unpaid balance thereof and all interest accrued
635 thereon, together with reasonable attorney's fees and costs, may
636 be recovered by the district in a civil action.
637 (6) ENFORCEMENT AND PENALTIES.--The board or any aggrieved
638 person may have recourse to such remedies in law and at equity
639 as prescribed in section 190.041, Florida Statutes.
640 Section 7. Procurement; suits; exemption of district
641 property; modifications to district boundaries; notice to
642 purchasers.--

643 (1) PROCUREMENT.--Competitive procurement, bids, and
644 negotiations shall be as prescribed in section 190.033, Florida
645 Statutes, and subject to all other requirements of law.
646 (2) SUITS.--Suits against the district as described in
647 section 190.043, Florida Statutes, ~~and~~ shall be subject to the
648 limitations provided in section 768.28, Florida Statutes.
649 (3) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.--All
650 district property shall be exempt from levy and sale by virtue
651 of an execution, and no execution or other judicial process
652 shall issue against such property, nor shall any judgment
653 against the district be a charge or lien on its property or
654 revenues.
655 (4) TERMINATION, CONTRACTION, OR EXPANSION OF THE
656 DISTRICT.--
657 (a) The board may ask the Legislature through its local
658 legislative delegations in and for Pasco County to amend this
659 act to contract, to expand or to contract, and to expand the
660 boundaries of the district by amendment of this act.
661 (b) The district shall remain in existence until:
662 1. The district is terminated and dissolved pursuant to
663 amendment to this act by the Legislature.
664 2. The district has become inactive pursuant to section
665 189.4044, Florida Statutes.
666 (5) INCLUSION OF TERRITORY.--The inclusion of any or all
667 territory of the district within a municipality does not change,
668 alter, or affect the boundary, territory, existence, or
669 jurisdiction of the district.
670 (6) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED
671 DISCLOSURE TO PURCHASER.--Subsequent to the creation of the
672 district under this act, each contract for the sale of a parcel
673 of real property within the district shall include, immediately

674 prior to the space reserved in the contract for the signature of
675 the purchaser, the following disclosure statement in boldfaced
676 and conspicuous type which is larger than the type in the
677 remaining text of the contract: "THE LAKE PADGETT ESTATES
678 INDEPENDENT SPECIAL DISTRICT MAY IMPOSE AND LEVY TAXES OR
679 ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY.
680 THESE TAXES AND ASSESSMENTS PAY FOR THE OPERATION, MAINTENANCE,
681 AND IMPROVEMENT COSTS OF CERTAIN RECREATIONAL AMENITIES AND
682 ASSOCIATED INFRASTRUCTURE AND SERVICES OF THE DISTRICT AND ARE
683 SET ANNUALLY BY THE BOARD OF SUPERVISORS OF THE DISTRICT. THESE
684 TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL
685 GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND
686 ASSESSMENTS PROVIDED FOR BY LAW."
687 (7) NOTICE OF CREATION AND ESTABLISHMENT.--Within 30 days
688 after the election of the first board of supervisors, the
689 district shall cause to be recorded in the grantor-grantee index
690 of the property records of Pasco County a "Notice of Creation
691 and Establishment of the Lake Padgett Estates Independent
692 Special District." The notice shall, at a minimum, include the
693 legal description of the property covered by this act.
694 Section 8. If any provision of this act is determined
695 unconstitutional or otherwise determined invalid by a court of
696 law, all the rest and remainder of the act shall remain in full
697 force and effect as the law of this state.
698 Section 9. This act shall take effect July 1, 2006, except
699 that the provisions of this act which authorize the levy of ad
700 valorem taxation shall take effect only upon express approval by
701 a majority vote of those qualified electors of the Lake Padgett
702 Estates Independent Special District voting in a referendum
703 election held at such time as all members of the board of
704 supervisors are qualified electors who are elected by qualified

705 electors of the district as provided in this act.
706
707
708 ========== T I T L E A M E N D M E N T ==========
709 Remove the entire title and insert:
710 A bill to be entitled
711 An act relating to Pasco County; creating the Lake Padgett
712 Estates Independent Special District; providing a popular
713 name; providing definitions; stating legislative policy
714 regarding creation of the district; providing for creation
715 and establishment of the district and legal boundaries of
716 the district; providing for the jurisdiction and charter
717 of the district; providing for an initial governing board,
718 a board of supervisors, and board membership, meetings,
719 organization, powers, duties, terms of office, per diem,
720 salary, and election requirements; providing for
721 administrative duties of the board, district employees,
722 selection of a public depository, district budgets,
723 financial reports, and reviews; providing for the general
724 powers of the district; providing for the special powers
725 of the district to maintain, operate, and improve
726 community recreational amenities and associated
727 infrastructure and services within the district; providing
728 for borrowing and revenue sources including a referendum
729 to allow for the levying of an ad valorem tax within the
730 district; providing for competitive procurement; providing
731 for required notices to purchasers of real property within
732 the district; providing severability; providing an
733 effective date.
734

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 539 Indian River Lagoon Restoration Project and the Lake Okeechobee and Estuary Recovery Plan

SPONSOR(S): Harrell and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee	9 Y, 0 N	Blanchette	Lotspeich
2) Local Government Council		DiVagno	Hamby
3) State Resources Council			
4)			
5)			

SUMMARY ANALYSIS

The memorial urges the United States Congress to promptly enact pending legislation to authorize the Indian River Lagoon Restoration Project and requests the President of the United States to sign that legislation into law. It also requests the President to work with Congress to develop and enact a comprehensive planning and funding initiative to be implemented in coordination with Governor Bush's Lake Okeechobee and Estuary Recovery Plan announced on October 10, 2005.

The memorial does not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:
This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

The Indian River Lagoon
The South Florida Water Management District ("SFWMD") and the U.S. Army Corps of Engineers completed a Final Integrated Project Implementation Report and Environmental Impact Statement in March 2004 that covers central and southern Florida. The SFWMD describes the Indian River Lagoon as a "series of three distinct, but interconnected, estuarine systems, which extend 156 miles from Ponce Inlet to Jupiter Inlet on Florida's east coast."[1] The northern portion of the lagoon is within the St. Johns River Water Management District, while the lagoon's southern section is located within the SFWMD in St. Lucie, Martin and northern Palm Beach counties.[2]

The Indian River Lagoon has been described as the most bio-diverse estuarine system in all of North America, providing shelter to manatees, dolphins, sea turtles, and seahorses.[3] Part of the Indian River Lagoon is an estuary of national significance, recognized by the U.S. Environmental Protection Agency National Estuary Program and designated a Florida Aquatic Preserve and Outstanding Florida Water.[4] Moreover, the lagoon supports multimillion dollar fishing, clamming, tourism, agricultural and recreational industries.[5]

SFWMD defines a lagoon as a "broad, shallow estuarine system separated from the ocean by a barrier island, generally paralleling the shoreline and limiting exchange with the sea through inlets."[6] An estuary is defined as an "area where saltwater from the sea mixes with freshwater from the land, such as a bay, the mouth of a river, a salt marsh, or a lagoon."[7] Estuarine systems are important for the "survival of many species of birds, mammals, fish and other wildlife, some of them rare and endangered."[8] There are several benefits that saltwater grasses and other estuarine plants provide to their surroundings which include erosion prevention and stabilizing shorelines.[9]

Both SFWMD and the U.S. Army Corps of Engineers have stated in the Final Integrated Project Implementation Report that the southern Indian River Lagoon ecosystem is in imminent danger of ecological collapse.[10] "The estuary system has been degraded by large and frequently occurring discharges of freshwater, and by excessive accumulation of muck in estuary and lagoon bottoms."[11] This has produced a reduction in water clarity and ultimately "exceeded the salinity tolerances of

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[1] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_lagoon/2_wrp_ce_lagoon.html.
[2] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[3] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[4] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[5] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_lagoon/2_wrp_ce_lagoon.html.
[6] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_lagoon/2_wrp_ce_lagoon.html.
[7] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_lagoon/2_wrp_ce_lagoon.html.
[8] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_lagoon/2_wrp_ce_lagoon.html.
[9] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_lagoon/2_wrp_ce_lagoon.html.
[10] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[11] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.

submerged vegetation and benthic animals."[12] Because so much of the income of Martin and St. Lucie Counties relies on recreational and commercial fishing and other marine-related activities, further degradation of the lagoon ecosystem may have a direct adverse impact on the regional economy.[13]

Adequately and reliably meeting the water supply demands of the agricultural interests in the south Florida area is also an issue. Historically, most rainwater soaked into the ground in the region's short hydroperiod wetland systems.[14] As Martin and St. Lucie Counties developed, some of these wetlands were converted into agricultural and urban land issues. For some of the remaining wetlands, the network of drainage canals worked too efficiently and drained too much water off the land too quickly. The net result is that insufficient water is stored for all agricultural use in the dry season, and agricultural interests are forced to rely on the moderately saline Floridan aquifer to supplement irrigation needs.[15] Reliance on this source for extended periods of time can lead to decline in productivity and potential die-off of crops. According to the SFWMD and U.S. Army Corps of Engineers, without the features contained in the Indian River Lagoon – South Restoration Plan, these adverse impacts to regional agriculture will continue.[16]

Indian River Lagoon - South Restoration Plan

The Indian River Lagoon – South (IRL-S) Restoration Plan is one of the highly interrelated components of the Comprehensive Everglades Restoration Plan ("CERP"), a joint federal-state effort to restore hydropatterns in the Everglades area. However, the United States Congress must authorize implementation of the IRL-S Restoration Plan in order for restoration activities to proceed.

The IRL-S Restoration Plan will allow significant restoration of physically and biologically degraded areas in the southern Indian River Lagoon area, while providing for other water-related needs of the region, including sustainable agricultural water supply and maintenance of existing flood protection.[17] The IRL-S Restoration Plan recommends a plan for Martin, St. Lucie, and Okeechobee Counties that will improve water quality within the St. Lucie Estuary and the Indian River Lagoon by reducing the damaging effects of watershed runoff, reducing high peak freshwater discharges to control salinity levels, reducing nutrient loads, pesticides and other pollutants.[18] The project will also provide a water supply for agriculture to offset reliance on the Floridan aquifer.[19] "The IRL-S Restoration Plan includes building and operating approximately 12,600 acres of new reservoirs and approximately 8,700 acres of new stormwater treatment areas, restoring natural hydrology on approximately 92,000 acres in the watershed, restoring approximately 3,100 acres of floodplain wetlands in the North Fork of the St. Lucie River, and muck removal and habitat restoration actions inside the estuaries."[20]

The IRL-S Restoration Plan recommends the following: "building pumps, levees, canals and other water control structures to operate and interconnect project features and provide a mechanism for re-directing freshwater discharges."[21] As a result, there will be significant reduction in harmful discharges

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[12] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[13] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[14] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[15] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[16] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[17] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[18] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[19] www.evergladesplan.org/pm/projects/proj_07_irl_south.cfm
[20] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[21] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.

into the estuaries, water quality treatment will be provided, native wetland and upland habitat in the watershed will be restored, and there will be improved habitat for natural populations of flora and fauna, including threatened and endangered species.[22]

Without the implementation of the IRL-S Restoration Plan, the southern Indian River Lagoon ecosystem will continue to deteriorate and will remain in imminent danger of ecological collapse. A small level of ecological improvement within the south Florida ecosystem is expected to occur by 2050 as a result of implementation of Federal, state, and local projects currently planned outside of the CERP program.[23] Some of these projects would beneficially affect the study area. However, the cumulative, regional benefits from these projects would not result in restoration of the Indian River Lagoon ecosystem and its watershed. While the IRL-S Restoration Plan addresses to a significant degree the restoration needs associated with impacts from the watershed, the balance of the CERP further contributes to the restoration of the Indian River Lagoon by providing additional storage of excess regional water from Lake Okeechobee and its enormous watershed.[24] The success of the IRL-S Restoration Plan is ultimately dependent upon the implementation of the overall restoration plan for the south Florida ecosystem.

The Caloosahatchee River and Estuary

The 2004 hurricane season generated unprecedented rainfall, dumping up to 13 million gallons of water each minute into Lake Okeechobee at its peak. Lake Okeechobee rose by more than five and a half feet in less than three months -- from just over 12 feet in early August to more than 18 feet by mid-October. The high winds, heavy rainfall and recent warm weather contributed to murky waters, poor water quality and a decline in the health of the Lake. Regulated freshwater discharges needed to lower lake levels and prevent flooding have impacted not only the health of the St Lucie River and its estuary but also the Caloosahatchee River and its estuary.

The SFWMD describes the Caloosahatchee River estuary as an area "where the waters of the Gulf of Mexico mix with the freshwater inflows from the river, sloughs and overland sheetflows in the basin."[25] In the lower reaches of the river and estuary are sand flats, a shallow bay and extensive seagrass beds.[26] Widespread mangrove forests dominate undeveloped areas of the shoreline.[27] Southwest Florida estuaries are habitat to more than 40 percent of Florida's rare, endangered and threatened species. [28] "The Caloosahatchee River and estuary extend about 70 miles from Lake Okeechobee to San Carlos Bay on Florida's southwest coast."[29] Pine Island Sound, Matlacha Pass, Charlotte Harbor aquatic preserves and Telegraph Swamp are all noteworthy natural system resources within the Caloosahatchee River watershed.[30]

The following are major issues affecting the Caloosahatchee River watershed: water supply availability, salinity variations and nutrient levels.[31] "Water quality within the Caloosahatchee River basin is threatened by altered freshwater inputs, nutrient loads from agricultural activities, trace elements, and overall urban growth and development within the watershed."[32] The value of riverine and estuarine ecosystems depends on water quality. As water quality diminishes, so does the overall quality of the system.[33]

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[22] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[23] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[24] Final Integrated Project Implementation Report and Environmental Impact Statement, U.S. Army Corps of Engineers & SFWMD, March 2004.
[25] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html
[26] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html
[27] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html
[28] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html
[29] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html
[30] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html
[31] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html
[32] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html
[33] www.sfwmd.gov/org/wrp/wrp_ce/2_wrp_ce_estuary/cal.html

The Lake Okeechobee and Estuary Recovery Plan
Governor Bush announced the Lake Okeechobee and Estuary Recovery Plan ("Plan") on October 10, 2005. The Plan is designed to reduce pollution and better manage the flow of water from Lake Okeechobee to the St. Lucie River and the Caloosahatchee River while meeting south Florida's flood control and water supply responsibilities.[34] "Under the $200 million recovery plan, the State is expanding water storage areas, constructing treatment marshes and expediting environmental management initiatives to enhance the ecological health of the lake and downstream coastal estuaries."[35] As part of the Plan, State agencies are working together to improve farming practices by raising standards and strengthening permitting criteria for new development.[36] "The State will also begin implementing a new lake regulation schedule with the U.S. Army Corps of Engineers to lower water levels and reduce freshwater discharges to the St. Lucie and Caloosahatchee estuaries to improve current conditions."[37] Governor Bush's Lake Okeechobee and Estuary Recovery Plan involves the following agencies: South Florida Water Management District, Department of Environmental Protection, Department of Community Affairs and Department of Agriculture and Consumer Services.[38]

Governor Bush intends to ask the Florida Legislature to provide a second installment of $25 million in next year's budget (FY 2006-2007), building on an initial investment of $30 million this year - $25 million in growth management funding from the Department of Environmental Protection and $5 million from the Department of Agriculture and Consumer Services.

Effect of Proposed Changes

The memorial urges the United States Congress to promptly enact pending legislation to authorize the Indian River Lagoon Restoration Project and requests the President of the United States to sign that legislation into law. The memorial also requests the President to work with Congress to develop and enact a comprehensive planning and funding initiative to be implemented in coordination with Governor Bush's Lake Okeechobee and Estuary Recovery Plan announced on October 10, 2005.

The implementation of the IRL-S Restoration Plan is contingent on the appropriation of funds by the United States Congress for the work to be completed. It is currently estimated that $1.3 billion will be needed to fully implement the IRL-S Restoration Plan.[39]

C. SECTION DIRECTORY:

The memorial format does not contain sections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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[34] www.dep.state.fl.us/secretary/news/2005/10/1010_01.htm.
[35] www.dep.state.fl.us/secretary/news/2005/10/1010_01.htm.
[36] www.dep.state.fl.us/secretary/news/2005/10/1010_01.htm.
[37] www.dep.state.fl.us/secretary/news/2005/10/1010_01.htm.
[38] www.dep.state.fl.us/secretary/news/2005/10/1010_01.htm.
[39] Personal communication with U.S. Army Corps of Engineers staff on January 25, 2006.

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   None.

D. FISCAL COMMENTS:

The total initial cost for the implementation of the Indian River Lagoon – South Restoration Plan is estimated to be just over $1.3 billion. The annual operation and maintenance costs are estimated at $6,145,000, which includes $1,955,500 for project monitoring.[40]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[40] These are the new numbers, adjusted for inflation, based on the October 2003 numbers reported in the Report for the IRL-S Project from the Department of the Army, Office of the Chief of Engineers dated August 6, 2004.

1 House Memorial
2 A memorial to the President of the United States and the
3 United States Congress, urging the prompt enactment of
4 legislation to authorize funding to construct the Indian
5 River Lagoon Restoration Project and the development of a
6 comprehensive plan to assist in the implementation of the
7 Lake Okeechobee and Estuary Recovery Plan.
8
9 WHEREAS, the Indian River Lagoon and the St. Lucie Estuary
10 encompass the most biologically diverse estuary in North America
11 that is recognized for national significance in the National
12 Estuary Program, and
13 WHEREAS, the Indian River Lagoon and the St. Lucie Estuary
14 have been and continue to be severely degraded by excessive
15 freshwater discharges, nutrients, and sediments from Lake
16 Okeechobee and the drainage canals constructed by the Central
17 and Southern Florida Flood Control Project, and
18 WHEREAS, the State of Florida has a long history of
19 supporting local, state, and federal programs to improve the
20 environmental health of the Indian River Lagoon and the St.
21 Lucie Estuary, the health of which is critical to the economic
22 and social environment of Florida and the nation, and
23 WHEREAS, the support of the State of Florida includes
24 forming and funding the St. Lucie River Issues Team and the
25 Indian River Lagoon Restoration Task Force and providing 50
26 percent of the cost of the Comprehensive Everglades Restoration
27 Plan projects, and
28 WHEREAS, local government partners, including the Nine
29 County Coalition for the Responsible Management of Lake

30 Okeechobee and St. Lucie and Caloosahatchee Estuaries, are
31 implementing urban stormwater quality retrofit projects, funding
32 over $100 million to restore the Indian River Lagoon and the St.
33 Lucie Estuary, and
34 WHEREAS, water being released into the Caloosahatchee River
35 westward from Lake Okeechobee has introduced too much fresh
36 water into the Caloosahatchee River and its estuaries, causing
37 great damage to the aquatic life in that fragile system, and
38 WHEREAS, local voters in Martin County voluntarily approved
39 a special sales tax referendum for healthy rivers that raised
40 over $50 million to assist in the purchase of the land necessary
41 to implement the Indian River Lagoon Restoration Project, and
42 WHEREAS, the State of Florida has enthusiastically endorsed
43 Congressional authorization of the Indian River Lagoon
44 Restoration Project, and
45 WHEREAS, the Indian River Lagoon Restoration Project, after
46 numerous bureaucratic delays, has now undergone full
47 administrative review and is ready for Congressional
48 authorization and subsequent funding and construction, and
49 WHEREAS, the Indian River Lagoon Restoration Project is the
50 first of over forty major components of the Comprehensive
51 Everglades Restoration Plan that require Congressional
52 authorization, and
53 WHEREAS, Congressional authorization of the Indian River
54 Lagoon Restoration Project will pave the way for Congressional
55 authorization of the other major components of the Comprehensive
56 Everglades Restoration Plan, and
57 WHEREAS, Lake Okeechobee is the gateway to America's
58 Everglades and the largest freshwater lake in the southeastern

59 United States, and
60 WHEREAS, the health of Lake Okeechobee is vital to the goal
61 of restoring America's Everglades, and
62 WHEREAS, the recent catastrophic hurricanes have caused
63 massive pollution of the lake's waters and destroyed essential
64 plant life within the lake, and
65 WHEREAS, the recent catastrophic hurricanes have made it
66 extremely difficult to maintain the level of the lake without
67 damaging releases into the Indian River Lagoon and St. Lucie
68 Estuary and the Caloosahatchee Estuary, and
69 WHEREAS, on October 10, 2005, Governor Jeb Bush announced
70 the Lake Okeechobee and Estuary Recovery Plan, an initiative by
71 the State of Florida to accelerate the recovery and restoration
72 of Lake Okeechobee, and
73 WHEREAS, the people of the United States, and the
74 generations of Americans to follow, deserve the environmental
75 and economic benefits of the restoration of America's Everglades
76 that will be derived from the implementation of the entire
77 Comprehensive Everglades Restoration Plan, NOW, THEREFORE,
78
79 Be It Resolved by the Legislature of the State of Florida:
80
81 That the State of Florida urges the United States Congress
82 to pass, without further delay, the pending legislation to
83 authorize the Indian River Lagoon Restoration Project and
84 requests the President of the United States to sign that
85 legislation into law and further requests the President to work
86 with the Congress to develop and enact a comprehensive planning
87 and funding initiative to be implemented in coordination with

88 the Lake Okeechobee and Estuary Recovery Plan announced by
89 Governor Bush on October 10, 2005.
90 BE IT FURTHER RESOLVED that copies of this memorial be
91 dispatched to the President of the United States, to the
92 President of the United States Senate, to the Speaker of the
93 United States House of Representatives, and to each member of
94 the Florida delegation to the United States Congress.

HB 547

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 547 East County Water Control District, Lee and Hendry Counties
SPONSOR(S): Kreegel
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.S.	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

House Bill 547 amends the boundaries to East County Water Control District (District), an independent special district in Lee and Hendry Counties, to include two undeveloped parcels of land owned by separate entities. This bill also corrects a scrivener's error.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2006-07 or 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

The District was created by judicial decree of the twelfth circuit court in 1958. This decree was ratified by the Legislature in 1963 by ch. 63-1549, L.O.F. This special act provided that the District was created under ch. 298, F.S. The District encompasses over 63,000 acres of land and approximately 311 miles of canals. The District is authorized to levy annual installment and maintenance taxes. The collection and enforcement of taxes levied by the District are provided for in the same manner as county taxes. The District's authorization includes the authority to sell land for unpaid and delinquent taxes and the issuance and sale of tax certificates for unpaid taxes.

This bill amends the boundaries of the District to add approximately 63 acres of land (less than 0.1% of the total District), composed of two undeveloped parcels of land owned by two landowners who have consented to inclusion of their property into the District. This bill also corrects a scrivener's error.

C. SECTION DIRECTORY:

Section 1: Subsection (2) of section 1 of section 3 of chapter 2000-423, Laws of Florida, is amended, relating to district creation and boundaries.

Section 2: Provides effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? October 12, 2005

WHERE? *News-Press*, Fort Myers, Lee, Charlotte, Collier, Glades and Hendry Counties, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

Although the EIS states the bill will have no fiscal impact, the district's attorney states the district will benefit from inclusion of the parcels as it will receive additional revenues from the added parcels.

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Mr. M. Christopher Lyon, Esq., with the law firm of Lewis, Longman & Walker, P.A., representing the District, sent the following statement relating to the boundaries of the district:

> This bill proposes to add to the District approximately 63 acres of land, owned by two landowners who approached the District and have consented to inclusion. Additionally, the two parcels are District enclaves, as they are located inside the District's current boundaries but excluded from the District. These parcels to be added already receive the benefit of the services provided by the District, without contributing to the expense of these improvements. If included, the parcels will receive additional benefit from the District in the form of drainage improvements to the land. The District and its residents will also benefit from inclusion of the parcels as they will receive additional revenues from the added parcels.[1]

The district attorney has submitted a letter from the District clarifying the parcels of land to be added to the District. The district attorney also submitted consent agreements between the landowners and the District for the two parcels to be included.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

[1] *See* Memorandum from M. Christopher Lyon (January 24, 2006) (on file with House of Representatives, Local Government Council).

HB547

NEWS-PRESS

Published every morning – Daily and Sunday
Fort Myers, Florida

Affidavit of Publication

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared
Kathy Allebach
who on oath says that he/she is the
Legal Assistant of the News-Press, a
daily newspaper, published at Fort Myers, in Lee County, Florida; that the attached copy of advertisement, being a
Notice
In the matter of
Notice of Intent to Seek Legislation
In the court was published in said newspaper in the issues of
October 12, 2005

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida and that said newspaper has heretofore been continuously published in said Lee County; Florida, each day, and has been entered as a second class mail matter at the post office in Fort Myers in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of the advertisement; and affiant further says that he/she 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 the said newspaper.

Kathy Allebach

Sworn to and subscribed before me this

12th day of October 2005 by

Kathy Allebach
personally known to me or who has produced

_____

as identification, and who did or did not take an oath.

Notary Public Gladys Vanderbeck

Print Name _____

My commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
Gladys D. Vanderbeck
Commission # DD378867
Expires December 13, 2008
Bonded Troy Fain - Insurance Inc 800-385-7019

NOTICE OF INTENT TO SEEK LEGISLATION

East County Water Control District hereby gives notice pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, of its intent to seek legislation before the 2006 Florida Legislature. This legislation will amend the boundaries of the District and correct a scrivener's error.

If you have any questions, please call the East County Water Control District at 239-368-0044 or email to: email@ecwcd.com

Oct 12 No. 944832

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 547

SPONSOR(S): Kreegel (District 72)

RELATING TO: East County Water Control District

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

NAME OF DELEGATION: Hendry County

CONTACT PERSON: Marty Mielke

PHONE # and E-Mail: (863345) marty.mielke@myflorida house.gov

I. *House policy requires that three things occur before a council or a committee 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) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [✓] NO [ ]

(2) Has a public hearing been held? YES [✓] NO [ ]

Date hearing held: October 13, 2005

Location: LaBelle City Hall

(3) Was this bill formally approved by a majority of the delegation members?
YES [✓] NO [ ] UNIT RULE [ ] UNANIMOUS [✓]

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 [10/12/05 **]**

Where? Ft. Myers News-Press **County** Lee/Hendry Counties

Referendum in lieu of publication: YES [ ] NO [ ]

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.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [✓]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Denise Grimsley 1-24-06

Delegation Chair (*Original Signature*) **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: 547

SPONSOR(S): Kreegel

RELATING TO: East County Water Control District; Lee and Hendry Counties

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

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	FY 06-07	FY 07-08
Expenditures:	$0	$0

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	N/A	N/A
State:	N/A	N/A
Local:	N/A	N/A

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	$0	$0

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: The bill amends the District's boundaries and corrects a scrivener's error.

Disadvantages: None.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None.

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

Review of general and special laws related to East County Water Control District, information from district staff and attorney, and prior experience representing special districts.

PREPARED BY: [Must be signed by Preparer] Date

David E. Ramba

TITLE: District Special Counsel

REPRESENTING: East County Water Control District

PHONE: (850-222-5702)

E-Mail Address: dramba@llw-law.com

1 A bill to be entitled
2 An act relating to the East County Water Control District,
3 Lee and Hendry Counties; amending ch. 2000-423, Laws of
4 Florida; amending the boundaries of the district;
5 providing an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Subsection (2) of section 1 of section 3 of
10 chapter 2000-423, Laws of Florida, is amended to read:
11 Section 1. Creation; Status; Charter amendments; District
12 boundaries.--
13 (2) The boundaries of the District are hereby declared to
14 be as follows:
15
16 LANDS IN LEE COUNTY, FLORIDA
17
18 TOWNSHIP 43 SOUTH, RANGE 26 EAST
19
20 SECTION 25:
21
22 The following portions of Section 25;
23
24 The East 1/2 of the Northeast 1/4 of the Northeast
25 1/4, together with
26
27 The Northeast 1/4 of the Southeast 1/4 of the
28 Northeast 1/4.

29
30 TOWNSHIP 43 SOUTH, RANGE 27 EAST
31
32 SECTION 19:
33
34 Commencing at the Southeast corner of Government Lot 5
35 of said Section 19, said point also being the South
36 1/4 Section Corner of said Section 19; thence North
37 89° 32' 09" West along the South line of said Section
38 19, a distance of 941.16 feet to the POINT OF
39 BEGINNING of this description; thence North 00° 33'
40 49" West, a distance of 961.01 feet to the Southerly
41 United States Government Easement line of the
42 Caloosahatchee River; thence continuing North 00° 33'
43 48" West, a distance of 90 feet, more or less, to the
44 Southerly waters edge of the said Caloosahatchee
45 River; thence Southwesterly along the meanders of said
46 Southerly waters edge of the Caloosahatchee River, a
47 distance of 780 feet, more or less; thence South 00°
48 33' 48" East, a distance of 50 feet, more or less, to
49 the said Southerly United States Government Easement
50 line of the Caloosahatchee River; thence continuing
51 South 00° 33' 48" East, a distance of 578.75 feet to
52 the said South line of Section 19; thence South 89°
53 32' 09" East along the said South line of Section 19
54 to the POINT OF BEGINNING, LESS the Easterly 35.80
55 feet of the above described parcel.
56

57 SECTION 30:
58
59 The following portions of Section 30;
60
61 That portion of the West 1/2 of said Section 30 lying
62 North of State Road 80, LESS the West 118.40 feet
63 thereof.
64
65 That portion of the Northwest 1/4 of the Northeast
66 ~~Northwest~~ 1/4 of Section 30 lying North of State Road
67 80.
68
69 That portion of Section 30 lying South of the
70 Southerly Right-of-Way line of State Road 80, LESS the
71 West 200.00 feet of said Section 30 lying South of
72 Hickey's Creek,
73
74 AND LESS lots 18 thru 28, Lots 31 and 32, Lots 37 and
75 38, Lots 41 thru 44 all as shown on Pine Creek Acres,
76 Unit No. 1 as recorded in Plat Book 10, Page 13 of the
77 Public Records of Lee County, Florida.
78
79 AND LESS Lot 1, Lots 23 and 24, Lots 27 and 28, the 50
80 foot Right-of-Way for Dixie Lane and that portion of
81 the 50 foot Right-of-Way for Pine Boulevard lying
82 Easterly of a line connecting the Northeast corner of
83 Lot 92 with the Southeast corner of Lot 35 all as
84 shown on Pine Creek Acres, Unit No. 2 as recorded in

85 Plat Book 10, Page 74 of the said Public Records,
86
87 AND LESS the following described parcel;
88
89 BEGINNING at the Northeast corner of Pine Creek Acres,
90 Unit No. 1 as recorded in Plat Book 10, Page 13 of the
91 said Public Records; thence South 00° 56' 00" East
92 along the East line of said Pine Creek Acres, Unit No.
93 1 and the Southerly projection thereof, a distance of
94 223.86 feet; thence North 89° 35' 20" East, a distance
95 of 166.20 feet; thence North 00° 24' 40" West, a
96 distance of 203.00 feet to the said Southerly Right-
97 of-Way line of State Road 80; thence North 82° 54' 00"
98 West along the said Southerly Right-of-Way line of
99 State Road 80 to the POINT OF BEGINNING,
100
101 AND LESS the following described parcel;
102
103 Commencing at the said Northeast corner of Pine Creek
104 Acres, Unit No. 1; thence South 00° 56' 00" East along
105 the said East line of Pine Creek Acres, Unit No. 1 and
106 the Southerly projection thereof, a distance of 223.86
107 feet; thence North 89° 35' 20" East, a distance of
108 166.20 feet; thence North 00° 24' 40" West, a distance
109 of 203.00 feet to the said Southerly Right-of-Way line
110 of State Road 80, thence South 82° 54' 00" East along
111 the said Southerly Right-of-Way line of State Road 80,
112 a distance of 137.61 feet to the POINT OF BEGINNING of

113 this description; thence South 00° 24' 40" East, a
114 distance of 237.58 feet; thence North 89° 35' 20"
115 East, a distance of 209.19 feet; thence South 00° 24'
116 40" East, a distance of 918.16 feet; thence North 89°
117 35' 20" East, a distance of 420.00 feet; thence North
118 00° 24" 40" West, a distance of 1069.39 feet to the
119 said Southerly Right-of-Way line of State Road 80;
120 thence Northwesterly along the said Southerly Right-
121 of-Way line of State Road 80 to the POINT OF
122 BEGINNING,
123
124 AND LESS the following described parcel;
125
126 BEGINNING at the intersection of the East line of the
127 Northwest 1/4 of the Northeast 1/4 of said Section 30
128 and the said Southerly Right-of-Way line of State Road
129 80; thence South 00° 24' 40" East along the East line
130 of the West 1/2 of the Northeast 1/4 of said Section
131 30 to a point which is South 00° 24' 40" East, a
132 distance of 129.00 feet from the Northwest corner of
133 the Southeast 1/4 of the Northeast 1/4 of said Section
134 30; thence South 89° 41' 55" East along a line
135 parallel with the North line of the said Southeast 1/4
136 of the Northeast 1/4, a distance of 337.00 feet;
137 thence North 00° 24' 40" West to the said Southerly
138 Right-of-Way line of State Road 80; thence North 81°
139 08' 00" West along the said Southerly Right-of-Way
140 line of State Road 80 to the POINT OF BEGINNING.

141
142 SECTION 31:
143
144 The following portions of Section 31;
145
146 The West 1/2, together with
147
148 The West 1/2 of the Southeast 1/4, together with
149
150 The Southeast 1/4 of the Southeast 1/4, together with
151
152 The Southwest 1/4 of the Northeast 1/4, together with
153
154 The Southwest 1/4 of the Northwest 1/4 of the
155 Northeast 1/4, together with
156
157 The Northeast 1/4 of the Northeast 1/4 of the
158 Northeast 1/4.
159
160 SECTION 36:
161
162 The East 1/2 of Section 36, LESS the Northwest 1/4 of
163 the Northeast 1/4 thereof.
164
165 TOWNSHIP 44 SOUTH, RANGE 26 EAST
166
167 SECTION 1-3:
168

169 All of Sections 1, 2 and 3.
170
171 SECTION 4:
172
173 The East 1/2 of Section 4.
174
175 SECTION 10:
176
177 The following portions of Section 10;
178
179 The East 1/2 of the Southeast 1/4, together with
180
181 The Northwest 1/4 of the Southeast 1/4.
182
183 SECTIONS 11-14:
184
185 All of Sections 11, 12, 13 and 14.
186
187 SECTION 15:
188
189 The East 1/2 of the East 1/2 of Section 15.
190
191 SECTION 16:
192
193 The following portions of Section 16;
194
195 All of Units 1 through 5 of "Lehigh Acres" as recorded
196 in Plat Book 27, Page 186 of the Public Records of Lee

197 County, Florida together with,
198
199 Lot 16, Block 36 of "Buckingham Park, Northwest
200 Section" as recorded in Plat Book 9, Page 92 of the
201 said Public Records.
202
203 SECTION 19:
204
205 The following portions of Section 19;
206
207 The Southeast 1/4, together with
208
209 That portion of the Northeast 1/4 of said Section 19
210 lying South of Buckingham Road.
211
212 SECTION 20:
213
214 The following portions of Section 20;
215
216 The South 1/2, together with
217
218 That portion of the North 1/2 of said Section 20 lying
219 South of Buckingham Road.
220
221 SECTION 21:
222
223 The following portions of "Buckingham Park, South
224 Section" as recorded in Plat Book 9, Page 99 of the

225 said Public Records being in Section 21;
226
227 Lots 3 through 10 of Block 40,
228
229 Lots 1 and 3 of Block 38,
230
231 Lot 28 of Block 29,
232
233 The North 40 feet of Lot 29 of Block 29,
234
235 All of Tract "D",
236
237 All of Block "E"
238
239 together with,
240
241 the Re-subdivision of that portion of Block "E" of
242 said "Buckingham Park, South Section" as replatted on
243 "Plat of Unit 3 Lehigh Park, a Subdivision of Lehigh
244 Acres" as recorded in Plat Book 15, Page 66 of the
245 said Public Records, together with
246
247 That portion of said Section 21 lying Southwesterly of
248 the centerline of a 60 foot easement as described in
249 Miscellaneous Book 32, Page 335 of the said Public
250 Records.
251
252 SECTION 22:

253
254 That portion of Section 22 lying South and
255 Southwesterly of Homestead Road as shown on Plat of
256 "Buckingham Park Entrance Roads" as recorded in Plat
257 Book 9, Page 97 of the said Public Records.
258
259 SECTIONS 23-29:
260
261 All of Sections 23, 24, 25, 26, 27, 28 and 29.
262
263 SECTION 30:
264
265 The following portions of Section 30;
266
267 The South 1/2, together with
268
269 The Northeast 1/4, together with
270
271 The South 100 feet of the North 1/2.
272
273 SECTION 31:
274
275 That portion of said Section 31 lying Northeasterly of
276 State Road 82.
277
278 SECTIONS 32-36:
279
280 All of Sections 32, 33, 34, 35 and 36.

281
282 TOWNSHIP 44 SOUTH, RANGE 27 EAST
283
284 SECTION 1:
285
286 All of Section 1.
287
288 SECTION 2:
289
290 All of Section 2, LESS the Northwest 1/4 of the
291 Northwest 1/4 thereof.
292
293 SECTION 3:
294
295 All of Section 3, LESS the Northeast 1/4 thereof,
296
297 AND LESS the East 1/2 of the Northwest 1/4 thereof.
298
299 SECTIONS 4-6:
300
301 All of Sections 4, 5 and 6.
302
303 SECTION 7:
304
305 The following portions of Section 7;
306
307 The South 1/2, together with
308

309 The Northwest 1/4, together with
310
311 The Southwest 1/4 of the Northeast 1/4, together with
312
313 The North 1/2 of the Northeast 1/4, together with
314
315 The North 854 feet of the East 466 feet of the
316 Southeast 1/4 of the Northeast 1/4.
317
318 SECTION 8:
319
320 The following portions of Section 8;
321
322 The South 1/2, together with
323
324 The Northwest 1/4 of the Northeast 1/4, together with
325
326 The West 1/2 of the Northeast 1/4, together with
327
328 The East 3/4 of the Southeast 1/4 of the Northwest
329 1/4.
330
331 SECTION 9:
332
333 All of said Section 9, LESS the Southwest 1/4 of the
334 Northeast 1/4 thereof.
335
336 SECTIONS 10-36:

337
338 All of Sections 10, 11, 12, 13, 14, 15, 16, 17, 18,
339 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31,
340 32, 33, 34, 35 and 36.
341
342 TOWNSHIP 45 SOUTH, RANGE 26 EAST
343
344 SECTIONS 1-3:
345
346 All of Section 1, 2 and 3.
347
348 SECTION 4:
349
350 All that portion of Section 4 lying North of State
351 Road 82.
352
353 SECTION 5:
354
355 All that portion of Section 5 lying North of State
356 Road 82.
357
358 SECTION 6:
359
360 All that portion of Section 6 lying North of State
361 Road 82.
362
363 SECTION 9:
364

365 All that portion of Section 9 lying North of State
366 Road 82.
367
368 SECTION 10:
369
370 All that portion of Section 10 lying North of State
371 Road 82.
372
373 SECTION 11:
374
375 All that portion of Section 11 lying North of State
376 Road 82.
377
378 SECTION 12:
379
380 All of Section 12.
381
382 SECTION 13:
383
384 All that portion of Section 13 lying North of State
385 Road 82.
386
387 SECTION 14:
388
389 All that portion of Section 14 lying North of State
390 Road 82.
391
392 TOWNSHIP 45 SOUTH, RANGE 27 EAST

393
394 SECTIONS 1-3 ~~1-2~~:
395
396 All of Sections 1, ~~and~~ 2 and 3.
397
398 ~~SECTION 3:~~
399
400 ~~The following portions of Section 3;~~
401
402 ~~The South 1/2, together with~~
403
404 ~~The Northeast 1/4, together with~~
405
406 ~~The East 1/2 of the Northwest 1/4, together with the~~
407 ~~following described parcel;~~
408
409 ~~Commencing at the Northeast corner of Government Lot 4~~
410 ~~of said Section 3; thence Southerly along the East~~
411 ~~line of said Government Lot 4, a distance of 631.60~~
412 ~~feet to the POINT OF BEGINNING of this description;~~
413 ~~thence continue Southerly along the said East line of~~
414 ~~Government Lot 4, a distance of 315.90 feet; thence~~
415 ~~Westerly, a distance of 660.00 feet; thence Northerly~~
416 ~~along a line parallel with the said East line of~~
417 ~~Government Lot 4, a distance 315.90 feet; thence~~
418 ~~Easterly, a distance of 660.00 feet to the POINT OF~~
419 ~~BEGINNING, Together with the following described~~
420 ~~parcel:~~

421
422 ~~Commencing at the Northeast corner of said Government~~
423 ~~Lot 4 of Section 3; thence Southerly along the East~~
424 ~~line of said Government Lot 4, a distance of 157.90~~
425 ~~feet to the POINT OF BEGINNING of this description;~~
426 ~~thence continue Southerly along the said Easterly line~~
427 ~~of Government Lot 4, a distance of 315.80 feet; thence~~
428 ~~Westerly, a distance of 330.00 feet; thence Northerly,~~
429 ~~a distance of 315.80 feet; thence Easterly, a distance~~
430 ~~of 330.00 feet to the POINT OF BEGINNING, Together~~
431 ~~with the following described parcel:~~
432
433 ~~Commencing at the Northwest corner of said Government~~
434 ~~Lot 4; thence Southerly along the West line of said~~
435 ~~Section 3, a distance of 631.60 feet to the POINT OF~~
436 ~~BEGINNING of this description; thence Easterly, a~~
437 ~~distance of 660.00 feet; thence Southerly, a distance~~
438 ~~of 315.90 feet; thence Westerly, a distance of 660.00~~
439 ~~feet; thence Northerly, a distance of 315.90 feet to~~
440 ~~the POINT OF BEGINNING,~~
441
442 ~~Together with the following described parcel:~~
443
444 ~~Commencing at the Northwest corner of Section 3;~~
445 ~~thence North 89° 15' 00" East along the North line of~~
446 ~~said Section 3, a distance of 1326.37 feet to the~~
447 ~~Northeast corner of Government Lot 4 of said Section~~
448 ~~3; thence South 01° 02' 02" East along the East line~~

449 ~~of said Government Lot 4, a distance of 473.70 feet to~~
450 ~~the POINT OF BEGINNING of this description; thence~~
451 ~~continuing South 01° 02' 02" East, a distance of~~
452 ~~157.90 feet; thence South 89° 15' 05" West, a distance~~
453 ~~of 330.00 feet, thence North 00° 32' 28" West, a~~
454 ~~distance of 157.90 feet; thence North 89° 15' 03"~~
455 ~~East, a distance of 330.00 feet to the said East line~~
456 ~~of Government Lot 4 and the POINT OF BEGINNING,~~
457
458 ~~Together with the following described parcel:~~
459
460 ~~Commencing at the Northwest corner of Section 3;~~
461
462 ~~thence South 00° 02' 50" East along the West line of~~
463 ~~said Section 3, a distance of 947.50 feet to the POINT~~
464 ~~OF BEGINNING of this description; thence North 89° 15'~~
465 ~~10" East, a distance of 1342.70 feet; thence South 01°~~
466 ~~02' 07" East, a distance of 631.80 feet; thence South~~
467 ~~89° 15' 15" West, a distance of 676.80 feet; thence~~
468 ~~South 00° 32' 28" East, a distance of 928.52 feet to a~~
469 ~~point on the East/West 1/4 Section line of said~~
470 ~~Section 3; thence North 89° 54' 56" West along the~~
471 ~~said East/West 1/4 Section line of Section 3, a~~
472 ~~distance of 684.84 feet to the West 1/4 corner of said~~
473 ~~Section 3; thence North 00° 02' 50" West along the~~
474 ~~West line of said Section 3, a distance of 1550.46~~
475 ~~feet to the POINT OF BEGINNING.~~
476

477 SECTION 4:
478
479 All of Section 4, LESS the Southeast 1/4 of the
480 Southeast 1/4 thereof,
481
482 AND LESS the South 1/2 of the Northeast 1/4 of the
483 Southeast 1/4 of said Section 4.
484
485 AND LESS the South 1/2 of the Northeast 1/4 of the
486 Northeast 1/4 of the Southeast 1/4 of said Section 4,
487
488 AND LESS the Northwest 1/4 of the Northeast ¼ of the
489 Southeast 1/4 of said Section 4.
490
491 SECTION 5:
492
493 The following portions of Section 5;
494
495 The Northwest 1/4, together with
496
497 The East 3/4 of the North 1/2 of the Southwest 1/4,
498 together with The South 1/2 of the Southwest 1/4,
499 together with
500
501 The Southwest 1/4 of the Southeast 1/4 LESS the South
502 175 feet of the East 125 feet thereof, together with
503 The following described parcel being in the Northeast
504 1/4 of the Northeast 1/4 of said Section 5; Commencing

505 at the Northeast corner of said Section 5; thence
506 Westerly along the North line of said Section 5, said
507 North line of Section 5 being the South line of Units
508 7 and 18 of "Leeland Heights" as shown on plat
509 recorded in Plat Book 12, Page 53 of the said Public
510 Records, a distance of 116.51 feet to the Southwest
511 corner of Lot 10 of Block 87 of said "Leeland Heights"
512 and the POINT OF BEGINNING of this description; thence
513 continuing Westerly along the said North line of
514 Section 5, a distance of 1208.55 feet to the Northwest
515 corner of the Northeast 1/4 of the Northeast 1/4 of
516 said Section 5; thence South 01° 35' 34" East along
517 the West line of the said Northeast 1/4 of the
518 Northeast 1/4 of Section 5, a distance of 1149.72
519 feet; thence Easterly along a line parallel with the
520 said North line of Section 5, a distance of 1268.07
521 feet to a point of intersection with a line parallel
522 with and 60 feet Westerly of (as measured at right
523 angles) the East line of said Section 5; thence North
524 01° 44' 40" West along said parallel line, a distance
525 of 1089.78 feet to a point of intersection with a line
526 parallel with and 60 feet Southerly of (as measured at
527 right angles) the said North line of Section 5; thence
528 Westerly along said line parallel with and 60 feet
529 Southerly of the North line of Section 5, a distance
530 of 58.31 feet to a point of intersection with the
531 Southerly prolongation of the West line of said Lot 10
532 of Block 87 of "Leeland Heights"; thence Northerly

533 along said Southerly prolongation, a distance of 60.00
534 feet to the POINT OF BEGINNING. Bearings in last
535 described parcel relative to said Plat of Units 7 and
536 18 of "Leeland Heights".
537
538 SECTION 6:
539
540 All of Section 6, LESS ~~the Northwest 1/4 of the~~
541 ~~Southwest 1/4 of the Northeast 1/4 thereof;~~
542
543 ~~AND LESS the South 1/2 of the Northeast 1/4 of the~~
544 ~~Southwest 1/4 of the Northeast 1/4 of said Section 6,~~
545
546 ~~AND LESS the South 1/2 of the Southeast 1/4 of the~~
547 ~~Northwest 1/4 of the Northeast 1/4 of said Section 6,~~
548
549 ~~AND LESS the South 1/2 of the Southwest 1/4 of the~~
550 ~~Northwest 1/4 of the Northeast 1/4 of said Section 6,~~
551
552 ~~AND LESS the North 1/2 of the Northeast 1/4 of the~~
553 ~~Northwest 1/4 of the Northeast 1/4 of said Section 6,~~
554
555 ~~AND LESS~~ the following described parcel,
556
557 BEGINNING at the Southwest corner of Government Lot 5
558 of said Section 6; thence Northerly along the West
559 line of said Government Lot 5, a distance of 466.70
560 feet; thence Easterly along a line parallel with the

561 South line of said Government Lot 5, a distance of
562 466.70 feet; thence Southerly along a line parallel
563 with the said West line of Government Lot 5, a
564 distance of 466.70 feet; thence Westerly along the
565 South line of said Government Lot 5, a distance of
566 466.70 feet to the POINT OF BEGINNING.
567
568 SECTION 7:
569
570 All of Section 7.
571
572 SECTION 8:
573
574 All of Section 8, LESS the Southwest 1/4 of the
575 Southeast 1/4 thereof.
576
577 SECTION 9:
578
579 The following portions of Section 9;
580
581 The West 1/2 of the Southwest 1/4, together with
582
583 The Southeast 1/4, together with
584
585 The West 1/2 of the Northeast 1/4, together with
586
587 The Southeast 1/4 of the Northeast 1/4.
588

589 SECTIONS 10-17:
590
591 All of Sections 10, 11, 12, 13, 14, 15, 16 and 17.
592
593 SECTION 18:
594
595 All of Section 18, LESS the 200 foot Right-of-Way for
596 State Road 82 thereof,
597
598 AND LESS the Westerly 25 feet of that portion of said
599 Section 18 lying Northerly of said State Road 82, said
600 25 foot strip as conveyed to Lee County for roadway
601 purposes by deed recorded in Official Record Book 147,
602 Page 73 of the said Public Records of Lee County.
603
604 SECTION 19:
605
606 All of Section 19, LESS the 200 foot Right-of-Way for
607 State Road 82 thereof,
608
609 AND LESS the following described parcel, BEGINNING at
610 the Northeast corner of said Section 19; thence South
611 00° 34' 00" East along the East line of said Section
612 19 to the East 1/4 Section corner of said Section 19;
613 thence South 89° 53' 40" West along the East/West 1/4
614 Section line of said Section 19, a distance of 1479.38
615 feet; thence North 00° 39' 20" West along a line
616 parallel with and 156.00 feet Westerly of (as measured

617 at right angles) the West line of the East 1/2 of the
618 Northeast 1/4 of said Section 19, a distance of
619 2019.77 feet to a point of intersection with the
620 Southwesterly Right-of-Way line of said State Road 82;
621 thence South 64° 06' 00" East along the said
622 Southwesterly right-of-Way line of State Road 82, a
623 distance of 174.40 feet to a point of intersection
624 with the said West line of the East 1/2 of the
625 Northeast 1/4 of Section 19; thence North 00° 39' 20"
626 West along the said West line of the East 1/2 of the
627 Northeast 1/4 of Section 19, a distance of 223.58 feet
628 to a point of intersection with the Northeasterly
629 Right-of-Way line of State Road 82; thence North 64°
630 06' 00" West along the said Northeasterly Right-of-Way
631 line of State Road 82, a distance of 400.00 feet;
632 thence North 49° 30' 50" East, a distance of 465.93
633 feet to the Northwest corner of the said East 1/2 of
634 the Northeast 1/4 of Section 19; thence North 89° 55'
635 00" East along the North line of said Section 19, a
636 distance of 1327.50 feet to the POINT OF BEGINNING.
637
638 SECTION 20:
639
640 All of Section 20, LESS the 200 foot Right-of-Way for
641 State Road 82 thereof,
642
643 AND LESS the following described parcel, BEGINNING at
644 the Northwest corner of said Section 20; thence North

645 89° 15' 50" East along the North line of said Section
646 20, a distance of 227.46 feet; thence South 00° 34'
647 00" East along a line parallel with the West line of
648 said Section 20, a distance of 1516.82 feet to a point
649 of intersection with the Northerly Right-of-Way line
650 of State Road 82; thence North 49° 52' 20" West along
651 the said Northerly Right-of-Way line of State Road 82,
652 a distance of 300.00 feet to a point of intersection
653 with the West line of said Section 20; thence North
654 00° 34' 00" East along the said West line of Section
655 20 to the POINT OF BEGINNING
656
657 AND LESS the following described parcel, BEGINNING at
658 the intersection of the Southwesterly Right-of-Way
659 line of State Road 82 and the South line of said
660 Section 20; thence North 24° 51' 40" West along the
661 said Southwesterly Right-of-Way line of State Road 82,
662 a distance of 1000.00 feet; thence South 32° 24' 30"
663 West, a distance of 1081.39 feet to a point of
664 intersection with the said South line of Section 20;
665 thence North 89° 40' 40" East along the said South
666 line of Section 20, a distance of 1000.00 feet to the
667 POINT OF BEGINNING. Last described parcel being
668 recorded in Deed Book 306, Page 153 of the said Public
669 Records of Lee County.
670
671 SECTIONS 21-26:
672

673 All of Sections 21, 22, 23, 24, 25 and 26.
674
675 SECTION 27:
676
677 All of Section 27 lying NORTH of State Road 82.
678
679 SECTION 28:
680
681 All of Section 28 lying North of State Road 82.
682
683 SECTION 29:
684
685 All of Section 29 lying North of State Road 82.
686
687 SECTION 34:
688
689 All of Section 34 lying North of State Road 82.
690
691 SECTION 35:
692
693 All of Section 35 lying North of State Road 82.
694
695 SECTION 36:
696
697 All of Section 36 LESS the 200 foot Right-of-Way for
698 State Road 82 thereof.
699
700 LANDS IN HENDRY COUNTY, FLORIDA.

701
702 TOWNSHIP 43 SOUTH, RANGE 28 EAST
703
704 SECTION 30:
705
706 The following portions of Section 30;
707
708 The West 400.00 feet of the Southwest 1/4 less the
709 right-of-way for State Road 80, together with
710
711 The parcel commencing at the West 1/4 corner of
712 Section 30; thence along the West Section line North
713 01° 01' 11" West, a distance of 164.01 feet to the
714 North right-of-way line of State Road 80 and the POINT
715 OF BEGINNING; thence continuing North 01° 01' 11"
716 West, a distance of 1156.17 feet to the South Right-
717 of-Way line for the Caloosahatchee River (C-43 canal);
718 thence along said South Right-of-Way line North 78°
719 07' 28" East, a distance of 162.92 feet; thence South
720 01° 01' 11" East, a distance of 415.55 feet; thence
721 South 45° 02' 36" East, a distance of 345.35 feet;
722 thence South 01° 01' 11" East, a distance of 520.42
723 feet to the North Right-of-Way for State Road 80;
724 thence along said right-of-way South 88° 36' 43" West,
725 a distance of 400.00 feet to the POINT OF BEGINNING
726
727 SECTION 31:
728

729 The following portions of Section 31;
730
731 The Southeast 1/4 of the Northwest 1/4, together with
732
733 The East 1/2 of the Southwest 1/4, together with,
734
735 The South 185.00 feet of the North 1/2 of the
736 Northwest 1/4 less the West 1189.24 feet of the East
737 1439.25 feet of the South 25.00 feet thereof;
738
739 Together with the West 660.76 feet of the North 30.00
740 feet of the Southwest 1/4 of the Northwest 1/4,
741
742 Together with the West 400.00 feet of the Northwest
743 1/4 of the Northwest 1/4.
744
745 TOWNSHIP 44 SOUTH, RANGE 28 EAST
746
747 SECTION 6:
748
749 The West 1/2 of Section 6.
750
751 SECTION 7:
752
753 The West 1/2 of Section 7.
754
755 SECTION 18:
756

757 The West 1/2 of Section 18.
758
759 SECTION 19:
760
761 The West 1/2 of Section 19.
762
763 SECTION 30:
764
765 The West 1/2 of Section 30.
766
767 SECTION 31:
768
769 The West 1/2 of Section 31.
770 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7009 PCB GO 06-02 OGSR Local Government Managers
SPONSOR(S): Governmental Operations Committee, Rivera
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Governmental Operations Committee	5 Y, 0 N	Williamson	Williamson
1) Local Government Council		DiVagno	Hamby
2) State Administration Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The bill reenacts and narrows the public records exemption for certain identification and location information regarding an employee relations director, assistant director, manager, or assistant manager of a local government agency or water management district. It also reenacts and narrows the public records exemption for certain identification and location information regarding the spouse or child of that manager. The exemption will repeal on October 2, 2006, if this bill does not become law.

The bill may have a minimal non-recurring fiscal impact on local governments. The bill does not appear to have a fiscal impact on state government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill narrows the public records exemption thereby increasing public access to government information.

B. EFFECT OF PROPOSED CHANGES:

Background

Public Records Exemption for Certain Local Government Managers

Current law provides a public records exemption for certain identification and location information regarding a current or former employee relations director, assistant director, manager, or assistant manager (manager) of a local government agency or water management district.[1] Specifically, the home address, telephone number, social security number, and photograph of the manager are exempt[2] from public disclosure. In addition, a public records exemption exists for the:

- Name, home address, telephone number, social security number, photograph and place of employment of the spouse of the manager; and
- Name, home address, telephone number, social security number, photograph, place of employment, and the name and location of the school or daycare facility attended by the child of the manager.

Further, an agency, other than the employing agency, must maintain the exempt status of the identification and location information upon receipt of a written request by the affected manager or that manager's employer.[3]

Pursuant to the Open Government Sunset Review Act,[4] the exemption will repeal on October 2, 2006, unless reenacted by the Legislature.

Open Government Sunset Review of the Exemption

House staff reviewed the public records exemption pursuant to the Open Government Sunset Review Act and determined that, with modification, the exemption meets the requirements for reenactment.[5] Staff concluded that certain information currently protected by the public records exemption either is protected by a more general public records exemption or is not maintained by the employing agency. A narrower public records exemption protects the release of social security numbers.[6] The employing agency does not maintain the photograph of the spouse or child of the manager.

Effect of Bill

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[1] In order to receive the benefit of the exemption, such personnel's duties and responsibilities must include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties. Section 119.071(4)(d)2., F.S.

[2] There is a difference between records that are exempt from public records requirements and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such record cannot be released by an agency to anyone other than to the persons or entities designated in the statute. *See* Attorney General Opinion 85-62. If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances. *See Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).

[3] Section 119.071(4)(a)(2), F.S.

[4] Section 119.15, F.S.

[5] Staff surveyed and interviewed managers as part of the review process.

[6] Section 119.071(5)(a), F.S.

The bill removes the repeal date, thereby reenacting the public records exemption. It narrows the public records exemption by removing the exemption for the photograph of the spouse or child of a manager. The bill removes the duplicative public records exemption for social security numbers.

C. SECTION DIRECTORY:

Section 1 amends s. 119.071(4)(d), F.S., to reenact and narrow the public records exemption for managers.

Section 2 provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None. The bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

   None. The bill does not create, modify, amend, or eliminate state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None. The bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

   The bill may represent a minimal non-recurring positive impact on local government expenditures. A bill enacting or amending a public records exemption causes a non-recurring negative fiscal impact in the year of enactment as a result of training employees responsible for replying to public records requests. In the case of bills reviewed under the Open Government Sunset Review process, training costs are incurred if the bill does not pass or if the exemption is amended, as retraining is required. Because the bill eliminates the repeal of the exemption, local governments may recognize a minimal nonrecurring decrease in expenditures because employee-training activities are avoided.

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 bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Open Government Sunset Review Act

The Open Government Sunset Review Act sets forth a legislative review process for newly created or substantially amended public records or public meetings exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or,
- Protecting trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required because of the requirements of Art. 1, s. 24(c), Florida Constitution. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created (e.g., allowing another agency access to the confidential or exempt records), then a public necessity statement and a two-thirds vote for passage are not required.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 11, 2006, the Governmental Operations Committee adopted an amendment to PCB GO 06-02 and reported the bill favorably. The current public records exemption for information concerning a child of a local government manager was inadvertently removed from the bill. The amendment reinstated the application of that exemption.

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act regarding local government managers;
4 amending s. 119.071, F.S.; narrowing the public records
5 exemption for personal identifying information of current
6 or former human resource, labor relations, or employee
7 relations directors, assistant directors, managers, or
8 assistant managers of any local government agency or water
9 management district with specified duties and the spouses
10 and children of such personnel; removing the scheduled
11 repeal of the exemption under the Open Government Sunset
12 Review Act; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Paragraph (d) of subsection (4) of section
17 119.071, Florida Statutes, is amended to read:
18 119.071 General exemptions from inspection or copying of
19 public records.--
20 (4) AGENCY PERSONNEL INFORMATION.--
21 (d)1. The home addresses, telephone numbers, social
22 security numbers, and photographs of active or former law
23 enforcement personnel, including correctional and correctional
24 probation officers, personnel of the Department of Children and
25 Family Services whose duties include the investigation of abuse,
26 neglect, exploitation, fraud, theft, or other criminal
27 activities, personnel of the Department of Health whose duties
28 are to support the investigation of child abuse or neglect, and

29 personnel of the Department of Revenue or local governments
30 whose responsibilities include revenue collection and
31 enforcement or child support enforcement; the home addresses,
32 telephone numbers, social security numbers, photographs, and
33 places of employment of the spouses and children of such
34 personnel; and the names and locations of schools and day care
35 facilities attended by the children of such personnel are exempt
36 from s. 119.07(1). The home addresses, telephone numbers, and
37 photographs of firefighters certified in compliance with s.
38 633.35; the home addresses, telephone numbers, photographs, and
39 places of employment of the spouses and children of such
40 firefighters; and the names and locations of schools and day
41 care facilities attended by the children of such firefighters
42 are exempt from s. 119.07(1). The home addresses and telephone
43 numbers of justices of the Supreme Court, district court of
44 appeal judges, circuit court judges, and county court judges;
45 the home addresses, telephone numbers, and places of employment
46 of the spouses and children of justices and judges; and the
47 names and locations of schools and day care facilities attended
48 by the children of justices and judges are exempt from s.
49 119.07(1). The home addresses, telephone numbers, social
50 security numbers, and photographs of current or former state
51 attorneys, assistant state attorneys, statewide prosecutors, or
52 assistant statewide prosecutors; the home addresses, telephone
53 numbers, social security numbers, photographs, and places of
54 employment of the spouses and children of current or former
55 state attorneys, assistant state attorneys, statewide
56 prosecutors, or assistant statewide prosecutors; and the names

57 and locations of schools and day care facilities attended by the
58 children of current or former state attorneys, assistant state
59 attorneys, statewide prosecutors, or assistant statewide
60 prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of
61 the State Constitution.
62 2. The home addresses, telephone numbers, ~~social security~~
63 ~~numbers,~~ and photographs of current or former human resource,
64 labor relations, or employee relations directors, assistant
65 directors, managers, or assistant managers of any local
66 government agency or water management district whose duties
67 include hiring and firing employees, labor contract negotiation,
68 administration, or other personnel-related duties; the names,
69 home addresses, telephone numbers, ~~social security numbers,~~
70 ~~photographs,~~ and places of employment of the spouses and
71 children of such personnel; and the names and locations of
72 schools and day care facilities attended by the children of such
73 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
74 the State Constitution. ~~This subparagraph is subject to the Open~~
75 ~~Government Sunset Review Act in accordance with s. 119.15 and~~
76 ~~shall stand repealed on October 2, 2006, unless reviewed and~~
77 ~~saved from repeal through reenactment by the Legislature.~~
78 3. The home addresses, telephone numbers, social security
79 numbers, and photographs of current or former United States
80 attorneys and assistant United States attorneys; the home
81 addresses, telephone numbers, social security numbers,
82 photographs, and places of employment of the spouses and
83 children of current or former United States attorneys and
84 assistant United States attorneys; and the names and locations

85 of schools and day care facilities attended by the children of
86 current or former United States attorneys and assistant United
87 States attorneys are exempt from s. 119.07(1) and s. 24(a), Art.
88 I of the State Constitution. This subparagraph is subject to the
89 Open Government Sunset Review Act in accordance with s. 119.15
90 and shall stand repealed on October 2, 2009, unless reviewed and
91 saved from repeal through reenactment by the Legislature.
92 4. The home addresses, telephone numbers, social security
93 numbers, and photographs of current or former judges of United
94 States Courts of Appeal, United States district judges, and
95 United States magistrate judges; the home addresses, telephone
96 numbers, social security numbers, photographs, and places of
97 employment of the spouses and children of current or former
98 judges of United States Courts of Appeal, United States district
99 judges, and United States magistrate judges; and the names and
100 locations of schools and day care facilities attended by the
101 children of current or former judges of United States Courts of
102 Appeal, United States district judges, and United States
103 magistrate judges are exempt from s. 119.07(1) and s. 24(a),
104 Art. I of the State Constitution. This subparagraph is subject
105 to the Open Government Sunset Review Act in accordance with s.
106 119.15 and shall stand repealed on October 2, 2009, unless
107 reviewed and saved from repeal through reenactment by the
108 Legislature.
109 5. The home addresses, telephone numbers, social security
110 numbers, and photographs of current or former code enforcement
111 officers; the names, home addresses, telephone numbers, social
112 security numbers, photographs, and places of employment of the

113 spouses and children of such persons; and the names and
114 locations of schools and day care facilities attended by the
115 children of such persons are exempt from s. 119.07(1) and s.
116 24(a), Art. I of the State Constitution. This subparagraph is
117 subject to the Open Government Sunset Review Act in accordance
118 with s. 119.15 and shall stand repealed on October 2, 2006,
119 unless reviewed and saved from repeal through reenactment by the
120 Legislature.
121 6. The home addresses, telephone numbers, places of
122 employment, and photographs of current or former guardians ad
123 litem, as defined in s. 39.820, and the names, home addresses,
124 telephone numbers, and places of employment of the spouses and
125 children of such persons, are exempt from s. 119.07(1) and s.
126 24(a), Art. I of the State Constitution, if the guardian ad
127 litem provides a written statement that the guardian ad litem
128 has made reasonable efforts to protect such information from
129 being accessible through other means available to the public.
130 This subparagraph is subject to the Open Government Sunset
131 Review Act in accordance with s. 119.15 and shall stand repealed
132 on October 2, 2010, unless reviewed and saved from repeal
133 through reenactment by the Legislature.
134 7. An agency that is the custodian of the personal
135 information specified in subparagraph 1., subparagraph 2.,
136 subparagraph 3., subparagraph 4., subparagraph 5., or
137 subparagraph 6. and that is not the employer of the officer,
138 employee, justice, judge, or other person specified in
139 subparagraph 1., subparagraph 2., subparagraph 3., subparagraph
140 4., subparagraph 5., or subparagraph 6. shall maintain the

141 exempt status of the personal information only if the officer,
142 employee, justice, judge, other person, or employing agency of
143 the designated employee submits a written request for
144 maintenance of the exemption to the custodial agency.
145 Section 2. This act shall take effect October 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7011 PCB GO 06-03 OGSR Code Enforcement Officers
SPONSOR(S): Governmental Operations Committee, Rivera
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Governmental Operations Committee	5 Y, 0 N	Williamson	Williamson
1) Local Government Council		DiVagno	Hamby
2) State Administration Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public records and each public meetings exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The bill reenacts and narrows the public records exemption for certain identification and location information regarding a code enforcement officer and that officer's spouse or child. The exemption will repeal on October 2, 2006, if this bill does not become law.

The bill may have a minimal non-recurring fiscal impact on local governments. The bill does not appear to have a fiscal impact on state government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill narrows the public records exemption thereby increasing public access to government information.

B. EFFECT OF PROPOSED CHANGES:

Background

Public Records Exemption for Code Enforcement Officers

Code enforcement officers (officers) are responsible for the administration of a wide range of health, safety, and environmental regulations. Current law provides a public records exemption for certain identification and location information regarding a current or former officer.[1] Specifically, the home address, telephone number, social security number, and photograph of the officer are exempt from public disclosure. In addition, a public records exemption exists for the:

- Name, home address, telephone number, social security number, photograph and place of employment of the spouse of the officer; and
- Name, home address, telephone number, social security number, photograph, place of employment, and the name and location of the school or daycare facility attended by the child of the officer.

Further, an agency, other than the employing agency, must maintain the exempt status of the identification and location information upon receipt of a written request by the officer or that officer's employer.[2]

Pursuant to the Open Government Sunset Review Act,[3] the exemption will repeal on October 2, 2006, unless reenacted by the Legislature.

Open Government Sunset Review of the Exemption

House staff reviewed the public records exemption pursuant to the Open Government Sunset Review Act and determined that, with modification, the exemption meets the requirements for reenactment.[4] Staff concluded that certain information currently protected by the public records exemption either is protected by a more general public records exemption or is not maintained by the employing agency. A narrower public records exemption protects the release of social security numbers.[5] The employing agency does not maintain the photograph of the spouse or child of the officer.

Effect of Bill

The bill removes the repeal date, thereby reenacting the public records exemption. It narrows the public records exemption by removing the exemption for the photograph of the spouse or child of an officer. The bill removes the duplicative public records exemption for social security numbers. It also makes editorial changes.

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[1] Section 119.071(4)(d)5., F.S.
[2] Section 119.071(4)(a)(2), F.S.
[3] Section 119.15, F.S.
[4] Staff surveyed and interviewed officers as part of the review process.
[5] Section 119.071(5)(a), F.S.

C. SECTION DIRECTORY:

Section 1 amends s. 119.071(4)(d), F.S., to reenact and narrow the public records exemption for officers.

Section 2 provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. The bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

None. The bill does not create, modify, amend, or eliminate state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. The bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

The bill may represent a minimal non-recurring positive impact on local government expenditures. A bill enacting or amending a public records exemption causes a non-recurring negative fiscal impact in the year of enactment as a result of training employees responsible for replying to public records requests. In the case of bills reviewed under the Open Government Sunset Review process, training costs are incurred if the bill does not pass or if the exemption is amended, as retraining is required. Because the bill eliminates the repeal of the exemption, local governments may recognize a minimal nonrecurring decrease in expenditures because employee-training activities are avoided.

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 bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Open Government Sunset Review Act

The Open Government Sunset Review Act sets forth a legislative review process for newly created or substantially amended public records or public meetings exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or,
- Protecting trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required because of the requirements of Art. 1, s. 24(c), Florida Constitution. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created (e.g., allowing another agency access to the confidential or exempt records), then a public necessity statement and a two-thirds vote for passage are not required.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act regarding code enforcement officers;
4 amending s. 119.071, F.S.; narrowing the public records
5 exemption for personal identifying information of current
6 and former code enforcement officers and the spouses and
7 children of such officers; removing the scheduled repeal
8 of the exemption under the Open Government Sunset Review
9 Act; providing an effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. Paragraph (d) of subsection (4) of section
14 119.071, Florida Statutes, is amended to read:
15 119.071 General exemptions from inspection or copying of
16 public records.--
17 (4) AGENCY PERSONNEL INFORMATION.--
18 (d)1. The home addresses, telephone numbers, social
19 security numbers, and photographs of active or former law
20 enforcement personnel, including correctional and correctional
21 probation officers, personnel of the Department of Children and
22 Family Services whose duties include the investigation of abuse,
23 neglect, exploitation, fraud, theft, or other criminal
24 activities, personnel of the Department of Health whose duties
25 are to support the investigation of child abuse or neglect, and
26 personnel of the Department of Revenue or local governments
27 whose responsibilities include revenue collection and
28 enforcement or child support enforcement; the home addresses,

29 telephone numbers, social security numbers, photographs, and
30 places of employment of the spouses and children of such
31 personnel; and the names and locations of schools and day care
32 facilities attended by the children of such personnel are exempt
33 from s. 119.07(1). The home addresses, telephone numbers, and
34 photographs of firefighters certified in compliance with s.
35 633.35; the home addresses, telephone numbers, photographs, and
36 places of employment of the spouses and children of such
37 firefighters; and the names and locations of schools and day
38 care facilities attended by the children of such firefighters
39 are exempt from s. 119.07(1). The home addresses and telephone
40 numbers of justices of the Supreme Court, district court of
41 appeal judges, circuit court judges, and county court judges;
42 the home addresses, telephone numbers, and places of employment
43 of the spouses and children of justices and judges; and the
44 names and locations of schools and day care facilities attended
45 by the children of justices and judges are exempt from s.
46 119.07(1). The home addresses, telephone numbers, social
47 security numbers, and photographs of current or former state
48 attorneys, assistant state attorneys, statewide prosecutors, or
49 assistant statewide prosecutors; the home addresses, telephone
50 numbers, social security numbers, photographs, and places of
51 employment of the spouses and children of current or former
52 state attorneys, assistant state attorneys, statewide
53 prosecutors, or assistant statewide prosecutors; and the names
54 and locations of schools and day care facilities attended by the
55 children of current or former state attorneys, assistant state
56 attorneys, statewide prosecutors, or assistant statewide

57 prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of
58 the State Constitution.
59 2. The home addresses, telephone numbers, social security
60 numbers, and photographs of current or former human resource,
61 labor relations, or employee relations directors, assistant
62 directors, managers, or assistant managers of any local
63 government agency or water management district whose duties
64 include hiring and firing employees, labor contract negotiation,
65 administration, or other personnel-related duties; the names,
66 home addresses, telephone numbers, social security numbers,
67 photographs, and places of employment of the spouses and
68 children of such personnel; and the names and locations of
69 schools and day care facilities attended by the children of such
70 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
71 the State Constitution. This subparagraph is subject to the Open
72 Government Sunset Review Act in accordance with s. 119.15 and
73 shall stand repealed on October 2, 2006, unless reviewed and
74 saved from repeal through reenactment by the Legislature.
75 3. The home addresses, telephone numbers, social security
76 numbers, and photographs of current or former United States
77 attorneys and assistant United States attorneys; the home
78 addresses, telephone numbers, social security numbers,
79 photographs, and places of employment of the spouses and
80 children of current or former United States attorneys and
81 assistant United States attorneys; and the names and locations
82 of schools and day care facilities attended by the children of
83 current or former United States attorneys and assistant United
84 States attorneys are exempt from s. 119.07(1) and s. 24(a), Art.

85 I of the State Constitution. This subparagraph is subject to the
86 Open Government Sunset Review Act in accordance with s. 119.15
87 and shall stand repealed on October 2, 2009, unless reviewed and
88 saved from repeal through reenactment by the Legislature.
89 4. The home addresses, telephone numbers, social security
90 numbers, and photographs of current or former judges of United
91 States Courts of Appeal, United States district judges, and
92 United States magistrate judges; the home addresses, telephone
93 numbers, social security numbers, photographs, and places of
94 employment of the spouses and children of current or former
95 judges of United States Courts of Appeal, United States district
96 judges, and United States magistrate judges; and the names and
97 locations of schools and day care facilities attended by the
98 children of current or former judges of United States Courts of
99 Appeal, United States district judges, and United States
100 magistrate judges are exempt from s. 119.07(1) and s. 24(a),
101 Art. I of the State Constitution. This subparagraph is subject
102 to the Open Government Sunset Review Act in accordance with s.
103 119.15 and shall stand repealed on October 2, 2009, unless
104 reviewed and saved from repeal through reenactment by the
105 Legislature.
106 5. The home addresses, telephone numbers, ~~social security~~
107 ~~numbers,~~ and photographs of current or former code enforcement
108 officers; the names, home addresses, telephone numbers, ~~social~~
109 ~~security numbers, photographs,~~ and places of employment of the
110 spouses and children of such <u>personnel</u> ~~persons~~; and the names
111 and locations of schools and day care facilities attended by the
112 children of such <u>personnel</u> ~~persons~~ are exempt from s. 119.07(1)

113 and s. 24(a), Art. I of the State Constitution. ~~This~~
114 ~~subparagraph is subject to the Open Government Sunset Review Act~~
115 ~~in accordance with s. 119.15 and shall stand repealed on October~~
116 ~~2, 2006, unless reviewed and saved from repeal through~~
117 ~~reenactment by the Legislature.~~
118 6. The home addresses, telephone numbers, places of
119 employment, and photographs of current or former guardians ad
120 litem, as defined in s. 39.820, and the names, home addresses,
121 telephone numbers, and places of employment of the spouses and
122 children of such persons, are exempt from s. 119.07(1) and s.
123 24(a), Art. I of the State Constitution, if the guardian ad
124 litem provides a written statement that the guardian ad litem
125 has made reasonable efforts to protect such information from
126 being accessible through other means available to the public.
127 This subparagraph is subject to the Open Government Sunset
128 Review Act in accordance with s. 119.15 and shall stand repealed
129 on October 2, 2010, unless reviewed and saved from repeal
130 through reenactment by the Legislature.
131 7. An agency that is the custodian of the personal
132 information specified in subparagraph 1., subparagraph 2.,
133 subparagraph 3., subparagraph 4., subparagraph 5., or
134 subparagraph 6. and that is not the employer of the officer,
135 employee, justice, judge, or other person specified in
136 subparagraph 1., subparagraph 2., subparagraph 3., subparagraph
137 4., subparagraph 5., or subparagraph 6. shall maintain the
138 exempt status of the personal information only if the officer,
139 employee, justice, judge, other person, or employing agency of

140 the designated employee submits a written request for
141 maintenance of the exemption to the custodial agency.
142 Section 2. This act shall take effect October 1, 2006.

Local Government Council

Wednesday, February 22, 2006
1:00 p.m.
404 House Office Building

REVISED

Addendum A (2/21/2006 8:41 AM)

Allan G. Bense
Speaker

Ken Sorensen
Chair

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Local Government
2 Representative McInvale offered the following:
3
4 **Amendment**
5
6 Remove everything after the enacting clause and insert:
7
8 Section 1. FINDINGS AND INTENT.--
9 (1) The Legislature finds and declares the following:
10 (a) Chapter 509, Florida Statutes, requires the division
11 of hotels and restaurants to carry out all laws and rules
12 relating to the inspection and regulation of public food service
13 establishments for the purpose of safeguarding the public
14 health, safety, and welfare.
15 (b) Section 509.013(5), Florida Statutes, defines the term
16 "public food service establishment" as "any building, vehicle,
17 place, or structure, or any room or division of a building,
18 vehicle, place, or structure where food is prepared, served, or
19 sold for immediate consumption on or in the vicinity of the
20 premises; called for or taken out by customers; or prepared
21 prior to being delivered to another location for consumption."
22 (c) Section 509.032, Florida Statutes, requires the
23 division of hotels and restaurants to adopt and enforce such

24 rules as are necessary to ensure the protection of the public
25 from food-borne illness in public food service establishments.
26 (d) Section 509.032, Florida Statutes, further requires
27 the division of hotels and restaurants to adopt such rules in
28 order to "provide the standards and requirements for obtaining,
29 storing, preparing, processing, serving, or displaying food in
30 public food service establishments, approving the public food
31 service establishment facility plans, conducting necessary
32 public food service establishment inspections for compliance
33 with sanitation regulations, cooperating and coordinating with
34 the Department of Health in epidemiological investigations, and
35 initiating enforcement actions, and for other such
36 responsibilities deemed necessary by the division."
37 (e) Pursuant to the grant of rulemaking authority cited in
38 section 509.032, Florida Statutes, the division of hotels and
39 restaurants has adopted by rule sanitation and safety
40 requirements of public food service establishments, including
41 requirements relating to physical facilities, which adopts by
42 reference certain portions of FDA Food Code, as amended from
43 time to time, as developed by the Food and Drug Administration
44 of the United States Department of Health and Human Services.
45 (f) The FDA Food Code, generally prohibits live animals
46 from public food service establishments.
47 (g) Section 509.032(7), Florida Statutes, expressly
48 preempts to the state regulation of public lodging
49 establishments and public food service establishments for
50 compliance with the sanitation standards adopted by the division
51 of hotels and restaurants.
52 (h) Section 509.032(7), Florida Statutes, expressly limits
53 the general home rule powers of local governments as it relates
54 to the regulation of public food service establishments.

55 (i) The purpose of this bill is to allow participating
56 municipalities to enact an ordinance establishing procedures by
57 which public food service establishments could become exempt
58 from certain portions of the FDA Food Code, and allow patrons'
59 dogs within certain designated outdoor portions of their
60 respective establishments.
61 (2) It is therefore the intent of the Legislature by this
62 section to establish a 3-year pilot program for municipalities
63 to allow patrons' dogs within certain designated outdoor
64 portions of public food service establishments.
65 Section 2. Section 509.233, Florida Statutes, is created
66 to read:
67 509.233 Public food service establishment requirements;
68 local exemption for dogs in designated outdoor portions; pilot
69 program.—
70 (1) LOCAL EXEMPTION AUTHORIZED.— Notwithstanding section
71 509.032(7), Florida Statutes, the governing body of a
72 municipality participating in the pilot program is authorized to
73 establish, by ordinance, a local exemption procedure to certain
74 provisions of the FDA Food Code, as currently adopted by the
75 division, in order to allow patrons' dogs within certain
76 designated outdoor portions of public food service
77 establishments.
78 (2) LOCAL DISCRETION; CODIFICATION.--
79 (a) The adoption of the local exemption procedure shall be
80 at the sole discretion of the governing body of a participating
81 municipality. Nothing in this section shall be construed to
82 require or compel a municipal governing body to adopt an
83 ordinance pursuant to this section.
84 (b) Any ordinance adopted pursuant to this section shall
85 provide for codification within the land development code of a
86 participating municipality.

87 (3) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--
88 (a) Any local exemption procedure adopted pursuant to this
89 section shall only provide a variance to those portions of the
90 currently adopted FDA Food Code in order to allow patrons' dogs
91 within certain designated outdoor portions of public food
92 service establishments.
93 (b) In order to protect the health, safety, and general
94 welfare of the public, the local exemption procedure shall
95 require participating public food service establishments to
96 apply for and receive a permit from the governing body of the
97 municipality before allowing patrons' dogs on their premises.
98 The municipality shall require such information from the
99 applicant as the municipality deems reasonably necessary to
100 enforce the provisions of this section, but shall require, at a
101 minimum, the following information:
102 1. Name, location, and mailing address of the public food
103 service establishment.
104 2. Name, mailing address, and telephone contact
105 information of the permit applicant.
106 3. A diagram and description of the outdoor area to be
107 designated as available to patrons' dogs, including dimensions
108 of the designated area; a depiction of the number and placement
109 of tables, chairs, and restaurant equipment, if any; the
110 entryways and exits to the designated outdoor area; the
111 boundaries of the designated area and of other areas of outdoor
112 dining not available for patrons' dogs; any fences or other
113 barriers; surrounding property lines and public right-of-way,
114 including sidewalks and common pathways; and such other
115 information reasonably required by the permitting authority.
116 The diagram or plan shall be accurate and to scale but need not
117 be prepared by a licensed design professional.

118 4. A description of the days of the week and hours of
119 operation that patrons' dogs will be permitted in the designated
120 outdoor area.
121 (c) In order to protect the health, safety, and general
122 welfare of the public, the local exemption ordinance shall
123 include such regulations and limitations as deemed necessary by
124 the participating municipality and shall include, but not be
125 limited to, the following requirements:
126 1. All public food service establishment employees shall
127 wash their hands promptly after touching, petting, or otherwise
128 handling dogs. Employees shall be prohibited from touching,
129 petting, or otherwise handling dogs while serving food or
130 beverages or handling tableware or before entering other parts
131 of the food service establishment.
132 2. Patrons in a designated outdoor area shall be advised
133 that they should wash their hands before eating. Waterless hand
134 sanitizer shall be provided at all tables in the designated
135 outdoor area.
136 3. Employees and patrons shall be instructed that they
137 shall not allow dogs to come into contact with serving dishes,
138 utensils, tableware, linens, paper products, or any other items
139 involved with food service operations.
140 4. Patrons shall keep their dogs on a leash at all times
141 and shall keep their dogs under reasonable control.
142 5. Dogs shall not be allowed on chairs, tables, or other
143 furnishings.
144 6. All table and chair surfaces shall be cleaned and
145 sanitized with an approved product between seating of patrons.
146 Spilled food and drink shall be removed from the floor or ground
147 between seating of patrons.
148 7. Accidents involving dog waste shall be cleaned
149 immediately and the area sanitized with an approved product. A

150 kit with the appropriate materials for this purpose shall be
151 kept near the designated outdoor area.
152 8. A sign or signs reminding employees of the applicable
153 rules shall be posted on premises in a manner and place as
154 determined by the local permitting authority.
155 9. A sign or signs reminding patrons of the applicable
156 rules shall be posted on premises in a manner and place as
157 determined by the local permitting authority.
158 10. A sign or signs shall be posted in a manner and place
159 as determined by the local permitting authority that places the
160 public on notice that the designated outdoor area is available
161 for the use of patrons and patrons' dogs.
162 11. Dogs shall not be permitted to travel through indoor
163 or non-designated outdoor portions of the food service
164 establishment.
165 (d) A permit issued pursuant to this section shall not be
166 transferred upon the sale of a public food service establishment
167 to the subsequent owner, but shall expire automatically upon the
168 sale of said establishment. The subsequent owner shall be
169 required to reapply for a permit pursuant to this section if the
170 subsequent owner wishes to continue to accommodate patrons'
171 dogs.
172 (4) POWERS; ENFORCEMENT.--Participating municipalities
173 shall have such powers as are reasonably necessary to regulate
174 and enforce the provisions of this section.
175 (5) STATE AND LOCAL COOPERATION.--The division shall
176 provide reasonable assistance to participating municipalities in
177 the development of enforcement procedures and regulations and
178 participating municipalities shall monitor permit holders for
179 compliance in cooperation with the division. At a minimum,
180 participating municipalities shall establish a procedure to
181 accept, document, and respond to complaints, and to timely

182 report such complaints, and the participating municipalities'
183 enforcement response to such complaints, to the division. A
184 participating municipality shall provide the division with a
185 copy of all approved applications and permits issued, and the
186 participating municipality shall require that all applications,
187 permits, and other related materials contain the appropriate
188 division-issued license number for each food service
189 establishment.
190 (6) FUTURE REVIEW AND REPEAL.--This section shall expire
191 July 1, 2009, unless reviewed and saved from repeal through
192 reenactment by the Legislature.
193 Section 3. This act shall take effect July 1, 2006.
194
195