Local Government Council

Wednesday, March 8, 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, March 08, 2006 01:00 pm
End Date and Time:	Wednesday, March 08, 2006 03:00 pm
Location:	404 HOB
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 143 Retirement by Brummer
HB 405 CS Deferred Compensation Programs by Mealor
HB 573 Disabled Veterans by Bilirakis
HB 683 Developments of Regional Impact by Traviesa
HB 703 Municipal Annexation by Justice
HB 757 Polk County by Stargel
HB 823 Local Government Infrastructure Surtax by Altman
HB 847 City of Jacksonville, Duval County by Mahon
HB 891 Local Occupational License Taxes by Goldstein
HB 921 Pinellas County Water and Navigation Control Authority by Berfield
HB 923 Troup-Indiantown Water Control District, Martin County by Machek
HB 925 Pinellas County Tourist Development Council, Pinellas County by Anderson
HB 927 Mosquito Control District of Pinellas County by Berfield
HB 929 Pinellas County by Berfield
HB 935 Temporary Buildings by Benson
HB 939 Local Government by Rivera
HB 1021 Lealman Special Fire Control District, Pinellas County by Farkas

NOTICE FINALIZED on 03/06/2006 15:05 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

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[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.

175/185 Plans

Chapters 175 and 185, F.S., respectively, refer to local government firefighters' and police officers' retirement plans.[6] These plans are not part of the Florida Retirement System,[7] and they do not cover correctional officers, correctional probation officers, emergency medical technicians or paramedics. The plans only are available to employees of participating municipalities and special fire control districts, and are funded by annual distributions of state premium tax collections on property and casualty insurance policies written within the city/district limits or boundaries.[8] The day-to-day operational control of the individual trust funds is vested in the respective boards of trustees created at the local level, subject to administrative oversight by the Division of Retirement of the Department of Management Services.

Chapter 175 and 185 provide that disability retirement is available for fire fighters and police officers under the following circumstances:

An employee who becomes totally and permanently disabled in the line of duty, regardless of length of service, may receive disability retirement if the employee becomes totally and permanently disabled. An employee is considered totally disabled if, *in the opinion of the board of trustees*, he or she is wholly prevented from rendering useful and efficient service as a firefighter or a police officer; and will be considered permanently disabled if, *in the opinion of the board of trustees*, he or she is likely to remain so disabled continuously and permanently.

No such employee is permitted to retire until he or she is examined by a duly qualified physician or surgeon, *to be selected by the board of trustees for that purpose*, and found to be disabled. These employees may be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

If the board of trustees finds that a firefighter who is receiving a disability retirement income is no longer disabled, the disability retirement income is discontinued. "Recovery from disability" means the ability of the employee to render useful and efficient service as a firefighter or police officer. The benefit payable to a firefighter who retires from service due to total and permanent disability in the line of duty, is the accrued retirement benefit, but not be less than 42 percent of his or her average monthly salary at the time of disability.

The burden of proof remains with the administrator of the 175/185 plans. An individual may be found to be totally and permanently disabled when it is determined that they are unable to provide useful and efficient service as a firefighter or police officer, and there are no specific provisions with regard to reemployment within chs. 175 and 185. Also, the 175/185 plans, as previously mentioned, only cover firefighters and police officers. It is noted that the benefits provided to employees under the FRS and the 175/185 plans are distinct in complex ways. For example, FRS disability retirement recipients receive not less than 65 percent of their average final compensation. A chart detailing these differences is available at http://www.frs.state.fl.us/frs/mpf/.

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[5] Section 121.091(4), F.S.
[6] As of September 30, 2005, 225 cities or fire control districts had either 175 or 185 plans.
[7] All state and county employees are compulsory members of the FRS, and as of June 30, 2005, about 151 Florida cities were covering firefighters, police and/or general employees under the FRS.
[8] Further funding for these plans is provided by employee contributions, other revenue sources and employer contributions.

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,[9] 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.[10]

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.

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.

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[9] 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.

[10] 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.

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[11]
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[12]
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 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

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[11] 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.

[12] *Id.*

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

Department of Management Services

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.[13]

[13] Department of Management Services Substantive Bill Analysis, February 28, 2005.

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.[14]

The Florida League of Cities and the Florida Association of Counties

Both the Florida League of Cities and the Florida Association of Counties oppose this bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[14] *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 405

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 405 CS Deferred Compensation Programs
SPONSOR(S): Mealor
TIED BILLS: **IDEN./SIM. BILLS:** SB 1024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	6 Y, 0 N, w/CS	Mitchell	Williamson
2) Local Government Council		Nelson	Hamby
3) Fiscal Council			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

HB 405 removes restrictions in statute that limit the deferred compensation plan established by the Chief Financial Officer to "state employees," and authorizes participation in this program by "employees of governmental entities." The bill creates two new options for counties, municipalities, other political subdivisions, or constitutional officers in addition to adopting and establishing their own deferred compensation programs: (1) adopting the deferred compensation plan or plans of the state; or (2) adopting and establishing a deferred compensation program, and adopting the state's deferred compensation plan or plans. The bill also changes the current rulemaking authority of the Chief Financial Officer to include any rules necessary to administer and implement the act with respect to deferred compensation plans for "employees of governmental entities that have adopted the state's plan."

Although the program is funded by charges to participants, the bill may have a fiscal impact on state government which has not been assessed.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to affect any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 112.215, F.S., the Government Employees' Deferred Compensation Act,[1] allows the state or any state agency, county, municipality, other political subdivision, or constitutional county officer to permit an employee to defer all or any portion of that employee's otherwise payable compensation.[2] Deferred compensation can be placed in a savings account or be used to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other approved investment products.[3] Federal taxation is deferred up to an annually indexed amount for placement in a fund or funds of a prequalified investment provider and account earnings are similarly sheltered from federal taxation until a distribution occurs.[4]

The State of Florida's Chief Financial Officer is charged with the responsibility for establishing the deferred compensation plans for state employees and directs the program through the Department of Financial Services (DFS), which acts as the administering agency. The DFS:

- competitively selects several investment providers along with a third-party financial administrator;
- seeks the advice of the State Board of Administration, the investment entity for the State of Florida and Florida Retirement System, before approving investment vehicles or products; and
- periodically reviews provider company funds and may terminate them if their performance falls below a designated level.[5]

Five of the six participating firms in the deferred compensation program for state employees are insurance companies; the sixth is a mutual fund.[6] The participating employee bears all of the investment risk and is responsible for the payment of associated fees and costs charged by the provider.[7] The state's fees and associated participant costs, or total investment management expenses, generally fall within a range between institutional—the lowest, and retail—the highest.[8] The state plan operates under a long-term contract that was last amended in 1997.[9]

Counties, municipalities and other political subdivisions may adopt and establish their own deferred compensation program.[10] Constitutional county officers also may establish their own deferred compensation program by contractual agreement or through similar approval documentation.[11] The county, municipality, other political subdivision, or constitutional officers are responsible for the programs which they establish.

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[1] Section 112.215(1), F.S.
[2] Section 112.215(3), F.S.
[3] *Id.*
[4] Fla. H.R. Govtl. Ops. Comm., HB 787 (2005) Staff Analysis 2 (March 30, 2005) (on file with committee.).
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] Section 112.215(5), F.S.
[11] *Id.*

Under current Florida law, counties, municipalities, other political subdivisions, or constitutional officers may not participate in the deferred compensation program sponsored by the DFS. According to the 2001 Survey of 457 Plans by the National Association of Government Defined Contribution Administrators, 47 percent of the 36 responding state plans allow local governments to choose to participate in the state plan.[12] Staff of the Department of Financial Services has indicated that Internal Revenue Service regulations permit 457 plans to include multiple jurisdictions.[13]

Proposed Changes

The bill amends s. 20.121, F.S., to remove a restriction which provides that the Government Employees Deferred Compensation Plan is for "state employees."

The bill also amends s.112.215, F. S., to change the definition of "employee" to "any person, whether appointed, elected, or under contract, providing services for a governmental entity." The bill groups the organizations and officers previously included in the definition of "employee" into a new definition of "governmental entity" which means "the state; any state agency or county or other political subdivision of the state; any municipality; any state university board of trustees; or any constitutional county officer under s. 1(d), Article VIII of the State Constitution."

The bill permits participation in the deferred compensation plan or plans established by the Chief Financial Officer, with the approval of the State Board of Administration, by "employees of governmental entities" rather than only "state employees."

Based on these changes, the bill creates two new options for counties, municipalities, other political subdivisions, or constitutional officers in addition to adopting and establishing their own deferred compensation program: (1) allowing them to adopt the deferred compensation plan or plans of the state; or (2) allowing them to adopt and establish a deferred compensation program and adopt the state's deferred compensation plan or plans.

The bill changes the rulemaking authority of the Chief Financial Officer to include the "deferred compensation plans for employees of governmental entities that have adopted the state's plan" rather than only the "deferred compensation plans for state employees."

C. SECTION DIRECTORY:

Section 1: Amends paragraph (d) of subsection (2) of s. 20.121, F. S., to make conforming changes.

Section 2: Amends subsection (2), paragraphs (a) and (d) of subsection (4), and subsections (5), (6), and (12) of s. 112.215, F. S., to revise definitions and to permit expanded participation in the deferred compensation program of the state.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None. This bill does not appear to create, modify, amend or eliminate a state revenue source.

2. Expenditures:

[12] Fla. H.R. Govtl. Ops. Comm., *supra* note 4.
[13] *Id.*

The bill may have a fiscal impact on state government (associated with fiduciary duties and additional administrative burdens) which has not been assessed.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not appear to create, modify, amend or eliminate a local revenue source.

2. Expenditures:

None. This bill does not appear to create, modify, amend or eliminate a local expenditure because participants would pay all fees.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that local governments add the state plan as another option for their employees or drop their vendors and transition to offering solely the state plan, current providers of deferred compensation services to those local governments may lose business, while the providers under the state plan may gain business. However, there is some degree of overlap between vendors in the state and various local government plans.

To the extent that the state plan's fees are lower than the local governments' plans, participants would experience savings.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Currently, the Chief Financial Officer may adopt any rule "necessary to administer and implement this act with respect to deferred compensation plans for state employees." This bill changes that authority to include the "deferred compensation plans for employees of governmental entities that have adopted the state's plan."

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 25, 2006, the Governmental Operations Committee adopted an amendment which makes references to "the plan or plans of deferred compensation for employees of governmental entities" consistent

with the subsection that authorizes the plan or plans.[14] The bill was reported favorably with committee substitute.

[14] Although neutral on the bill, this issue was raised by the Florida League of Cities. Telephone Conversation with the Deputy General Counsel of the Florida League of Cities (Jan. 12, 2006).

Bill No. 405

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 Mealor offered the following:
3
4 **Amendment (with title amendment)**
5 Remove line(s) 46-54 and insert:
6 (4) (a) The Chief Financial Officer, ~~with the approval of the~~
7 ~~State Board of administration,~~ shall establish such plan or
8 plans of deferred compensation for ~~state~~ employees of
9 governmental entities, including all such investment vehicles or
10 products incident thereto, as may be available through, or
11 offered by, qualified companies or persons, and may approve one
12 or more such plans for implementation by and on behalf of
13 governmental entities ~~the state~~ and their ~~its agencies and~~
14 employees. The State Board of Administration shall approve the
15 initial establishment of any deferred compensation plan for
16 state employees administered by the Chief Financial Officer,
17 including all investment products or vehicles. Any county,
18 municipality, or other political subdivision of the state shall
19 approve the establishment of any plan and investment vehicles or
20 products for their employees. Once a plan for state employees is
21 established, the State Board of Administration shall assist the

22 Chief Financial Officer by reviewing and commenting on changes
23 to the plan and investment products offered to state employees,
24 but the Chief Financial Officer, or his designee, shall solely
25 retain the responsibility for making decisions with respect to
26 all plan matters. At the request of the Chief Financial Officer,
27 the State Board of Administration shall supply such assistance,
28 consistent with State Board of Administration rule and a
29 mutually executed agreement between the parties which sets out
30 services and fees.
31
32
33 ========== T I T L E A M E N D M E N T ==========
34 Remove line 10 and insert:
35 "governmental entity"; providing for duties of the State Board
36 of Administration; authorizing governmental entities,

AMENDMENT TO HB 405 BY REPRESENTATIVE MEALOR

On page 2, lines 14-22, strike all of said lines and insert:

(4) (a) The Chief Financial Officer~~, with the approval of the State Board of administration,~~ shall establish such plan or plans of deferred compensation for ~~state~~ employees of governmental entities, including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one or more such plans for implementation by and on behalf of governmental entities ~~the state~~ and their ~~its agencies and~~ employees. The State Board of Administration shall approve the initial establishment of any deferred compensation plan for state employees administered by the Chief Financial Officer, including all investment products or vehicles. Any county, municipality, or other political subdivision of the state shall approve the establishment of any plan and investment vehicles or products for their employees. Once a plan for state employees is established, the State Board of Administration shall assist the Chief Financial Officer by reviewing and commenting on changes to the plan and investment products offered to state employees, but the Chief Financial Officer, or his designee, shall solely retain the responsibility for making decisions with respect to all plan matters. At the request of the Chief Financial Officer, the State Board of Administration shall supply such assistance, consistent with State Board of Administration rule and a mutually executed agreement between the parties which sets out services and fees.

Amendment Summary

Under current law, the State Board of Administration (SBA) was responsible for approving the initial establishment of deferred compensation plans for state employees (i.e., mid 1980s). Current responsibilities are allocated:

- The Chief Financial Officer, through the Bureau of Deferred Compensation, is solely responsible for all aspects of the program's management, including monitoring investment products, approving new investment products or terminating existing investment products.
- Under an inter-agency agreement and administrative rule, the SBA responds to requests from the Bureau to review whether proposed investment product changes pass minimum qualifying criteria for acceptability and provides comments to the Bureau for consideration prior to their approval or rejection.
- The SBA has no responsibilities with respect to local deferred compensation plans.

The above amendment clarifies that the SBA will remain responsible for approving the establishment of deferred compensation plans for state employees, but local governments will continue to approve the establishment of plans and products for their employees.

- The SBA does not have the staff or budget necessary to review plans or investment products for local government plans.
- The SBA is not aware of demand by local governments for the state to approve investment products offered in their local plans.
- The SBA strongly prefers to avoid fiduciary duties for any deferred compensation plan (consistent with approved Board policy on non-FRS DC plans). If required to approve investment products or providers for local or state deferred compensation plans, the SBA would de facto be assigned fiduciary duties and potential liability.

CHAMBER ACTION

The Governmental Operations Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to deferred compensation programs; amending s. 20.121, F.S., relating to the Department of Financial Services, to conform; amending s. 112.215, F.S.; revising the term "employee" and defining the term "governmental entity"; authorizing governmental entities, by ordinance, contract agreement, or other documentation, to participate in the deferred compensation plan of the state and specifying responsibility of the Chief Financial Officer with respect thereto; providing an effective date.

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

Section 1. Paragraph (d) of subsection (2) of section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.--There is created a Department of Financial Services.

(2) DIVISIONS.--The Department of Financial Services shall consist of the following divisions:

24 (d) The Division of Treasury, which shall include a Bureau
25 of Deferred Compensation responsible for administering the
26 Government Employees Deferred Compensation Plan as provided in
27 ~~established under~~ s. 112.215 ~~for state employees~~.
28 Section 2. Subsection (2), paragraphs (a) and (d) of
29 subsection (4), and subsections (5), (6), and (12) of section
30 112.215, Florida Statutes, are amended to read:
31 112.215 Government employees; deferred compensation
32 program.--
33 (2)(a) For the purposes of this section, the term
34 "employee" means any person, whether appointed, elected, or
35 under contract, providing services for a governmental entity ~~the~~
36 ~~state; any state agency or county or other political subdivision~~
37 ~~of the state; any municipality; any state university board of~~
38 ~~trustees; or any constitutional county officer under s. 1(d),~~
39 ~~Art. VIII of the State Constitution~~ for which compensation or
40 statutory fees are paid.
41 (b) "Governmental entity" means the state; any state
42 agency or county or other political subdivision of the state;
43 any municipality; any state university board of trustees; or any
44 constitutional county officer under s. 1(d), Art. VIII of the
45 State Constitution.
46 (4)(a) The Chief Financial Officer, with the approval of
47 the State Board of Administration, shall establish such plan or
48 plans of deferred compensation for ~~state~~ employees of
49 governmental entities, including all such investment vehicles or
50 products incident thereto, as may be available through, or
51 offered by, qualified companies or persons, and may approve one

52 or more such plans for implementation by and on behalf of
53 governmental entities ~~the state~~ and their ~~its agencies and~~
54 employees.
55 (d) In accordance with such approved plan, and upon
56 contract or agreement with an eligible employee, deferrals of
57 compensation may be accomplished by payroll deductions made by
58 the appropriate officer or officers of the governmental entity
59 ~~state~~, with such funds being thereafter held and administered in
60 accordance with the plan.
61 (5) Any county, municipality, or other political
62 subdivision of the state may by ordinance, and any
63 constitutional county officer under s. 1(d), Art. VIII of the
64 State Constitution of 1968 may by contract agreement or other
65 documentation constituting approval, for itself and its
66 employees:
67 (a) Adopt and establish ~~for itself and its employees~~ a
68 deferred compensation program. The ordinance shall designate an
69 appropriate official of the county, municipality, or political
70 subdivision to approve and administer a deferred compensation
71 plan or otherwise provide for such approval and administration.
72 The ordinance shall also designate a public official or body to
73 make the determinations provided for in paragraph (6)(b). If a
74 constitutional county officer elects to adopt and establish for
75 that office and its employees a deferred compensation program,
76 the constitutional county officer shall be the appropriate
77 official to make the determinations provided for in this
78 subsection and in paragraph (6)(b); ~~.~~

79 (b) Adopt the plan or plans of deferred compensation for
80 employees of governmental entities established pursuant to
81 subsection (4); or
82 (c) Both adopt and establish a deferred compensation
83 program and adopt the plan or plans of deferred compensation for
84 employees of governmental entities established pursuant to
85 subsection (4).
86 (6)(a) No deferred compensation plan of the state shall
87 become effective until approved by the State Board of
88 Administration and the Chief Financial Officer is satisfied by
89 opinion from such federal agency or agencies as may be deemed
90 necessary that the compensation deferred thereunder, ~~and/or~~ the
91 investment products purchased pursuant to the plan, or both will
92 not be included in the employee's taxable income under federal
93 or state law until it is actually received by such employee
94 under the terms of the plan, and that such compensation will
95 nonetheless be deemed compensation at the time of deferral for
96 the purposes of social security coverage, for the purposes of
97 the state retirement system, or ~~and~~ for any other retirement,
98 pension, or benefit program established by law.
99 (b) No deferred compensation plan adopted and established
100 by ~~of~~ a county, municipality, other political subdivision, or
101 constitutional county officer shall become effective until the
102 appropriate official or body designated under subsection (5) is
103 satisfied by opinion from such federal agency or agencies as may
104 be deemed necessary that the compensation deferred thereunder,
105 ~~and/or~~ the investment products purchased pursuant to the plan,
106 or both will not be included in the employee's taxable income

107 under federal or state law until it is actually received by such
108 employee under the terms of the plan, and that such compensation
109 will nonetheless be deemed compensation at the time of deferral
110 for the purposes of social security coverage, for the purposes
111 of the retirement system of the appropriate county,
112 municipality, political subdivision, or constitutional county
113 officer, and for any other retirement, pension, or benefit
114 program established by law.
115 (12) The Chief Financial Officer may adopt any rule
116 necessary to administer and implement this act with respect to
117 deferred compensation plans for ~~state~~ employees <u>of governmental</u>
118 <u>entities that have adopted the state's plan</u>.
119 Section 3. This act shall take effect upon becoming a law.

HB 573

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 573 Disabled Veterans
SPONSOR(S): Bilirakis and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1342

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Military & Veteran Affairs Committee	7 Y, 0 N	Marino	Cutchins
2) Local Government Council		Smith T.L.S.	Hamby
3) Finance & Tax Committee			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

Under current law, certain disabled veterans are exempt from local government building permit fees for wheelchair accessibility improvements on a mobile home. HB 573 expands this license and permit fee exemption to apply to any eligible, disabled veteran improving wheelchair accessibility to include any dwelling owned by the veteran and used as a residence.

There appears to be no fiscal impact on state government. The fiscal impact on local government revenues is indeterminate, yet expected to be minimal.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes/safeguard individual liberty – This bill provides 100-percent, service-connected permanently and totally disabled veterans confined to wheelchairs an exemption on any license or permit fee to make improvement on their residence. Current law limits the exemption to improvements on a mobile home.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Florida Building Code

Under current law, any person or organization seeking to construct, modify, or demolish a building in Florida must obtain a permit[1]. The permit must be obtained through a Florida Building Code enforcing agency, such as a county or municipal local government. Local governments are authorized[2] to charge reasonable permit fees to defray the costs of actions, such as building plan and construction inspections, associated with enforcement of the Code.

In addition, each county and municipality is authorized[3] to create a schedule of fees based upon the specific enforcement needs and requirements for that locality. In the case of remodeling permits, the fee structure generally includes a base or application fee, plus an additional amount based on the construction value of the remodeling project. The table below shows current remodeling permit fee valuations from a county and a municipality:

Remodeling Permit Fees			
Broward County	City of Tallahassee		
	Construction Value	Application Fee	Valuation Fee
Minimum base permit fee $111 added to a charge calculated at a rate of 1.60% of the remodeling job construction value.	$10,000 or less	$60	$14/$1000
	50K or less	240	1.20/1000
	100K or less	288	0.38/1000
	Over 100K	326	0.38/1000

Disabled Veteran Exemption

Section 295.16, F.S., allows certain veterans to be exempt from paying building license or permit fees to any county or municipality for wheelchair accessibility improvements made upon a mobile home, provided the following criteria are met:

- The veteran must be a resident of Florida;
- The veteran must be permanently and totally disabled and be able to show:
  - A valid identification card[4] issued by the Florida Department of Veterans' Affairs;
  - A service-connected 100-percent disability rating for compensation as determined by the United States Department of Veterans' Affairs; or
  - A disability retirement pay receipt from any branch of the uniformed armed services for a 100-percent, service-connected disability rating;
- The veteran must be honorably discharged from the Armed Forces;

[1] Section 553.79, F.S.
[2] Sections 125.56(2) and 166.222, F.S.
[3] Section 553.80(7), F.S.
[4] Section 295.17, F.S.

- The veteran must own and reside in the mobile home for which the improvements are being made; and
- The veteran may only make improvements to his or her mobile home such as adding ramps, widening doorways, and similar improvements for the purpose of making the mobile home wheelchair-habitable.

Typical improvements or alterations[5] that may need to be made in order to make a mobile home more habitable for an eligible wheelchair-confined veteran include, but are not limited to:

- Outside: ramps, railings, primary entrance with widened doorway into home; or,
- Inside: ramps, railings, widened doorways, lowered countertops, wheelchair turning space, wheelchair lifts, toilet and bathing facilities, clear floor space to reach appliances.

Section 295.16, F.S., does not appear to place restrictions on the number of wheelchair accessibility improvements allowed nor does it appear to place any restriction on the number of times improvements may be made to the mobile home. Additionally, it does not appear to remove the requirement for obtaining a permit for the improvements as in s. 553.79, F.S.

Disabled Veteran ID Card and License Plate

Section 295.17, F.S., provides that the Florida Department of Veterans' Affairs (DVA) may issue a photo-identification card to any veteran who is a permanent resident of the state and who has been determined by the U.S. Department of Veterans' Affairs (USDVA) or its predecessor to have a 100-percent, service-connected permanent and total disability rating for compensation, or who has been determined to have a service-connected disability rating of 100-percent and is in receipt of disability retirement pay from any branch of the uniformed armed services. The ID card eligible veteran may request the card in writing to the DVA, and, upon its receipt, the veteran may use the card as proof of identification for all benefits provided by state law for 100-percent, service-connected permanently and totally disabled veterans except for certain benefits relating to property tax exemptions.

Not all 100-percent, service-connected, permanently and totally disabled veterans are confined to wheelchairs. For example, a veteran could be rated with a 100-percent permanent and total disability for post-traumatic stress disorder, yet not require a wheelchair. In addition not all wheelchair-confined veterans are 100-percent, service-connected, permanently and totally disabled.

Under s. 320.084(2), F.S., a veteran who produces a DVA ID card, as provided for in s. 295.17, F.S., to the Florida Department of Highway Safety and Motor Vehicles (DHSMV) must be issued one free motor vehicle license plate for use on any motor vehicle owned or leased by the veteran. Since each veteran who receives this benefit is limited to one free license plate and each veteran who qualifies for this benefit is likely to use it, this statute provides a means to estimate the number of 100-percent, service-connected permanent and totally disabled veterans living in Florida. According to the DHSMV, as of January 11, 2006, there were 4,556 disabled veteran wheelchair license plates issued in the state[6].

Effect of Proposed Change:

HB 573 expands the permit fee exemption in s. 295.16, F.S., from only applying to those eligible, disabled veterans who own and occupy mobile homes, to applying to such veterans who own and occupy any dwelling.

The provisions of this bill will enable a larger population of eligible, disabled veterans to take advantage of the existing fee exemption, reducing the costs that they are obligated to pay in order to make their homes wheelchair accessible.

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[5] Architectural and Transportation Barriers Compliance Board. ADA and ABA Accessibility Guidelines for Buildings and Facilities. Federal Register. July 23, 2004 and amended August 5, 2005.

[6] Communication with Steve Fielder of the Florida Department of Highway Safety and Motor Vehicles (January 13, 2006) (on file with House of Representatives, Committee on Military and Veteran Affairs).

This bill does not appear to place any restrictions on the number of wheelchair accessibility improvements allowed nor does it appear to place any restrictions on the number of times improvements may be made to the mobile home. Additionally, it does not appear to remove the requirement for obtaining a permit for the improvements as in s. 553.79, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 295.16, F.S., by replacing the phrase *mobile home* with the phrase *any dwelling*, effectively expanding the building license or permit fee exemption to a greater population of disabled veterans who make wheelchair accessibility improvements to their owner-occupied residences.

Section 2. Provides for act to take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   There are no known or expected fiscal impacts on state revenues.

2. Expenditures:

   There are no known or expected fiscal impacts on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The fiscal impact on local government revenues is indeterminate. However, the impact is expected to be minimal.

   The impact on revenues is indeterminate since it is unknown exactly how many eligible veterans would use this benefit. According to the DHSMV license plate information, at least 4,556 100-percent, service-connected permanent and totally disabled wheelchair-confined veterans currently reside in Florida, therefore, this number may be considered the ceiling of veterans eligible for the benefit under this bill. Some considerations that make this bill's fiscal impact indeterminate are as follows:

   - It is unknown how many eligible veterans own dwellings other than mobile homes;
   - It is unknown how many eligible veterans have already made wheelchair accessibility improvements to their existing dwellings and would thus not need the permit fee exemption;
   - It is unknown how many eligible veterans may move their residence to a different home that would require wheelchair accessibility improvements;
   - It is unknown what wheelchair accessibility improvements are necessary to be made to each eligible veteran's dwelling;
   - It is unknown how much each wheelchair accessibility improvement costs, which affects the amount of the permit fee since the permit fee, in most cases, is determined based on the value of the construction and improvement costs; and,
   - It is unknown where eligible veterans live or might move to, which is necessary to determine which local government's fee schedule the eligible veteran would be exempted from.

The impact on revenues is expected to be minimal. According to representatives from the Construction Licensing Officials Association of Florida and the Florida Association of Counties[7], the fiscal impact does not appear to degrade enforcing agencies' abilities to enforce the Florida Building Code with regard to eligible dwellings under this bill.

2. Expenditures:

There are no known or expected fiscal impacts on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill provides a potential financial benefit to eligible veterans. According to the DVA, one veteran in particular could have saved $350 in permitting fees for a door-widening project that was necessary to improve wheelchair accessibility to his home[8].

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:

There do not appear to be any constitutional issues with this bill.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[7] Communications with Bill Brode of the Construction Licensing Officials Association of Florida and Jeff Porter of the Florida Association of Counties (on or about January 26, 2006).

[8] Florida Department of Veterans' Affairs. Legislative Policy Proposal Summary Sheet: Exempt 100% Disabled Veterans from Certain County Building Permit Fees (August, 18, 2005).

1 A bill to be entitled
2 An act relating to disabled veterans; amending s. 295.16,
3 F.S.; expanding exemption from certain fees relating to
4 structural improvements to a disabled veteran's residence;
5 providing an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Section 295.16, Florida Statutes, is amended to
10 read:
11 295.16 Disabled veterans exempt from certain license or
12 permit fee.--No totally and permanently disabled veteran who is
13 a resident of Florida and honorably discharged from the Armed
14 Forces, who has been issued a valid identification card by the
15 Department of Veterans' Affairs in accordance with s. 295.17 or
16 has been determined by the United States Department of Veterans
17 Affairs or its predecessor to have a service-connected 100-
18 percent disability rating for compensation, or who has been
19 determined to have a service-connected disability rating of 100
20 percent and is in receipt of disability retirement pay from any
21 branch of the uniformed armed services~~,~~ shall be required to pay
22 any license or permit fee, by whatever name known, to any county
23 or municipality in order to make improvements upon a <u>dwelling</u>
24 ~~mobile home~~ owned by the veteran which is used as the veteran's
25 residence, provided such improvements are limited to ramps,
26 widening of doors, and similar improvements for the purpose of
27 making the <u>dwelling</u> ~~mobile home~~ habitable for veterans confined
28 to wheelchairs.

29 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 683 Developments of Regional Impact
SPONSOR(S): Traviesa
TIED BILLS: **IDEN./SIM. BILLS:** SB 1020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Strickland	Hamby
2) Growth Management Committee			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 683 makes several changes to statutory provisions governing developments of regional impact (DRI). The bill:

- requires the Department of Community Affairs (DCA) to initiate rulemaking by August 1, 2006 to revise the development of regional impact review process;
- makes various revisions and additions to the existing statutory law pertaining to development orders and permits issued by local governments;
- revises the definition of an "essentially built – out development;"
- prohibits the suspension of a development order for failure to submit a biennial report under certain circumstances;
- revises the criteria under which a proposed change is presumed to create a substantial deviation requiring further review;
- requires that notice of certain changes be given to the DCA, regional planning agency, and local government, as well as requiring that a memorandum of notice of certain changes be filed with the clerk of court;
- revises the period of time for notice and a public hearing after a change to a development order;
- revises statutory exemptions to the DRI process;
- revises how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review;
- revises existing law pertaining to consistency challenges made to a DRI development order;
- revises the vested rights and duties as it relates to provisions of this bill taking effect; and
- makes various revisions to conform to the amendments within this bill.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill streamlines aspects of the development of regional impact process thereby reducing responsibilities for governmental and private organization.

Safeguard individual liberty - The bill reduces government oversight of some activities presently reviewed as DRIs and thereby increases the options of individuals regarding the conduct of their own affairs.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 380.06, F.S., governs the Development of Regional Impact (DRI) program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and Ch. 28-24, F.A.C. Examples of the land uses for which guidelines are established include: airports; attractions and recreational facilities; industrial plants and industrial parks; office parks; port facilities, including marinas; hotel or motel development; retail and service development; recreational vehicle development; multi-use development; residential development; and schools.

The DRI review process involves the regional review of proposed developments meeting the defined thresholds by the regional planning councils to determine the extent to which:

- The development will have a favorable or unfavorable impact on state or regional resources or facilities.
- The development will significantly impact adjacent jurisdictions.
- The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

Percentage thresholds, as defined in 380.06(2)(d), F.S., are applied to the guidelines and standards. These fixed thresholds provide that if a development is at or below 100% of all numerical thresholds in the guidelines, the project is not required to undergo DRI review. If a development is at or above 120% of the guidelines, it is required to undergo DRI review. A rebuttable presumption is established whereby a development at 100% of a numerical threshold or between 100-120% of a numerical threshold is presumed to require DRI review.

If there is a concern over whether a particular development is subject to DRI review, the developer may request a determination from the Department of Community Affairs (DCA). The DCA or the local government with jurisdiction over the land to be used for the proposed development may require a developer to obtain a binding letter of interpretation if the development is at a presumptive threshold or up to 20 % above the established numerical threshold. Any other local government may petition DCA to require a binding letter of interpretation for a development located in an adjacent jurisdiction if the petition contains sufficient facts to find that the development as proposed constitutes a DRI.

Under s. 380.06(19), F.S., any proposed change to a previously approved DRI which creates a reasonable likelihood of additional regional impact or any type of regional impact, resulting from a change not previously reviewed by the regional planning council, constitutes a "substantial deviation" that subjects the development to further DRI review and entry of a new or amended local development order. Section 380.06(19), F.S., provides that a proposed change to a previously approved DRI which,

either individually or cumulatively with other changes, exceeds specified criteria constitutes a substantial deviation and is subject to further DRI review.

The extension of the date of buildout of a development, or any phase thereof, of 5 years or more but less than 7 years is presumed not to create a substantial deviation. However, the extension of buildout by 7 or more years is presumed to create a substantial deviation and is subject to further DRI review. However, this presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government. When calculating whether a buildout date has been exceeded, time is tolled during the pendency of administrative or judicial proceedings relating to development permits.

Marinas

In 2002, the Legislature created an exemption for marinas from DRI review if the local government has adopted a boating facility siting plan or policy within its comprehensive plan.

The DCA, in cooperation with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission makes available a best practices guide to assist local governments in developing boating facility siting plans. A boating facility siting plan provides a framework for identifying locations that can accommodate boating interests while protecting manatees, seagrass beds, and other marine resources.

Multiuse Developments

Section 380.06(2)(e), F.S., increases the applicable guidelines and standards by 100 % for multiuse projects in urban central business districts and regional activity centers if the local government's comprehensive plan is in compliance with part II of ch. 163, F.S., and if one land use in the mulituse development is residential and amounts to not less than 35 % of the jurisdiction's applicable residential threshold. An urban central business district is defined as the urban core area of a municipality with a population of 25,000 or greater which is located within an urbanized area as identified in the 1990 census. Such a district must contain high intensity, high density multi-use development which includes "retail, office, cultural, recreational and entertainment facilities, hotels or motels, or other appropriate industrial activities. A regional activity center is defined as a compact, high intensity, high density multi-use area that is designated appropriate for intensive growth by the local government. It includes the same uses as an urban central business district.

Currently, the individual DRI threshold is increased 50 % within an urban central business district or a regional activity center. However, the multiuse DRI threshold within such a district or center enjoys a 100 % increase.

Effect of Proposed Change

HB 683 amends existing law and creates new law related to developments of regional impact (DRI). A DRI by definition is "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county. Specifically, the bill addresses law establishing:

- a process for review of DRIs and for the issuance of a development order (DO) which details specifics regarding the scope and timing of the development and serves as the authority to commence and complete the development;
- what constitutes a "substantial deviation" of the DO which would necessitate additional review;
- statutory exemptions that prevent DRI review;
- statewide guidelines and standards for determining what activities require DRI review; and
- vested rights and associated duties of the respective parties.

Details of the changes to existing law are outlined below.

Preapplication Procedures

The bill amends existing law relating to preapplication procedures in the following ways:

- Rulemaking: amends existing law[1] regarding rulemaking related to the DRI application process. The bill authorizes the Department of Community Affairs (DCA), rather than the regional planning council, as the rulemaking authority for regulatory provisions related to the DRI application process. The bill also mandates that DCA initiate, by August 1, 2006, rulemaking to: revise the DRI review process to eliminate duplication and unnecessary requirements; provide for the acceptability of data provided for related federal, state, and local permits and authorizations; and streamline the application process.

Development Order

The bill creates the following additional criteria to determine whether a local government may issue permits for developments subsequent to the buildout date:

- the developer has satisfied all mitigation required in the DO.
- the development is in compliance with all applicable terms and conditions of the DO, except the buildout date; and
- the amount of remaining proposed development is less than 20% of any applicable DRI threshold.

This new feature provides for limited development beyond the DRI buildout date when the existing and remaining development meets the criteria.

The bill allows a project to be considered "essentially built-out" if:

- all of the infrastructure and horizontal development is complete; and
- more than 80% of the parcels have been conveyed to third-party buyers.

The bill amends the following statutory provisions relating to DOs:

- Termination date – existing law provides that the local government's DO specify a termination date before which certain land use changes would not apply to the approved DRI unless a substantial deviation occurs. Specifically, the bill amends existing law to provide that the DO may not specify that date as being earlier than the buildout date. s. 380.06(15)(c)3., F.S.
- Notice of proposed change – existing law provides that the DO may specify the types of changes which would require a substantial deviation determination. The bill amends existing law by authorizing the DO to specify the types of changes that would require a substantial deviation, if any, and extending that language to include a "notice of proposed change." s. 380.06(15)(c)5., F.S.
- Competitive bidding or competitive negotiation – existing law provides that a local government may require competitive bidding or competitive negotiation where construction or expansion of a public facility is conducted by a nongovernmental developer as a condition of a DO or to mitigate impacts reasonably attributable to the development. The bill amends existing law by removing that discretion and thus disallows local government from requiring competitive bidding. s. 380.06(15)(d)4., F.S.

[1] Section 380.06(7), F.S.

Biennial Reports

The bill amends existing law regarding the submission of biennial reports as follows:

- Failure to report – is amended to provide that failure to submit a biennial report shall result in the suspension of only the development order applicable to the property remaining to be developed by the party failing to submit the report. Thus, other developers within a DRI who comply with their reporting requirements will not have the development order suspended as it relates to their property.

- Annual Reports – is amended by changing a discretionary provision to a mandatory provision regarding development orders that require annual reports, resulting in a requirement that development orders that require annual reports be amended to require biennial reports the next time they are amended.

Substantial Deviations

The bill amends existing law pertaining to the percentage and unit thresholds and provides for a presumption that the activities trigger DRI review. Existing law strictly requires DRI review when percentage and unit thresholds are met or exceeded. The amended percentage and unit thresholds follow.

- Attraction or recreational facility - is amended to the greater of an increase of 10% or 500 parking spaces (from 5% or 300 spaces), or an increase to the greater of 10% or 1,100 spectators.

- Runway or terminal facility - is not amended.

- Hospitals – the threshold for hospitals is deleted.

- Industrial is amended to the greater of 10% or 64 acres (from 5% or 32 acres).

- Mines - is amended to the greater of an increase in the average annual acreage mined by10 % or 20 acres (from 5% or 10 acres) or to the greater of an increase in the average daily water consumption by a mining operation by 10 % or 600,000 gallons (from 5% or 300,000 gallons). It is further amended to the greater of an increase of the size of the mine by 10% or 1000 acres (from 5% or 750 acres).

- Office development – is amended to the greater of an increase in land area by 10 % (from 5%) or an increase of gross floor area by 10 % (from 5%) or 100,000 gross square feet (from 60,000).

- Marina development – is created to the greater of 10% of wet storage or 30 watercraft slips; or to the greater of 20% of wet storage or 60 watercraft slips in an area identified by a local government in a boat facility siting plan as an appropriate site for additional marina development.

- Storage capacity for chemical or petroleum storage facilities – the threshold for these facilities is deleted.

- Waterport or wet storage – the threshold for waterport or wet storage is deleted.

- Dwelling units – is amended to the greater of 10% or 100 dwelling units (from 5% or 50 dwelling units).

- Commercial development – is amended to the greater of 100,000 square feet (from 50,000 square feet) of gross floor area; or of parking spaces for customers for 600 cars (from 300 cars); or a 10% increase (from 5% increase) of either of these.

- Hotel or motel rooms – is amended to the greater of an increase in hotel or motel rooms by 10% or 100 rooms (from 5% or 75 units).

- Recreational vehicle park area – is amended to the lesser of an increase in a recreational vehicle park area by 10% (from 5%) or 100 vehicle spaces.

- Approved multiuse DRI – is amended to 120% of the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria.

The bill amends existing law in the following ways relating to presumptions concerning substantial deviations:

- Presumption of a substantial deviation - a presumption of a substantial deviation for an extension of the date of buildout of a development is created by an extension of more than 10 years (from 7 or more years).

- Presumption of no substantial deviation – a presumption of no substantial deviation is created by an extension of the buildout date of more than 5 years (from 5 or more years), but less than 7 years.

- No substantial deviation - An extension of 7 years or less (from less than 5 years) is not a substantial deviation.

The bill establishes that the following changes do not constitute substantial deviations:

- Protected lands -

  - changes that modify boundaries to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment.

  - this only applies to areas previously set aside for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State.

- Internal utility locations – changes to internal utility locations are added to the changes that do not constitute substantial deviations.

- Internal location of public facilities – changes to the internal location of public facilities is added to the changes that do not constitute substantial deviations.

The bill amends existing law to provide for notice prior to implementation of the types of non substantial deviation changes addressed above. The specific requirements are as follows:

- Notice - The developer must give notice to DCA, the regional planning agency, and the local government.

- Circuit Court Filing – A memorandum of the notice must be filed with the clerk of the circuit court along with a legal description of the affected DRI.

- Subsequent Changes - If a subsequent change requiring a substantial deviation determination is made to the DRI, then modifications to the DRI made in all prior notices must be reflected as amendments to the DO.

The bill amends existing law as it pertains to proposed changes that require further DRI review as follows:

- Scope of mitigation – changes existing law to limit the scope of mitigation required as a result of a proposed change to a DO. The amended language limits such new mitigation to the individual and cumulative impacts caused only by the proposed change.

- Continuance of development – amends existing law by providing that development within the DRI may continue during the DRI review in those portions of the development which are not directly affected by the proposed change.

Statutory Exemptions

The bill amends current DRI exemptions providing that if a use is exempt from review as a DRI under the following circumstances or any other paragraphs under this subsection, but is a part of a larger project that is subject to review as a DRI, the impact of the exempt use must be included in the review of the larger project.

- Hospitals - removes the 100 bed capacity limitation; thus providing that all hospitals are exempt.

- Steam or solar electrical generating facility - removes the exception of a steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a DRI from the exemption for proposed electrical transmission lines or electrical power plants

- Waterport or marina development - removes the term "waterport;" a reference to a boat facility siting guide dated August 2000; and a limitation for facilities with siting plans and policies adopted prior to April 1, 2002.

- Adjacent jurisdictions – amends existing law which allows a DRI exemption for certain proposed development within an urban service area. The amendment changes one of the criterion for the exemption that requires a binding agreement with an adjacent jurisdiction. The amendment changes the requirement to a "contiguous" jurisdiction.

- Urban service boundaries – amends existing law providing that if the binding agreement is not entered into within 12 months after establishment of the urban service boundaries, then DOT shall adopt within 90 days a reasonable impact-mitigation plan that is applicable in lieu of the binding agreement.

- Urban infill and redevelopment area – amends existing law by deleting the requirement for the local government to enter into a binding agreement with jurisdictions: that would be impacted by the development and DOT, regarding the mitigation of impacts on state and regional transportation facilities in addition to the adoption of proportionate share methodology.

The bill creates six new exemptions to existing law as follows:

- Self storage warehousing - any self-storage warehousing that does not allow retail or other services.

- Nursing home or assisted living facility - any proposed nursing home or assisted living facility.

- Airport master plan - any development identified in an airport master plan and adopted into the comprehensive plan

- Campus master plan - any development identified in a campus master plan and adopted pursuant to s. 1013.30, F.S. (related to campus master plans and campus DOs).

- Specific area plan - any development in a specific area plan which is prepared pursuant to s. 163.3245 (related to optional sector plans) and adopted into the comprehensive plan.

- Exceptions from transportation concurrency – any development granted an exception from concurrency requirements for transportation facilities that has fulfilled all requirements to be granted such an exception, including the creation of a proportionate share mitigation methodology for transportation facilities, which methodology has been adopted into the comprehensive plan.

Additional new language provides that if a use is exempt from DRI review but is part of a larger project that is subject to DRI review, then the exempt use must be included in review of the larger project.

Statewide Guidelines and Standards

The bill amends existing law addressing how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review.

- Airports -- is amended by providing that airport construction projects required to undergo DRI review pursuant to criteria set forth in 380.0651, F.S., may be exempt under 380.06 (24).

- Attractions and recreation facilities – deletes criteria for requiring DRI review of attractions and recreation facilities.

- Port facilities – substitutes "marina" for "port facility"; removes a reference to "waterport"; and provides criteria requiring DRI review rather than excepting certain activities as provided in existing law. Deletes all dry storage as a use requiring DRI review.

- Wet Storage -- criteria requiring DRI review are provided as follows:

  - Wet storage or mooring of more than 150 watercraft used for sport, pleasure, or commercial fishing. Under existing law, wet storage or mooring must be used "exclusively" for wet storage or mooring.

  - Wet storage or mooring of more than 150 watercraft on or adjacent to an inland freshwater lake (except Lake Okeechobee or any lake that has been designated as an Outstanding Florida Water).

- Schools – deletes the criteria for consideration of DRI review for schools.

- Aggregation - Amends existing law to lessen the prohibition preventing DCA from aggregating developments for which a final DO has been issued. Specifically, the amendment changes the phrase "shall not" to "may not." Additionally, as amended, DCA is not precluded from evaluating an alleged separate development as a substantial deviation of an existing DRI, or as an independent DRI. And, in such cases, the impacts of the independent DRIs may not be considered cumulatively.

The bill excludes subthreshold exceptions from applying to marina facilities located within or which serve physical development located within a coastal barrier resource unit on an unbridged barrier island.

Additionally, the bill increases the exemption threshold for certain projects for which no environmental resource permit or sovereign submerged land lease is required. The threshold is increased to 75 slips or storage spaces or a combination of the two. Existing law contains a 10 slip or storage space or combination threshold.

Florida Land and Water Adjudicatory Commission

The bill amends existing law related to challenges to provide the following:

- Consistency challenges – amends existing law to provide that 163.3215, F.S., is the sole mechanism for challenging the consistency of a DRI development order with the local government's comprehensive plan.

- Limited Standing – amends existing law to provide that DCA has limited standing to initiate an action under s. 163.3215, F.S., to determine the consistency of a DRI development order with the local government's comprehensive plan.

Vested Rights and Duties

The bill amends existing law related to the vested rights of DRIs. The amendment makes changes as follows:

- Vested rights are not abridged or modified by a change in the DRI guidelines and standards. s. 380.115, F.S.

- Revises the procedures affecting a DRI which is no longer required to undergo DRI review because of a change in the guidelines or standards, or because of a reduction that lowers the development below the thresholds.

- Specifically, the local government having jurisdiction shall rescind the DO upon a showing by the developer or the landowner that all required mitigation related to the amount that existed on the date of rescission has been completed. s. 380.115 (1) (b), F.S.

- Unless the developer follows this procedure, the DRI continues to be governed by, and may be completed in reliance upon, the DO.

- If an application for development approval, or a notification of proposed change, is pending on the effective date of a change to the guidelines and standards, then the development may elect to continue the DRI review which is governed by the vested rights provision.

Concurrency

The bill amends existing law relating to concurrency to conform a cross-reference.

Spaceport Launch Facilities

The bill amends existing law relating to spaceport launch facilities to conform a cross-reference.

C. SECTION DIRECTORY:

Section 1: Amends ss. 380.06(2)(d), (7)(b), (15), (19), and (24), F.S., relating to developments of regional impact (DRI).

Section 2: Amends s. 380.0651, F.S., relating to statewide guidelines and standards for determining what development activities must undergo DRI review.

Section 3: Creates s. 380.07, F.S., relating to the Florida Land and Water Adjudicatory Commission.

Section 4: Amends s. 380.115, F.S., relating to vested rights and duties of DRI projects as it relates to the provisions of this bill taking effect.

Section 5: Amends s. 163.3180, F.S., relating to concurrency, to conform to amendments within this bill.

Section 6: Amends s. 331.303, F.S., relating to the definition of spaceport launch facilities to conform to amendments within this bill.

Section 7: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill requires DCA to initiate rulemaking to streamline the DRI review process by July 1, 2006. The amount of this fiscal impact has not yet been determined.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The development community would benefit from increased thresholds and expanded exemptions from the DRI review process.

D. FISCAL COMMENTS:

No additional fiscal comments.

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:

There do not appear to be other constitutional issues with the bill.

B. RULE-MAKING AUTHORITY:

The bill requires DCA to initiate rulemaking by July 1, 2006, to revise the DRI review process.

C. DRAFTING ISSUES OR OTHER COMMENTS:

There do not appear to be any drafting issues.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to developments of regional impact;
3 amending s. 380.06, F.S.; conforming a cross-reference;
4 requiring the state land planning agency to initiate
5 rulemaking by a specific date to revise the development-
6 of-regional-impact review process; requiring a local
7 government to issue development orders concurrently with
8 comprehensive plan amendments; specifying certain
9 requirements for a development order; prohibiting a local
10 government from issuing permits for development subsequent
11 to the buildout date; revising the circumstances in which
12 a local government may issue subsequent permits for
13 development; revising the definition of an essentially
14 built-out development; prohibiting the suspension of a
15 development order for failure to submit a biennial report
16 under certain circumstances; revising the criteria under
17 which a proposed change is presumed to create a
18 substantial deviation; requiring that notice of certain
19 changes be given to the state land planning agency,
20 regional planning agency, and local government; requiring
21 that a memorandum of notice of certain changes be filed
22 with the clerk of court; revising the period of time for
23 notice and a public hearing after a change to a
24 development order has been submitted; revising the
25 requirement for further development-of-regional-impact
26 review of a proposed change; revising the statutory
27 exemptions for the development of certain facilities;
28 providing statutory exemptions for the development of

29 certain facilities; providing that the impacts from a use
30 that will be part of a larger project be included in the
31 development-of-regional-impact review of the larger
32 project; amending s. 380.0651, F.S.; removing the
33 application of statewide guidelines and standards for
34 development-of-regional-impact review to the construction
35 of certain attractions and recreation facilities; revising
36 the statewide guidelines and standards for development-of-
37 regional-impact review of the construction of certain
38 marinas; removing the application of statewide guidelines
39 and standards for development-of-regional-impact review to
40 the construction of certain schools; prohibiting the state
41 land planning agency from considering an impact of an
42 independent development of regional impact cumulatively
43 under certain circumstances; amending s. 380.07, F.S.;
44 providing a mechanism for challenging the consistency of a
45 development order with a local government comprehensive
46 plan; providing that the Department of Community Affairs
47 has standing to initiate an action to determine the
48 consistency of a development order with a local government
49 comprehensive plan; amending s. 380.115, F.S.; providing
50 that a change in a development-of-regional-impact
51 guideline and standard does not abridge or modify any
52 vested right or duty under a development order; amending
53 ss. 163.3180 and 331.303, F.S.; conforming cross-
54 references; providing an effective date.
55
56 Be It Enacted by the Legislature of the State of Florida:

57

58 Section 1. Paragraph (d) of subsection (2), paragraph (b)
59 of subsection (7), and subsections (15), (18), (19), and (24) of
60 section 380.06, Florida Statutes, are amended to read:
61 380.06 Developments of regional impact.--
62 (2) STATEWIDE GUIDELINES AND STANDARDS.--
63 (d) The guidelines and standards shall be applied as
64 follows:
65 1. Fixed thresholds.--
66 a. A development that is below 100 percent of all
67 numerical thresholds in the guidelines and standards shall not
68 be required to undergo development-of-regional-impact review.
69 b. A development that is at or above 120 percent of any
70 numerical threshold shall be required to undergo development-of-
71 regional-impact review.
72 c. Projects certified under s. 403.973 which create at
73 least 100 jobs and meet the criteria of the Office of Tourism,
74 Trade, and Economic Development as to their impact on an area's
75 economy, employment, and prevailing wage and skill levels that
76 are at or below 100 percent of the numerical thresholds for
77 industrial plants, industrial parks, distribution, warehousing
78 or wholesaling facilities, office development or multiuse
79 projects other than residential, as described in s.
80 380.0651(3)(b), (c), and (h) ~~380.0651(3)(c), (d), and (i)~~, are
81 not required to undergo development-of-regional-impact review.
82 2. Rebuttable presumption.--It shall be presumed that a
83 development that is at 100 percent or between 100 and 120
84 percent of a numerical threshold shall be required to undergo

85 development-of-regional-impact review.
86 (7) PREAPPLICATION PROCEDURES.--
87 (b) The state land ~~regional~~ planning agency shall
88 establish by rule a procedure by which a developer may enter
89 into binding written agreements with the regional planning
90 agency to eliminate questions from the application for
91 development approval when those questions are found to be
92 unnecessary for development-of-regional-impact review. By August
93 1, 2006, the department shall initiate rulemaking to revise the
94 development-of-regional-impact review process. The department
95 shall eliminate as many duplicative or unnecessary requirements
96 and questions as possible; provide for the acceptability and use
97 of data and information provided by the applicant for federal,
98 state, or local government permits and authorizations required
99 for the proposed development; and revise and streamline the
100 application process for development approval in order to provide
101 for a more efficient review of an application. It is the
102 legislative intent of this subsection to encourage reduction of
103 paperwork, to discourage unnecessary gathering of data, and to
104 encourage the coordination of the development-of-regional-impact
105 review process with federal, state, and local environmental
106 reviews when such reviews are required by law.
107 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--
108 (a) The appropriate local government shall render a
109 decision on the application within 30 days after the hearing
110 unless an extension is requested by the developer.
111 (b) Unless otherwise requested by the applicant ~~When~~
112 ~~possible~~, the local government ~~governments~~ shall issue

113 development orders concurrently with comprehensive plan
114 amendments and, when practicable, with any other local permits
115 or development approvals that may be applicable to the proposed
116 development.
117 (c) The development order shall include findings of fact
118 and conclusions of law consistent with subsections (13) and
119 (14). The development order:
120 1. Shall specify the monitoring procedures and the local
121 official responsible for assuring compliance by the developer
122 with the development order.
123 2. Shall establish compliance dates for the development
124 order, including a deadline for commencing physical development
125 and for compliance with conditions of approval or phasing
126 requirements, and shall include a buildout ~~termination~~ date that
127 reasonably reflects the time anticipated ~~required~~ to complete
128 the development.
129 3. Shall establish a date until which the local government
130 agrees that the approved development of regional impact shall
131 not be subject to downzoning, unit density reduction, or
132 intensity reduction, unless the local government can demonstrate
133 that substantial changes in the conditions underlying the
134 approval of the development order have occurred or the
135 development order was based on substantially inaccurate
136 information provided by the developer or that the change is
137 clearly established by local government to be essential to the
138 public health, safety, or welfare. The date established pursuant
139 to this subparagraph shall be no sooner than the buildout date
140 of the project.

141 4. Shall specify the requirements for the biennial report
142 designated under subsection (18), including the date of
143 submission, parties to whom the report is submitted, and
144 contents of the report, based upon the rules adopted by the
145 state land planning agency. Such rules shall specify the scope
146 of any additional local requirements that may be necessary for
147 the report.
148 5. Shall ~~May~~ specify the types of changes, if any, to the
149 development which shall require submission for a substantial
150 deviation determination or a notice of proposed change under
151 subsection (19).
152 6. Shall include a legal description of the property.
153 (d) Conditions of a development order that require a
154 developer to contribute land for a public facility or construct,
155 expand, or pay for land acquisition or construction or expansion
156 of a public facility, or portion thereof, shall meet the
157 following criteria:
158 1. The need to construct new facilities or add to the
159 present system of public facilities must be reasonably
160 attributable to the proposed development.
161 2. Any contribution of funds, land, or public facilities
162 required from the developer shall be comparable to the amount of
163 funds, land, or public facilities that the state or the local
164 government would reasonably expect to expend or provide, based
165 on projected costs of comparable projects, to mitigate the
166 impacts reasonably attributable to the proposed development.
167 3. Any funds or lands contributed must be expressly
168 designated and used to mitigate impacts reasonably attributable

169 to the proposed development.
170 4. Construction or expansion of a public facility by a
171 nongovernmental developer as a condition of a development order
172 to mitigate the impacts reasonably attributable to the proposed
173 development is not subject to competitive bidding or competitive
174 negotiation for selection of a contractor or design professional
175 for any part of the construction or design ~~unless required by~~
176 ~~the local government that issues the development order~~.
177 (e)1. ~~Effective July 1, 1986,~~ A local government shall not
178 include, as a development order condition for a development of
179 regional impact, any requirement that a developer contribute or
180 pay for land acquisition or construction or expansion of public
181 facilities or portions thereof unless the local government has
182 enacted a local ordinance which requires other development not
183 subject to this section to contribute its proportionate share of
184 the funds, land, or public facilities necessary to accommodate
185 any impacts having a rational nexus to the proposed development,
186 and the need to construct new facilities or add to the present
187 system of public facilities must be reasonably attributable to
188 the proposed development.
189 2. A local government shall not approve a development of
190 regional impact that does not make adequate provision for the
191 public facilities needed to accommodate the impacts of the
192 proposed development unless the local government includes in the
193 development order a commitment by the local government to
194 provide these facilities consistently with the development
195 schedule approved in the development order; however, a local
196 government's failure to meet the requirements of subparagraph 1.

197 and this subparagraph shall not preclude the issuance of a
198 development order where adequate provision is made by the
199 developer for the public facilities needed to accommodate the
200 impacts of the proposed development. Any funds or lands
201 contributed by a developer must be expressly designated and used
202 to accommodate impacts reasonably attributable to the proposed
203 development.
204 3. The Department of Community Affairs and other state and
205 regional agencies involved in the administration and
206 implementation of this act shall cooperate and work with units
207 of local government in preparing and adopting local impact fee
208 and other contribution ordinances.
209 (f) Notice of the adoption of a development order or the
210 subsequent amendments to an adopted development order shall be
211 recorded by the developer, in accordance with s. 28.222, with
212 the clerk of the circuit court for each county in which the
213 development is located. The notice shall include a legal
214 description of the property covered by the order and shall state
215 which unit of local government adopted the development order,
216 the date of adoption, the date of adoption of any amendments to
217 the development order, the location where the adopted order with
218 any amendments may be examined, and that the development order
219 constitutes a land development regulation applicable to the
220 property. The recording of this notice shall not constitute a
221 lien, cloud, or encumbrance on real property, or actual or
222 constructive notice of any such lien, cloud, or encumbrance.
223 This paragraph applies only to developments initially approved
224 under this section after July 1, 1980.

225 (g) A local government may ~~shall not~~ issue permits for
226 development subsequent to the buildout ~~termination date or~~
227 ~~expiration~~ date contained in the development order if ~~unless~~:
228 ~~1. The proposed development has been evaluated~~
229 ~~cumulatively with existing development under the substantial~~
230 ~~deviation provisions of subsection (19) subsequent to the~~
231 ~~termination or expiration date;~~
232 1.~~2.~~ The proposed development is consistent with an
233 abandonment of development order that has been issued in
234 accordance with the provisions of subsection (26); ~~or~~
235 2. The proposed development has satisfied the mitigation
236 requirements in the development order and meets the requirements
237 of sub-sub-subparagraph 3.b.(I); or
238 3. The project has been determined to be an essentially
239 built-out development of regional impact through an agreement
240 executed by the developer, the state land planning agency, and
241 the local government, in accordance with s. 380.032, which will
242 establish the terms and conditions under which the development
243 may be continued. If the project is determined to be essentially
244 built-out, development may proceed pursuant to the s. 380.032
245 agreement after the termination or expiration date contained in
246 the development order without further development-of-regional-
247 impact review subject to the local government comprehensive plan
248 and land development regulations or subject to a modified
249 development-of-regional-impact analysis. As used in this
250 paragraph, an "essentially built-out" development of regional
251 impact means:
252 a. The development is in compliance with all applicable

253 terms and conditions of the development order except the built-
254 out date; and
255 b.(I) The amount of development that remains to be built
256 is less than 20 percent of the development approved by the
257 original development order but not more than the applicable
258 development-of-regional-impact threshold. Development may also
259 be considered essentially built-out if all the infrastructure
260 and horizontal development for the project has been completed
261 and more than 80 percent of the parcels have been conveyed to
262 third-party buyers, including builders and individual lot owners
263 ~~the substantial deviation threshold specified in paragraph~~
264 ~~(19)(b) for each individual land use category, or, for a~~
265 ~~multiuse development, the sum total of all unbuilt land uses as~~
266 ~~a percentage of the applicable substantial deviation threshold~~
267 ~~is equal to or less than 100 percent~~; or
268 (II) The state land planning agency and the local
269 government have agreed in writing that the amount of development
270 to be built does not create the likelihood of any additional
271 regional impact not previously reviewed.
272 (h) If the property is annexed by another local
273 jurisdiction, the annexing jurisdiction shall adopt a new
274 development order that incorporates all previous rights and
275 obligations specified in the prior development order.
276 (18) BIENNIAL REPORTS.--The developer shall submit a
277 biennial report on the development of regional impact to the
278 local government, the regional planning agency, the state land
279 planning agency, and all affected permit agencies in alternate
280 years on the date specified in the development order, unless the

281 development order by its terms requires more frequent
282 monitoring. If the report is not received, the regional planning
283 agency or the state land planning agency shall notify the local
284 government. If the local government does not receive the report
285 or receives notification that the regional planning agency or
286 the state land planning agency has not received the report, the
287 local government shall request in writing that the developer
288 submit the report within 30 days. The failure to submit the
289 report after 30 days shall result in the temporary suspension of
290 the development order applicable to the property remaining to be
291 developed by the party failing to submit the report. If other
292 developers within a development of regional impact are in
293 compliance with their reporting requirements, the development
294 order as it relates to their property may not be suspended by
295 the local government. If no additional development pursuant to
296 the development order has occurred since the submission of the
297 previous report, then a letter from the developer stating that
298 no development has occurred shall satisfy the requirement for a
299 report. Development orders that require annual reports shall ~~may~~
300 be amended to require biennial reports the next time they are
301 amended ~~at the option of the local government~~.
302 (19) SUBSTANTIAL DEVIATIONS.--
303 (a) Any proposed change to a previously approved
304 development which creates an ~~a reasonable likelihood of~~
305 additional regional impact, or any type of regional impact
306 created by the change not previously reviewed by the regional
307 planning agency, shall constitute a substantial deviation and
308 shall cause the proposed change ~~development~~ to be subject to

309 further development-of-regional-impact review. There are a
310 variety of reasons why a developer may wish to propose changes
311 to an approved development of regional impact, including changed
312 market conditions. The procedures set forth in this subsection
313 are for that purpose.
314 (b) Any proposed change to a previously approved
315 development of regional impact or development order condition
316 which, either individually or cumulatively with other changes,
317 exceeds any of the following criteria shall be presumed to
318 create ~~constitute~~ a substantial deviation ~~and shall cause the~~
319 ~~development to be subject to further development-of-regional-~~
320 ~~impact review without the necessity for a finding of same by the~~
321 ~~local government~~:
322 1. An increase in the number of parking spaces at an
323 attraction or recreational facility by 10 ~~5~~ percent or 500 ~~300~~
324 spaces, whichever is greater, or an increase in the number of
325 spectators that may be accommodated at such a facility by 10 ~~5~~
326 percent or 1,000 spectators, whichever is greater.
327 2. A new runway, a new terminal facility, a 25-percent
328 lengthening of an existing runway, or a 25-percent increase in
329 the number of gates of an existing terminal, but only if the
330 increase adds at least three additional gates.
331 ~~3. An increase in the number of hospital beds by 5 percent~~
332 ~~or 60 beds, whichever is greater.~~
333 3.~~4.~~ An increase in industrial development area by 10 ~~5~~
334 percent or 64 ~~32~~ acres, whichever is greater.
335 4.~~5.~~ An increase in the average annual acreage mined by 10
336 ~~5~~ percent or 20 ~~10~~ acres, whichever is greater, or an increase

337 in the average daily water consumption by a mining operation by
338 10 ~~5~~ percent or 600,000 ~~300,000~~ gallons, whichever is greater.
339 An increase in the size of the mine by 10 ~~5~~ percent or 1,000 ~~750~~
340 acres, whichever is less. An increase in the size of a heavy
341 mineral mine as defined in s. 378.403(7) will only constitute a
342 substantial deviation if the average annual acreage mined is
343 more than 500 acres and consumes more than 3 million gallons of
344 water per day.
345 5.~~6.~~ An increase in land area for office development by 10
346 ~~5~~ percent or an increase of gross floor area of office
347 development by 10 ~~5~~ percent or 100,000 ~~60,000~~ gross square feet,
348 whichever is greater.
349 6. An increase of development at a marina of 10 percent of
350 wet storage or for 30 watercraft slips, whichever is greater, or
351 20 percent of wet storage or 60 watercraft slips in an area
352 identified by a local government in a boat facility siting plan
353 as an appropriate site for additional marina development,
354 whichever is greater.
355 ~~7. An increase in the storage capacity for chemical or~~
356 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or 7~~
357 ~~million pounds, whichever is greater.~~
358 ~~8. An increase of development at a waterport of wet~~
359 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
360 ~~wet/dry storage for 60 watercraft in an area identified in the~~
361 ~~state marina siting plan as an appropriate site for additional~~
362 ~~waterport development or a 5-percent increase in watercraft~~
363 ~~storage capacity, whichever is greater.~~
364 7.~~9.~~ An increase in the number of dwelling units by 10 ~~5~~

365 percent or 100 ~~50~~ dwelling units, whichever is greater.
366 8.~~10.~~ An increase in commercial development by 100,000
367 ~~50,000~~ square feet of gross floor area or of parking spaces
368 provided for customers for 600 ~~300~~ cars or a 10-percent ~~5-~~
369 ~~percent~~ increase of either of these, whichever is greater.
370 9.~~11.~~ An increase in hotel or motel rooms ~~facility units~~
371 by 10 ~~5~~ percent or 100 rooms ~~75 units~~, whichever is greater.
372 10.~~12.~~ An increase in a recreational vehicle park area by
373 10 ~~5~~ percent or 100 vehicle spaces, whichever is less.
374 11.~~13.~~ A decrease in the area set aside for open space of
375 5 percent or 20 acres, whichever is less.
376 12.~~14.~~ A proposed increase to an approved multiuse
377 development of regional impact where the sum of the increases of
378 each land use as a percentage of the applicable substantial
379 deviation criteria is equal to or exceeds 120 ~~100~~ percent. The
380 percentage of any decrease in the amount of open space shall be
381 treated as an increase for purposes of determining when 120 ~~100~~
382 percent has been reached or exceeded.
383 13.~~15.~~ A 20-percent ~~15-percent~~ increase in the number of
384 external vehicle trips generated by the development above that
385 which was projected during the original development-of-regional-
386 impact review. If the transportation mitigation identified in
387 the adopted development order is based upon proportionate-share
388 payments, an increase in the proportionate-share payment
389 commensurate with the increase in external vehicle trips
390 generated by the development is adequate to satisfy the
391 obligation of the developer to rebut the presumption.
392 14.~~16.~~ Any change that ~~which~~ would result in development

393 of any area which was specifically set aside in the application
394 for development approval or in the development order for
395 preservation or special protection of endangered or threatened
396 plants or animals designated as endangered, threatened, or
397 species of special concern and their habitat, primary dunes, or
398 archaeological and historical sites designated as significant by
399 the Division of Historical Resources of the Department of State.
400 The further science-based refinement of such areas by survey, by
401 habitat evaluation, by other recognized assessment methodology,
402 or by an environmental assessment is not a substantial deviation
403 ~~shall be considered under sub-subparagraph (e)5.b~~.
404
405 The substantial deviation numerical standards in subparagraphs
406 3., 5., 8., 9., 12., and 13. ~~4., 6., 10., 14.~~, excluding
407 residential uses, ~~and 15.,~~ are increased by 100 percent for a
408 project certified under s. 403.973 which creates jobs and meets
409 criteria established by the Office of Tourism, Trade, and
410 Economic Development as to its impact on an area's economy,
411 employment, and prevailing wage and skill levels. The
412 substantial deviation numerical standards in subparagraphs 3.,
413 5., 7., 8., 9., 12., and 13. ~~4., 6., 9., 10., 11., and 14.~~ are
414 increased by 50 percent for a project located wholly within an
415 urban infill and redevelopment area designated on the applicable
416 adopted local comprehensive plan future land use map and not
417 located within the coastal high hazard area.
418 (c) An extension of the date of buildout of a development,
419 or any phase thereof, by more than 10 ~~7 or more~~ years shall be
420 presumed to create a substantial deviation subject to further

421 development-of-regional-impact review. An extension of the date
422 of buildout, or any phase thereof, of 5 years or more but less
423 than 7 years shall be presumed not to create a substantial
424 deviation. The extension of the date of buildout of an areawide
425 development of regional impact by more than 5 years but less
426 than 10 years is presumed not to create a substantial deviation.
427 This presumption ~~These presumptions~~ may be rebutted by clear and
428 convincing evidence at the public hearing held by the local
429 government. An extension of 7 years or less ~~than 5 years~~ is not
430 a substantial deviation. For the purpose of calculating when a
431 buildout or~~,~~ phase~~, or termination~~ date has been exceeded, the
432 time shall be tolled during the pendency of administrative or
433 judicial proceedings relating to development permits. Any
434 extension of the buildout date of a project or a phase thereof
435 shall automatically extend the commencement date of the project,
436 the buildout date ~~the termination date of the development order,~~
437 ~~the expiration date of the development of regional impact~~, and
438 the phases thereof by a like period of time.
439 (d) A change in the plan of development of an approved
440 development of regional impact resulting from requirements
441 imposed by the Department of Environmental Protection or any
442 water management district created by s. 373.069 or any of their
443 successor agencies or by any appropriate federal regulatory
444 agency shall be submitted to the local government pursuant to
445 this subsection. These changes do ~~The change shall be presumed~~
446 not ~~to~~ create a substantial deviation subject to further
447 development-of-regional-impact review. In addition, if a change
448 to a permit involving property within the development of

449 regional impact is approved by the agencies with jurisdiction,
450 the change does not create a substantial deviation. ~~The~~
451 ~~presumption may be rebutted by clear and convincing evidence at~~
452 ~~the public hearing held by the local government.~~
453 (e)1. Except for a development order rendered pursuant to
454 subsection (22) or subsection (25), a proposed change to a
455 development order that individually or cumulatively with any
456 previous change is less than any numerical criterion contained
457 in subparagraphs (b)1.-14. ~~(b)1.-15.~~ and does not exceed any
458 other criterion, or that involves an extension of the buildout
459 date of a development, or any phase thereof, of less than 7 ~~5~~
460 years is not subject to the public hearing requirements of
461 subparagraph (f)3., and is not subject to a determination
462 pursuant to subparagraph (f)5. Notice of the proposed change
463 shall be made to the regional planning council and the state
464 land planning agency. Such notice shall include a description of
465 previous individual changes made to the development, including
466 changes previously approved by the local government, and shall
467 include appropriate amendments to the development order.
468 2. The following changes, individually or cumulatively
469 with any previous changes, are not substantial deviations:
470 a. Changes in the name of the project, developer, owner,
471 or monitoring official.
472 b. Changes to a setback that do not affect noise buffers,
473 environmental protection or mitigation areas, or archaeological
474 or historical resources.
475 c. Changes to minimum lot sizes.
476 d. Changes in the configuration of internal roads that do

477 not affect external access points.
478 e. Changes to the building design or orientation that stay
479 approximately within the approved area designated for such
480 building and parking lot, and which do not affect historical
481 buildings designated as significant by the Division of
482 Historical Resources of the Department of State.
483 f. Changes to increase the acreage in the development,
484 provided that no development is proposed on the acreage to be
485 added.
486 g. Changes to eliminate an approved land use, provided
487 that there are no additional regional impacts.
488 h. Changes required to conform to permits approved by any
489 federal, state, or regional permitting agency~~, provided that~~
490 ~~these changes do not create additional regional impacts~~.
491 i. Any renovation or redevelopment of development within a
492 previously approved development of regional impact which does
493 not change land use or increase density or intensity of use.
494 j. Changes to internal utility locations.
495 k. Changes to the internal location of public facilities.
496 l.~~j.~~ Any other change which the state land planning agency
497 agrees in writing is similar in nature, impact, or character to
498 the changes enumerated in sub-subparagraphs a.-k. ~~a.-i.~~ and
499 which does not create the likelihood of any additional regional
500 impact.
501
502 This subsection does not require a development order amendment
503 for any change listed in sub-subparagraphs a.-l. but shall
504 require notice to the state land planning agency, the regional

505 planning agency, and the local government. In addition, a
506 memorandum of that notice shall be filed with the clerk of the
507 circuit court along with a legal description of the affected
508 development of regional impact. If a subsequent change requiring
509 a substantial deviation determination is made to the development
510 of regional impact, modifications to the development of regional
511 impact made in all prior notices must be reflected as amendments
512 to the development memorandum. ~~a.-j. unless such issue is~~
513 ~~addressed either in the existing development order or in the~~
514 ~~application for development approval, but, in the case of the~~
515 ~~application, only if, and in the manner in which, the~~
516 ~~application is incorporated in the development order.~~
517 3. Except for the change authorized by sub-subparagraph
518 2.f., any addition of land not previously reviewed or any change
519 not specified in paragraph (b) or paragraph (c) shall be
520 presumed to create a substantial deviation. This presumption may
521 be rebutted by clear and convincing evidence.
522 4. Any submittal of a proposed change to a previously
523 approved development shall include a description of individual
524 changes previously made to the development, including changes
525 previously approved by the local government. The local
526 government shall consider the previous and current proposed
527 changes in deciding whether such changes cumulatively constitute
528 a substantial deviation requiring further development-of-
529 regional-impact review.
530 5. The following changes to an approved development of
531 regional impact shall be presumed to create a substantial
532 deviation. Such presumption may be rebutted by clear and

533 convincing evidence.
534 a. A change proposed for 15 percent or more of the acreage
535 to a land use not previously approved in the development order.
536 Changes of less than 15 percent shall be presumed not to create
537 a substantial deviation.
538 b. Except for the types of uses listed in subparagraph
539 (b)14. ~~(b)16.~~, any change which would result in the development
540 of any area which was specifically set aside in the application
541 for development approval or in the development order for
542 preservation, buffers, or special protection, including habitat
543 for plant and animal species, archaeological and historical
544 sites, dunes, and other special areas.
545 c. Notwithstanding any provision of paragraph (b) to the
546 contrary, a proposed change consisting of simultaneous increases
547 and decreases of at least two of the uses within an authorized
548 multiuse development of regional impact which was originally
549 approved with three or more uses specified in s. 380.0651(3)(c),
550 (d), (f), and (g) and residential use.
551 (f)1. The state land planning agency shall establish by
552 rule standard forms for submittal of proposed changes to a
553 previously approved development of regional impact which may
554 require further development-of-regional-impact review. At a
555 minimum, the standard form shall require the developer to
556 provide the precise language that the developer proposes to
557 delete or add as an amendment to the development order.
558 2. The developer shall submit, simultaneously, to the
559 local government, the regional planning agency, and the state
560 land planning agency the request for approval of a proposed

561 change.
562 3. No sooner than 15 ~~30~~ days but no later than 30 ~~45~~ days
563 after submittal by the developer to the local government, the
564 state land planning agency, and the appropriate regional
565 planning agency, the local government shall give 15 days' notice
566 and schedule a public hearing to consider the change that the
567 developer asserts does not create a substantial deviation. This
568 public hearing shall be held within 60 ~~90~~ days after submittal
569 of the proposed changes, unless that time is extended by the
570 developer.
571 4. The appropriate regional planning agency or the state
572 land planning agency shall review the proposed change and, no
573 later than 30 ~~45~~ days after submittal by the developer of the
574 proposed change, unless that time is extended by the developer,
575 and prior to the public hearing at which the proposed change is
576 to be considered, shall advise the local government in writing
577 whether it objects to the proposed change, shall specify the
578 reasons for its objection, if any, and shall provide a copy to
579 the developer.
580 5. At the public hearing, the local government shall
581 determine whether the proposed change requires further
582 development-of-regional-impact review. The provisions of
583 paragraphs (a) and (e), the thresholds set forth in paragraph
584 (b), and the presumptions set forth in paragraphs (c) and (d)
585 and subparagraph (e)3. shall be applicable in determining
586 whether further development-of-regional-impact review is
587 required.
588 6. If the local government determines that the proposed

589 change does not require further development-of-regional-impact
590 review and is otherwise approved, or if the proposed change is
591 not subject to a hearing and determination pursuant to
592 subparagraphs 3. and 5. and is otherwise approved, the local
593 government shall issue an amendment to the development order
594 incorporating the approved change and conditions of approval
595 relating to the change. The decision of the local government to
596 approve, with or without conditions, or to deny the proposed
597 change that the developer asserts does not require further
598 review shall be subject to the appeal provisions of s. 380.07.
599 However, the state land planning agency may not appeal the local
600 government decision if it did not comply with subparagraph 4.
601 The state land planning agency may not appeal a change to a
602 development order made pursuant to subparagraph (e)1. or
603 subparagraph (e)2. ~~for developments of regional impact approved~~
604 ~~after January 1, 1980, unless the change would result in a~~
605 ~~significant impact to a regionally significant archaeological,~~
606 ~~historical, or natural resource not previously identified in the~~
607 ~~original development-of-regional-impact review.~~
608 (g) If a proposed change requires further development-of-
609 regional-impact review pursuant to this section, the review
610 shall be conducted subject to the following additional
611 conditions:
612 1. The development-of-regional-impact review conducted by
613 the appropriate regional planning agency shall address only
614 those issues raised by the proposed change except as provided in
615 subparagraph 2.
616 2. The regional planning agency shall consider, and the

617 local government shall determine whether to approve, approve
618 with conditions, or deny the proposed change as it relates to
619 the entire development. If the local government determines that
620 the proposed change, as it relates to the entire development, is
621 unacceptable, the local government shall deny the change.
622 3. If the local government determines that the proposed
623 change~~, as it relates to the entire development,~~ should be
624 approved, any new conditions in the amendment to the development
625 order issued by the local government shall address only those
626 issues raised by the proposed change and require mitigation only
627 for the impacts of the proposed charge.
628 4. Development within the previously approved development
629 of regional impact may continue, as approved, during the
630 development-of-regional-impact review in those portions of the
631 development which are not directly affected by the proposed
632 change.
633 (h) When further development-of-regional-impact review is
634 required because a substantial deviation has been determined or
635 admitted by the developer, the amendment to the development
636 order issued by the local government shall be consistent with
637 the requirements of subsection (15) and shall be subject to the
638 hearing and appeal provisions of s. 380.07. The state land
639 planning agency or the appropriate regional planning agency need
640 not participate at the local hearing in order to appeal a local
641 government development order issued pursuant to this paragraph.
642 (24) STATUTORY EXEMPTIONS.--
643 (a) Any proposed hospital ~~which has a designed capacity of~~
644 ~~not more than 100 beds~~ is exempt from the provisions of this

645 section.
646 (b) Any proposed electrical transmission line or
647 electrical power plant is exempt from the provisions of this
648 section~~, except any steam or solar electrical generating~~
649 ~~facility of less than 50 megawatts in capacity attached to a~~
650 ~~development of regional impact~~.
651 (c) Any proposed addition to an existing sports facility
652 complex is exempt from the provisions of this section if the
653 addition meets the following characteristics:
654 1. It would not operate concurrently with the scheduled
655 hours of operation of the existing facility.
656 2. Its seating capacity would be no more than 75 percent
657 of the capacity of the existing facility.
658 3. The sports facility complex property is owned by a
659 public body prior to July 1, 1983.
660
661 This exemption does not apply to any pari-mutuel facility.
662 (d) Any proposed addition or cumulative additions
663 subsequent to July 1, 1988, to an existing sports facility
664 complex owned by a state university is exempt if the increased
665 seating capacity of the complex is no more than 30 percent of
666 the capacity of the existing facility.
667 (e) Any addition of permanent seats or parking spaces for
668 an existing sports facility located on property owned by a
669 public body prior to July 1, 1973, is exempt from the provisions
670 of this section if future additions do not expand existing
671 permanent seating or parking capacity more than 15 percent
672 annually in excess of the prior year's capacity.

673 (f) Any increase in the seating capacity of an existing
674 sports facility having a permanent seating capacity of at least
675 50,000 spectators is exempt from the provisions of this section,
676 provided that such an increase does not increase permanent
677 seating capacity by more than 5 percent per year and not to
678 exceed a total of 10 percent in any 5-year period, and provided
679 that the sports facility notifies the appropriate local
680 government within which the facility is located of the increase
681 at least 6 months prior to the initial use of the increased
682 seating, in order to permit the appropriate local government to
683 develop a traffic management plan for the traffic generated by
684 the increase. Any traffic management plan shall be consistent
685 with the local comprehensive plan, the regional policy plan, and
686 the state comprehensive plan.
687 (g) Any expansion in the permanent seating capacity or
688 additional improved parking facilities of an existing sports
689 facility is exempt from the provisions of this section, if the
690 following conditions exist:
691 1.a. The sports facility had a permanent seating capacity
692 on January 1, 1991, of at least 41,000 spectator seats;
693 b. The sum of such expansions in permanent seating
694 capacity does not exceed a total of 10 percent in any 5-year
695 period and does not exceed a cumulative total of 20 percent for
696 any such expansions; or
697 c. The increase in additional improved parking facilities
698 is a one-time addition and does not exceed 3,500 parking spaces
699 serving the sports facility; and
700 2. The local government having jurisdiction of the sports

701 facility includes in the development order or development permit
702 approving such expansion under this paragraph a finding of fact
703 that the proposed expansion is consistent with the
704 transportation, water, sewer and stormwater drainage provisions
705 of the approved local comprehensive plan and local land
706 development regulations relating to those provisions.
707
708 Any owner or developer who intends to rely on this statutory
709 exemption shall provide to the department a copy of the local
710 government application for a development permit. Within 45 days
711 of receipt of the application, the department shall render to
712 the local government an advisory and nonbinding opinion, in
713 writing, stating whether, in the department's opinion, the
714 prescribed conditions exist for an exemption under this
715 paragraph. The local government shall render the development
716 order approving each such expansion to the department. The
717 owner, developer, or department may appeal the local government
718 development order pursuant to s. 380.07, within 45 days after
719 the order is rendered. The scope of review shall be limited to
720 the determination of whether the conditions prescribed in this
721 paragraph exist. If any sports facility expansion undergoes
722 development of regional impact review, all previous expansions
723 which were exempt under this paragraph shall be included in the
724 development of regional impact review.
725 (h) Expansion to port harbors, spoil disposal sites,
726 navigation channels, turning basins, harbor berths, and other
727 related inwater harbor facilities of ports listed in s.
728 403.021(9)(b), port transportation facilities and projects

729 listed in s. 311.07(3)(b), and intermodal transportation
730 facilities identified pursuant to s. 311.09(3) are exempt from
731 the provisions of this section when such expansions, projects,
732 or facilities are consistent with comprehensive master plans
733 that are in compliance with the provisions of s. 163.3178.
734 (i) Any proposed facility for the storage of any petroleum
735 product or any expansion of an existing facility is exempt from
736 the provisions of this section~~, if the facility is consistent~~
737 ~~with a local comprehensive plan that is in compliance with s.~~
738 ~~163.3177 or is consistent with a comprehensive port master plan~~
739 ~~that is in compliance with s. 163.3178~~.
740 (j) Any renovation or redevelopment within the same land
741 parcel which does not change land use or increase density or
742 intensity of use.
743 (k)~~1.~~ Any ~~waterport or~~ marina development is exempt from
744 the provisions of this section if the relevant county or
745 municipality has adopted a boating facility siting plan or
746 policy, which includes applicable criteria, considering such
747 factors as natural resources, manatee protection needs, and
748 recreation and economic demands ~~as generally outlined in the~~
749 ~~Bureau of Protected Species Management Boat Facility Siting~~
750 ~~Guide, dated August 2000~~, into the coastal management or land
751 use element of its comprehensive plan. The adoption of boating
752 facility siting plans or policies into the comprehensive plan is
753 exempt from the provisions of s. 163.3187(1). Any ~~waterport or~~
754 marina development within the municipalities or counties with
755 boating facility siting plans or policies that meet the above
756 criteria, adopted prior to April 1, 2006 ~~2002~~, are exempt from

757 the provisions of this section, when their boating facility
758 siting plan or policy is adopted as part of the relevant local
759 government's comprehensive plan.
760 ~~2. Within 6 months of the effective date of this law, the~~
761 ~~Department of Community Affairs, in conjunction with the~~
762 ~~Department of Environmental Protection and the Florida Fish and~~
763 ~~Wildlife Conservation Commission, shall provide technical~~
764 ~~assistance and guidelines, including model plans, policies and~~
765 ~~criteria to local governments for the development of their~~
766 ~~siting plans.~~
767 (l) Any proposed development within an urban service
768 boundary established under s. 163.3177(14) is exempt from the
769 provisions of this section if the local government having
770 jurisdiction over the area where the development is proposed has
771 adopted the urban service boundary and has entered into a
772 binding agreement with contiguous ~~adjacent~~ jurisdictions and the
773 Department of Transportation regarding the mitigation of impacts
774 on state and regional transportation facilities, and has adopted
775 a proportionate share methodology pursuant to s. 163.3180(16).
776 If the binding agreement is not entered into within 12 months
777 after the establishment of the urban service boundary, the
778 Department of Transportation shall adopt within 90 days a
779 reasonable impact-mitigation plan that is applicable in lieu of
780 the binding agreement.
781 (m) Any proposed development within a rural land
782 stewardship area created under s. 163.3177(11)(d) is exempt from
783 the provisions of this section if the local government that has
784 adopted the rural land stewardship area has entered into a

785 binding agreement with jurisdictions that would be impacted and
786 the Department of Transportation regarding the mitigation of
787 impacts on state and regional transportation facilities, and has
788 adopted a proportionate share methodology pursuant to s.
789 163.3180(16).
790 (n) Any proposed development or redevelopment within an
791 area designated as an urban infill and redevelopment area under
792 s. 163.2517 is exempt from the provisions of this section ~~if the~~
793 ~~local government has entered into a binding agreement with~~
794 ~~jurisdictions that would be impacted and the Department of~~
795 ~~Transportation regarding the mitigation of impacts on state and~~
796 ~~regional transportation facilities, and has adopted a~~
797 ~~proportionate share methodology pursuant to s. 163.3180(16)~~.
798 (o) The establishment, relocation, or expansion of any
799 military installation as defined in s. 163.3175, is exempt from
800 this section.
801 (p) Any self-storage warehousing that does not allow
802 retail or other services is exempt from the provisions of this
803 section.
804 (q) Any proposed nursing home or assisted living facility
805 is exempt from the provisions of this section.
806 (r) Any development identified in an airport master plan
807 and adopted into the comprehensive plan pursuant to s.
808 163.3177(6)(k) is exempt from the provisions of this section.
809 (s) Any development identified in a campus master plan and
810 adopted pursuant to s. 1013.30 is exempt from the provisions of
811 this section.
812 (t) Any development in a specific area plan which is

813 prepared pursuant to s. 163.3245 and adopted into the
814 comprehensive plan is exempt from the provisions of this
815 section.
816 (u) Any development in an area granted an exception from
817 the concurrency requirements for transportation facilities which
818 has met the requirements of s. 163.3180(5)(b)-(g), including the
819 requirement for proportionate fair-share mitigation for
820 transportation facilities, and which has been adopted into the
821 comprehensive plan is exempt from the provisions of this
822 section.
823
824 If a use is exempt from review as a development of regional
825 impact under subparagraphs (a)-(u) but will be part of a larger
826 project that is subject to review as a development of regional
827 impact, the impact of the exempt use must be included in the
828 review of the larger project.
829 Section 2. Subsections (3) and (4) of section 380.0651,
830 Florida Statutes, are amended to read:
831 380.0651 Statewide guidelines and standards.--
832 (3) The following statewide guidelines and standards shall
833 be applied in the manner described in s. 380.06(2) to determine
834 whether the following developments shall be required to undergo
835 development-of-regional-impact review:
836 (a) Airports.--
837 1. Any of the following airport construction projects
838 shall be a development of regional impact unless exempt under s.
839 380.06(24):
840 a. A new commercial service or general aviation airport

841 with paved runways.
842 b. A new commercial service or general aviation paved
843 runway.
844 c. A new passenger terminal facility.
845 2. Lengthening of an existing runway by 25 percent or an
846 increase in the number of gates by 25 percent or three gates,
847 whichever is greater, on a commercial service airport or a
848 general aviation airport with regularly scheduled flights is a
849 development of regional impact. However, expansion of existing
850 terminal facilities at a nonhub or small hub commercial service
851 airport shall not be a development of regional impact.
852 3. Any airport development project which is proposed for
853 safety, repair, or maintenance reasons alone and would not have
854 the potential to increase or change existing types of aircraft
855 activity is not a development of regional impact.
856 Notwithstanding subparagraphs 1. and 2., renovation,
857 modernization, or replacement of airport airside or terminal
858 facilities that may include increases in square footage of such
859 facilities but does not increase the number of gates or change
860 the existing types of aircraft activity is not a development of
861 regional impact.
862 ~~(b) Attractions and recreation facilities.--Any sports,~~
863 ~~entertainment, amusement, or recreation facility, including, but~~
864 ~~not limited to, a sports arena, stadium, racetrack, tourist~~
865 ~~attraction, amusement park, or pari-mutuel facility, the~~
866 ~~construction or expansion of which:~~
867 ~~1. For single performance facilities:~~
868 ~~a. Provides parking spaces for more than 2,500 cars; or~~

869 ~~b. Provides more than 10,000 permanent seats for~~
870 ~~spectators.~~
871 ~~2. For serial performance facilities:~~
872 ~~a. Provides parking spaces for more than 1,000 cars; or~~
873 ~~b. Provides more than 4,000 permanent seats for~~
874 ~~spectators.~~
875
876 ~~For purposes of this subsection, "serial performance facilities"~~
877 ~~means those using their parking areas or permanent seating more~~
878 ~~than one time per day on a regular or continuous basis.~~
879 ~~3. For multiscreen movie theaters of at least 8 screens~~
880 ~~and 2,500 seats:~~
881 ~~a. Provides parking spaces for more than 1,500 cars; or~~
882 ~~b. Provides more than 6,000 permanent seats for~~
883 ~~spectators.~~
884 (b) ~~(c)~~ Industrial plants, industrial parks, and
885 distribution, warehousing or wholesaling facilities.--Any
886 proposed industrial, manufacturing, or processing plant, or
887 distribution, warehousing, or wholesaling facility, excluding
888 wholesaling developments which deal primarily with the general
889 public onsite, under common ownership, or any proposed
890 industrial, manufacturing, or processing activity or
891 distribution, warehousing, or wholesaling activity, excluding
892 wholesaling activities which deal primarily with the general
893 public onsite, which:
894 1. Provides parking for more than 2,500 motor vehicles; or
895 2. Occupies a site greater than 320 acres.
896 (c) ~~(d)~~ Office development.--Any proposed office building

897 or park operated under common ownership, development plan, or
898 management that:
899 1. Encompasses 300,000 or more square feet of gross floor
900 area; or
901 2. Encompasses more than 600,000 square feet of gross
902 floor area in a county with a population greater than 500,000
903 and only in a geographic area specifically designated as highly
904 suitable for increased threshold intensity in the approved local
905 comprehensive plan ~~and in the strategic regional policy plan~~.
906 (d) ~~(e)~~ Marinas ~~Port facilities~~.--The proposed construction
907 of any ~~waterport or~~ marina is required to undergo development-
908 of-regional-impact review if it is~~, except one~~ designed for:
909 1.a. The wet storage or mooring of more ~~fewer~~ than 150
910 watercraft used ~~exclusively~~ for sport, pleasure, or commercial
911 fishing;~~,~~ or
912 ~~b. The dry storage of fewer than 200 watercraft used~~
913 ~~exclusively for sport, pleasure, or commercial fishing, or~~
914 b.~~c.~~ The wet ~~or dry~~ storage or mooring of more ~~fewer~~ than
915 150 watercraft on or adjacent to an inland freshwater lake
916 except Lake Okeechobee or any lake that ~~which~~ has been
917 designated an Outstanding Florida Water.~~, or~~
918 ~~d. The wet or dry storage or mooring of fewer than 50~~
919 ~~watercraft of 40 feet in length or less of any type or purpose.~~
920 2. The subthreshold exceptions to this paragraph's
921 requirements for development-of-regional-impact review do ~~shall~~
922 not apply to any ~~waterport or~~ marina facility located within or
923 which serves physical development located within a coastal
924 barrier resource unit on an unbridged barrier island designated

925 pursuant to 16 U.S.C. s. 3501.
926
927 In addition to the foregoing, for projects for which no
928 environmental resource permit or sovereign submerged land lease
929 is required, the Department of Environmental Protection must
930 determine in writing that a proposed marina in excess of 75 ~~10~~
931 slips or storage spaces or a combination of the two is located
932 so that it will not adversely impact Outstanding Florida Waters
933 or Class II waters and will not contribute boat traffic in a
934 manner that will have an adverse impact on an area known to be,
935 or likely to be, frequented by manatees. If the Department of
936 Environmental Protection fails to issue its determination within
937 45 days after ~~of~~ receipt of a formal written request, it has
938 waived its authority to make such determination. The Department
939 of Environmental Protection determination shall constitute final
940 agency action pursuant to chapter 120.
941 ~~2. The dry storage of fewer than 300 watercraft used~~
942 ~~exclusively for sport, pleasure, or commercial fishing at a~~
943 ~~marina constructed and in operation prior to July 1, 1985.~~
944 ~~3. Any proposed marina development with both wet and dry~~
945 ~~mooring or storage used exclusively for sport, pleasure, or~~
946 ~~commercial fishing, where the sum of percentages of the~~
947 ~~applicable wet and dry mooring or storage thresholds equals 100~~
948 ~~percent. This threshold is in addition to, and does not~~
949 ~~preclude, a development from being required to undergo~~
950 ~~development of regional impact review under sub-subparagraphs~~
951 ~~1.a. and b. and subparagraph 2.~~
952 (e) ~~(f)~~ Retail and service development.--Any proposed

953 retail, service, or wholesale business establishment or group of
954 establishments which deals primarily with the general public
955 onsite, operated under one common property ownership,
956 development plan, or management that:
957 1. Encompasses more than 400,000 square feet of gross
958 area; or
959 2. Provides parking spaces for more than 2,500 cars.
960 (f) ~~(g)~~ Hotel or motel development.--
961 1. Any proposed hotel or motel development that is planned
962 to create or accommodate 350 or more units; or
963 2. Any proposed hotel or motel development that is planned
964 to create or accommodate 750 or more units, in a county with a
965 population greater than 500,000, and only in a geographic area
966 specifically designated as highly suitable for increased
967 threshold intensity in the approved local comprehensive plan and
968 in the strategic regional policy plan.
969 (g) ~~(h)~~ Recreational vehicle development.--Any proposed
970 recreational vehicle development planned to create or
971 accommodate 500 or more spaces.
972 (h) ~~(i)~~ Multiuse development.--Any proposed development
973 with two or more land uses where the sum of the percentages of
974 the appropriate thresholds identified in chapter 28-24, Florida
975 Administrative Code, or this section for each land use in the
976 development is equal to or greater than 145 percent. Any
977 proposed development with three or more land uses, one of which
978 is residential and contains at least 100 dwelling units or 15
979 percent of the applicable residential threshold, whichever is
980 greater, where the sum of the percentages of the appropriate

981 thresholds identified in chapter 28-24, Florida Administrative
982 Code, or this section for each land use in the development is
983 equal to or greater than 160 percent. This threshold is in
984 addition to, and does not preclude, a development from being
985 required to undergo development-of-regional-impact review under
986 any other threshold.
987 (i) ~~(j)~~ Residential development.--No rule may be adopted
988 concerning residential developments which treats a residential
989 development in one county as being located in a less populated
990 adjacent county unless more than 25 percent of the development
991 is located within 2 or less miles of the less populated adjacent
992 county.
993 ~~(k) Schools.--~~
994 ~~1. The proposed construction of any public, private, or~~
995 ~~proprietary postsecondary educational campus which provides for~~
996 ~~a design population of more than 5,000 full-time equivalent~~
997 ~~students, or the proposed physical expansion of any public,~~
998 ~~private, or proprietary postsecondary educational campus having~~
999 ~~such a design population that would increase the population by~~
1000 ~~at least 20 percent of the design population.~~
1001 ~~2. As used in this paragraph, "full-time equivalent~~
1002 ~~student" means enrollment for 15 or more quarter hours during a~~
1003 ~~single academic semester. In career centers or other~~
1004 ~~institutions which do not employ semester hours or quarter hours~~
1005 ~~in accounting for student participation, enrollment for 18~~
1006 ~~contact hours shall be considered equivalent to one quarter~~
1007 ~~hour, and enrollment for 27 contact hours shall be considered~~
1008 ~~equivalent to one semester hour.~~

1009 ~~3. This paragraph does not apply to institutions which are~~
1010 ~~the subject of a campus master plan adopted by the university~~
1011 ~~board of trustees pursuant to s. 1013.30.~~
1012 (4) Two or more developments, represented by their owners
1013 or developers to be separate developments, shall be aggregated
1014 and treated as a single development under this chapter when they
1015 are determined to be part of a unified plan of development and
1016 are physically proximate to one other.
1017 (a) The criteria of two of the following subparagraphs
1018 must be met in order for the state land planning agency to
1019 determine that there is a unified plan of development:
1020 1.a. The same person has retained or shared control of the
1021 developments;
1022 b. The same person has ownership or a significant legal or
1023 equitable interest in the developments; or
1024 c. There is common management of the developments
1025 controlling the form of physical development or disposition of
1026 parcels of the development.
1027 2. There is a reasonable closeness in time between the
1028 completion of 80 percent or less of one development and the
1029 submission to a governmental agency of a master plan or series
1030 of plans or drawings for the other development which is
1031 indicative of a common development effort.
1032 3. A master plan or series of plans or drawings exists
1033 covering the developments sought to be aggregated which have
1034 been submitted to a local general-purpose government, water
1035 management district, the Florida Department of Environmental
1036 Protection, or the Division of Florida Land Sales, Condominiums,

1037 and Mobile Homes for authorization to commence development. The
1038 existence or implementation of a utility's master utility plan
1039 required by the Public Service Commission or general-purpose
1040 local government or a master drainage plan shall not be the sole
1041 determinant of the existence of a master plan.
1042 4. The voluntary sharing of infrastructure that is
1043 indicative of a common development effort or is designated
1044 specifically to accommodate the developments sought to be
1045 aggregated, except that which was implemented because it was
1046 required by a local general-purpose government; water management
1047 district; the Department of Environmental Protection; the
1048 Division of Florida Land Sales, Condominiums, and Mobile Homes;
1049 or the Public Service Commission.
1050 5. There is a common advertising scheme or promotional
1051 plan in effect for the developments sought to be aggregated.
1052 (b) The following activities or circumstances shall not be
1053 considered in determining whether to aggregate two or more
1054 developments:
1055 1. Activities undertaken leading to the adoption or
1056 amendment of any comprehensive plan element described in part II
1057 of chapter 163.
1058 2. The sale of unimproved parcels of land, where the
1059 seller does not retain significant control of the future
1060 development of the parcels.
1061 3. The fact that the same lender has a financial interest,
1062 including one acquired through foreclosure, in two or more
1063 parcels, so long as the lender is not an active participant in
1064 the planning, management, or development of the parcels in which

1065 it has an interest.
1066 4. Drainage improvements that are not designed to
1067 accommodate the types of development listed in the guidelines
1068 and standards contained in or adopted pursuant to this chapter
1069 or which are not designed specifically to accommodate the
1070 developments sought to be aggregated.
1071 (c) Aggregation is not applicable when the following
1072 circumstances and provisions of this chapter are applicable:
1073 1. Developments that ~~which~~ are otherwise subject to
1074 aggregation with a development of regional impact that ~~which~~ has
1075 received approval through the issuance of a final development
1076 order may ~~shall~~ not be aggregated with the approved development
1077 of regional impact. However, ~~nothing contained in~~ this
1078 subparagraph does not ~~shall~~ preclude the state land planning
1079 agency from evaluating an allegedly separate development as a
1080 substantial deviation pursuant to s. 380.06(19) or as an
1081 independent development of regional impact and, if so, the
1082 impacts of the independent developments of regional impact may
1083 not be considered cumulatively.
1084 2. Two or more developments, each of which is
1085 independently a development of regional impact that has or will
1086 obtain a development order pursuant to s. 380.06.
1087 3. Completion of any development that has been vested
1088 pursuant to s. 380.05 or s. 380.06, including vested rights
1089 arising out of agreements entered into with the state land
1090 planning agency for purposes of resolving vested rights issues.
1091 Development-of-regional-impact review of additions to vested
1092 developments of regional impact shall not include review of the

1093 impacts resulting from the vested portions of the development.
1094 4. The developments sought to be aggregated were
1095 authorized to commence development prior to September 1, 1988,
1096 and could not have been required to be aggregated under the law
1097 existing prior to that date.
1098 (d) The provisions of this subsection shall be applied
1099 prospectively from September 1, 1988. Written decisions,
1100 agreements, and binding letters of interpretation made or issued
1101 by the state land planning agency prior to July 1, 1988, shall
1102 not be affected by this subsection.
1103 (e) In order to encourage developers to design, finance,
1104 donate, or build infrastructure, public facilities, or services,
1105 the state land planning agency may enter into binding agreements
1106 with two or more developers providing that the joint planning,
1107 sharing, or use of specified public infrastructure, facilities,
1108 or services by the developers shall not be considered in any
1109 subsequent determination of whether a unified plan of
1110 development exists for their developments. Such binding
1111 agreements may authorize the developers to pool impact fees or
1112 impact-fee credits, or to enter into front-end agreements, or
1113 other financing arrangements by which they collectively agree to
1114 design, finance, donate, or build such public infrastructure,
1115 facilities, or services. Such agreements shall be conditioned
1116 upon a subsequent determination by the appropriate local
1117 government of consistency with the approved local government
1118 comprehensive plan and land development regulations.
1119 Additionally, the developers must demonstrate that the provision
1120 and sharing of public infrastructure, facilities, or services is

1121 in the public interest and not merely for the benefit of the
1122 developments which are the subject of the agreement.
1123 Developments that are the subject of an agreement pursuant to
1124 this paragraph shall be aggregated if the state land planning
1125 agency determines that sufficient aggregation factors are
1126 present to require aggregation without considering the design
1127 features, financial arrangements, donations, or construction
1128 that are specified in and required by the agreement.
1129 (f) The state land planning agency has authority to adopt
1130 rules pursuant to ss. 120.536(1) and 120.54 to implement the
1131 provisions of this subsection.
1132 Section 3. Subsection (7) is added to section 380.07,
1133 Florida Statutes, to read:
1134 380.07 Florida Land and Water Adjudicatory Commission.--
1135 (7) Notwithstanding any other provision of law, s.
1136 163.3215 is the sole mechanism for challenging the consistency
1137 of a development order issued under this chapter with the local
1138 government comprehensive plan. The Department of Community
1139 Affairs has standing to initiate an action under s. 163.3215 to
1140 determine the consistency of a development-of-regional-impact
1141 development order with the local government comprehensive plan
1142 and for no other purpose.
1143 Section 4. Section 380.115, Florida Statutes, is amended
1144 to read:
1145 380.115 Vested rights and duties; effect of size
1146 reduction, changes in guidelines and standards ~~chs. 2002-20 and~~
1147 ~~2002-296~~.--
1148 (1) A change in a development-of-regional-impact guideline

1149 and standard does not abridge ~~Nothing contained in this act~~
1150 ~~abridges~~ or modify ~~modifies~~ any vested or other right or any
1151 duty or obligation pursuant to any development order or
1152 agreement that is applicable to a development of regional impact
1153 ~~on the effective date of this act~~. A development that has
1154 received a development-of-regional-impact development order
1155 pursuant to s. 380.06, but is no longer required to undergo
1156 development-of-regional-impact review by operation of a change
1157 in the guidelines and standards or has reduced its size below
1158 the thresholds in s. 380.0651 ~~of this act~~, shall be governed by
1159 the following procedures:
1160 (a) The development shall continue to be governed by the
1161 development-of-regional-impact development order and may be
1162 completed in reliance upon and pursuant to the development order
1163 unless the developer or landowner has followed the procedures
1164 for rescission in paragraph (b). The development-of-regional-
1165 impact development order may be enforced by the local government
1166 as provided by ss. 380.06(17) and 380.11.
1167 (b) If requested by the developer or landowner, the
1168 development-of-regional-impact development order shall ~~may~~ be
1169 rescinded by the local government having jurisdiction upon a
1170 showing that all required mitigation related to the amount of
1171 development that existed on the date of rescission has been
1172 completed ~~abandoned pursuant to the process in s. 380.06(26)~~.
1173 (2) A development with an application for development
1174 approval pending, ~~and determined sufficient~~ pursuant to s.
1175 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the
1176 guidelines and standards ~~this act~~, or a notification of proposed

1177 change pending on the effective date of a change to the
1178 guidelines and standards ~~this act~~, may elect to continue such
1179 review pursuant to s. 380.06. At the conclusion of the pending
1180 review, including any appeals pursuant to s. 380.07, the
1181 resulting development order shall be governed by the provisions
1182 of subsection (1).
1183 (3) A landowner that has filed an application for a
1184 development-of-regional-impact review prior to the adoption of
1185 an optional sector plan pursuant to s. 163.3245 may elect to
1186 have the application reviewed pursuant to s. 380.06,
1187 comprehensive plan provisions in force prior to adoption of the
1188 sector plan, and any requested comprehensive plan amendments
1189 that accompany the application.
1190 Section 5. Subsection (12) of section 163.3180, Florida
1191 Statutes, is amended to read:
1192 163.3180 Concurrency.--
1193 (12) When authorized by a local comprehensive plan, a
1194 multiuse development of regional impact may satisfy the
1195 transportation concurrency requirements of the local
1196 comprehensive plan, the local government's concurrency
1197 management system, and s. 380.06 by payment of a proportionate-
1198 share contribution for local and regionally significant traffic
1199 impacts, if:
1200 (a) The development of regional impact meets or exceeds
1201 the guidelines and standards of s. 380.0651(3)(h) ~~s.~~
1202 ~~380.0651(3)(i)~~ and rule 28-24.032(2), Florida Administrative
1203 Code, and includes a residential component that contains at
1204 least 100 residential dwelling units or 15 percent of the

1205 applicable residential guideline and standard, whichever is
1206 greater;
1207 (b) The development of regional impact contains an
1208 integrated mix of land uses and is designed to encourage
1209 pedestrian or other nonautomotive modes of transportation;
1210 (c) The proportionate-share contribution for local and
1211 regionally significant traffic impacts is sufficient to pay for
1212 one or more required improvements that will benefit a regionally
1213 significant transportation facility;
1214 (d) The owner and developer of the development of regional
1215 impact pays or assures payment of the proportionate-share
1216 contribution; and
1217 (e) If the regionally significant transportation facility
1218 to be constructed or improved is under the maintenance authority
1219 of a governmental entity, as defined by s. 334.03(12), other
1220 than the local government with jurisdiction over the development
1221 of regional impact, the developer is required to enter into a
1222 binding and legally enforceable commitment to transfer funds to
1223 the governmental entity having maintenance authority or to
1224 otherwise assure construction or improvement of the facility.
1225
1226 The proportionate-share contribution may be applied to any
1227 transportation facility to satisfy the provisions of this
1228 subsection and the local comprehensive plan, but, for the
1229 purposes of this subsection, the amount of the proportionate-
1230 share contribution shall be calculated based upon the cumulative
1231 number of trips from the proposed development expected to reach
1232 roadways during the peak hour from the complete buildout of a

1233 stage or phase being approved, divided by the change in the peak
1234 hour maximum service volume of roadways resulting from
1235 construction of an improvement necessary to maintain the adopted
1236 level of service, multiplied by the construction cost, at the
1237 time of developer payment, of the improvement necessary to
1238 maintain the adopted level of service. For purposes of this
1239 subsection, "construction cost" includes all associated costs of
1240 the improvement.
1241 Section 6. Subsection (21) of section 331.303, Florida
1242 Statutes, is amended to read:
1243 331.303 Definitions.--
1244 (21) "Spaceport launch facilities" shall be defined as
1245 industrial facilities in accordance with s. 380.0651(3)(b) ~~s.~~
1246 ~~380.0651(3)(c)~~ and include any launch pad, launch control
1247 center, and fixed launch-support equipment.
1248 Section 7. This act shall take effect July 1, 2006.

HB 703

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 703 Municipal Annexation
SPONSOR(S): Justice and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson	Hamby
2) Growth Management Committee			
3) Agriculture & Environment Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 703 amends the statutory involuntary annexation procedure by excluding state-owned land from provisions which requires the consent of greater than 50 percent of owners where more than 70 percent of the property in an area proposed for annexation is owned by individuals, corporations or legal entities which are not registered electors. Thus, the consent of the Board of Trustees of the Internal Improvement Trust (the Governor and Cabinet) would not be required with regard to the annexation of any state-owned land.

The fiscal impact of the bill is indeterminate. While the state is immune from taxation, it could experience higher costs associated with certain services (e.g., utilities) depending on whether its property remains unincorporated territory or is included within a municipality.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty

If the state is not considered in the consent process for involuntary annexations, private owners of the unincorporated areas under consideration will have more control over the annexation of their property.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Constitutional/Statutory Provisions Relating to Annexation[1]

Section 2 (c), Art. VIII of the State Constitution provides that "[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law." This provision authorizes the Legislature to annex unincorporated property into a municipality by special act. It also authorizes the Legislature to establish procedures in general law for the annexation of property.

The Legislature established local annexation procedures by general law in 1974, with the enactment of ch. 171, F. S., the "Municipal Annexation or Contraction Act." This act describes the way in which property may be annexed or de-annexed by cities without legislative action. The purpose of the act is to set forth procedures for adjusting the boundaries of municipalities through annexations or contractions of corporate limits, and criteria for determining when annexations or contractions may take place so as to:

- ensure sound urban development and accommodation to growth;
- establish uniform legislative standards throughout the state for the adjustment of municipal boundaries;
- ensure the efficient provision of urban services to areas that become urban in character; and
- ensure that areas are not annexed unless municipal services can be provided to those areas.

Statutory Requirements for Annexation

Before local annexation procedures may begin, pursuant to s. 171.042, F.S., the governing body of the municipality must prepare a report containing plans for providing urban services to any area to be annexed. A copy of the report must be filed with the board of county commissioners where the municipality is located. This report must include appropriate maps, plans for extending municipal services, timetables and financing methodologies. It must certify that the area proposed to be annexed is appropriate for annexation because it meets the following standards and requirements described by s. 171.043, F.S.:

[1] The term "annexation" is defined in the Florida Statutes to mean "the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality." See, s. 171.031(1), F.S. For an annexation to be valid under ch. 171, F. S., the annexation must take place within the boundaries of a single county. See, s. 171.045, F.S.

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality.[2]
- The area to be annexed must be reasonably compact.[3]
- No part of the area to be annexed may fall within the boundary of another incorporated municipality.
- Part or all of the land to be annexed must be developed for urban purposes.[4]
- Alternatively, if the proposed area is not developed for urban purposes, it can either border at least 60 percent of a developed area, or provide a necessary bridge between two urban areas for the extension of municipal services.

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place after the municipal governing body levies such tax for that year. In the case of municipal contractions, the city and county must reach agreement on the transfer of indebtedness or property—the amount to be assumed, its fair value and the manner of transfer and financing.[5]

Types of Annexations

Voluntary Annexation

If the property owners of a reasonably compact, unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. Section 171.044 (4), F. S., provides that the procedures for voluntary annexation are "supplemental to any other procedure provided by general law or special law." The following process governs voluntary annexations in every county, except for those counties with charters providing an exclusive method for municipal annexation:

- submission of a petition—signed by all property owners in the area proposed to be annexed—to the municipal governing body; and
- adoption of an ordinance by the governing body of the municipality to annex the property after publication of a notice—which sets forth the proposed ordinance in full—at least once a week for two consecutive weeks.

The governing body of the municipality also must provide a copy of the notice to the board of county commissioners of the county where the municipality is located.

In addition, the annexation must not create enclaves. An enclave is: (a) any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.[6]

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[2] This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. There are specified exceptions for cases in which an area is separated from the city's boundary by a publicly owned county park, right-of-way or body of water.

[3] Section 171.031(12), F.S., defines "compactness" as concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Any annexation proceeding in any county in the state is required to be designed in such a manner as to ensure that the area will be reasonably compact.

[4] An area developed for urban purposes is defined as an area which meets any one of the following standards: (a) a total resident population equal to at least two persons per acre; (b) a total resident population equal to at least one person per acre, with at least 60 percent of subdivided lots one acre or less; or (c) at least 60 percent of the total lots used for urban purposes, with at least 60 percent of the total urban residential acreage divided into lots of five acres or less.

[5] See, s. 171.061, F.S.

[6] Section 171.031(13), F.S.

Involuntary Annexation

A municipality may annex property where the property owners have not petitioned for annexation pursuant to s. 171.0413, F. S. This process is referred to as "involuntary" annexation. In general, the requirements for an involuntary annexation are:

- the adoption of an annexation ordinance by the annexing municipality's governing body;
- at least two advertised public hearings held by the governing body of the municipality prior to the adoption of the ordinance, with the first hearing on a weekday at least seven days after the first advertisement and the second hearing held on a weekday at least five days after the first advertisement; [7] and
- submission of the ordinance to a vote of the registered electors of the area proposed for annexation once the governing body has adopted the ordinance.[8]

Any parcel of land which is owned by one individual, corporation or legal entity, or owned collectively by one or more individuals, corporations or legal entities, proposed to be annexed can not be severed, separated, divided or partitioned by the provisions of the ordinance, unless the owner of such property waives this requirement.

If there is a majority vote in favor of annexation in the area proposed to be annexed, the area becomes part of the city. If there is no majority vote, the area cannot be made the subject of another annexation proposal for two years from the date of the referendum.

If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations or legal entities which are not registered electors of such area, the area can not be annexed unless the owners of more than 50 percent of the land in such area consent to the annexation. This consent must be obtained by the parties proposing the annexation prior to the referendum.

If the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. The area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the governing body does not choose to hold a referendum of the annexing municipality, then the property owner consents must be obtained by the parties proposing the annexation prior to the final adoption of the ordinance.

Effect of Annexation on an Area

Upon the effective date of an annexation, the area becomes subject to all laws, ordinances and regulations in force in the annexing municipality. An exception occurs pursuant to s. 171.062(2), F.S., in that if the area annexed was subject to a county land use plan and county zoning or subdivision regulations, these regulations remain in effect until the municipality adopts a comprehensive plan amendment that includes the annexed area. In contractions, excluded territory is immediately subject to county laws, ordinances and regulations.

Any changes in municipal boundaries require revision of the boundary section of the municipality's charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.[9]

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[7] This new requirement was passed by the 1999 Legislature.

[8] In 1999, the Florida Legislature removed the requirement of a dual referendum in specific circumstances. Previously, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality or cumulatively exceeded more than five percent of the municipal population. The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality.

[9] Section 171.091, F.S.

Appeal of Annexation or Contraction

Affected persons who believe they will suffer material injury because of the failure of a city to comply with annexation or contraction laws as applied to their property can appeal the annexation ordinance. They may file a petition within 30 days following the passage of the ordinance with the circuit court for the county in which the municipality is located seeking the court's review by certiorari. If an appeal is won, the petitioner is entitled to reasonable costs and attorney's fees.[10]

State-Owned Land

Chapter 253, F.S., is entitled "State Lands." Section 253.001, F.S., establishes that pursuant to the provisions of s. 7, Art. II, and s. 11, Art. X of the State Constitution, all lands held in the name of the Board of Trustees of the Internal Improvement Trust Fund are held in trust for the use and benefit of the people of the state of Florida.

The Governor and the Cabinet sit as the Board of Trustees of the Internal Improvement Trust Fund. Pursuant to s. 253.03, F.S., the Board is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection and disposition of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards or commissions, excluding certain properties. The Division of State Lands of the Department of Environmental Protection performs staff duties and functions related to the acquisition, administration and disposition of those lands in which title is vested in the Board. See, s. 253.002(1), F.S

EFFECT OF PROPOSED CHANGES

HB 703 amends the involuntary annexation procedure contained in s. 171.0413, F.S., by excluding state-owned land from the consent processes provided in that section. Thus, it prevents the Board of Trustees of the Internal Improvement Trust Fund from participating in these annexation decisions.

In some instances, the Board currently does not have the ability to participate in annexation decisions regarding land that it owns as it is not a registered elector who can vote on a proposed ordinance. However, pursuant to s. 171.0413(5), F.S., if more than 70 percent of an area proposed to be annexed is owned by entities which are not registered electors of the area, a requirement is triggered which calls for the consent of the owners of more than 50 percent of the land in such area prior to the referendum. This provision allows the Board to participate in the decision making process in instances where it is a land owner in an area proposed for annexation. Section 171.0413(6), F.S., also allows the Board to take part in the decision-making process if the area proposed for annexation has no registered electors by requiring consent from the owners of more than 50 percent of the parcels of land in the area.

The Department of Environmental Protection has indicated that generally the Board is in favor of annexation of state land. In instances where the state owns over 50 percent of the land in an area proposed for involuntary annexation under s. 171.0413, F.S., the state's consent assures annexation without regard to the wishes of other landowners. The bill addresses this potential outcome by removing the Board from the consent equation. Under the bill's provisions, these types of annexations would be decided by landowners other than the state.

C. SECTION DIRECTORY:

Section 1: Amends s. 171.0413, F.S., to exclude state-owned land from an annexation procedure.

Section 2: Provides an effective date.

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[10] Section 171.081, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

While the state is immune from taxation, it could experience higher costs associated with certain services (e.g., utilities) depending on whether its property remains unincorporated territory or is included within a municipality.

1. Revenues:

Unknown.

2. Expenditures:

Unknown.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

C. 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:

Drafting Issues

None.

Other Comments

A representative of The Florida Department of Environmental Regulation has indicated that, as a matter of policy, the agency opposes this bill. The Board of Trustees represents the citizens of the state of Florida, and this bill would essentially eliminate their right to weight in on these issues. [11]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[11] Telephone conversation with Ryder Rudd, Legislative Affairs, March 2, 2006.

1 A bill to be entitled
2 An act relating to municipal annexation; amending s.
3 171.0413, F.S.; excluding state-owned land from certain
4 municipal annexation procedures; providing an effective
5 date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Subsection (5) of section 171.0413, Florida
10 Statutes, is amended to read:
11 171.0413 Annexation procedures.--Any municipality may
12 annex contiguous, compact, unincorporated territory in the
13 following manner:
14 (5) If more than 70 percent of the land in an area
15 proposed to be annexed is owned by individuals, corporations, or
16 legal entities which are not registered electors of such area,
17 such area shall not be annexed unless the owners of more than 50
18 percent of the land in such area, excluding state-owned land,
19 consent to such annexation. Such consent shall be obtained by
20 the parties proposing the annexation prior to the referendum to
21 be held on the annexation.
22 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 757 Polk County
SPONSOR(S): Stargel
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson	Hamby
2) Governmental Operations Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 757 amends ch. 88-443, L.O.F., as amended, which created a personnel system for the Polk County Sheriff's Office. The bill changes references to positions excluded from this system to reflect a reorganization of titles within the Office. The bill also removes intent language from the act which attempts to restrict collective bargaining rights for deputy sheriffs. This is in response to a 2003 determination by the Florida Supreme Court that deputy sheriffs are "employees" for purposes of the constitutional right to collectively bargain.

Additionally, the bill adjusts the commencement of the two-year terms of personnel board members from the second Tuesday of January, to the same day in February; reduces the term of the chairman of the board from two years to one year; revises the effective date of the initial probationary period for employees; and makes minor technical changes to language in the special act.

According to the Economic Impact Statement, no fiscal effects are anticipated as a result of the bill.

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:

Present Situation

In 1988, the Legislature authorized a personnel system for deputies, employees and members of the Sheriff's Office of Polk County (ch. 88-443, L.O.F.). This "classified service" includes all certified deputy sheriffs, certified detention deputies and noncertified support staff, and specifically excludes the sheriff, the undersheriff, colonels, directors, legal advisors, personnel holding the rank of major or above or equivalent noncertified support positions, contract personnel, nonsalaried personnel, any special deputy sheriff appointed pursuant to s. 30.09(4), F.S.,[1] members of the Mounted Enforcement Unit, or Auxiliary or Reserve Unit, or any person appointed as a part-time employee. Eligible employees become members of the classified service after serving at least one year probationary service, and appointments take effect upon the date the person appointed reports to duty. Currently, no employees within the Polk County Sheriff's Office are represented by a collective bargaining agent.[2]

The Sheriff is authorized to appoint a five-member personnel board to hear appeals and complaints and to make recommendations regarding the same. To ensure continuity, board members are appointed by the Sheriff to two-year terms on an alternating schedule effective the second Tuesday of January. The Human Resources Administrator serves as secretary to the board, and as an ex officio member. Board members elect one member to serve as their chair for a two-year period.

A three-person Members Nominating Committee nominates candidates for appointment to the board. These individuals are elected from each department of the Sheriff's Office by classified service members, and also serve two-year terms.

Effect of Proposed Changes

HB 757 amends ch. 88-443, L.O.F., as amended, relating to the classified service of the Polk County Sheriff's Office, and changes references to positions excluded from this system (from the "undersheriff" and "colonels" to the "chief of staff," "chief of detention," "chief of law enforcement," "chief of criminal investigations," and "executive director of the Office of Business Affairs") to reflect a reorganization of titles within the Office. This language refers to the same individuals and, thus, has no impact.

The bill also removes intent provisions from the act which attempt to restrict collective bargaining rights for deputy sheriffs. This deletion is in reaction to a 2003 Florida Supreme Court decision[3] which held that deputy sheriffs were "employees" for purposes of the constitutional right to collectively bargain.[4]

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[1] This section applies to those special deputy sheriffs appointed: (a) to attend elections on election days; (b) to perform undercover investigative work; (c) for specific guard or police duties in connection with public sporting or entertainment events, not to exceed 30 days; or for watch or guard duties, when serving in such capacity at specified locations or areas only; (d) for special and temporary duties, without power of arrest, in connection with guarding or transporting prisoners; (e) to aid in preserving law and order, or to give necessary assistance in the event of any threatened or actual hurricane, fire, flood or other natural disaster, or in the event of any major tragedy such as an act of local terrorism or a national terrorism alert, an airplane crash, a train or automobile wreck or a similar accident; (f) to raise the power of the county, by calling bystanders or others, to assist in quelling a riot or any breach of the peace, when ordered by the sheriff or an authorized general deputy; and (g) to serve as certain parking enforcement specialists.

[2] Telephone conversation with Scott Wilder, Director of Communications, Polk County Sheriff's Office, February 14, 2006.

[3] Coastal Florida Police Benevolent Association, Inc. v. Williams, 838 So.2d 543 (Fla. 2003).

The bill adjusts the commencement of the two-year terms of personnel board members from the second Tuesday of January, to the same day in February, in order to accommodate the demanding schedule in the Sheriff's Office during the month of January each year. The bill also reduces the term of the chairman of the board from two years to one year in order to allow more opportunities for service in this position. Additionally, the bill revises the effective date of the initial probationary period for employees from the time that an individual reports to duty to when an individual successfully completes all entry level training. This change reflects current practice. The Sheriff's Office often hires non-certified or non-sworn civilians who then attend the law enforcement or corrections academy—i.e., "entry level training." These individuals are paid while in training. Once they successfully complete the academy, they are appointed as deputy sheriffs or detention deputy sheriffs, and begin a one-year probationary period.[5]

The bill also makes minor technical changes to language in the special act.

C. SECTION DIRECTORY:

Section 1: Amends ch. 88-443, L.O.F., as amended by ch. 98-516, L.O.F., as follows:

Section 1: Provides for use of current titles for positions excluded from the classified service. Deletes intent language.

Section 2: Provides clarifying language. Changes the name of the Human Resources Section to the Human Resources Division. Changes the title of the ranking officer of the Division.

Section 3: Changes the effective date of personnel board members' terms.

Section 5: Changes the term of the board chair.

Section 8: Removes unnecessary language.

Section 9: Specifies that the Members Nominating Committee shall be elected from a certain office and two departments.

Section 11: Corrects obsolete description.

Section 12: Corrects obsolete description.

Section 13: Provides for the initial probationary period.

Section 14: Provides clarifying language.

Section 15: Provides clarifying language.

Section 16: Provides clarifying language.

Section 17: Provides clarifying language.

Section 2: Provides an effective date.

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[4] Section 6, Art. I of the State Constitution provides: "Right to work.—The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike."

[5] Polk County Sheriff's Office General Order 22.10, 12. (f) 2): "Members (deputy sheriff and detention deputy) shall be classified as probationary for a period of twelve (12) months commencing upon the date they take their Oath of Office. [FCAC 4.04]." FCAC refers to the Florida Corrections Accreditation Commission; 4.04 means that this general order complies with standard 4.04.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 19, 2005.

WHERE? *The Polk County Democrat*, a semi-weekly newspaper published in Polk County.

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 []

According to the Economic Impact Statement, no fiscal effects are anticipated as a result of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

See, **Effect of Proposed Changes** section re: s. 6, Art. I of the State Constitution.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Line 77 provides new language which could be interpreted to mean that a member's conflict could be attributed to an alternate's business affairs. The sponsor may wish to consider an amendment which retains current language.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

AFFIDAVIT OF PUBLICATION

The Polk County Democrat

Published Semi-Weekly
Bartow, Polk County, Florida

Case No.
STATE OF FLORIDA

COUNTY OF POLK:

Before the undersigned authority personally appeared Shirley J. Whitaker, who on oath says that he or she is Classified Manager of The Polk County Democrat, a newspaper published at Bartow in Polk County, Florida; that the attached copy of advertisement, being a Notice of Publication in the matter of 2006 session of the Florida Legislature amend chapter 88-443, was published in said newspaper in the issues of Dec. 19, 2005.

Affiant further says that The Polk County Democrat is a newspaper published at Bartow, in said Polk County, Florida, and that the said newspaper has heretofore been continuously published in said Polk County, Florida, each Monday and Thursday and has been entered as periodicals matter at the post office in Bartow, in said Polk County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or 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.

Signed Shirley J. Whitaker

Sworn to and subscribed before me this 21st. day of Dec., 2005, by Shirley J. Whitaker, who is personally known to me.

Teresa M Crutchfield
(Signature of Notary Public)

Teresa M. Crutchfield
Notary Public

NOTICE OF PUBLICATION
TO WHOM IT MAY CONCERN

Notice is hereby given of intention to apply to the 2006 session of the Florida Legislature for passage of an act to amend chapter 88-443, Laws of Florida, to revise the existing legislation related to the classified service of the Polk County Sheriff's Office. The bill is an act relating to Polk County; amending chapter 88-443, Laws of Florida, as amended; excluding certain positions from the classified service of the Sheriff's Office of Polk County; removing legislative intent; revising names of units and titles of persons in the Sheriff's Office; revising terminology; revising the effective date of appointments to the personnel board; reducing the term of the chairperson of the board; specifying the office and departments from which members are elected to the Members Nominating Committee; revising the effective date of the initial probationary period; and providing an effective date.
Sheriff Grady Judd, 455 N. Broadway, Bartow, FL 33830.
Dec. 19, 2005-4004

4004

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 757

SPONSOR(S): Rep John R. Stargel

RELATING TO: Polk County Sheriff's Office

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

NAME OF DELEGATION: Polk County

CONTACT PERSON: Rachel Barnes

PHONE # and E-Mail: (863) 413-2877 or (850) 488-2270 - rachel.barnes@myflorida house.gov

I. *House policy requires that three things occur before a council or a committee of the House consider 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: Dec. 14, 2005

Location: Neil Combee Admin. Bldg., 330 W. Church St., Bartow, FL.

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] 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 [X] NO [ ] DATE [Dec. 19, 2005 **]**

Where? Polk Co. Democrat **County** Polk County

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 [ ] NO [ ] NOT APPLICABLE [X]

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

Delegation Chair *(Original Signature)* **Date** 2/17/06

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 #: HB 757

SPONSOR(S): Representative John Stargel

RELATING TO: Polk County -- Sheriff's Office Civil Service Law

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

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

		FY 06-07	FY 07-08
Expenditures:	None	Ø	Ø

II. ANTICIPATED SOURCE(S) OF FUNDING:

		FY 06-07	FY 07-08
Federal:	None	Ø	Ø
State:	None		
Local:	None		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

		FY 06-07	FY 07-08
Revenues:	None	Ø	Ø

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

Advantages: None

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]:

None

PHYLLIS P. RODDA
MY COMMISSION EXPIRES
October 3, 2008
#DD 476729
Bonded thru
Notary Public Underwriters
NOTARY PUBLIC STATE OF FLORIDA

PREPARED BY: Scott H. Wilder 2.15.06
[Must be signed by Preparer] Date

TITLE: Director of Communications

REPRESENTING: Polk County Sheriff's Office

PHONE: (863.534.6299)

E-Mail Address: swilder@polksheriff.org

1 A bill to be entitled
2 An act relating to Polk County; amending chapter 88-443,
3 Laws of Florida, as amended; excluding certain positions
4 from the classified service of the Sheriff's Office of
5 Polk County; removing legislative intent; revising names
6 of units and titles of persons in the Sheriff's Office;
7 revising terminology; revising the effective date of
8 appointments to the personnel board; reducing the term of
9 the chairperson of the board; specifying the office and
10 departments from which members are elected to the Members
11 Nominating Committee; revising the effective date of the
12 initial probationary period; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Chapter 88-443, Laws of Florida, as amended by
17 chapter 98-516, Laws of Florida, is amended to read:
18 Section 1. The terms of this act shall apply to the
19 classified service of the Polk County Sheriff's Office, which
20 shall include all certified deputy sheriffs, certified detention
21 deputies, and noncertified support staff of the Polk County
22 Sheriff's Office. The provisions of this act shall not include
23 the sheriff or chief of staff, chief of detention, chief of law
24 enforcement, chief of criminal investigations, executive
25 director of the Office of Business Affairs ~~under sheriff,~~
26 ~~colonels~~, directors, legal advisors, personnel holding the rank
27 of major or above or equivalent noncertified support positions,
28 contract personnel, nonsalaried personnel, any special deputy

29 sheriff appointed pursuant to s. 30.09(4)(b), Florida Statutes,
30 members of the Mounted Enforcement Unit, ~~or~~ Auxiliary or Reserve
31 Unit, or any person appointed as a part-time employee. ~~It is the~~
32 ~~intent of this act to authorize an advisory personnel system, to~~
33 ~~maintain the full powers of the Sheriff, and to continue to~~
34 ~~respect the legal limitations on the right of collective~~
35 ~~bargaining and other rights under part II of chapter 447,~~
36 ~~Florida Statues, and not to grant such rights to any deputy,~~
37 ~~member, or employee of the Polk County Sheriff's Office who,~~
38 ~~prior to the effective date of this act, did not otherwise have~~
39 ~~such rights pursuant to law.~~
40 Section 2. The Sheriff of Polk County is herby authorized
41 to appoint a personnel board, hereafter referred to as the
42 "board," to act as an advisory agency of and to the Sheriff,
43 which board shall be composed of five members to be appointed as
44 follows:
45 (1) Two members of the board shall be selected and
46 appointed by the Sheriff.
47 (2) Two members of the board shall be appointed by the
48 Sheriff after being elected in an election among members of the
49 classified service from a group of three nominations chosen by a
50 majority vote of a three-person committee known as the Members
51 Nominating Committee representing the classified members of the
52 Sheriff's Office as described in section 9. Each of three
53 candidates nominated by the Members Nominating Committee shall
54 possess qualifications for board membership as outlined in
55 subsections (5) and (6).

56 (3) The fifth member shall be selected by the four
57 appointed members of the board and shall be appointed by the
58 Sheriff.
59 (4) All members shall be appointed by the Sheriff and
60 shall also possess the qualifications for board membership
61 outlined in subsections (5) and (6).
62 (5) No member appointed pursuant to subsection (1),
63 subsection (2), or subsection (3), or that member's ~~his or her~~
64 alternate, may be:
65 (a) A member ~~An employee~~ of the Sheriff's Office or of any
66 city or county of this state or of the State of Florida or the
67 United States; or
68 (b) A member of any national, state, or county committee
69 of a political party; or
70 (c) A candidate for, or incumbent of, any paid public
71 office; or
72 (d) The spouse, parent or grandparent, child or
73 grandchild, brother or sister, aunt or uncle, niece or nephew,
74 by consanguinity or affinity, of a member of the classified
75 service; or
76 (e) Situated so as to have a conflict of interest in the
77 terms of the member's or alternate's ~~his or her~~ related
78 business, duties, or responsibilities in connection with the
79 board.
80 (6) All the members of the personnel board shall be at
81 least 21 years of age; of good moral character; of good
82 reputation in the community; citizens of the United States;
83 permanent residents of Florida; and residents of Polk County for

84 at least 2 years prior to the date of appointment.
85 (7) Two alternates to the board shall be appointed by the
86 Sheriff. In the event that a vacancy occurs in that a board
87 member terminates or that a matter before the board involves a
88 conflict of interest, the alternate member shall serve for the
89 hearing or term of office as the case may be.
90 (8) The ranking officer in charge of the Human Resources
91 Division ~~Section~~ shall be designated as the Human Resources
92 Director ~~Administrator~~ and shall serve as secretary to the board
93 and as an ex officio member of the board but shall have no vote.
94 Section 3. To ensure continuity, board members shall be
95 appointed by the Sheriff to 2-year terms on an alternating
96 schedule effective the second Tuesday of February ~~January~~. Two
97 members shall be appointed during even numbered years, and three
98 members shall be appointed during odd numbered years. Nothing
99 contained herein shall prohibit board members from being
100 reappointed by the Sheriff for additional terms.
101 Section 4. Members of the board shall receive no salary,
102 but each shall be paid a monthly allowance, the amount to be
103 determined by the Sheriff, for expenses incurred in performing
104 the duties of the board.
105 Section 5. The board shall elect one member to serve as
106 chairperson ~~the chair~~ for a 1-year period ~~2-year period~~. The
107 chairperson ~~chair~~ shall perform such duties as are provided for
108 by the board's rules.
109 Section 6. The Sheriff shall make available to the board a
110 table of organization and a list of all employees and members,
111 positions, and classes and the pay scale of each position and

112 class in the Sheriff's Office.
113 Section 7. The board shall have the following powers and
114 duties:
115 (1) To adopt and amend rules and regulations for its
116 hearing procedures subject to approval by the Sheriff.
117 (2) To hear appeals and complaints in matters provided for
118 in this act and to make recommendations to the Sheriff regarding
119 the same. Three members shall constitute a quorum for hearing an
120 appeal and rendering a decision.
121 Section 8. The Sheriff shall have the authority to adopt
122 such rules and regulations as are necessary for ~~the~~
123 ~~implementation and~~ administration of this act.
124 Section 9. There shall be a three-person Members
125 Nominating Committee which shall nominate candidates for
126 appointment to the board. All members of the committee shall be
127 members of the classified service. One member shall be elected
128 from the Office of Business Affairs, the Department of Law
129 Enforcement, and the Department of Detention ~~each department~~ by
130 secret vote of all members of the classified service within each
131 respective office or department. Members of the committee shall
132 serve a 2-year term of office beginning July 1.
133 Section 10. The Sheriff or the Sheriff's designee may
134 create new positions within the Sheriff's Office or combine,
135 alter, or abolish existing positions in such manner as the
136 Sheriff deems necessary.
137 Section 11. The Human Resources Director ~~Administrator~~
138 shall give public notice of vacancies and of open competitive
139 examinations for positions in the classified service. The Human

140 Resources Director ~~Administrator~~ ~~in the Sheriff's Office~~ shall
141 establish and maintain such eligibility lists for the various
142 job classes as are deemed necessary to meet the needs of the
143 Sheriff's Office.
144 Section 12. ~~(1)~~ Whenever a vacancy occurs in any position
145 in the classified service, the Sheriff or the Sheriff's designee
146 shall make requisition to the Human Resources Director
147 ~~Administrator~~ for the names and addresses of all persons
148 eligible for appointment thereto. In the event that a candidate
149 acceptable to the Sheriff or the Sheriff's designee is
150 recommended, the Sheriff or the Sheriff's designee thereupon
151 shall appoint this person to the position where the vacancy
152 exists. The Sheriff or the Sheriff's designee shall immediately
153 inform the Human Resources Director ~~Administrator~~ of such ~~his~~
154 action.
155 (1) ~~(2)~~ In the absence of an eligibility list, the Sheriff
156 or the Sheriff's designee may, if either ~~he or she~~ determines
157 that the necessity of adequate law enforcement or operational
158 efficiency so requires, appoint a person without reference to an
159 eligibility list to fill a vacant position on a provisional
160 basis. The Sheriff or the Sheriff's designee shall immediately
161 inform the Human Resources Director ~~Administrator~~ of such ~~his~~
162 action. Such provisional appointee shall be a person who
163 lawfully could be appointed within the personnel system had the
164 appointee ~~he or she~~ been an applicant. Such provisional
165 appointee shall acquire no rights under the system by virtue of
166 said appointment and said appointment shall terminate
167 immediately when an eligible person from an eligibility list is

168 certified to and accepted by the Sheriff, or within 6 months
169 from the date of the appointment, or 45 days after the
170 establishment of an eligibility list, whichever is the shorter
171 length of time. Acceptance or refusal or a provisional
172 appointment shall not prejudice or in any way affect the
173 standing of a person who is an applicant or who shall become an
174 applicant for an established position.
175 (2) ~~(3)~~ In the event of an emergency, the Sheriff or the
176 Sheriff's designee may appoint a person to fill a position not
177 to exceed 3 calendar months during any 12-month period.
178 Section 13. No employee shall become a member of
179 ~~appointment to any position in~~ the classified service ~~shall be~~
180 ~~deemed complete~~ until the expiration of a period of at least 1-
181 year probationary service. During the initial probationary
182 period, the Sheriff or the Sheriff's designee may terminate or
183 otherwise discipline the employee ~~appointee~~ and the employee
184 ~~appointee~~ shall not be eligible for a hearing before the board.
185 The initial probationary period ~~Appointments~~ may be regarded as
186 taking effect upon the date the employee successfully completes
187 all entry-level training ~~person appointed reports for duty~~.
188 Section 14. Whenever a position in the classified service
189 is filled by promotion, the employee ~~person~~ may be returned to
190 duty in a position at the level formerly held ~~by him or her~~ in
191 the classified service without a hearing during the employee's
192 ~~his or her~~ promotion probationary period. The member may have
193 the opportunity for a hearing if dismissed from the service or
194 suspended for greater than 40 hours if the member ~~he or she~~ has
195 completed an initial 1-year probationary period.

196 Section 15. It is not the intent of this act to modify the
197 Sheriff's absolute control over the selection and retention of
198 the Sheriff's deputies and of other members of the Sheriff's
199 Office as provided for by the law. No dismissal, demotion,
200 suspension, or reduction in pay shall be taken against any
201 nonprobationary member of the classified service unless notice
202 of the action and the reason therefor is given to the member
203 verbally or in writing prior to the action taking effect. An
204 opportunity to respond orally and in writing to the Sheriff or
205 the Sheriff's designee ~~representative in the decisionmaking~~
206 ~~process~~ may be granted prior to the effective date of the
207 action. Following issuance of the written notice of disciplinary
208 action, the affected member of the classified service may seek a
209 formal hearing for a review of dismissal, demotion, suspension
210 of greater than 40 hours, or reduction in pay, provided that the
211 member, as a condition to seeking a hearing, shall, upon receipt
212 of the written notice, answer the same in writing and file the
213 answer and a request with the Sheriff within 7 calendar days
214 after the issuance of the notice. If a dismissal, demotion,
215 suspension of greater than 40 hours, or reduction in pay is
216 answered and a hearing is requested in writing within 7 calendar
217 days, the member of the classified service may have an
218 opportunity for a hearing before the board with all the rights
219 and privileges afforded under section 16. In the case of a
220 notice of dismissal, the member shall remain dismissed without
221 pay pending the hearing and the final decision of the Sheriff.
222 In the case of a notice of a demotion, suspension of greater
223 than 40 hours, or reduction in pay, the disciplinary action

224 shall not be delayed pending the review process. The board shall
225 report in writing its findings and recommendations to the
226 Sheriff along with any mitigating circumstances noted for review
227 and consideration by the Sheriff. The Sheriff shall retain the
228 right of final determination. No member of the classified
229 service may be reinstated, with or without backpay or benefits,
230 without the concurrence of the Sheriff. For disciplinary
231 purposes, the Sheriff or the Sheriff's designee may reprimand,
232 orally or in writing, or summarily suspend a member of the
233 classified service for a period not exceeding 40 hours, and such
234 action shall not be subject to review and recommendation of the
235 board.
236 Section 16. The practice and procedure of the board with
237 respect to any hearing by the board authorized by this act shall
238 be in accordance with the rules and regulations ~~to be~~
239 established by the board. Such rules shall provide for a
240 reasonable notice of hearing to all persons affected by a
241 recommendation to be made by the board, with the opportunity to
242 be heard in their ~~his or her~~ behalf at a hearing to be held for
243 that purpose and to examine and cross-examine witnesses.
244 (1) The board, when conducting any hearings authorized by
245 this act, shall have the power to administer oaths and issue
246 subpoenas to compel the attendance of witnesses and the
247 production of books, accounts, papers, records, documents, and
248 testimony. In the case of the disobedience or failure of any
249 person to comply with a subpoena issued by the board or any of
250 its members, or on the refusal of a witness to testify on any
251 matter on which the witness ~~he or she~~ may be lawfully

252 interrogated, the judge of the circuit court of the county, on
253 application of the board, shall compel the obedience by
254 proceedings as for contempt. The service of a subpoena shall be
255 made in the manner provided by the Florida Rules of Civil
256 Procedure. Each witness subpoenaed by the board shall receive
257 for the witness's ~~his or her~~ attendance, fees and mileage in the
258 amount as provided for witnesses in civil cases, if requested.
259 (2) The board shall meet for the purpose of hearing the
260 appeal promptly and no later than 30 days after receipt of the
261 answer and request for hearing, unless good cause exists for, or
262 the affected member agrees to, a postponement.
263 (3) The actions of the board and the Sheriff shall be
264 exempt from the provisions of chapter 120, Florida Statutes.
265 Section 17. When a newly elected or appointed Sheriff
266 assumes office, the service of all personnel shall continue
267 without the necessity of formal reappointment. Notwithstanding
268 any other provisions of this act, the incoming Sheriff shall
269 have the option of maintaining the current personnel assigned to
270 the rank of major and above or equivalent noncertified support
271 positions or transferring those personnel as described below. If
272 the incoming Sheriff fills any of the above positions with a new
273 person and the current occupant of the above position is a
274 certified law enforcement deputy ~~officer~~ or detention deputy, he
275 or she shall be reduced to the rank of captain if certified, or
276 to the equivalent noncertified support position if not certified
277 immediately. The member's salary shall be reduced in compliance
278 with the salary policy in effect at that time, but shall be no
279 less than the salary the member would have attained had the

280 member remained in the highest classification accorded appeal
281 rights under this act. Following the election or appointment of
282 a Sheriff, appointments of all personnel remain at the pleasure
283 of the Sheriff, and personnel in the classified service may be
284 terminated by affirmative action of the Sheriff or the Sheriff's
285 successor in office subject to the provisions of this act.
286 Section 18. If any provision of this act or the
287 application thereof to any person or circumstance is held
288 invalid, it is the legislative intent that the invalidity shall
289 not affect other provisions or applications of the act which can
290 be given effect without the invalid provision or application,
291 and to this end provisions of this act are declared severable.
292 Section 19. This act shall not be held or construed to
293 create any property rights or any vested interest in any
294 position in the classified service and the right is hereby
295 reserved to repeal, alter, or amend this act or any provision
296 thereof at any time.
297 Section 2. This act shall take effect upon becoming a law.

HB 823

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 823 Local Government Infrastructure Surtax
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** SB 2382

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Finance & Tax Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

Counties have authority to impose a limited number of discretionary sales surtaxes. To impose any of the surtaxes requires either a favorable referendum vote or, for some, an extraordinary vote of the governing body. The Local Government Infrastructure Surtax is one of the discretionary sales surtaxes.

With limited exceptions, all proceeds of the Local Government Infrastructure Surtax, and any interest accrued, are only allowed to be spent by the school district or within the county and municipalities in the county on local infrastructure needs. This bill requires that only a minimum of 50% of the proceeds or accruements be expended for local infrastructure purposes. The bill provides that up to 35% of the remaining proceeds and accruements may be used to reduce property taxes and up 15% may be used for operational expenses. The percentage used for operational expenses may not exceed the percentage used to reduce property taxes.

The bill provides that property taxes may not be increased for the first year or by more than 3% above the rollback rate during any subsequent years after a taxing authority elects to use proceeds to fund operational expenses.

This bill would take effect July 1, 2006.

The bill does not appear to have a fiscal impact on state government. The bill has no required fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes- This bill allows 35% of the proceeds and interest of the Local Government Infrastructure Surtax (surtax) to be used to reduce property taxes. The bill also allows up to 15% of such proceeds to be used for operational expenses. The bill prevents property taxes from increasing the first year after proceeds and interest of the surtax are used to fund operational expenses. After the first year, the increase is limited to 3% over the rollback rate for any subsequent years under the levy.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 212.055, F.S., authorizes counties to impose one or more of seven local discretionary sales surtaxes on all transactions occurring in the county which are subject to the state tax imposed on sales, use, services, rentals, and admissions.[1] The tax rate, duration of levy, method of imposition, and use of proceeds and accrued interest are set in statute and summarized below:

Local Discretionary Sales Surtaxes:	Authorized Levy (%):
Charter County Transient System	Up to 1%
Local Government Infrastructure Surtax	0.5% or 1%
Small County Surtax	0.5% or 1%
Indigent Care and Trauma Center Surtax	Up to 0.5%
County Public Hospital Surtax	0.5%
School Capital Outlay Surtax	Up to 0.5%
Voter-Approved Indigent Care Surtax	0.5% or 1%

Section 212.055, F.S., provides maximum combined tax rates for the different surtaxes imposed. The Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are maximized at a combined rate of 1%. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined maximum rate is 1.5%. The School Capital Outlay Surtax, capped at 0.5%, is not included in tax rate caps.

The Local Government Infrastructure Surtax (surtax) is authorized in s. 212.055(2)(d), F.S., upon enactment of an ordinance by a majority of the members of the county governing authority and approval in a local referendum. If not provided for differently in the ordinance, the surtax may not be levied for more than 15 years. They levy may be extended by majority vote in another referendum.

The referendum must include a general description of the projects to be funded by the surtax. Section 212.055(2)(d), F.S., limits the purposes for which the proceeds and any accrued interest can be used for. Proceeds and accruements can not be used for operational expenses. Except for a limited number of exceptions for counties under certain specifications, funds are only to be used by the school district or within the county and municipalities in the county to:

- Finance, plan, and construct infrastructure.
- Acquire land for public recreation or conservation or protection of natural resources.
- Finance the closure of certain county or municipally owned solid waste landfills.
- Retire or service bond indebtedness related to prior infrastructure construction.

[1] Section 212.054, F.S.

- Up to 15% may be used for economic development projects if specifically provided for in the referendum

Effect of Bill

Subject to any obligation to retire or service bonded indebtedness, this bill requires that only a minimum of 50% of the funds from the Local Government Infrastructure Surtax be used for the approved projects. It then provides that up to 35% of the funds may be used to reduce property taxes and up to 15% may be used for operational expenses. Operational expenses are not allowed to exceed the percentage used to reduce property taxes. If a county decides to use funds for operational expenses, the taxing authority can not increase property taxes above the rollback rate for the first year following the year in which funds are used for operational expenses, and can not increase property taxes more than 3% above the rollback rate during any subsequent years the levy is imposed.

C. SECTION DIRECTORY:

Section 1: Renumbers and amends section (d) to create a subsection (d)(2).

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   This bill affects the Department of Revenue in its oversight capacity for taxes imposed by a county.[2]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill gives local governments the option to redistribute proceeds from a current revenue source, the Local Government Infrastructure Surtax, to fund operational expenses and reduce property taxes. If this option is elected, property tax increases will be capped at 0% the first year and 3% for any subsequent year.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could reduce property taxes.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

[2] Department of Revenue: Bill Analysis (HB 823).

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 local government infrastructure
3 surtax; amending s. 212.055, F.S.; limiting use of surtax
4 revenues for infrastructure purposes; authorizing a
5 portion of surtax revenues to be used for property tax
6 reduction under certain circumstances; authorizing use of
7 a portion of surtax revenues for operating expenses under
8 certain circumstances; providing limitations; providing an
9 effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. Paragraph (d) of subsection (2) of section
14 212.055, Florida Statutes, is amended to read:
15 212.055 Discretionary sales surtaxes; legislative intent;
16 authorization and use of proceeds.--It is the legislative intent
17 that any authorization for imposition of a discretionary sales
18 surtax shall be published in the Florida Statutes as a
19 subsection of this section, irrespective of the duration of the
20 levy. Each enactment shall specify the types of counties
21 authorized to levy; the rate or rates which may be imposed; the
22 maximum length of time the surtax may be imposed, if any; the
23 procedure which must be followed to secure voter approval, if
24 required; the purpose for which the proceeds may be expended;
25 and such other requirements as the Legislature may provide.
26 Taxable transactions and administrative procedures shall be as
27 provided in s. 212.054.
28 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

29 (d)1.a. At least 50 percent of the proceeds of the surtax
30 authorized by this subsection and any interest accrued thereto
31 shall be expended by the school district or within the county
32 and municipalities within the county, or, in the case of a
33 negotiated joint county agreement, within another county, to
34 finance, plan, and construct infrastructure and to acquire land
35 for public recreation or conservation or protection of natural
36 resources and to finance the closure of county-owned or
37 municipally owned solid waste landfills that are already closed
38 or are required to close by order of the Department of
39 Environmental Protection. Any use of such proceeds or interest
40 for purposes of landfill closure prior to July 1, 1993, is
41 ratified. ~~Neither the proceeds nor any interest accrued thereto~~
42 ~~shall be used for operational expenses of any infrastructure,~~
43 ~~except that~~ Any county with a population of less than 75,000
44 that is required to close a landfill by order of the Department
45 of Environmental Protection may use the proceeds or any interest
46 accrued thereto for long-term maintenance costs associated with
47 landfill closure. Counties, as defined in s. 125.011(1), and
48 charter counties may, in addition, use the proceeds and any
49 interest accrued thereto to retire or service indebtedness
50 incurred for bonds issued prior to July 1, 1987, for
51 infrastructure purposes, and for bonds subsequently issued to
52 refund such bonds. Any use of such proceeds or interest for
53 purposes of retiring or servicing indebtedness incurred for such
54 refunding bonds prior to July 1, 1999, is ratified.
55 b.~~2.~~ For the purposes of this subparagraph ~~paragraph~~,
56 "infrastructure" means:

57 (I)~~a.~~ Any fixed capital expenditure or fixed capital
58 outlay associated with the construction, reconstruction, or
59 improvement of public facilities which have a life expectancy of
60 5 or more years and any land acquisition, land improvement,
61 design, and engineering costs related thereto.
62 (II)~~b.~~ A fire department vehicle, an emergency medical
63 service vehicle, a sheriff's office vehicle, a police department
64 vehicle, or any other vehicle, and such equipment necessary to
65 outfit the vehicle for its official use or equipment that has a
66 life expectancy of at least 5 years.
67 (III)~~c.~~ Any expenditure for the construction, lease, or
68 maintenance of, or provision of utilities or security for,
69 facilities as defined in s. 29.008.
70 c.~~3.~~ Notwithstanding any other provision of this
71 subsection, a discretionary sales surtax imposed or extended
72 after the effective date of this act may provide for an amount
73 not to exceed 15 percent of the local option sales surtax
74 proceeds to be allocated for deposit to a trust fund within the
75 county's accounts created for the purpose of funding economic
76 development projects of a general public purpose targeted to
77 improve local economies, including the funding of operational
78 costs and incentives related to such economic development. The
79 ballot statement must indicate the intention to make an
80 allocation under the authority of this sub-subparagraph
81 ~~subparagraph~~.
82 2. Subject to any obligation to retire or service
83 indebtedness incurred by the taxing authority under this
84 subsection for bonds issued by the taxing authority prior to

85 July 1, 2006, and notwithstanding any other provision of this
86 subsection, a taxing authority receiving proceeds of the surtax
87 and any interest on such proceeds pursuant to this subsection
88 may use up to 35 percent of such proceeds and interest to reduce
89 property taxes and may use up to 15 percent of such proceeds and
90 interest for operational expenses; however, the percentage used
91 for operational expenses may not exceed the percentage used to
92 reduce property taxes. The taxing authority may not increase
93 property taxes for the first year following the year in which
94 the taxing authority elected to use such proceeds and interest
95 for operational expenses and may not increase property taxes
96 above the rollback rate by more than 3 percent in the second and
97 subsequent years during the period of the levy.
98 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 847 City of Jacksonville, Duval County
SPONSOR(S): Mahon
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) Economic Development, Trade & Banking Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends provisions of the City of Jacksonville Charter regarding the Jacksonville Economic Development Commission (Commission) in order to:

- Increase the number of Commission board members from seven to nine, three of whom must reside, work, or own property within the Jacksonville Downtown Area;
- Remove special act authority of the Jacksonville Downtown Development Authority, Jacksonville Sports Development Authority, Jacksonville International Airport Community Redevelopment Authority, and Cecil Field Development Commission to act as advisory boards to the Commission;
- Revise the list of persons who act in an advisory capacity to the Commission;
- Authorize the Commission to establish special or standing committees to advise the Commission on policy or strategic planning matters and establish the Downtown Committee of the Commission as a permanent standing committee; and
- Repeal special laws establishing the Jacksonville Downtown Development Authority as an advisory body of the Commission.

On December 13, 2005, the Jacksonville City Council adopted a resolution in support of this legislation.

According to the Economic Impact Statement, no fiscal impacts are anticipated in fiscal year 2005-06 or 2006-07.

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:

Current Situation

The City of Jacksonville and Duval County merged in 1968[1], creating a single consolidated government entity (City) governing all of Duval County with the exception of the beach communities (Atlantic Beach, Neptune Beach and Jacksonville Beach) and Baldwin. The City government operates under a mayor as head of the administrative branch and the City Council as the legislative branch.

Jacksonville Economic Development Commission

The Jacksonville Economic Development Commission (Commission) was created in 1997 when the Legislature amended the City's charter in ch. 97-339, L.O.F. According to the "whereas" clauses in that legislation, economic development was an issue addressed by many agencies, authorities, departments and other entities in the City. The Commission was created to provide a focal point for economic development in the City that would result in centralization of economic development programs under one "umbrella" agency, ensuring a more efficient and practical means of addressing the goals, objectives, and strategies for economic development in the City.

The Commission is an autonomous body within the Office of the Mayor and is designated as the sole community redevelopment agency for the City under ch. 163, F.S., and as the sole industrial development authority for the City under ch. 159, F.S., with authority over all economic development functions within the City.

The Commission is governed by seven members, consisting of the chairman of the Jacksonville Downtown Development Authority and six members who are residents of the City. Commission members are appointed by the mayor and confirmed by the City Council. Each Commission member serves a 2-year term or until a successor is appointed. Commission members serve as commissioners of the community redevelopment agency under ch. 163, F.S., and as members of the industrial development authority under ch. 159, F.S.

When the Legislature created the Commission in 1997, the powers, duties, functions, liabilities, property, and personnel of the following entities, except for their advisory and fact-finding responsibilities, were transferred to the Commission:

- Jacksonville Downtown Development Authority;
- Jacksonville Sports Development Authority;
- Jacksonville International Airport Community Redevelopment Authority; and
- Cecil Field Development Commission.

Effect of Proposed Changes

Under this bill, the Jacksonville Downtown Development Authority, Jacksonville Sports Development Authority, Jacksonville International Airport Community Redevelopment Authority, and Cecil Field Development Commission will no longer serve as advisory boards to the Commission. However, the

[1] Ch. 67-1320, L.O.F.

Sports and Entertainment Board is authorized by local ordinance to serve the Commission in an advisory capacity and a representative of the board will serve as a technical support advisor to the Commission as required by this bill. The bill also provides for a representative of the Jacksonville International Airport Authority to serve as a technical advisor to the Commission.

The bill authorizes the Commission to establish special or standing committees to advise the Commission on policy or strategic planning matters. Each committee chair must be a member of the Commission. The Chair of the Commission appoints all committee members upon recommendation of the chair of each committee. Advisory committee members may or may not be Commission members. Committee members serve at the will of the Commission Chair for terms not to exceed 4 years.

The bill specifically establishes the Downtown Committee of the Commission as a permanent standing committee. The Downtown Committee functions as an advisory body to the Commission to undertake fact-finding on downtown issues and provide advice to the Commission on issues of importance to the downtown area. The Commission is required to provide the Downtown Committee with all resources necessary for the Committee to perform its duties and responsibilities, including staff. The Chair of the Downtown Committee must reside, work, or own property within the downtown area.

This bill increases the number of members of the Commission from seven to nine, all of whom must be residents of the City and at least three of whom must reside, work, or own property within the Jacksonville Downtown Area.

According to the Economic Impact Statement provided by the bill sponsor, "[t]he proposed changes to the [Commission] structure will streamline the economic development approval process for all economic development projects. The revised structure will raise the priority of downtown redevelopment efforts to the Commission level, which will create a more efficient and effective project approval process. The proposed changes will also enhance staff efficiency by aligning staff efforts with the Commission's strategic plan and goals."

On December 13, 2005, the Jacksonville City Council adopted Resolution 2005-1360-A in support of this legislation.

C. SECTION DIRECTORY:

Section 1. Amends Article 24 of the City of Jacksonville Charter to revise the membership of the Jacksonville Economic Development Commission; revise the list of persons who serve as advisors to the Commission; eliminate special law advisory board status of several local entities; and authorize creation of advisory committees by the Commission.

Seciton 2. Repeals Article 20 of ch. 93-341, L.O.F., as amended by ch. 97-339, L.O.F., to remove the Jacksonville Downtown Development Authority as an advisory board to the Commission.

Section 3. Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? October 26, 2005

WHERE? Financial News & Daily Record, Jacksonville, Duval County, Florida

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

IF YES, WHEN? N/A

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: This bill does not provide or amend rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Susan Stewart, representing the Duval County Legislative Delegation, indicated that "[t]his legislation is required in order to streamline the JEDC project approval process. The proposed changes will enhance staff efficiency and effectiveness and allow the commission to more aggressively promote economic development opportunities in the community. The proposed changes to the Jacksonville Economic Development Commission will streamline the economic development approval process for all economic development projects. The revised structure will raise the priority of downtown redevelopment efforts to the commission level which will create a more efficient and effective project approval process. The proposed changes will also enhance staff efficiency by aligning staff efforts with the commission's strategic plan and goals."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

FINANCIAL NEWS &

Daily Record

PROOF OF PUBLICATION

(Published Daily Except Saturday and Sunday)
Jacksonville, Duval County, Florida

STATE OF FLORIDA,
COUNTY OF DUVAL, } SS:

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

Notice of Intention to Apply for Local Legislation

in the matter of A Bill To Be Entitled

in the _____ Court, of Duval County, Florida, was published in said newspaper in the issues of October 26, 2005

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

Publisher

Sworn to and subscribed before me this day of October 26, 2005

ANGELA CAMPBELL
Notary Public, State of Florida
My comm. exp. Apr. 10, 2009
Comm. No. DD 398465

Angela Campbell
Notary Signature

Angela Campbell
Notary Public
DD398465

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

NOTICE OF INTENTION TO APPLY FOR LOCAL LEGISLATION

NOTICE IS HEREBY GIVEN that the undersigned will apply to the next Session of the Legislature of the State of Florida for the introduction of a local bill affecting the City of Jacksonville, Duval County, Florida, the substance of said bill being substantially as follows:

A bill to be entitled

An act relating to the Charter of the City of Jacksonville; as adopted in Chapter 97-339, Laws of Florida, as amended; amending sections 24.02, 24.03, 24.04, 24.05 and 24.06; adding a new section 24.13; repealing Article 20 Jacksonville Downtown Development Authority; restructuring the Jacksonville Economic Development Commission by increasing the number of members of the Commission, amending the membership qualification requirements, amending the provisions pertaining to ex-officio officers and technical support advisors, and creating a new downtown committee; providing an effective date. (J-4)

Oct. 26 00 (05-6993)

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
2006 LOCAL BILL CERTIFICATION

BILL #: J-4

SPONSOR(S): Representative Mahon

RELATING TO: Duval County and the JEDC/DDA Reorganization

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

NAME OF DELEGATION: Duval County Legislative Delegation

CONTACT PERSON: Susan Stewart

SUNCOM or PHONE #: (904) 630-1680 or SC 986-1680

I. *House policy requires that, before the House Committee on Local Government & Veterans' Affairs or its subcommittees considers a local bill, three things must occur: (1) The members of the local legislative delegation must certify that the bill's purpose cannot be accomplished at the local level; (2) a public hearing must be held in the area affected; and (3) at or after any public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by the legislative delegation.* ***Local bills will not be considered by a subcommittee or the Committee without a completed, original Local Bill Certification Form.***

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

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

Date hearing held: 1/20/06

Location: **City Hall Council Chambers – 117 W. Duval Street, Jax., FL 32202**

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 the bill has beenadvertised in advance (as provided in s. 11.02, F. S.) or is conditioned to take effect only upon approval byreferendum vote of the electors in the area affected.*

Has this Constitutional requirement been met?

Notice published: YES [X] NO [ ]

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 taxingprovision to approval by referendum vote of the electors in the area affected.*

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

IV. *House policy requires that economic impact statements for local bills be prepared at the local level.*
Will there be any costs or economic benefits associated with this bill?
YES [] NO [X]

Please complete the Economic Impact Statement form provided by the House Committee on Local Government & Veterans' Affairs whether or not there is an economic impact. It is the policy of the Committee that no bill will be considered without an original Economic Impact Statement. If possible, this form must accompany the bill when filed with the Clerk. In the alternative, please submit the form to the House Local Government & Veterans' Affairs Committee as soon as possible after the bill is filed.

1/24/06

Delegation Chair (*Original Signature*) Date

HOUSE LOCAL GOVERNMENT & VETERANS' AFFAIRS COMMITTEE
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 Local Government & Veterans' Affairs Committee that no bill will be considered by a subcommittee or the 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 House Local Government & Veterans' Affairs Committee as soon as possible after the bill is filed.

BILL #: J-4

SPONSOR(S): Representative Mahon

RELATING TO: Jacksonville Economic Development Commission

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

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

	FY 05-06	FY 06-07
Expenditures:		
None Anticipated		

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 05-06	FY 06-07
Federal:		
N/A		
State:		
N/A		
Local:		
N/A		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 05-06	FY 06-07
Revenues:		

It is anticipated the proposed changes to the JEDC organizational structure will eventually reduce staff time required to support multiple advisory boards.

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

Advantages: The proposed changes to the Jacksonville Economic Development Commission structure will streamline the economic development approval process for all economic development projects. The revised structure will raise the priority of downtown redevelopment efforts to the Commission level, which will create a more efficient and effective project approval process The proposed changes will also enhance staff efficiency by aligning staff efforts with the Commission's strategic plan and goals.

Disadvantages: There are no foreseeable disadvantages.

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

N/A

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

N/A

PREPARED BY: Jeanne M. Miller October 21, 2005
[Must be signed by Preparer] Date

TITLE: Deputy Executive Director

REPRESENTING: Jacksonville Economic Development Commission

PHONE: (904) 630-1540

E-Mail Address: jeannem@coj.net

1 A bill to be entitled
2 An act relating to the City of Jacksonville, Duval County;
3 amending chapter 97-339, Laws of Florida, as amended;
4 defining terms; restructuring the Jacksonville Economic
5 Development Commission by increasing the number of members
6 of the commission; revising membership qualification
7 requirements; removing provisions relating to staggering
8 of terms; revising provisions pertaining to ex officio and
9 technical support advisors; removing provisions relating
10 to duties of the executive director and to a prior
11 transfer of certain functions and personnel; authorizing
12 the chair of the commission to appoint special or standing
13 committees for certain purposes; providing duties of the
14 chair of the commission; providing for appointment of
15 committee members and terms thereof; creating a downtown
16 committee; providing duties and responsibilities of the
17 downtown committee; repealing Article 20 of chapter 92-
18 341, Laws of Florida, as amended, relating to the
19 Jacksonville Downtown Development Authority; providing an
20 effective date.
21
22 Be It Enacted by the Legislature of the State of Florida:
23
24 Section 1. Sections 24.02, 24.03, 24.04, 24.05, 24.06, and
25 24.08 of Article 24 of chapter 97-339, Laws of Florida, as
26 amended by chapter 99-443, Laws of Florida, are amended, and
27 section 24.13 of that article is created, to read:
28 ARTICLE 24.

29 THE JACKSONVILLE ECONOMIC DEVELOPMENT COMMISSION
30 Section 24.02. Definitions.--As used in this article:
31 (1) "Commission" means the Jacksonville Economic
32 Development Commission.
33 (2) "City" and "City of Jacksonville" mean the City of
34 Jacksonville created pursuant to s. 9 of Art. VIII of the 1885
35 Constitution of the State of Florida.
36 (3) "Council" means the council of the City of
37 Jacksonville.
38 (4) "Downtown committee" means the permanent committee
39 within the commission assigned to focus on the revitalization
40 and redevelopment of the Jacksonville Downtown Area.
41 (5) "Jacksonville Downtown Area" means the Downtown
42 Overlay Zone area, as defined in the Jacksonville Zoning Code,
43 as it may be amended from time to time.
44 (6) ~~(4)~~ "Mayor" means the mayor of the City of
45 Jacksonville.
46 (7) ~~(5)~~ "Executive Director" means the executive director
47 of the commission.
48 (8) ~~(6)~~ "Code" means the Ordinance Code of the City of
49 Jacksonville.
50 Section 24.03. Commission membership.--The membership of
51 the commission is established at nine ~~seven~~ members~~, consisting~~
52 ~~of the chairman of the Downtown Development Authority and six~~
53 ~~members,~~ who shall be residents of the City of Jacksonville and
54 who shall be appointed by the mayor and confirmed by the
55 Council. The mayor shall appoint a chairman who shall serve
56 until such time as another chairman may be appointed by the

57 mayor. At least three members of the commission shall reside,
58 work, or own property in the Jacksonville Downtown Area. Each
59 member of the commission shall serve a term of two years or
60 until a successor is appointed. ~~Apart from the chairman of the~~
61 ~~Downtown Development Authority, of the members first appointed,~~
62 ~~three members shall serve terms of 1 year each, and the~~
63 ~~remaining three members shall serve terms of 2 years each.~~
64 ~~Thereafter all members appointed to the commission shall serve~~
65 ~~terms of 2 years.~~ No member appointed to the commission for
66 three consecutive full terms shall be eligible for appointment
67 to a next succeeding term. The members shall serve as
68 commissioners of the community redevelopment agency under part
69 III, chapter 163, Florida Statutes, and they shall also serve as
70 members of the industrial development authority under part III,
71 chapter 159, Florida Statutes. All business of the commission
72 shall be conducted at meetings wherein at least four members of
73 the commission are present and voting.
74 Section 24.04. Individual Ex Officio Advisors to the
75 commission.--The following individual ex officio advisors are
76 named to assist the commission in an advisory or fact-finding
77 role as may be requested individually or collectively of them by
78 the commission so as to effectuate the centralized economic
79 development goals of the commission. No ex officio advisor shall
80 serve simultaneously as both an ex officio advisor and as an
81 appointed member of the commission. These individual ex officio
82 advisors shall be:
83 (1) The president of the Council of the City of
84 Jacksonville or his or her designee.

85 (2) The Managing Director/Chief Executive Officer of the
86 JEA ~~Jacksonville Electric Authority~~.
87 (3) The Managing Director of the Jacksonville
88 Transportation Authority.
89 (4) The President/Chief Executive Officer of the
90 Jacksonville Port Authority.
91 (5) The President/Chief Executive Officer of the
92 Jacksonville Aviation Authority ~~Chairman of the Sports and~~
93 ~~Entertainment Board~~.
94 ~~(6) The Chairman of the Cecil Field Development~~
95 ~~Commission.~~
96 ~~(7) The Chairman of the Jacksonville International Airport~~
97 ~~Community Redevelopment Authority.~~
98 (6) ~~(8)~~ The Executive Director of the Jacksonville Housing
99 Commission ~~Duval County Housing Finance Authority~~.
100 (7) ~~(9)~~ The Chairman of the Duval County State Legislative
101 Delegation or his or her designee, who shall be a member of the
102 delegation.
103 (8) ~~(10)~~ The Chairman of the NAACP or his or her designee.
104 (9) ~~(11)~~ The Chairman of the Urban League or his or her
105 designee.
106 Section 24.05. Technical support advisors to the
107 commission.--The following individual technical support advisors
108 are named to assist the commission in such technical support
109 roles as may be requested individually or collectively of them
110 by the commission so as to effectuate the centralized economic
111 development goals of the commission. These individual technical

112 support advisors shall be the directors or the board members, as
113 appropriate, of the following entities:
114 (1) The Planning and Development Department of the city.
115 (2) The Jacksonville Film Commission.
116 (3) Sister cities.
117 (4) International Relations and Marketing Development
118 Commission.
119 (5) Jacksonville Sports and Entertainment Board ~~Research~~
120 ~~and Development Authority~~.
121 (6) Jacksonville Enterprise Zone Development Agency.
122 (7) Northwest Jacksonville Economic Development Fund
123 Advisory Committee.
124 (8) Overall Economic Development Plan Committee.
125 (9) Jacksonville Economic Development Company.
126 (10) Enterprise North Florida Corporation.
127 (11) City departments as appropriate.
128 (12) Jacksonville International Airport Community
129 Redevelopment Area Board ~~Small Business Advisory Committee~~.
130 (13) Tourist Development Council.
131 (14) Convention and Visitor Bureau.
132 (15) The Superintendent of Duval County Public Schools.
133 (16) The President of the University of North Florida.
134 (17) The President of Florida Community College,
135 Jacksonville.
136 Section 24.06. Executive Director.--The chief operating
137 officer of the commission shall be its executive director, who
138 shall be appointed by the mayor after consultation with the
139 commission. The executive director shall be responsible for

140 managing the affairs of the commission subject to its
141 supervision and shall serve at the pleasure of the mayor. The
142 executive director shall also serve as an administrative aide to
143 the mayor ~~and in that capacity shall serve as the mayor's~~
144 ~~liaison to the Downtown Development Authority and shall attend~~
145 ~~all meetings of that authority~~. The executive director will
146 employ the personnel to administer and operate the commission in
147 accordance with applicable law, available appropriations and
148 employee authorizations. The executive director shall have such
149 other duties and responsibilities as required by the commission.
150 The executive director's salary shall be set by the mayor after
151 consultation with the commission.
152 Section 24.08. Transfer of functions and personnel.--On
153 July 1, 1997, the powers, duties, functions, liabilities,
154 property and personnel of certain entities shall be transferred
155 to and become the responsibility of the Jacksonville Economic
156 Development Commission~~, as it is intended that these entities~~
157 ~~become advisory bodies to the commission which shall succeed to~~
158 ~~their former duties, responsibilities and functions~~. Any
159 ordinance or law, the provisions of which conflict with the
160 transfer authorized and mandated in this act are repealed to the
161 extent of such conflict. Those entities whose powers, duties,
162 functions, liabilities, property and personnel shall be
163 transferred to the commission are:
164 (1) The Jacksonville Downtown Development Authority~~,~~
165 ~~except for its advisory and fact-finding responsibilities~~.

166 (2) The Jacksonville Sports Development Authority created
167 under chapter 89-509, Laws of Florida~~, except for its advisory~~
168 ~~and fact-finding responsibilities~~.
169 (3) The Economic Development Division of the Planning and
170 Development Department as set forth in the Jacksonville City
171 Code, including, but not limited to, chapter 30, part 7,
172 including all boards and commissions concerned with economic
173 development which are staffed by the division.
174 (4) Any existing authority, functions or personnel held by
175 the Jacksonville International Airport Community Redevelopment
176 Authority. ~~Upon completion of this transition, the Jacksonville~~
177 ~~International Airport Community Redevelopment Authority shall~~
178 ~~continue to function in the nature of an advisory and fact-~~
179 ~~finding body to the commission concerning the area formerly~~
180 ~~under its jurisdiction.~~
181 (5) Any existing authority, functions or personnel held by
182 the Cecil Field Development Commission, including any personnel
183 under the authority of the mayor who are similarly assigned.
184 ~~Upon completion of this transition, the Cecil Field Development~~
185 ~~Commission shall continue to function in the nature of an~~
186 ~~advisory and fact-finding body to the commission concerning the~~
187 ~~area formerly under its jurisdiction.~~
188 (6) On July 1, 1997, all of the employees of the
189 organizations listed above, both appointed and within the
190 classified civil service of the city, shall be transferred to
191 the commission and shall become appointed employees of the
192 commission. These employees shall not retain any civil service
193 status that they may have had prior to becoming an employee of

194 the commission unless any civil service employee who is to be
195 transferred elects to retain his or her civil service status and
196 in such case he or she shall serve as an employee of the
197 commission with no loss in civil service status or benefits that
198 he or she may have accrued prior to transfer.
199 Section 24.13. Committees.--
200 (1) The chair of the commission may appoint special or
201 standing committees to advise the commission on policy or
202 strategic planning matters. The chair of the commission shall
203 appoint a chair of each committee, and each committee chair
204 shall be a member of the commission. The chair of the commission
205 shall appoint all special or standing committee members upon
206 recommendation from the chair of each committee. Such advisory
207 committee members may consist of commission members or
208 noncommission members. All committee members shall serve at the
209 will of the chair of the commission for terms not to exceed 4
210 years as specified by the chair.
211 (2) Central to the mission of the commission is the
212 revitalization and development of a healthy and vibrant
213 Jacksonville Downtown Area. There is hereby created the downtown
214 committee of the commission, which shall be a permanent
215 committee of the commission. The downtown committee shall
216 function as an advisory body to the commission to undertake
217 fact-finding on downtown issues and provide advice to the
218 commission on issues of importance to the Jacksonville Downtown
219 Area. The downtown committee shall have and perform such other
220 duties and responsibilities as the commission may assign to it
221 from time to time. The commission shall be responsible for and

222 shall provide to the downtown committee all resources necessary
223 for the committee to effectively achieve its duties and
224 responsibilities. Such resources shall include staff assigned to
225 work on downtown redevelopment matters by the executive director
226 of the commission. The chair of the commission shall appoint a
227 chair of the downtown committee, and such committee chair shall
228 be a commission member who resides, works, or owns property in
229 the Jacksonville Downtown Area.
230 Section 2. Article 20 of chapter 92-341, Laws of Florida,
231 as amended by chapter 97-339, Laws of Florida, is repealed.
232 Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 891 Local Occupational License Taxes
SPONSOR(S): Goldstein and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1822

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) Finance & Tax Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

This bill allows a municipality that adopted a local occupational license tax ordinance after October 1, 1995, to revise its current tax rate or classification structure before October 1, 2006 under an alternative revision method. If a municipality wishes to revise its local occupational license tax ordinance as authorized by this bill, the municipality must first appoint an equity study commission to make recommendations to the municipality's governing body regarding rate and classification structure revisions. Members of the study commission must be representatives of the business community within the city's jurisdiction. A reclassification may not increase an occupational license tax by more than the following:

- For licenses costing $150 or less, 200 percent;
- For licenses costing more than $150 but not more than $500, 100 percent;
- For licenses costing more than $500 but not more than $2,500, 75 percent;
- For licenses costing more than $2,500 but not more than $10,000, 50 percent; and
- For licenses costing more than $10,000, 10 percent.

However, a municipal occupational license tax may not be increased by more than $5,000, nor may revenues generated by the new rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. If a municipality revises its occupational license tax ordinance prior to October 1, 2006, license taxes may be increased by up to 5 percent each subsequent year if approved by a majority plus one of the municipal governing body.

The bill also clarifies that counties and municipalities may decrease or repeal occupational license taxes.

This bill does not appear to have a fiscal impact on state government, and will have a fiscal impact on those counties or cities that choose to revise their occupational license tax rates or classifications.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides for Lower Taxes – This bill provides authority for municipalities to revise current occupational license tax ordinances that were adopted after October 1, 1995. The bill also permits municipalities and counties to lower or eliminate local occupational license taxes. Therefore, this bill may result in lower or higher occupational license taxes for some taxpayers depending on the actions of the local governments.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 205.0535, F.S., authorized counties and municipalities to revise occupational license tax ordinances prior to October 1, 1995. In order for a county or municipality to reclassify businesses, professions, or occupations and establish new rate structures under this section, the municipality or county had to first establish an equity study commission composed of representatives of the business community within the local government's jurisdiction. The equity study commission was required to recommend a classification system and rate structure for local occupational license taxes. The local government was authorized to adopt by majority vote a new occupational license tax ordinance after considering the equity study commission recommendation. A reclassification could not increase the occupational license tax by more than the following:

- For licenses costing $150 or less, 200 percent;
- For licenses costing more than $150 but not more than $500, 100 percent;
- For licenses costing more than $500 but not more than $2,500, 75 percent;
- For licenses costing more than $2,500 but not more than $10,000, 50 percent; and
- For licenses costing more than $10,000, 10 percent.

However, in no case could a license tax be increased by more than $5,000 nor could the revenues generated by the new tax rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. The revenue base is the sum of the occupational license tax revenue generated by licenses issued for the most recently completed local fiscal year or the amount of revenue that would have been generated from the authorized increases under s. 205.043(1)(b), F.S., whichever is greater, plus any revenue received from the county under s. 205.033(4), F.S.

If a municipality or county revised its occupational license tax ordinance prior to October 1, 1995, license taxes may be increased each subsequent year by up to 5 percent if approved by a majority plus one of the municipal governing body.

Unless a municipality revised its rate or classification structure in accordance with s. 205.0535, F.S., prior to October 1, 1995, or adopted a new occupational license tax ordinance under s. 205.0315, F.S., an occupational license tax levied under s. 205.043, F.S., may not exceed the rate in effect for the year beginning October 1, 1971. Section 205.043, F.S., requires revisions to existing classifications to be "reasonable" and "uniform throughout any class". In addition, the amount of the increase above the license tax rate levied on October 1, 1971, is limited as follows:

- For taxes under $100, a 100% increase is permitted;
- For taxes between $101 and $300, a 50% increase is permitted;
- For taxes over $300, a 25% increase is permitted; and
- For taxes levied at a graduated or per unit rates, a 25% increase is permitted.

Beginning October 1, 1995, a county or municipality that has not adopted an occupational license tax ordinance or resolution may do so under s. 205.0315, F.S. The occupational license tax rate structure and classifications in the adopted ordinance must be reasonable and based upon the rate structure and classifications prescribed in ordinances adopted by adjacent local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S. If no adjacent local government has done so, or if the governing body of the county or municipality finds that the rate structures or classifications of adjacent local governments are unreasonable, the rate structure or classifications prescribed in its ordinance may be based upon those prescribed in ordinances adopted by local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S., in counties or municipalities that have a comparable population.

Effect of Proposed Changes

This bill amends s. 205.0535, F.S., to allow a municipality that adopted a local occupational license tax ordinance after October 1, 1995 to revise its current tax rate or classification structure before October 1, 2006 under an alternative revision method. If a municipality wishes to revise its local occupational license tax ordinance as authorized by this bill, the municipality must follow the same procedures that applied to revisions of rate and classification structures made prior to October 1, 1995 under s. 205.0535, F.S. Under those procedures, a municipality must first appoint an equity study commission to make recommendations to the municipality's governing body regarding rate and classification structure revisions. Members of the study commission must be representatives of the business community within the local government's jurisdiction. A reclassification adopted by a municipality pursuant to this bill may not increase an occupational license tax by more than the following:

- For licenses costing $150 or less, 200 percent;
- For licenses costing more than $150 but not more than $500, 100 percent;
- For licenses costing more than $500 but not more than $2,500, 75 percent;
- For licenses costing more than $2,500 but not more than $10,000, 50 percent; and
- For licenses costing more than $10,000, 10 percent.

However, a municipal occupational license tax may not increase by more than $5,000, nor may revenues generated by the new rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. If a municipality revises its occupational license tax ordinance prior to October 1, 2006, license taxes may be increased by up to 5 percent each subsequent year if approved by a majority plus one of the municipal governing body.

The bill also grants counties and municipalities authority to decrease taxes. Currently, the statute does not explicitly grant such authority and the Attorney General's Office has advised a number of jurisdictions that, in the absence of such authority, no decrease or elimination is possible. In AGO 2002-81, the Attorney General writes:

> On several occasions, this office has addressed the authority of a municipality to alter its occupational license tax ordinance, through the exemption of certain categories of occupations or businesses or by decreasing the rates for a particular classification. In the absence of legislative authorization, this office has determined that no such alteration may be made. Given the number of instances where local governments have sought to make such alterations, it may be advisable to seek legislative changes to provide the necessary authority.

Lastly, the bill specifies that nothing in ch. 205, F.S., may be construed to prohibit a municipality or county from decreasing or repealing any license tax authorized under that chapter.

C. SECTION DIRECTORY:

Section 1. Amends section 205.0535, F.S., to allow municipalities that adopted an occupational license tax ordinance after October 1, 1995 to reclassify businesses, professions, and occupations, and establish new rate structure under the provision of that section prior to October 1, 2006; allows municipalities and counties to decrease or repeal license tax rates.

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

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: This bill will give municipalities more flexibility to revise local occupational license taxes, including the ability to increase, reduce, or eliminate those taxes.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: This bill grants municipalities and counties the authority to eliminate or reduce local occupational license taxes. As such, some taxpayers may see a reduction in or elimination of these taxes. The bill also allows municipalities to revise their current license tax or classification structure in a manner that may result in an increase of license taxes for some taxpayers.

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: This bill does not amend or grant rule making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to local occupational license taxes;
3 amending s. 205.0535, F.S.; updating provisions
4 authorizing reclassification and new rate structure
5 revisions to local occupational license taxes by
6 ordinance; deleting counties from such authorization
7 provisions; authorizing decreasing local occupational
8 license tax rates; providing construction with respect to
9 decreasing or repealing such taxes; providing an effective
10 date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Subsections (1) and (4) of section 205.0535,
15 Florida Statutes, are amended to read:
16 205.0535 Reclassification and rate structure revisions.--
17 (1) By October 1, 2006 ~~1995~~, any municipality that has
18 adopted by ordinance an occupational license tax after October
19 1, 1995, ~~or county~~ may~~,~~ by ordinance~~,~~ reclassify businesses,
20 professions, and occupations and may establish new rate
21 structures, if the conditions specified in subsections (2) and
22 (3) are met. A person who is engaged in the business of
23 providing local exchange telephone service or a pay telephone
24 service in a municipality or in the unincorporated area of a
25 county and who pays the occupational license tax under the
26 category designated for telephone companies or a pay telephone
27 service provider certified pursuant to s. 364.3375 is deemed to
28 have but one place of business or business location in each

29 municipality or unincorporated area of a county. Pay telephone
30 service providers may not be assessed an occupational license
31 tax on a per-instrument basis.
32 (4) After the conditions specified in subsections (2) and
33 (3) are met, municipalities and counties may, every other year
34 thereafter, increase or decrease by ordinance the rates of local
35 occupational license taxes by up to 5 percent. An ~~The~~ increase,
36 however, may not be enacted by less than a majority plus one
37 vote of the governing body. Nothing in this chapter shall be
38 construed to prohibit a municipality or county from decreasing
39 or repealing any license tax authorized under this chapter.
40 Section 2. This act shall take effect upon becoming a law.

HB 921

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 921 Pinellas County Water and Navigation Control Authority
SPONSOR(S): Berfield
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill abolishes the Pinellas County Water and Navigation Control Authority, and provides for the transfer of assets and liabilities to Pinellas County.

The bill does not appear to have any impact on local and state budgets.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill abolishes the Pinellas County Water and Navigation Control Authority.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Pinellas County Water and Navigation Control Authority (Authority) was created in 1955 by chapter 31182, L.O.F., 1955. The Authority was created to provide for adequate regulation and control of all water, water courses, waterways, inlets, bays, bayous, lakes, submerged bottom lands, islands, sandbars, and swamp and overflow lands and their alteration by dredging, filling, pumping, or otherwise altering the shoreline, land contours or water areas, and in the interest of public rights, public welfare, protection of public riparian property rights, preservation and protection of the state's natural resources and scenic beauty of the bays, bayous, harbors, streams, lakes, water courses, inlets, submerged bottom lands, islands, sandbars, and swamp and overflow lands, and to aid and assist boating activities and navigation.

The Water and Navigation Section of the Office of Water Policy within the Department of Environmental Management[1] handles the permitting of docks and dredge and fill projects in both the unincorporated areas of Pinellas County as well as within municipal limits. The types of projects which require permits from the Pinellas County Water and Navigation Control Authority include private single family docks, multi-use docks, commercial docks, marinas, seawalls, riprap, tie poles, and all dredging or filling within the Waters of the County. Projects are reviewed for environmental impacts, navigational impacts, construction requirements, as well as consistency with the Pinellas County Water and Navigation Code.[2]

Effect of Proposed Changes

This bill repeals chapter 31182, L.O.F., 1955, and chapters 72-664, 74-588, 78-602, 81-471, and 85-493, L.O.F., and thereby abolishes the Pinellas County Water and Navigation Control Authority on January 1, 2007, and transfers the assets and liabilities of the Authority to Pinellas County.

C. SECTION DIRECTORY:

Section 1: Repeals chapter 31182, L.O.F., 1955, and chapters 72-664, 74-588, 78-602, 81-471, and 85-493, L.O.F.

Section 2: Abolishes the Authority; transfers the assets and liabilities of the Authority to Pinellas County, and provides that Pinellas County will assume the Authority's obligations.

Section 3: Provides an effective date of January 1, 2007.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

[1] http://www.dep.state.fl.us/water/waterpolicy/index.htm.
[2] http://www.pinellascounty.org/Environment/pagesHTML/watrNav/wn500.html.

IF YES, WHEN? December 30, 2005

WHERE? *Pinellas News*, St. Petersburg, Pinellas County, 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 []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not applicable.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Chapter 74-588, L.O.F., relates to Pinellas County, the bill amends different special district charters. Only s. 3 of the bill should be repealed because it specifically relates to the Water and Navigation Control Authority.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

Pinellas News
www.pinellas-news.com
TEL (727) 894-2411 FAX (727) 894-2522

PINELLAS COUNTY LEGISLATIVE DELEGATION
Attn: MS. DONNA McGAUGHEY
311 S. OSCEOLA AVENUE
CLEARWATER, FL 33756-5122

NO.: **123017**
ACCT: **15008**
Subject: **MOSQUITO CONTROL DISTRICT**

STATE OF FLORIDA
COUNTY OF PINELLAS

Before the undersigned authority personally appeared, Carter B. Chase, who on oath says that he is the Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **SUBJECT: MOSQUITO CONTROL DISTRICT OF PINELLAS COUNTY AND THE PINELLAS COUNTY WATER AND NAVIGATIONAL CONTROL AUTHORITY** in the Pinellas County Circuit Court, was published in the said newspaper in the issues of **DECEMBER 30, 2006.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to Pinellas County; repealing chapter 67-1920, Laws of Florida, and chapters 31182, 1955, Laws of Florida, and 72-664, 74-588, 78-602, 81-471, and 85-493, Laws of Florida; abolishing the Mosquito Control District of Pinellas County and the Pinellas County Water and Navigational Control Authority; transferring their respective assets and liabilities to the county; providing for a referendum; providing an effective date and a conditional effective date.

15008 Dec 30, 2005 123017

Carter B. Chase

The foregoing instrument was acknowledged before me by Carter B. Chase, personally known to me
this **30TH** Day of **DECEMBER, 2006**, AD.

Notary Public

ROBERT MCLEAN POTTER
MY COMMISSION # DD449949
EXPIRES [illegible] 2009
1-800-3-NOTARY FL Notary Discount Assoc. Co.

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 921 SB 1830

SPONSOR(S): Rep. Kim Berfield Senator Jim Sebesta

RELATING TO: Pinellas County Water Navigation Control Dist.

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

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: 922-6414

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: December 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] 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 [X] NO [ ] DATE [Dec. 30, 2005 **]**

Where? Pinellas News **County** Pinellas

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 [ ] NO [ ] NOT APPLICABLE [X]

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

03-06-06

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 #: SB 1830 and HB 921

SPONSOR(S): Senator Sebesta and Representative Berfield

RELATING TO: Pinellas County Water and Navigation Control Authority
[Indicate Area Affected (City, County, Special District) and Subject]

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

	FY 06-07	FY 07-08
Expenditures:	None	

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	None	
State:	None	
Local:	None	

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	None	

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

Advantages: Abolishing the special district will allow a more streamlined ability for the law to be amended. Now, it functions as a county department and not as a special district, and is funded as a county department.

Disadvantages: None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT: Will make Pinellas County able to respond more quickly to changes in competition and open market by an ordinance amendment rather than state legislature.

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) O : DATA]: Review of Pinellas County budget.

PREPARED BY: _____ : /1/06
[Must be signed by Preparer] Date

Susan H. Churuti

TITLE: Pinellas County Attorney

REPRESENTING: Pinellas County

PHONE: (727-464-3354)

E-Mail Address: schuruti@co.pinellas.fl.us

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 921

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	____	

---

1 Council/Committee hearing bill: Local Government
2 Representative Berfield offered the following:
3
4 **Amendment (with title amendment)**
5 Remove line 14 and insert:
6 Laws of Florida, 1955, section 3 of chapter 74-588, Laws of
7 Florida, and chapters 72-664, 78-602, 81-
8
9 ========== T I T L E A M E N D M E N T ==========
10 Remove line 4 and insert:
11 Laws of Florida, 1955, section 3 of chapter 74-588, Laws of
12 Florida, and chapters 72-664, 78-

000000

1 A bill to be entitled
2 An act relating to the Pinellas County Water and
3 Navigation Control Authority; repealing chapter 31182,
4 Laws of Florida, 1955, and chapters 72-664, 74-588, 78-
5 602, 81-471, and 85-493, Laws of Florida; abolishing the
6 Pinellas County Water and Navigation Control Authority;
7 transferring all assets and liabilities of the authority
8 to the county; providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Special laws relating to the Pinellas County
13 Water and Navigation Control Authority, including chapter 31182,
14 Laws of Florida, 1955, and chapters 72-664, 74-588, 78-602, 81-
15 471, and 85-493, Laws of Florida, are repealed and shall become
16 ordinances of Pinellas County as provided in section 5.02(a) of
17 the Pinellas County Charter.
18 Section 2. The Pinellas County Water and Navigation
19 Control Authority is abolished. All assets and liabilities of
20 the authority are transferred to Pinellas County, and Pinellas
21 County shall assume all the authority's obligations.
22 Section 3. This act shall take effect January 1, 2007.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 923 Troup-Indiantown Water Control District, Martin County
SPONSOR(S): Machek
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Water & Natural Resources Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends the charter of the Troup-Indiantown Water Control District (District), an independent special district located in Martin County, Florida. The bill amends the legal boundaries of the District to correct an error in the District's charter.

The bill also creates an exception to general law by changing the residency requirements of individuals who sit on the board of supervisors (board). Under current law, a supervisor must be a resident of a county in which the district is located and own land in the district. This bill changes the requirement so that a supervisor must be a resident of the State of Florida and a citizen of the United States.

The bill would take effect upon becoming law.

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

House Rule 5.5(b) states that 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. This bill may create such an exemption.

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:

Troup-Indian town Water Control District (District) was re-codified in chapter 2002-366, L.O.F. The re-codification incorporated the general provisions of chapters 189 and 291, F.S., into the District's charter. The District has all powers, functions, and duties of a water control district for revenue-raising, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and certificates, and contractual agreements. The District is comprised of 13,780.68 acres.

General law under s. 298.11(1), F.S., provides that the board of supervisors be composed of three elected individuals who are owners of land in the district and residents of a county in which the district is located. This has been seen as a two part requirement, requiring both ownership and residency. This requirement prevents corporations from serving on the board of supervisors through an officer of the company, unless the officer meets the qualification independently.[1]

Pursuant to Article III, section 11 of the State Constitution, s. 298.76, F.S., provides that there shall be no special or general law of local application granting additional authority, powers, rights, or privileges to any water control district formed under chapter 298, F.S. However, s. 298.76(3), F.S., provides that special or local legislation may be enacted by the Legislature to change the term of office or qualifications of the board of supervisors for a water control district.

HB 923 removes the land ownership and residency requirements of s. 298.11, F.S., from the District's charter. Instead, the bill requires that a member of the board of supervisors for the District be a resident of the State of Florida and a citizen of the United States. This would enable corporate officers who are citizens of the United States and Florida residents to serve on the board of supervisors for the District.

The boundary changes involve adding approximately 960 acres to the Northeast section of the District and deleting approximately 880 acres in the Southwest at the consent of the landowner.[2] The area being added is currently being taxed by the District, and the area being removed is not taxed by the District.[3]

C. SECTION DIRECTORY:

Section 1: Section1 of chapter 2002-366, Laws of Florida, is amended, relating to district boundaries.

Section 2: Subsection (4) of section 2 of section 1 is amended to require members of the board of supervisors to be residents of Florida and citizens of the United States.

Section 3: Provides the effective date of upon becoming a law.

---

[1] AGO 2000-31
[2] Martin County Legislation Delegation, Participation Request Form (2006 Legislative Session).
[3] Estimated Economic Impact Statement

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 30, 2005

WHERE? *Stuart News*, St. Lucie and Martin 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 []

The impact statement suggests that the property being added in the boundary change is currently paying and will continue to pay taxes, and the property that is being removed has not and will not pay taxes, indicating there will be no economic impact on the individuals, businesses, or governments in the District.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments:

The boundaries are being changed to correspond with the area that is actually being taxed and serviced by the District. There was a typo made in the legal description in chapter 2002-366, L.O.F., and the proposed changes would correct the problem.[4]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None

[4] E-mail from James Watt of Caldwell & Pacetti, March 2, 2006.

HB 723

SCRIPPS TREASURE COAST NEWSPAPERS

The Stuart News

The Port St. Lucie News

1939 S. Federal Highway, Stuart, FL 34994

SCRIPPS HOWARD

AFFIDAVIT OF PUBLICATION

STATE OF FLORIDA
COUNTY OF MARTIN; COUNTY OF ST. LUCIE

Before the undersigned authority personally appeared, S. Darlene Mailing, who on oath says that she is Classified Inside Sales Manager of the Stuart News and the Port St. Lucie News, a daily newspaper published at Stuart in Martin County, Florida: that the attached copy of advertisement was published in the Stuart/Port St. Lucie News in the following issues below. Affiant further says that the said Stuart/Port St. Lucie News is a newspaper published in Stuart in said Martin County, Florida, with offices and paid circulation in Martin County and St. Lucie County, Florida, and that said newspapers have heretofore been continuously published in said Martin County, Florida, daily and distributed in Martin and St. Lucie 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 or 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. The Stuart News has been entered as Periodical Matter at the Post Offices in Stuart, Martin County, Florida and Ft. Pierce, St. Lucie County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

Customer	Ad Number	Pub Date	Copyline	PO #
CALDWELL & PACETTI, LL	1296527	12/30/2005	NOTICE OF INTENTION	

0119 MISCELLANEOUS NOTICE

NOTICE OF INTENTION TO APPLY FOR PASSAGE OF LOCAL LEGISLATION

Notice is hereby given that at the session of the Legislature of the State of Florida, which convenes March 7, 2006, application shall be made by Troup-Indiantown Water Control District for the passage of special or local legislation, the substance of which is as follows:

A bill to be entitled an act relating to the Troup-Indiantown Water Control District, Martin County; amending Chapter 2002-366, Laws of Florida; correcting the legal description of the boundaries of the District; providing for a change in the membership and organization of the Board; providing an effective date.

Dated this 28th day of December, 2005.

Pub: December 30, 2005

1296527

9003 DOMESTIC PROPERTIES

Subscribed and sworn to me before this date:

December 30, 2005

S. Darlene Mailing

Notary Public

Emma Jean Smith
Commission # [illegible]
Expires Aug. 13, 2006
Bonded Thru
[illegible]

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 923

SPONSOR(S): Rep. Richard Machek

RELATING TO: Troup-Indiantown Water Control District

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

NAME OF DELEGATION: Martin County

CONTACT PERSON: Victoria Nowlan

PHONE # and E-Mail: (561) 279-1633 VICTORIA.NOWLAN@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 [X] NO [ ]

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

Date hearing held: December 16, 2005

Location: Stuart, FL (Martin County Commission Chambers)

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] 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 [X] NO [ ] DATE [ ]

Where? Stuart News ~~Port St Lucie News~~ **County** Martin

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 [ ] NO [ ] NOT APPLICABLE [X]

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

12/16/05

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 Local Government & Veterans' Affairs Committee that no bill will be considered by a subcommittee or the 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 House Local Government and Veterans' Affairs Committee as soon as possible after the bill is filed.

BILL #: _____

SPONSOR(S): _____

RELATING TO: Troup-Indiantown Water Control District
[Indicate Area Affected (City, County, Special District) and Subject]

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

	FY 06-07	FY 07-08
Expenditures:	NONE	NONE

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:		
State:	NOT APPLICABLE	
Local:		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues: Estimated	NONE	NONE

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

Advantages: Property to be added to District has been paying taxes as if in District and will continue to be subject to taxes assessed by District.

Disadvantages: Property to be deleted from District has not been paying taxes and will no longer be subject to taxes assessed by District.

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):

Prior year's assessment roll.

PREPARED BY: James F. Watt 12/8/05
Date

TITLE: Counsel

REPRESENTING: Caldwell & Pacetti

PHONE: (561) 655-0620

E-Mail Address: watt@caldwellpacetti.com

1 A bill to be entitled
2 An act relating to the Troup-Indiantown Water Control
3 District, Martin County; amending chapter 2002-366, Laws
4 of Florida; correcting the legal description of the
5 boundaries of the district; revising requirements for
6 membership on the board of supervisors; clarifying
7 applicability of general law; providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Section 1 of section 1 of chapter 2002-366,
12 Laws of Florida, is amended to read:
13 Section 1. Status and boundaries of Troup-Indiantown Water
14 Control District.--The Troup-Indiantown Water Control District
15 is hereby declared to be an independent water control district
16 and a public corporation of the State of Florida pursuant to
17 chapter 298, Florida Statutes, as it may be amended from time to
18 time, and the lands lying within the area described as follows
19 in Martin County, Florida, shall hereby constitute the Troup-
20 Indiantown Water Control District:
21
22 Beginning at the southeast corner of Section 28 ~~33~~,
23 Township 39 South, Range 39 East, run thence East with
24 the South line of Section 27 ~~34~~ a distance of 60 feet
25 to a point; run thence North on a line 60 feet East of
26 and parallel to the East lines of Sections ~~33,~~ 28, 21
27 and 16 to a point in the North line of Section 15
28 which is 60 feet East of the Northwest corner of said

29 Section 15; run thence in a straight line to the
30 Northeast corner of Section 9; run thence North
31 ~~Northward~~ with the East line of Section 4 to the
32 Northeast corner thereof; thence run West ~~Westward~~
33 with the North lines of Section 4, 5, and 6 to a point
34 in the North line of Section 6, which is 50 feet East
35 of the Northwest corner of said Section 6; run thence
36 South ~~Southward~~ with a line which is 50 feet East of
37 and parallel to the West lines of Sections 6 and 7 and
38 the North one-half of Section 18 to a point; run
39 thence Southeastward in a straight line to the
40 Northeast corner of Section 30; run thence
41 Southeastward to the Southwest corner of the East one-
42 half of the Southwest one-quarter of Section 29; run
43 thence East ~~Eastward~~ with the South line of Sections
44 28 and ~~Section~~ 29 ~~a distance of 1329.12 feet to the~~
45 ~~Northwest corner of the East one-half of Section 32;~~
46 ~~run thence South with the West line of the East one-~~
47 ~~half of Section 32 a distance of 1675.73 feet to a~~
48 ~~concrete monument which is on the Southwest bank of a~~
49 ~~drainage canal; run thence South 23E 49' 29" East a~~
50 ~~distance of 614.2 feet to a point on the Southwest~~
51 ~~bank of said drainage canal; run thence South 20E 16'~~
52 ~~59" East a distance of 873.6 feet to a point on the~~
53 ~~Southwest bank of said drainage canal; run thence~~
54 ~~South 37E 49' 39" East a distance of 1426.46 feet to a~~
55 ~~point on the Southwest bank of said drainage canal;~~
56 ~~run thence South 42E 05' 24" East a distance of 429.70~~

57 ~~feet to a point on the Southwest bank of said drainage~~
58 ~~canal; run thence South 22E 51' 04" East a distance of~~
59 ~~830.8 feet to a point on the Southwest bank of said~~
60 ~~drainage canal; run thence South 32E 45' 39" East a~~
61 ~~distance of65.38 feet to an intersection point with~~
62 ~~the South line of Section 32, which point is 569.23~~
63 ~~feet West of the Southeast corner of said Section 32;~~
64 ~~run thence East with the South lines of Sections 32~~
65 ~~and 33~~ to the point of beginning.
66
67 and
68
69 Beginning at a point on the South line of the North
70 1/2 of Section 34, Township 39 South, Range 39 East,
71 which point is 60 feet East of the Southwest corner of
72 the North 1/2 of said Section 34, thence run East
73 along the South boundary line of the North 1/2 of
74 Sections 34 and 35 to the Southeast corner of the
75 Northwest 1/4 of Section 35; thence run North along
76 the East boundary line of the West 1/2 of Sections 35,
77 26, 23, 14, ~~and~~ 11, and 2, to the North line of
78 Section 2 ~~11~~; thence run West along the North lines of
79 Sections 2 ~~10~~ and 3 ~~11~~ to the Northwest corner of
80 Section 3 ~~10~~; and thence run South along the West line
81 of Section 3 to the Southwest corner thereof; thence
82 Southward ~~South~~ in a straight line to a point on the
83 South line of Section 10, which point is 60 feet East
84 of the Southwest corner of Section 10; thence run

85 South parallel to 60 feet East of the West lines of
86 Section 15, 22, 27 and 34 to the point of beginning.
87 All of said lands lying and being in Township 34
88 South, Range 39 East.
89
90 ~~and~~
91
92 ~~Beginning at a point on the South line of the North~~
93 ~~1/2 of Section 34, Township 39 South, Range 39 East,~~
94 ~~which point is 60 feet East of the Southwest corner of~~
95 ~~the North 1/2 of said Section 34, thence run East~~
96 ~~along the South boundary line of the North 1/2 of~~
97 ~~Sections 34 and 35, to the Southeast corner of the~~
98 ~~Northwest 1/4 of Section 35; thence run North along~~
99 ~~the North-South quarter section lines of Section 35,~~
100 ~~26, 23, 14 and 11, to the North line of Section 11;~~
101 ~~thence run West along the North lines of Section 11~~
102 ~~and 10 to the Northwest corner of Section 10; thence~~
103 ~~run South in a straight line to a point in the South~~
104 ~~line of Section 10, which point is 60 feet East of the~~
105 ~~Southwest corner of Section 10; thence run South~~
106 ~~parallel to and 60 feet East of the West lines of~~
107 ~~Sections 15, 22, 27 and 34, to the Point of Beginning.~~
108 ~~All of said lands lying and being in Township 39 S,~~
109 ~~Range 39E.~~
110 Section 2. Subsection (4) of section 2 of section 1 of
111 chapter 2002-366, Laws of Florida, is amended to read:

112 Section 2. Minimum charter requirements.--In accordance
113 with section 189.404(3), Florida Statutes, the following
114 subsections shall constitute the charter of the Troup-Indiantown
115 Water Control District:
116 (4) In accordance with this act and chapters ~~chapter~~ 189
117 and 298, Florida Statutes, to the extent not inconsistent with
118 this act, ~~and section 298.11, Florida Statutes,~~ the district is
119 governed by a three-member board, elected on a one-acre, one-
120 vote basis by the landowners ~~landowner~~ in the district; however,
121 landowners owning less than one acre shall be entitled to one
122 vote. Landowners with more than one acre shall be entitled to
123 one additional vote for any fraction of an acre greater than 1/2
124 acre owned, when all of the landowner's acreage has been
125 aggregated for purposes of voting. Notwithstanding s. 298.11(1),
126 Florida Statutes, members of the board of supervisors do not
127 have to be owners of lands in the district and residents of the
128 county or counties in which the district is located but must be
129 residents of the State of Florida and citizens of the United
130 States. The membership and organization of the board shall be as
131 set forth in this act and chapter 298, Florida Statutes, as they
132 may be amended from time to time, provided this act controls
133 with respect to any inconsistency.
134 Section 3. This act shall take effect upon becoming a law.

HB 925

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 925 Pinellas County Tourist Development Council, Pinellas County
SPONSOR(S): Anderson
TIED BILLS: **IDEN./SIM. BILLS:** SB 2330

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) Tourism Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends ch. 2001-307, L.O.F., to:

- Increase the number of members on the Pinellas County Tourist Development Council (Council) from 11 to 12;
- Require one member to be an elected city official who represents the city in which the greatest percentage of tourist development tax revenue is generated in Pinellas County; and
- Require one member to be an elected city official representing a city in Pinellas County other than Belleair Beach, Belleair Shore, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island.

The Economic Impact Statement indicates that the bill will not have a fiscal impact in fiscal years 2006-07 or 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Statutory Requirements Regarding Tourist Development Councils

The governing board of each county that levies and imposes a tourist development tax under s. 125.0104, F.S., must appoint an advisory council to be known as the " (name of county) Tourist Development Council." The council must be established by ordinance and composed of nine members who are appointed by the governing board. The chair of the governing board of the county or any other member of the governing board as designated by the chair must serve on the council. Two members of the council must be elected municipal officials, at least one of whom shall be from the most populous municipality in the county or subcounty special taxing district in which the tax is levied. Six members of the council must be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four must be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council must be electors of the county. The governing board of the county must have the option of designating the chair of the council or allowing the council to elect a chair. The chair must be appointed or elected annually and may be reelected or reappointed.

The members of the council must serve for staggered terms of 4 years. The terms of office of the original members must be prescribed in the resolution establishing the council. The council must meet at least once each quarter and, from time to time, must make recommendations to the county governing board for the effective operation of the special projects or for uses of the tourist development tax revenue and perform such other duties as may be prescribed by county ordinance or resolution. The council must continuously review expenditures of revenues from the tourist development trust fund and must receive, at least quarterly, expenditure reports from the county governing board or its designee. Expenditures which the council believes to be unauthorized must be reported to the county governing board and the Department of Revenue. The governing board and the department must review the findings of the council and take appropriate administrative or judicial action to ensure compliance with this section.

Pinellas County Tourist Development Council

In 2001, the Legislature enacted ch. 2001-307, L.O.F., to modify the composition of the Pinellas County Tourist Development Council (Council). The Council is now composed of 11 members who are appointed by the Pinellas County Board of County Commissioners. The chair of the Pinellas County Board of County Commissioners or any other member as designated by the chair must serve on the Council. Three members of the Council must be elected municipal officials, one of whom must be from the most populous municipality in Pinellas County, and at least one of whom must be from among the cities of Belleair Beach, Belleair Shore, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island. Seven members of the council must be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four must be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council must be electors of the county.

Effect of Proposed Changes

This bill amends ch. 2001-307, L.O.F., to increase the number of members on the Pinellas County Tourist Development Council (Council) from 11 to 12, require one member to be an elected city official who represents the city in which the greatest percentage of tourist development tax revenue is generated in Pinellas County, and require one member to be an elected city official representing a city in Pinellas County other than Belleair Beach, Belleair Shore, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island.

C. SECTION DIRECTORY:

Section 1. Amends ch. 2001-307, L.O.F., to modify the composition of the Pinellas County Tourist Development Council.

Section 2. Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 30, 2006

WHERE? Pinellas News, St. Petersburg, 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 []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

925

Pinellas News

www.pinellas-news.com

TEL (727) 894-2411 FAX (727) 894-2522

PINELLAS COUNTY LEGISLATIVE DELEGATION
Attn: MS. DONNA McGAUGHEY
311 S. OSCEOLA AVENUE
CLEARWATER, FL 33756-5122

NO.: **123018**
ACCT: **15008**
Subject: **PINELLAS COUNTY TOURIST DEVELOPMENT COUNCIL**

STATE OF FLORIDA
COUNTY OF PINELLAS

Before the undersigned authority personally appeared, Carter B. Chase, who on oath says that he is the Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **SUBJECT: PINELLAS COUNTY TOURIST DEVELOPMENT COUNCIL** in the Pinellas County Circuit Court, was published in the said newspaper in the issues of **DECEMBER 30, 2006.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Carter B. Chase

The foregoing instrument was acknowledged before me by Carter B. Chase, personally known to me
this **30TH** Day of **DECEMBER, 2006**, AD.

Notary Public

ROBERT MCLEAN POTTER
MY COMMISSION # DD449949
EXPIRES: July 12, 2009
Fl. Notary Discount Assoc. Co.
1-800-3-NOTARY

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby gi en of intent to apply to the 2006 Legislature for passage of a act relating to the Pinellas County Tourist Development C uncil, Pinellas County; amending chapter 2001-307, Laws of Florida; revising the membership of the council; providing the ffective date for such changes in council membership; providin an effective date.

15008 Dec 30, 2005 123018

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: _____

SPONSOR(S): Representative Anderson & Senator Fasano

RELATING TO: Pinellas County Tourist Development Council

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

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: SC 570-3592 dmcgaugh@pinellascounty.org

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: December 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] 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 [X] NO [ ] DATE [December 30, 2005]

Where? Pinellas News **County** Pinellas

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 [ ] NO [ ] NOT APPLICABLE [X]

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

12.12.05

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 #:

SPONSOR(S): Rep. Tom Anderson (45)

RELATING TO: Pinellas County - Tourist Development Council Composition
[Indicate Area Affected (City, County, Special District) and Subject]

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

		FY 06-07	FY 07-08
Expenditures:	None	0	0

II. ANTICIPATED SOURCE(S) OF FUNDING:

		FY 06-07	FY 07-08
Federal:	None	0	0
State:	None	0	0
Local:	None	0	0

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

		FY 06-07	FY 07-08
Revenues:	None		

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

Advantages: None

Disadvantages: None

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

N/A

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

N/A

PREPARED BY: Cynthia E. Goudeau 01/06/2009
[Must be signed by Preparer] Date

TITLE: City Clerk

REPRESENTING: City of Clearwater

PHONE: (727.562.4091)

E-Mail Address: cyndie.goudeau@myclearwater.com

1 A bill to be entitled
2 An act relating to the Pinellas County Tourist Development
3 Council, Pinellas County; amending chapter 2001-307, Laws
4 of Florida; revising the membership of the council;
5 providing the effective date for such changes in council
6 membership; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Section 1 of chapter 2001-307, Laws of Florida,
11 is amended to read:
12 Section 1. Pinellas County Tourist Development Council;
13 composition.--Notwithstanding the provisions of section
14 125.0104(4)(e), Florida Statutes, the Pinellas County Tourist
15 Development Council as established by Pinellas County ordinance
16 pursuant to section 125.0104, Florida Statutes, the "Local
17 Option Tourist Development Act," shall be composed of 12 ~~11~~
18 members who shall be appointed by the Pinellas County Board of
19 County Commissioners. The chair of the Pinellas County Board of
20 County Commissioners or any other member as designated by the
21 chair shall serve on the council. Four ~~Three~~ members of the
22 council shall be elected municipal officials, one of whom shall
23 be from the most populous municipality in Pinellas County, one
24 of whom shall be from the municipality in which the greatest
25 percentage of tourist development tax revenue is generated in
26 Pinellas County, ~~and at least~~ one of whom shall be from among
27 the cities of Belleair Beach, Belleair Shore, Indian Rocks
28 Beach, Indian Shores, Madeira Beach, North Redington Beach,

29 Redington Beach, Redington Shores, St. Pete Beach, and Treasure
30 Island, and one of whom shall be from a city in Pinellas County
31 that is not specifically named in this section. Seven members of
32 the council shall be persons who are involved in the tourist
33 industry and who have demonstrated an interest in tourist
34 development, of which members, not less than three nor more than
35 four shall be owners or operators of motels, hotels,
36 recreational vehicle parks, or other tourist accommodations in
37 the county and subject to the tax. All members of the council
38 shall be electors of the county. The changes in the composition
39 of the membership of the Pinellas County Tourist Development
40 Council mandated by this act are effective October 1, 2006 ~~2001~~,
41 and shall not cause the interruption of the current term of any
42 person who is a member of the Pinellas County Tourist
43 Development Council on October 1, 2006 ~~2001~~. Except as
44 specifically provided herein, the provisions of section
45 125.0104(4)(e), Florida Statutes, shall apply to the Pinellas
46 County Tourist Development Council.
47 Section 2. This act shall take effect upon becoming a law.

HB 927

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 927 Mosquito Control District of Pinellas County
SPONSOR(S): Berfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 1916

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill abolishes the Mosquito Control District of Pinellas County, and provides for the transfer of assets and liabilities to Pinellas County.

The bill does not appear to have any impact on local and state budgets.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/Ensure lower taxes – This bill abolishes the Mosquito Control District of Pinellas County (District). The District is authorized to impose ad valorem taxes.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 67-1920(4), L.O.F., designates the Board of County Commissioners as the governing body of the Pinellas Mosquito Control District. The District is governed by ch. 388, F.S., and Chapter 5E-13, Florida Administrative Code.

The District provides services through an integrated pest management program utilizing techniques such as biological control, water management projects, source reduction practices and cultural control.

The District is funded primarily by local ad valorem tax assessments. In addition, the County receives State funding which requires annual and monthly reporting on Mosquito Control Activity.

Effect of Proposed Changes

This bill repeals chapter 18792, L.O.F., 1937, and chapter 67-1920, L.O.F., and thereby abolishes the Mosquito Control District of Pinellas County on January 1, 2007, and transfers the assets and liabilities of the District to Pinellas County.

C. SECTION DIRECTORY:

Section 1: Repeals chapter 18792, L.O.F., 1937, and chapter 67-1920, L.O.F.

Section 2: Abolishes the District; transfers the assets and liabilities of the District to Pinellas County, and provides that Pinellas County will assume the District's obligations.

Section 3: Provides an effective date of January 1, 2007.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 30, 2005

WHERE? *Pinellas News*, St. Petersburg, Pinellas County, 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 []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not applicable.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

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Pinellas News

www.pinellas-news.com

TEL (727) 894-2411 FAX (727) 894-2522

NO: **123017**
ACCT: **15008**
Subject: **MOSQUITO CONTROL DISTRICT**

STATE OF FLORIDA
COUNTY OF PINELLAS

Before the undersigned authority personally appeared, Carter B. Chase, who on oath says that he is a Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **SUBJECT: MOSQUITO CONTROL DISTRICT OF PINELLAS COUNTY AND THE PINELLAS COUNTY WATER AND NAVIGATIONAL CONTROL AUTHORITY** in the Pinellas County Circuit Court, was published in the said newspaper in the issues of **DECEMBER 30, 2006.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Carter B. Chase

The foregoing instrument was acknowledged before me
by Carter B. Chase, Personally Known to me
this **30TH** Day of **DECEMBER, 2006**, AD.

Notary Public

ROBERT MCLEAN POTTER
MY COMMISSION # DD449949
EXPIRES: July 12, 2009
1-800-3-NOTARY Fl. Notary Discount Assoc. Co.

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby give of intent to apply to the 2006 Legislature for passage of an :t relating to Pinellas County; repealing chapter 67-1920, L ws of Florida, and chapters 31182, 1955, Laws of Florida, and 2-664, 74-588, 78-602, 81-471, and 85-493, Laws of Florida; al lish- ing the Mosquito Control District of Pinellas County and he Pinellas County Water and Navigational Control Authori ; transferring their respective assets and liabilities to the cc nty; providing for a referendum; providing an effective date a d a conditional effective date.

15008 Dec 30, 2005 23017

533 4th Street North • Saint Petersburg, FL 33701-2301
P.O. Box 1507 • Saint Petersburg, FL 33731-1507

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 927

SPONSOR(S): Representative Berfield & Senator Sebesta

RELATING TO: Mosquito Control District of Pinellas County & P.C. Water & Navigation Control District
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: 561 576-3592 dmcgaugh@pinellascounty.org.

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: Dec. 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] 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 [X] NO [ ] DATE [December 30, 2005 **]**

Where? Pinellas News **County** Pinellas

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 [ ] NO [ ] NOT APPLICABLE [X]

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

12-19-05

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 #: HB 927

SPONSOR(S): REPRESENTATIVE BERFIELD AND SENATOR SEBESTA

RELATING TO: ABOLISHING THE MOSQUITO CONTROL DISTRICT AND WATER AND NAVAGATIONAL CONTROL AUTHORITY

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

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

	FY 06-07	FY 07-08
Expenditures: Not applicable	Not applicable	Not applicable

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal: Not applicable	Not applicable	Not applicable
State: Not applicable	Not applicable	Not applicable
Local: Not applicable	Not applicable	Not applicable

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues: Not applicable	Not applicable	Not applicable

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

Advantages: These are archaic special acts, where Pinellas County now undertakes these responsibilities. The Pinellas County Home Rule Charter requires countywide referendum approval.

Disadvantages: None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT: Not applicable

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]: Not applicable

PREPARED BY: _____ 12-2-05
[Must be signed by Preparer] Date

TITLE: Pinellas County Attorney

REPRESENTING: Pinellas County

PHONE: (727-464-3354)

E-Mail Address: _____

1 A bill to be entitled
2 An act relating to the mosquito control district of
3 Pinellas County; repealing chapter 18792, Laws of Florida,
4 1937, and chapter 67-1920, Laws of Florida; abolishing the
5 mosquito control district of Pinellas County; transferring
6 all assets and liabilities of the district to the county;
7 providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Special laws relating to the mosquito control
12 district of Pinellas County, including chapter 18792, Laws of
13 Florida, 1937, and chapter 67-1920, Laws of Florida, are
14 repealed and shall become ordinances of Pinellas County as
15 provided in section 5.02(a) of the Pinellas County Charter.
16 Section 2. The mosquito control district of Pinellas
17 County is abolished. All assets and liabilities of the district
18 are transferred to Pinellas County, and Pinellas County shall
19 assume all the district's obligations.
20 Section 3. This act shall take effect January 1, 2007.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 929 Pinellas County
SPONSOR(S): Berfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 1864

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby ZZO
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill abolishes the Pinellas Sports Authority, and provides for the transfer of assets and liabilities to Pinellas County.

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:

Provide limited government – This bill abolishes the Pinellas Sports Authority (Authority).

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Authority was created in 1977 by ch. 77-635, L.O.F., for the purpose of determining the feasibility of developing a comprehensive complex of sports and recreation facilities for the use of the citizens of Pinellas County and for planning, construction, and operation of such facility. The Authority is authorized to fix and collect rates, rentals, fees and charges for the use of any and all of the sports and recreational facilities.

Effect of Proposed Changes

This bill repeals chapters 77-635, 80-503, 83-503, and 88-478, L.O.F., and thereby abolishes the Pinellas Sports Authority, and transfers the assets and liabilities of the Authority to Pinellas County.

C. SECTION DIRECTORY:

Section 1: Repeals chapters 77-635, 80-583, 83-503, and 88-478, L.O.F., abolishing the Authority; transfers the assets and liabilities of the Authority to Pinellas County, and provides that Pinellas County will assume the Authority's obligations.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 30, 2005

WHERE? *Pinellas News*, St. Petersburg, Pinellas County, 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 []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not Applicable.

B. RULE-MAKING AUTHORITY: Not Applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

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Pinellas News

www.pinellas-news.com

TEL (727) 894-2411 FAX (727) 894-2522

PINELLAS COUNTY LEGISLATIVE DELEGATION
Attn: MS. DONNA McGAUGHEY
311 S. OSCEOLA AVENUE
CLEARWATER, FL 33756-5122

NO.: **123019**
ACCT: **15008**
Subject: **THE PINELLAS SPORTS AUTHORITY**

STATE OF FLORIDA
COUNTY OF PINELLAS

Before the undersigned authority personally appeared, Carter B. Chase, who on oath says that he is the Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **SUBJECT: THE PINELLAS SPORTS AUTHORITY** in the Pinellas County Circuit Court, was published in the said newspaper in the issues of **DECEMBER 30, 2006.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Carter B. Chase

The foregoing instrument was acknowledged before me by Carter B. Chase, personally known to me
this **30TH** Day of **DECEMBER, 2006**, AD.

Notary Public

ROBERT MCLEAN POTTER
MY COMMISSION # DD449949
EXPIRES: July 12, 2009
Fl. Notary Discount Assoc. Co.
1-800-3-NOTARY

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2006 Legislature for passage of an act relating to Pinellas County; repealing chapter 77-635, Laws of Florida, as amended; abolishing the Pinellas Sports Authority and providing for disposition of its assets and assumption of its liabilities; providing an effective date.

15008 Dec 30, 2005 123019

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #:

SPONSOR(S): Representative Beerfield Senator Sebesta

RELATING TO: Pinellas County Sports Authority
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: SC 570-3592 dmcgaugh@pinellascounty.org

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: December 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] 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 [X] NO [ ] DATE [December 30, 2005 **]**

Where? Pinellas News **County** Pinellas

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 [ ] NO [ ] NOT APPLICABLE [X]

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

12-18-05

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 #: HB 929

SPONSOR(S): SENATOR SEBESTA AND REPRESENTATIVE BERFIELD

RELATING TO: ABOLISHING THE PINELLAS SPORTS AUTHORITY
[Indicate Area Affected (City, County, Special District) and Subject]

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

		FY 06-07	FY 07-08
Expenditures:	Not applicable	Not applicable	Not applicable

II. ANTICIPATED SOURCE(S) OF FUNDING:

		FY 06-07	FY 07-08
Federal:	Not applicable	Not applicable	Not applicable
State:	Not applicable	Not applicable	Not applicable
Local:	Not applicable	Not applicable	Not applicable

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

		FY 06-07	FY 07-08
Revenues:	Not applicable	Not applicable	Not applicable

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

Advantages: The Department of Community Affairs has declared the dissolution of this inactive special district is appropriate as it failed to file its reports and it has been unable to find any evidence that the Authority is operating or has a registered agent or a governing board.

Disadvantages: None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT: Not applicable

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) C F DATA]: Not applicable

PREPARED BY: _____ 12-2-05
[Must be signed by Preparer] Date

TITLE: Pinellas County Attorney

REPRESENTING: Pinellas County

PHONE: (727-464-3354)

E-Mail Address: schuruti@co.pinellas.fl.us

1 A bill to be entitled
2 An act relating to Pinellas County; repealing chapter 77-
3 635, Laws of Florida, as amended; abolishing the Pinellas
4 Sports Authority and providing for disposition of its
5 assets and assumption of its liabilities; providing an
6 effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Chapter 77-635, Laws of Florida, as amended by
11 chapters 80-583, 83-503, and 88-478, Laws of Florida, is
12 repealed and the Pinellas Sports Authority is abolished. All
13 assets of the Pinellas Sports Authority are transferred to
14 Pinellas County, and Pinellas County shall assume all
15 obligations of the authority.
16 Section 2. This act shall take effect upon becoming a law.

HB 935

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 935 Temporary Buildings
SPONSOR(S): Benson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Smith T.L.S.	Hamby
2) Growth Management Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

Florida Statutes authorize the Florida Building Commission (Commission) to establish minimum standards for permitting, plan review and issuance of mandatory certificates of occupancy (administrative provisions), as well as technical standards for construction.[1] The Commission has adopted the Florida Building Code (Code), which generally applies to modular buildings and site built construction. The Code provides that buildings anticipated to be used for less then six months are entitled to different review and technical standards than permanent buildings (local building officials are authorized to extend that six month period). A different administrative standard applies to modular school buildings, which are statutorily authorized to be used for up to four years and still maintain their temporary status.[2] The National Flood Insurance Program provides some allowance for temporary buildings, which it defines using a 180 day time period, within flood-prone areas. Buildings in flood prone areas for longer periods of time require foundations sufficient to withstand pressure from flood waters.

HB 935 establishes four years as the threshold time period for determining whether a modular building, manufactured building, or factory-built building, regardless of occupancy type, is temporary or permanent. The bill provides exemptions for temporary buildings from the soil and foundation requirements of the Code, while requiring the foundation design to meet or exceed the wind load capacity of the building.

[1] Section 553.73(4)(a), F.S.
[2] Section 553.415, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - This bill may restrict the ability of local governments to enforce safety requirements as applied to temporary buildings and reduces the number of repeated permits by increasing the time between inspections.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Statutes authorize the Florida Building Commission (Commission) to establish minimum standards for permitting, plan review and issuance of mandatory certificates of occupancy (administrative provisions), as well as technical standards for construction.[3] The Commission has adopted the Florida Building Code (Code), which generally applies to modular buildings and site built construction. The Code provides that buildings anticipated to be used for less then six months are entitled to different review and technical standards than permanent buildings (local building officials are authorized to extend that six month period). A different administrative standard applies to modular school buildings, which are statutorily authorized to be used for up to four years and still maintain their temporary status.[4] The National Flood Insurance Program provides some allowance for temporary buildings, which it defines using a 180 day time period, within flood-prone areas. Buildings in flood prone areas for longer periods of time require foundations sufficient to withstand pressure from flood waters.

Technically, the Code provides that "[t]emporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare."[5] [This section was adopted verbatim by the Commission from the International Building Code.]

The following "temporary" buildings are exempt from application of the Code:

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.[6]

Effect of Proposed Changes

This bill establishes four years as the threshold time period for determining whether a modular building[7], manufactured building[8], or factory-built building[9], regardless of occupancy type, is temporary or permanent. The bill provides exemptions for such buildings from the soil and foundation

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[3] Section 553.73(4)(a), F.S.
[4] Section 553.415 , F.S.
[5] Section 107.2, Florida Building Code, Building Volume (2004).
[6] Section 553.73(8), F.S.
[7] Section 558.002(7), F.S.
[8] Section 553.36(12), F.S.
[9] Section 212.02(7), F.S.

requirements of the Code, while requiring the foundation design to meet or exceed the wind load capacity of the building.

C. SECTION DIRECTORY:

Section 1. Adds subsection (12) to s. 553.37, F.S., providing four years as the threshold time period for determining whether a modular building, manufactured building, or factory-built building is temporary or permanent; providing an exemption for temporary buildings from the foundation and soil requirements of the Florida Building Code in favor of design for the wind strength equivalent to that for which the building was designed.

Section 2. Provides that the 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:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   There may be a minimal fiscal impact on local governments relating to permitting by increasing the time between inspections.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Decreased costs of installation and lack of repeated permitting will result in savings to the private sector.

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:

The Department of Community Affairs (Department) has proposed the following amendments:

- Shortened threshold, 4 years is a long period of time to call a building temporary in general application.
- Limit the application of provision to areas outside of those governed by the flood-resistant construction requirements of the National Flood Insurance Program.
- Provision for design for anticipated loads caused by factors in addition to wind.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not Applicable.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **935**

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	____	

---

1 Council/Committee hearing bill: Local Government
2 Representative Benson offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Subsection (12) is added to section 553.37,
7 Florida Statutes, to read:
8 553.37 Rules; inspections; and insignia.--
9 (12) Modular buildings, manufactured buildings, and
10 factory-built buildings, regardless of the occupancy type, which
11 meet the requirements of this part and do not exceed a maximum
12 of twenty-four (24) months occupancy from date of certificate of
13 occupancy, shall be considered temporary. The certificate of
14 occupancy for a temporary building may be extended for an
15 additional twenty-four (24) months. Such temporary buildings
16 shall use a temporary foundation design that meets or exceeds
17 the wind load capacity of the building and the soil bearing
18 capacity of the building location and shall be exempt from soil
19 and foundation requirements of the Florida Building Code. If the
20 occupancy length is greater than forty-eight (48) months, or the
21 building is located in a flood zone area, then these buildings
22 shall be considered permanent structures and shall comply with

23 all requirements of the Florida Building Code, unless otherwise
24 exempted.
25 Section 2. This act shall take effect upon becoming a law.
26
27 ========== T I T L E A M E N D M E N T ==========
28 Remove the entire title and insert:
29
30 An act relating to temporary buildings; amending s.
31 553.37, F.S.; considering certain buildings as temporary;
32 providing foundation requirements for such buildings;
33 exempting such buildings from soil and foundation
34 requirements of the Florida Building Code; providing an
35 exception; providing an effective date.
36

1 A bill to be entitled
2 An act relating to temporary buildings; amending s.
3 553.37, F.S.; considering certain buildings as temporary;
4 providing foundation requirements for such buildings;
5 exempting such buildings from soil and foundation
6 requirements of the Florida Building Code; providing an
7 exception; providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Subsection (12) is added to section 553.37,
12 Florida Statutes, to read:
13 553.37 Rules; inspections; and insignia.--
14 (12) Any modular building, manufactured building, or
15 factory-built building, regardless of the occupancy type, that
16 meets the requirements of this part and does not exceed a
17 maximum of 48 months' occupancy from the date of the certificate
18 of occupancy is considered temporary. Such temporary building
19 shall be installed with a temporary foundation design that meets
20 or exceeds the wind load capacity of the building and shall be
21 exempt from the soil and foundation requirements of the Florida
22 Building Code. If the occupancy length of such building is
23 greater than 48 months, the building is considered a permanent
24 structure and shall comply with all requirements of the Florida
25 Building Code, unless otherwise exempted.
26 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 939 Local Government
SPONSOR(S): Rivera
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends a statute authorizing counties to contract to provide services to municipalities and special districts to specify that this provision may not be construed to require that any newly formed municipality or one formed since January 1, 2000, be required to pay any charge, assessment, tax, fee or other consideration as a condition for allowing the citizens of an area to incorporate. The bill also provides that this new language applies to all counties.

Notwithstanding this language, this bill only applies to Miami-Dade County as it is the single county in the state which has a home rule charter providing for an exclusive method of municipal incorporation as specifically authorized by the Constitution. All other incorporations are creations of the Florida Legislature.

Because this proposed legislation applies solely to Miami-Dade County, and will not apply to any other county in the future without a change in current law, a court could determine it to be a local bill.

The effective date of the act is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

This bill appears to reduce Miami-Dade County's ability to provide a mechanism for establishing new municipal corporations.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 165, Florida Statutes

Chapter 165, F.S., provides statutory standards for forming Florida municipalities. The provisions of this act are the exclusive procedures pursuant to general law for creating or dissolving municipalities in this state, except in those counties operating under a home rule charter which provides for an exclusive method as specifically authorized by s. 6(e), Art. VIII of the State Constitution.

Section 6(e) of Art. VII of the State Constitution

Section 6(e) of Art. VII of the State Constitution provides that ss. 9, 10, 11 and 24 of Art. VIII of the Constitution of 1885, as amended, remain in full force and effect as to each county affected, until a county expressly adopts a charter or home rule plan pursuant to that article. Sections 9, 10, 11 and 24 refer to Duval, Monroe, Dade and Hillsborough counties, respectively. Within these provisions, only Section 11 authorizes Dade County to adopt a home rule charter which provides a method for establishing new municipal corporations. See, s. 11 (e) of Art. VIII of the Constitution of 1885, as amended, as referenced in Section 6(e) of Art. VII.

Section 6(e) of Art. VII of the State Constitution also provides that all provisions and amendments of the Metropolitan Dade County Home Rule Charter adopted by the electors of Dade County pursuant to s. 11 of Art. VIII of the Constitution of 1885, as amended, shall be valid, provided that said provisions and amendments are authorized under that article.

Miami-Dade County

Adopted in 1957, the Miami-Dade Home Rule Charter provides for the creation of new municipalities at section 5.05. This charter contemplates "pre-agreed conditions" between the County and a prospective municipality:

> The Board of County Commissioners and only the Board may authorize the creation of new municipalities in the unincorporated areas of the county after hearing the recommendations of the Planning Advisory Board, after a public hearing, and after an affirmative vote of a majority of the electors voting and residing within the proposed boundaries. The Board of County Commissioners shall appoint a charter commission, consisting of five electors residing within the proposed boundaries, who shall propose a charter to be submitted to the electors in the manner provided in Section 5.03. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by this Charter and the Constitution and general laws of the State of Florida. Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the

municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

An Incorporation Process which was passed by a county-wide vote is provided for in Article II of the Miami-Dade Code of Ordinances.

Section 125.0101, F.S.

Section 125.0101, F.S., specifically indicates that a county may contract to provide services to municipalities and special districts to be funded as agreed upon between the county and a municipality or special district. This section also provides that it is not to be construed to authorize a county to impose any service charge or special assessment or to levy any tax within a municipality or special district, or to authorize the creation of a municipal service taxing unit within such area.

This section does not apply to any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by s. 6(e), Art. VIII, of the State Constitution.

Effect of Proposed Changes

HB 939 adds language to s. 125.010, F.S., that provides that the section is not to be construed to require that any newly formed municipality or one formed since January 1, 2000, be required to pay any charge, assessment, tax, fee or other consideration as a condition for allowing the citizens of an area within a county to incorporate and self-govern.

The bill also provides that this additional language applies to all counties, unlike the rest of the section, which contains an exemption for any county operating under a home rule charter adopted pursuant to ss. 10, 11 and 24, Art. VIII of the Constitution of 1885, as preserved by s. 6(e), Art. VIII, of the State Constitution. Notwithstanding this language, this bill only would apply to Miami-Dade County as it is the single county in the State of Florida which has the ability to provide a mechanism for municipal incorporation.[1] All other incorporations are creations of the Florida Legislature pursuant to ch. 165, F.S.

The effective date of the act is July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 125.0101, F.S.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

[1] See, the "Present Situation" analysis of Chapter 165, F.S., and Section 6(e) of Art. VII of the State Constitution.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown.

2. Expenditures:

Unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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:

While the Legislature may enact general acts applying to Miami-Dade County and one or more other counties, or to cities within and without Miami-Dade County, the Legislature does not have power to enact a local bill that relates only to Miami-Dade County. Because this proposed legislation applies solely to this county, and will not apply to any other county in the State of Florida in the future without a change in current law, a court could determine it to be a local bill.[2]

In interpreting the language of Art. VIII of the State Constitution of 1885, the courts have held that in matters which affect only Miami-Dade County, and which are not the subject of specific constitutional provisions or valid general acts pertaining to Miami-Dade County and at least one other county, the electors of Miami-Dade County may "govern themselves autonomously and differently than the people of other counties of the state." S & J Transportation, Inc. v. Gordon, 176 So.2d 69 (Fla. 1965). The Florida Supreme Court has opined that a reasonable construction of the constitutional scheme formulated for the government of Miami-Dade County alone suggests that the Legislature "no longer has authority to enact laws which relate only" to the affairs of Miami-Dade County. Dickinson v. Board of Public Instruction of Dade County, 217 So.2d 553, 555 (Fla. 1968).[3]

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[2] The State Constitution defines a "special law" as a special or local law (the result of a local bill). Section 12(g), Art. X. of the Florida Constitution. As explained in case law, a local law is one relating to, or designed to operate only in, a specifically indicated part of the State, or one that purports to operate within classified territory when classification is not permissible or the classification is illegal. Department of Business Regulation v. Classic Mile, Inc., 541 So.2d 1155 (Fla.1989) quoting from State ex rel. Landis v. Harris, 120 Fla. 555, 163 So. 237 (Fla. 1934).

[3] Section 11 of Art. VIII of the Constitution of 1885, as referenced by s. 6, Art. VII of the State Constitution provides that:
"Nothing in this section shall limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and any other one or more counties in the state of Florida or to any municipality in Dade County and any other one or more municipalities of the State of Florida, and the home rule charter provided for herein shall not conflict with any provision of this Constitution nor of any applicable general laws now applying to Dade County and any other one or more counties of the State of Florida except as expressly authorized in this section nor shall any ordinance enacted in pursuance to said home rule charter conflict with this Constitution or any such applicable general law except as expressly authorized herein, nor shall the charter of any municipality in Dade County conflict with this Constitution or any such applicable general law except as expressly authorized herein, provided however that said charter and said ordinances enacted in pursuance thereof may conflict with, modify or nullify any existing local, special or general law applicable only to Dade County."

It also is noted that a local bill, within the contemplation of s. 10, Art. III of the State Constitution, is required to be noticed as provided by general law[4] unless the bill is conditioned on a referendum of the electors of the area effected.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The Sponsor may want to amend the bill at lines 26 and 27 to read: <u>or to require that any municipality formed since January 1, 2000, be…</u>.

Other Comments

The Miami-Dade County Attorney's Office has indicated that the County requires "mitigation" to lessen the financial impact of incorporations on its Unincorporated Municipal Service Area (UMSA) budget. Despite recent incorporations, over 1.1 million people still live in the unincorporated area of the county out of the total 2.4 million residents.

There were no new incorporations in Miami-Dade County for a number of decades. Then, during the 1990s, Key Biscayne incorporated followed by Aventura, Sunny Isles Beach and Pinecrest. It became apparent that wealthy areas of the UMSA were pursuing incorporation and removing these areas from the UMSA tax rolls. Looking to the future (and to the north at Broward County), the fear was that incorporations would continue among wealthy areas until the UMSA would be left only or predominantly with "donee" communities and no "donor" areas left in the UMSA to counterbalance the expense. (Court cases have required that the UMSA and the countywide budget be strictly segregated as if the UMSA was another city in Miami-Dade with the Board acting as the city commission.)

To address this concern, the Board adopted a miitigation policy that basically provided that it would calculate the impact of a particular proposed incorporation configuration on the UMSA, and then require a proposed city to pay approximately half of that impact if they chose to incorporate. A proposed city did not have to make a mitigation payment if it was configured in such a way that it "broke even" relative to the balance of the UMSA, i.e., was revenue neutral, or was configured as a donee area. Only if a proposed city was configured so as to "cherry pick" an aggregate donor area out of the UMSA would mitigation payments be required. This mitigation policy was endorsed by the areas anticipating incorporation and the cities of Miami Lakes, Palmetto Bay, Doral, Miami Gardens and Cutler Bay all incorporated under this policy.

Miami Lakes, Palmetto Bay and Doral were donor areas and as such agreed to incorporate and configure their cities with the understanding that mitigation payments would be required as a result of the incorporation. Miami Gardens was configured as a donee area so it pays no mitigation; Cutler Bay also was configured as to be revenue neutral to the UMSA and therefore makes no mitigation payments.

The Board currently is in the process of revising their policy so that a proposed city may only incorporate if it is revenue neutral to the UMSA. By doing so, they hope to resolve any problems in the future. As a result of the filing of this legislation, the board has imposed a complete moratorium on incorporations.

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[4] <u>See</u>, s. 11.02, F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to local government; amending s. 125.0101,
3 F.S.; prohibiting counties from imposing certain fees or
4 taxes on certain municipalities; providing an effective
5 date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Subsections (2) and (5) of section 125.0101,
10 Florida Statutes, are amended to read:
11 125.0101 County may contract to provide services to
12 municipalities and special districts.--
13 (2) In addition to the powers enumerated in this chapter,
14 the legislative and governing body of a county shall have the
15 power to contract with a municipality or special district within
16 the county for fire protection, law enforcement, library
17 services and facilities, beach erosion control, recreation
18 services and facilities, water, streets, sidewalks, street
19 lighting, garbage and trash collection and disposal, waste and
20 sewage collection and disposal, drainage, transportation, and
21 other essential facilities and municipal services. Such services
22 shall be funded as agreed upon between the county and the
23 municipality or special district. This section shall not be
24 construed to authorize the county to impose any service charge
25 or special assessment; ~~or~~ to levy any tax within the
26 municipality or special district; or to require that any newly
27 formed municipality or one formed since January 1, 2000, be
28 required to pay any charge, assessment, tax, fee, or other

29 consideration as a condition for allowing the citizens of an
30 area within the county to incorporate and self-govern;~~,~~ nor
31 shall this section be construed to authorize the creation of a
32 municipal service taxing unit within such area.
33 (5) This section, except for the provision in subsection
34 (2) prohibiting any charge, assessment, tax, fee, or other
35 consideration as a condition for allowing the citizens of an
36 area within the county to incorporate and self-govern, shall not
37 apply to any county operating under a home rule charter adopted
38 pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of
39 1885, as preserved by s. 6(e), Art. VIII, of the Constitution of
40 1968.
41 Section 2. This act shall take effect July 1, 2006.

HB 1021

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1021 Lealman Special Fire Control District, Pinellas County
SPONSOR(S): Farkas
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson LPN	Hamby
2) Fiscal Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill provides that the Lealman Fire Control District will remain the sole taxing, enforcing and service providing authority with respect to fire services over any land within its boundaries that is annexed by other fire control districts and municipalities.

According to the Economic Impact Statement, this bill will not have a fiscal impact.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes

This bill provides that the Lealman Fire Control District will remain the taxing authority with respect to fire services over any land within its boundaries that is annexed by other fire control districts and municipalities. Residents living in areas that are annexed by taxing authorities with lower fire service taxes would be required to continue paying the district at its higher rate.[1] However, the bill may allow remaining district residents to continue receiving fire service without an increase in taxes.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Chapter 191, F.S., the Independent Special Fire Control District Act

Chapter 191, F.S., is known as the "Independent Special Fire Control District Act." Section 191.002, F.S., sets forth the act's purpose, which is to establish standards and procedures concerning the operations and governance of independent special fire control districts, and to provide greater uniformity in financing authority, operations and procedures for electing members of district governing boards. An "independent special fire control district" is defined as an independent special district (as defined in s. 189.403) created by special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district. Currently, there are 55 such districts in Florida.[2]

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[1] Pinellas County Fire District Tax Information for Fiscal Year 2002

	Column 1	Column 2	Column 3	
	Millage	Taxable Value of 1 Mill	Budgeted Ad Valorem	
Belleair Bluffs	1.475	$203,859	$300,692	
Clearwater	3.001	$769,775	$2,310,095	
Dunedin	2.350	$248,754	$584,572	
Gandy	2.070	$70,803	$146,562	
Largo	2.615	$528,412	$1,381,797	
Pinellas Park	2.474	$271,577	$671,881	
Safety Harbor	3.167	$54,918	$173,925	
Tarpon Springs	1.236	$133,482	$164,984	
Seminole	2.219	$1,884,296	$4,181,253	
East Lake	1.505	$1,874,025	$2,820,408	
Lealman	**5.323**	$677,324	$3,605,396	
High Point	2.929	$846,745	$2,480,116	
Tierra Verde	1.190	$501,212	$596,442	
South Pasadena	2.186	$75,449	$164,932	
Totals		$8,140,632	$19,583,056	2.406

2.406 = Average Fire District Millage

[2] Department of Community Affairs: http://floridaspecialdistricts.org.

District Powers

Unless otherwise exempted by special or general law, the act requires each district to comply with its provisions. The act further provides that it is the intent of the Legislature that the act supersedes all special acts or general laws of local application provisions that contain the charter of a district. However, those provisions that address district boundaries and geographical subdistricts for the election of members of the governing board are exempted. Chapter 191, F.S., also does not repeal any authorization providing for the levying of ad valorem taxes, special assessments, non-ad valorem assessments, impact fees or other charges.

An independent special fire control district's general governmental powers include, but are not limited to, the following:

- to sue and be sued, to adopt a seal, and to make and execute contracts;
- to provide for a pension or retirement plan for its employees, and to provide for an extra compensation program;
- to contract for the services of consultants;
- to borrow money and accept gifts, and to apply for grants and loans;
- to adopt resolutions, procedures, ordinances and resolutions that are necessary to conduct district business;
- to maintain an office;
- to acquire real and personal property;
- to hold, control and acquire by donation or purchase any public easement, dedication to public use, platted reservation for public purposes, or reservation for those purposes authorized by the act;
- to lease any facility or property as lessor or lessee;
- to borrow money and issue bonds, revenue anticipation notes, or certificates payable from and secured by a pledge of funds, revenues, taxes and assessments, warrants, notes or other evidence of indebtedness, and to mortgage real and personal property;
- to charge user and impact fees and to enforce their receipt and collection;
- to exercise the power of eminent domain;
- to cooperate or contract with other persons or entities, including other governmental agencies;
- to assess and impose ad valorem taxes and non-ad valorem assessments on real property in the district;
- to impose and foreclose non-ad valorem assessment liens or to impose, collect and enforce non-ad valorem assessments;
- to select a depository for its funds;
- to provide adequate insurance;
- and to organize, participate in, and contribute to monetarily to organizations or associations relating to the delivery of or improvement of fire control, prevention, emergency rescue services or district administration.

Independent special fire control districts also are granted "special powers" relating to the provision of fire suppression and prevention, which involves the establishment and maintenance of fire stations and substations and the acquisition and maintenance of firefighting and fire-protection equipment deemed necessary to prevent or fight fires. Their boards are authorized to carry out the following such powers:

- to establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical and other emergency equipment, pursuant to ch. 401, F.S., and any certificate of public convenience and necessity or its equivalent issued for those purposes;
- to employ, train and equip firefighting and other personnel, including volunteer firefighters, as necessary to accomplish the duties of the district;

- to conduct public education to promote awareness of methods to prevent fires and reduce loss of life and property;
- to adopt and enforce fire safety standards and codes and enforce the rules of the State Fire Marshal;
- to conduct arson investigations and cause-and-origin investigations;
- to adopt hazardous material safety plans and emergency response plans in coordination with the county emergency management agency, as provided in ch. 252, F. S., and
- to contract with general-purpose local governments for emergency management planning and services.

District Funding Mechanisms

Section 191.009, F.S., authorizes special fire control districts to levy ad valorem taxes, special assessments, user charges and impact fees.

Ad Valorem Taxes

An elected board may levy and assess ad valorem taxes on all taxable property in the district to construct, operate and maintain district facilities and services, to pay the principal of, and interest on, general obligation bonds of the district, and to provide for any sinking or other funds established in connection with such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, may not exceed 3.75 mills unless a higher amount has been previously authorized by law, subject to a referendum as required by the State Constitution and the act. The levy of ad valorem taxes must be approved by referendum called by the board when the proposed levy of ad valorem taxes exceeds the amount authorized by prior special act, general law of local application, or county ordinance approved by referendum. The tax is assessed, levied and collected in the same manner as county taxes.

Non-Ad Valorem Assessments

A district may levy non-ad valorem assessments to construct, operate and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board pursuant to statutory procedures. Non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years. Non-ad valorem assessment rate increases within the personal income threshold are deemed to be within the maximum rate authorized by law at the time of initial imposition. Proposed non-ad valorem assessment increases which exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance, whichever is more recent, by more than the average annual growth rate in Florida personal income over the last five years, or the first-time levy of non-ad valorem assessments in a district, must be approved by referendum of the electors of the district. The referendum on the first-time levy of an assessment must include a notice of the future non-ad valorem assessment rate increases permitted by the act without a referendum. Non-ad valorem assessments must be imposed, collected and enforced pursuant to general law.

User Charges

The board may provide a reasonable schedule of user charges for the following services:

- special emergency services, including firefighting occurring in or to structures outside the district, motor vehicles, marine vessels, aircraft or rail cars or as a result of the operation of such motor vehicles or marine vessels, to which the district is called to render such emergency service, and may charge a fee for the services rendered in accordance with the schedule;
- fighting fires occurring in or at refuse dumps or as a result of an illegal burn, which fire, dump or burn is not authorized by general or special law, rule, regulation, order or ordinance and which the district is called upon to fight or extinguish;

- responding to or assisting or mitigating emergencies that either threaten or could threaten the health and safety of persons, property or the environment, to which the district has been called, including a charge for responding to false alarms; and
- inspecting structures, plans and equipment to determine compliance with firesafety codes and standards.

The district has a lien upon any real property, motor vehicle, marine vessel, aircraft or rail car for any user charge assessed.

Impact Fees

If the general purpose local government has not adopted an impact fee for fire services which is distributed to the district for construction within its jurisdictional boundaries, the board may establish a schedule of impact fees to pay for the cost of new facilities and equipment, the need for which is in whole or in part the result of new construction. The impact fees collected by the district must be kept separate from other revenues of the district and must be used exclusively to acquire, purchase or construct new facilities or portions thereof needed to provide fire protection and emergency services to new construction. The term "new facilities" is defined as land, buildings and capital equipment, including, but not limited to, fire and emergency vehicles, radiotelemetry equipment, and other firefighting or rescue equipment. The board must maintain adequate records to ensure that impact fees are expended only for permissible new facilities or equipment. The board may enter into agreements with general purpose local governments to share in the revenues from fire protection impact fees imposed by the governments.

Independent special fire control districts also are authorized to issue various types of bonds, including general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes or other evidences of indebtedness.[3]

District Boundaries/ Municipal Annexation within an Independent Special District

Pursuant to s. 191.014, F.S., the boundaries of an independent special fire control district may be modified, extended or enlarged upon approval or ratification by the Legislature. The merger of a district with all or part of another independent special district or dependent fire control district is effective only when it is ratified by the Legislature. A district's merger with another governmental entity is not justification for increasing the ad valorem taxes on property within the original limits of the district beyond the maximum established by the district's enabling legislation, unless such increase is approved by the electors of the district by referendum.

Chapter 171, F.S., the "Municipal Annexation or Contraction Act," contemplates a municipality's annexation of property within the jurisdictional boundaries of an independent special district.[4] In such an instance, the municipality may elect to assume the special district's service responsibilities. Upon such an election, the municipality and the district may enter into an interlocal agreement which provides for the orderly transfer of service responsibilities. This agreement also must address the prevention of loss of any district revenues which may be detrimental to the continued operations of the district, and the status and employee rights of any adversely affected employees. If the municipality and the district are unable to enter into an interlocal agreement, the district remains the service provider in the annexed area for a period of four years. During the four-year period, the municipality is required to pay the district an amount equal to the ad valorem taxes or assessments that would have been collected had the property remained in the district. The district and the municipality can mutually agree upon an extension for the provision of services at the end of four years.

Three possible scenarios for district boundaries are contemplated in the case of a municipal annexation:

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[3] See, s. 191.012, F.S.
[4] See, s. 171.093, F.S.

1. If the municipality elects not to assume the district's responsibilities, the district remains the service provider for the annexed area and the geographical boundaries of the district continue to include the annexed area.
2. If the municipality elects to assume the district's responsibilities pursuant to an interlocal agreement, the districts boundaries contract to exclude the annexed area at the time and in the manner as provided in the agreement.
3. If the municipality elects to assume the district's responsibilities and the municipality and the district are unable to enter into an interlocal agreement, and the district continues to remain the service provider in the annexed area, the geographical boundaries of the district contract to exclude the annexed area on the effective date of the beginning of the four-year period. The district may not levy ad valorem taxes on the annexed property in the calendar year in which its boundaries contract, but may assess user charges and impact fees within the area while it remains the service provider.

The Lealman Special Fire Control District

The Lealman Special Fire Control District is an independent special district located in Pinellas County which employs over 50 firefighters and staff. The district's charter states that any land within the district's boundaries that is annexed by a municipality will be excluded from the district, effective the following January 1st. In 2002, the Legislature passed a local bill[5] which amended the district's charter to provide that if a municipality or another fire control district annexed land within the district's boundaries, the district would continue as the sole taxing, enforcing and service providing authority for fire control purposes to this property. Pursuant to the bill, a municipality could choose to collect the applicable tax or assessment for fire services and remit it to the district at the district's standard rate.[6] These provisions sunset effective January 1, 2008.

EFFECT OF PROPOSED CHANGES

HB 819 repeals the sunset language contained in ch. 2002-352, L.O.F., thereby allowing the Lealman Special Fire Control District to remain the sole taxing, enforcing and service providing authority for fire control purposes for property within its boundaries which is annexed by a municipality or another fire control district.[7] According to district representatives, the district relies heavily upon commercial property to support its tax base, and has requested this bill due to the annexations of commercial properties within its boundaries by neighboring cities in recent years. Since 2000, the district has lost over $85 million in taxable properties as a result of municipal annexations. This equates to over $425,000 in lost revenue and represents approximately 13 percent of the district's annual budget. Since the enactment of the 2002 bill, no annexations of lands within the district have occurred. If the current sunset provision is not repealed, the district fears that municipalities will resume annexing property, further eroding its tax base.

C. SECTION DIRECTORY:

Section 1: Provides for repeal of sections of previous special act.
Section 2: Provides for an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 9, 2006

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[5] See ch. 2002-352, L.O.F.
[6] The District's current millage rate is 5.323.
[7] While the ch. 2002-352, L.O.F., contemplates the annexation of district land by another fire control district, such a district does not have the power to "annex" property, although its boundaries may be extended upon Legislative approval and ratification.

WHERE? The *St. Petersburg Times*, a daily newspaper of general circulation, published in Pinellas County.

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 []

The Economic Impact Statement provides that this bill will not increase ad valorem levies or non-ad valorem assessments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Section 9(b), art. VII, of the State Constitution, provides for special districts to levy a millage authorized by law approved by the vote of the electors who are owners of freeholds within the district. This bill would authorize a special district to levy ad valorem taxes outside of the district, if such property were annexed by a municipality or became part of another fire control district pursuant to an act of the Legislature. If the authorized ad valorem millage were increased, subject to referendum approval of the district's electors, the owners of property within an annexed area could be subject to the new tax without a vote.

This bill also could also result in the owners of property within the annexed area being subjected to double taxation. If a municipality incorporated fire service charges into its ad valorem taxes, and an annexed property was subject to the district's ad valorem taxes, an owner could be taxed twice for fire control services.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. In this case, the bill appears to provide an exemption from s. 171.093, F.S., in that it eliminates a municipalities' ability to elect to assume an independent special district's responsibilities when the municipality annexes land within the district's boundaries. The bill also allows the district to continue to provide its services indefinitely in lieu of an interlocal agreement, rather than for a four-year period as provided by s. 171.093(4)(a), and to levy taxes within the municipality, rather than receiving payment from the municipality equal to the amount of the ad valorem taxes that would have been collected had the property remained in the district. Further, the bill may provide an exemption to s. 191.0091, F.S., which authorizes the board of an independent special fire control district to levy and assess ad valorem taxes on all taxable property within its district in that it would allow the district to serve as the taxing authority outside the district.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1001808223

ST. PETERSBURG TIMES

Published Daily
St. Petersburg, Pinellas County, Florida

STATE OF FLORIDA } S.S.
COUNTY OF PINELLAS }

Before the undersigned authority personally appeared B. Stamper
who on oath says that he is Legal Clerk
of the *St. Petersburg Times All Pinellas Classified*
a daily newspaper published at St. Petersburg, in Pinellas County, Florida: that the attached copy of advertisement, being a Legal Notice
in the matter RE: Notice of Intent to Seek Legislation
Lealman Special Fire District
was published in said newspaper in the issues of January 7, 2006

Affiant further says the said *St. Petersburg Times All Pinellas Classified* is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper has heretofore been continuously published in said Pinellas County, Florida, each day and has been entered as second class mail matter at the post office in St. Petersburg, in said Pinellas County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

B Stamper
Signature of Affiant

Sworn to and subscribed before me this 9th day of January A.D. 2006

Kathleen J. Klase
Notary Public

Kathleen J Klase
My Commission DD319070
Expires June 20, 2008

NOTICE OF INTENT TO SEEK LEGISLATION
Lealman Special Fire 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 Legislature. This legislation will delete the future expiration date of the District's taxing authority as the fire-service provider for annexed lands within its boundaries, and provides an effective date.
(1001808223) 1/7/06

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1021

SPONSOR(S): Representative Farkas

RELATING TO: Lealman Special Fire Control Dist., Pinellas County
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Pinellas County Legislative Delegation

CONTACT PERSON: Donna McGaughey

PHONE # and E-Mail: 5C 570-3592 dmcgaugh@pinellascounty.org

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: December 1, 2005

Location: Safety Harbor City Hall

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] 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 [X] NO [ ] DATE [January 2, 2006 **]**

Where? St. Petersburg Times **County** Pinellas

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 [ ] NO [ ] NOT APPLICABLE [X]

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

12-18-05

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 #: HB 1021

SPONSOR(S): Frank Farkas

RELATING TO: Lealman Special Fire Control District; Pinellas County

[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

All costs associated with implementing this special act can be met within the District's current budget.

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

This legislation will not increase ad valorem levies or non-ad valorem assessments.

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

Advantages: The bill will allow the District to continue as fire service provider and taxing authority for fire service only, to lands currently within its boundaries. The bill will help secure the jobs and pensions of over 50 current firefighters. It will also insure that over 42,000 District residents continue to receive fire protection without increasing ad valorem levies or reducing the level of fire protection services.

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 Lealman Special Fire Control District, information from district staff and attorney, and prior experience representing special districts.

PREPARED BY: _____ _____
[Must be signed by Preparer] Date
M. Christopher Lyon

TITLE: District Special Counsel

REPRESENTING: Lealman Special Fire Control District

PHONE: (850/222-5702)

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

1 A bill to be entitled
2 An act relating to the Lealman Special Fire Control
3 District, Pinellas County; repealing sections 3 and 4 of
4 chapter 2002-352, Laws of Florida, to delete future repeal
5 of provisions granting the district taxing, enforcement,
6 and service-providing authority over district lands
7 annexed by a municipality or other fire control district;
8 providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Sections 3 and 4 of chapter 2002-352, Laws of
13 Florida, are repealed.
14 Section 2. This act shall take effect upon becoming a law.

Local Government Council

Wednesday, March 8, 2006
1:00 p.m.
404 House Office Building

REVISED

Addendum A (3/7/2006 4:41 PM)

Allan G. Bense
Speaker

Ken Sorensen
Chair

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **0683**

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	____	

---

1 Council/Committee hearing bill: Local Government Council
2 Representative Traviesa offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Paragraphs (a) and (i) of subsection (4) and
7 subsections (15), (19), and (24) of section 380.06, Florida
8 Statutes, are amended, and subsection (28) is added to that
9 section, to read:
10 380.06 Developments of regional impact.--
11 (4) BINDING LETTER.--
12 (a) If any developer is in doubt whether his or her
13 proposed development must undergo development-of-regional-impact
14 review under the guidelines and standards, whether his or her
15 rights have vested pursuant to subsection (20), or whether a
16 proposed substantial change to a development of regional impact
17 concerning which rights had previously vested pursuant to
18 subsection (20) would divest such rights, the developer may
19 request a determination from the state land planning agency. <u>The</u>
20 <u>developer or the appropriate local government having</u>
21 <u>jurisdiction may request that the state land planning agency</u>
22 <u>determine whether the amount of development that remains to be</u>

23 built in an approved development of regional impact meets the
24 criteria of subparagraph (15)(g)3.
25 (i) In response to an inquiry from a developer or the
26 appropriate local government having jurisdiction, the state land
27 planning agency may issue an informal determination in the form
28 of a clearance letter as to whether a development is required to
29 undergo development-of-regional-impact review, or whether the
30 amount of development that remains to be built in an approved
31 development of regional impact meets the criteria of
32 subparagraph (15)(g)3. A clearance letter may be based solely on
33 the information provided by the developer, and the state land
34 planning agency is not required to conduct an investigation of
35 that information. If any material information provided by the
36 developer is incomplete or inaccurate, the clearance letter is
37 not binding upon the state land planning agency. A clearance
38 letter does not constitute final agency action.
39 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--
40 (a) The appropriate local government shall render a
41 decision on the application within 30 days after the hearing
42 unless an extension is requested by the developer.
43 (b) When possible, local governments shall issue
44 development orders concurrently with any other local permits or
45 development approvals that may be applicable to the proposed
46 development.
47 (c) The development order shall include findings of fact
48 and conclusions of law consistent with subsections (13) and
49 (14). The development order:
50 1. Shall specify the monitoring procedures and the local
51 official responsible for assuring compliance by the developer
52 with the development order.

53 2. Shall establish compliance dates for the development
54 order, including a deadline for commencing physical development
55 and for compliance with conditions of approval or phasing
56 requirements, and shall include a buildout ~~termination~~ date that
57 reasonably reflects the time anticipated ~~required~~ to complete
58 the development.

59 3. Shall establish a date until which the local government
60 agrees that the approved development of regional impact shall
61 not be subject to downzoning, unit density reduction, or
62 intensity reduction, unless the local government can demonstrate
63 that substantial changes in the conditions underlying the
64 approval of the development order have occurred or the
65 development order was based on substantially inaccurate
66 information provided by the developer or that the change is
67 clearly established by local government to be essential to the
68 public health, safety, or welfare. The date established pursuant
69 to this subparagraph shall be no sooner than the buildout date
70 of the project.

71 4. Shall specify the requirements for the biennial report
72 designated under subsection (18), including the date of
73 submission, parties to whom the report is submitted, and
74 contents of the report, based upon the rules adopted by the
75 state land planning agency. Such rules shall specify the scope
76 of any additional local requirements that may be necessary for
77 the report.

78 5. May specify the types of changes to the development
79 which shall require submission for a substantial deviation
80 determination or a notice of proposed change under subsection
81 (19).

82 6. Shall include a legal description of the property.

83 (d) Conditions of a development order that require a
84 developer to contribute land for a public facility or construct,
85 expand, or pay for land acquisition or construction or expansion
86 of a public facility, or portion thereof, shall meet the
87 following criteria:
88 1. The need to construct new facilities or add to the
89 present system of public facilities must be reasonably
90 attributable to the proposed development.
91 2. Any contribution of funds, land, or public facilities
92 required from the developer shall be comparable to the amount of
93 funds, land, or public facilities that the state or the local
94 government would reasonably expect to expend or provide, based
95 on projected costs of comparable projects, to mitigate the
96 impacts reasonably attributable to the proposed development.
97 3. Any funds or lands contributed must be expressly
98 designated and used to mitigate impacts reasonably attributable
99 to the proposed development.
100 4. Construction or expansion of a public facility by a
101 nongovernmental developer as a condition of a development order
102 to mitigate the impacts reasonably attributable to the proposed
103 development is not subject to competitive bidding or competitive
104 negotiation for selection of a contractor or design professional
105 for any part of the construction or design ~~unless required by~~
106 ~~the local government that issues the development order~~.
107 (e)1. ~~Effective July 1, 1986,~~ A local government shall not
108 include, as a development order condition for a development of
109 regional impact, any requirement that a developer contribute or
110 pay for land acquisition or construction or expansion of public
111 facilities or portions thereof unless the local government has
112 enacted a local ordinance which requires other development not
113 subject to this section to contribute its proportionate share of

114 the funds, land, or public facilities necessary to accommodate
115 any impacts having a rational nexus to the proposed development,
116 and the need to construct new facilities or add to the present
117 system of public facilities must be reasonably attributable to
118 the proposed development.
119 2. A local government shall not approve a development of
120 regional impact that does not make adequate provision for the
121 public facilities needed to accommodate the impacts of the
122 proposed development unless the local government includes in the
123 development order a commitment by the local government to
124 provide these facilities consistently with the development
125 schedule approved in the development order; however, a local
126 government's failure to meet the requirements of subparagraph 1.
127 and this subparagraph shall not preclude the issuance of a
128 development order where adequate provision is made by the
129 developer for the public facilities needed to accommodate the
130 impacts of the proposed development. Any funds or lands
131 contributed by a developer must be expressly designated and used
132 to accommodate impacts reasonably attributable to the proposed
133 development.
134 3. The Department of Community Affairs and other state and
135 regional agencies involved in the administration and
136 implementation of this act shall cooperate and work with units
137 of local government in preparing and adopting local impact fee
138 and other contribution ordinances.
139 (f) Notice of the adoption of a development order or the
140 subsequent amendments to an adopted development order shall be
141 recorded by the developer, in accordance with s. 28.222, with
142 the clerk of the circuit court for each county in which the
143 development is located. The notice shall include a legal
144 description of the property covered by the order and shall state

145 which unit of local government adopted the development order,
146 the date of adoption, the date of adoption of any amendments to
147 the development order, the location where the adopted order with
148 any amendments may be examined, and that the development order
149 constitutes a land development regulation applicable to the
150 property. The recording of this notice shall not constitute a
151 lien, cloud, or encumbrance on real property, or actual or
152 constructive notice of any such lien, cloud, or encumbrance.
153 This paragraph applies only to developments initially approved
154 under this section after July 1, 1980.
155 (g) A local government shall not issue permits for
156 development subsequent to the buildout ~~termination date or~~
157 ~~expiration~~ date contained in the development order unless:
158 1. The proposed development has been evaluated
159 cumulatively with existing development under the substantial
160 deviation provisions of subsection (19) subsequent to the
161 termination or expiration date;
162 2. The proposed development is consistent with an
163 abandonment of development order that has been issued in
164 accordance with the provisions of subsection (26); ~~or~~
165 3. The development of regional impact is essentially built
166 out, in that all the mitigation requirements in the development
167 order have been satisfied, all developers are in compliance with
168 all applicable terms and conditions of the development order
169 except the buildout date, and the amount of proposed development
170 that remains to be built is less than 20 percent of any
171 applicable development-of-regional-impact threshold; or
172 4.~~3.~~ The project has been determined to be an essentially
173 built-out development of regional impact through an agreement
174 executed by the developer, the state land planning agency, and
175 the local government, in accordance with s. 380.032, which will

176 establish the terms and conditions under which the development
177 may be continued. If the project is determined to be essentially
178 built out ~~built out~~, development may proceed pursuant to the s.
179 380.032 agreement after the termination or expiration date
180 contained in the development order without further development-
181 of-regional-impact review subject to the local government
182 comprehensive plan and land development regulations or subject
183 to a modified development-of-regional-impact analysis. As used
184 in this paragraph, an "essentially built-out" development of
185 regional impact means:
186 a. The developers are ~~development is~~ in compliance with
187 all applicable terms and conditions of the development order
188 except the buildout ~~built-out~~ date; and
189 b.(I) The amount of development that remains to be built
190 is less than the substantial deviation threshold specified in
191 paragraph (19)(b) for each individual land use category, or, for
192 a multiuse development, the sum total of all unbuilt land uses
193 as a percentage of the applicable substantial deviation
194 threshold is equal to or less than 100 percent; or
195 (II) The state land planning agency and the local
196 government have agreed in writing that the amount of development
197 to be built does not create the likelihood of any additional
198 regional impact not previously reviewed.
199
200 In addition to the requirements of subparagraphs 3. and 4., the
201 single-family residential portions of a development may be
202 considered "essentially built out" if all of the infrastructure
203 and horizontal development have been completed, at least 50
204 percent of the dwelling units have been completed, and more than
205 80 percent of the lots have been conveyed to third-party

206 individual lot owners or to individual builders who own no more
207 than 40 lots at the time of the determination.
208 (h) If the property is annexed by another local
209 jurisdiction, the annexing jurisdiction shall adopt a new
210 development order that incorporates all previous rights and
211 obligations specified in the prior development order.
212 (19) SUBSTANTIAL DEVIATIONS.--
213 (a) Any proposed change to a previously approved
214 development which creates a reasonable likelihood of additional
215 regional impact, or any type of regional impact created by the
216 change not previously reviewed by the regional planning agency,
217 shall constitute a substantial deviation and shall cause the
218 proposed change ~~development~~ to be subject to further
219 development-of-regional-impact review. There are a variety of
220 reasons why a developer may wish to propose changes to an
221 approved development of regional impact, including changed
222 market conditions. The procedures set forth in this subsection
223 are for that purpose.
224 (b) Any proposed change to a previously approved
225 development of regional impact or development order condition
226 which, either individually or cumulatively with other changes,
227 exceeds any of the following criteria shall constitute a
228 substantial deviation and shall cause the development to be
229 subject to further development-of-regional-impact review without
230 the necessity for a finding of same by the local government:
231 1. An increase in the number of parking spaces at an
232 attraction or recreational facility by 10 ~~5~~ percent or 330 ~~300~~
233 spaces, whichever is greater, or an increase in the number of
234 spectators that may be accommodated at such a facility by 10 ~~5~~
235 percent or 1,100 ~~1,000~~ spectators, whichever is greater.

236 2. A new runway, a new terminal facility, a 25-percent
237 lengthening of an existing runway, or a 25-percent increase in
238 the number of gates of an existing terminal, but only if the
239 increase adds at least three additional gates.
240 ~~3. An increase in the number of hospital beds by 5 percent~~
241 ~~or 60 beds, whichever is greater.~~
242 3.~~4.~~ An increase in industrial development area by 10 ~~5~~
243 percent or 35 ~~32~~ acres, whichever is greater.
244 4.~~5.~~ An increase in the average annual acreage mined by 10
245 ~~5~~ percent or 11 ~~10~~ acres, whichever is greater, or an increase
246 in the average daily water consumption by a mining operation by
247 10 ~~5~~ percent or 330,000 ~~300,000~~ gallons, whichever is greater.
248 An increase in the size of the mine by 10 ~~5~~ percent or 825 ~~750~~
249 acres, whichever is less. An increase in the size of a heavy
250 mineral mine as defined in s. 378.403(7) will only constitute a
251 substantial deviation if the average annual acreage mined is
252 more than 550 ~~500~~ acres and consumes more than 3.3 ~~3~~ million
253 gallons of water per day.
254 5.~~6.~~ An increase in land area for office development by 10
255 ~~5~~ percent or an increase of gross floor area of office
256 development by 10 ~~5~~ percent or 66,000 ~~60,000~~ gross square feet,
257 whichever is greater.
258 6. An increase of development at a marina of 10 percent of
259 wet storage or for 30 watercraft slips, whichever is greater, or
260 20 percent of wet storage or 60 watercraft slips in an area
261 identified by a local government in a boat facility siting plan
262 as an appropriate site for additional marina development,
263 whichever is greater.
264 ~~7. An increase in the storage capacity for chemical or~~
265 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or 7~~
266 ~~million pounds, whichever is greater.~~

267 ~~8. An increase of development at a waterport of wet~~
268 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
269 ~~wet/dry storage for 60 watercraft in an area identified in the~~
270 ~~state marina siting plan as an appropriate site for additional~~
271 ~~waterport development or a 5 percent increase in watercraft~~
272 ~~storage capacity, whichever is greater.~~
273 7.~~9.~~ An increase in the number of dwelling units by 10 ~~5~~
274 percent or 55 ~~50~~ dwelling units, whichever is greater.
275 8. An increase in the number of dwelling units by 15
276 percent or 100 units, whichever is greater, provided that 20
277 percent of the increase in the number of dwelling units is
278 dedicated to the construction of workforce housing. For purposes
279 of this subparagraph, the term "workforce housing" means housing
280 that is affordable to a person who earns less than 120 percent
281 of the area median income.
282 9.~~10.~~ An increase in commercial development by 55,000
283 ~~50,000~~ square feet of gross floor area or of parking spaces
284 provided for customers for 330 ~~300~~ cars or a 10-percent ~~5-~~
285 ~~percent~~ increase of either of these, whichever is greater.
286 10.~~11.~~ An increase in hotel or motel rooms ~~facility units~~
287 by 10 ~~5~~ percent or 83 rooms ~~75 units~~, whichever is greater.
288 11.~~12.~~ An increase in a recreational vehicle park area by
289 10 ~~5~~ percent or 110 ~~100~~ vehicle spaces, whichever is less.
290 12.~~13.~~ A decrease in the area set aside for open space of
291 5 percent or 20 acres, whichever is less.
292 13.~~14.~~ A proposed increase to an approved multiuse
293 development of regional impact where the sum of the increases of
294 each land use as a percentage of the applicable substantial
295 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The
296 percentage of any decrease in the amount of open space shall be

297 treated as an increase for purposes of determining when 110 ~~100~~
298 percent has been reached or exceeded.
299 14.~~15.~~ A 15-percent increase in the number of external
300 vehicle trips generated by the development above that which was
301 projected during the original development-of-regional-impact
302 review.
303 15.~~16.~~ Any change which would result in development of any
304 area which was specifically set aside in the application for
305 development approval or in the development order for
306 preservation or special protection of endangered or threatened
307 plants or animals designated as endangered, threatened, or
308 species of special concern and their habitat, primary dunes, or
309 archaeological and historical sites designated as significant by
310 the Division of Historical Resources of the Department of State.
311 The ~~further~~ refinement of such areas ~~by survey~~ shall be
312 considered under sub-subparagraph (e)2.j. ~~(e)5.b.~~
313
314 The substantial deviation numerical standards in subparagraphs
315 3., 5., 9., 10., and 13. ~~4., 6., 10., 14.~~, excluding residential
316 uses, and in subparagraph 14. ~~15.,~~ are increased by 100 percent
317 for a project certified under s. 403.973 which creates jobs and
318 meets criteria established by the Office of Tourism, Trade, and
319 Economic Development as to its impact on an area's economy,
320 employment, and prevailing wage and skill levels. The
321 substantial deviation numerical standards in subparagraphs 3.,
322 5., 7., 8., 9., 10., 13., and 14. ~~4., 6., 9., 10., 11., and 14.~~
323 are increased by 50 percent for a project located wholly within
324 an urban infill and redevelopment area designated on the
325 applicable adopted local comprehensive plan future land use map
326 and not located within the coastal high hazard area.

327 (c) An extension of the date of buildout of a development,
328 or any phase thereof, by more than 7 ~~or more~~ years shall be
329 presumed to create a substantial deviation subject to further
330 development-of-regional-impact review. An extension of the date
331 of buildout, or any phase thereof, of more than 5 years ~~or more~~
332 but less than 7 years shall be presumed not to create a
333 substantial deviation. The extension of the date of buildout of
334 an areawide development of regional impact by more than 5 years
335 but less than 10 years is presumed not to create a substantial
336 deviation. These presumptions may be rebutted by clear and
337 convincing evidence at the public hearing held by the local
338 government. An extension of 5 years or less ~~than 5 years~~ is not
339 a substantial deviation. For the purpose of calculating when a
340 buildout or~~,~~ phase~~, or termination~~ date has been exceeded, the
341 time shall be tolled during the pendency of administrative or
342 judicial proceedings relating to development permits. Any
343 extension of the buildout date of a project or a phase thereof
344 shall automatically extend the commencement date of the project,
345 the termination date of the development order, the expiration
346 date of the development of regional impact, and the phases
347 thereof if applicable by a like period of time.
348 (d) A change in the plan of development of an approved
349 development of regional impact resulting from requirements
350 imposed by the Department of Environmental Protection or any
351 water management district created by s. 373.069 or any of their
352 successor agencies or by any appropriate federal regulatory
353 agency shall be submitted to the local government pursuant to
354 this subsection. The change shall be presumed not to create a
355 substantial deviation subject to further development-of-
356 regional-impact review. The presumption may be rebutted by clear

357 and convincing evidence at the public hearing held by the local
358 government.
359 (e)1. Except for a development order rendered pursuant to
360 subsection (22) or subsection (25), a proposed change to a
361 development order that individually or cumulatively with any
362 previous change is less than any numerical criterion contained
363 in subparagraphs (b)1.-15. and does not exceed any other
364 criterion, or that involves an extension of the buildout date of
365 a development, or any phase thereof, of less than 5 years is not
366 subject to the public hearing requirements of subparagraph
367 (f)3., and is not subject to a determination pursuant to
368 subparagraph (f)5. Notice of the proposed change shall be made
369 to the regional planning council and the state land planning
370 agency. Such notice shall include a description of previous
371 individual changes made to the development, including changes
372 previously approved by the local government, and shall include
373 appropriate amendments to the development order.
374 2. The following changes, individually or cumulatively
375 with any previous changes, are not substantial deviations:
376 a. Changes in the name of the project, developer, owner,
377 or monitoring official.
378 b. Changes to a setback that do not affect noise buffers,
379 environmental protection or mitigation areas, or archaeological
380 or historical resources.
381 c. Changes to minimum lot sizes.
382 d. Changes in the configuration of internal roads that do
383 not affect external access points.
384 e. Changes to the building design or orientation that stay
385 approximately within the approved area designated for such
386 building and parking lot, and which do not affect historical

387 buildings designated as significant by the Division of
388 Historical Resources of the Department of State.
389 f. Changes to increase the acreage in the development,
390 provided that no development is proposed on the acreage to be
391 added.
392 g. Changes to eliminate an approved land use, provided
393 that there are no additional regional impacts.
394 h. Changes required to conform to permits approved by any
395 federal, state, or regional permitting agency, provided that
396 these changes do not create additional regional impacts.
397 i. Any renovation or redevelopment of development within a
398 previously approved development of regional impact which does
399 not change land use or increase density or intensity of use.
400 j. Changes that modify boundaries described in
401 subparagraph (b)15. due to science-based refinement of such
402 areas by survey, by habitat evaluation, by other recognized
403 assessment methodology, or by an environmental assessment.
404 k.~~j.~~ Any other change which the state land planning agency
405 agrees in writing is similar in nature, impact, or character to
406 the changes enumerated in sub-subparagraphs a.-j. ~~a.-i.~~ and
407 which does not create the likelihood of any additional regional
408 impact.
409
410 This subsection does not require a development order amendment
411 for any change listed in sub-subparagraphs a.-k., but shall,
412 prior to implementation of those changes, require 45 days'
413 notice with the appropriate documentation to the state land
414 planning agency, the regional planning agency, and the local
415 government, and publication of a public notice that meets the
416 local government's criteria for a notice of proposed change. If
417 the state land planning agency, the regional planning agency, or

418 the local government objects within 45 days after publication of
419 the public notice, the change shall require a notice of proposed
420 change and shall be presumed not to be a substantial deviation.
421 In addition, a memorandum of the notification of the changed
422 notice shall be filed with the clerk of the circuit court along
423 with a legal description of the affected development of regional
424 impact. If a subsequent change requiring a notice of proposed
425 change is made to the development of regional impact,
426 modifications to the development of regional impact made in all
427 prior notices must be reflected as amendments to the development
428 order memorandum ~~a. j. unless such issue is addressed either in~~
429 ~~the existing development order or in the application for~~
430 ~~development approval, but, in the case of the application, only~~
431 ~~if, and in the manner in which, the application is incorporated~~
432 ~~in the development order~~.
433 3. Except for the change authorized by sub-subparagraph
434 2.f., any addition of land not previously reviewed or any change
435 not specified in paragraph (b) or paragraph (c) shall be
436 presumed to create a substantial deviation. This presumption may
437 be rebutted by clear and convincing evidence.
438 4. Any submittal of a proposed change to a previously
439 approved development shall include a description of individual
440 changes previously made to the development, including changes
441 previously approved by the local government. The local
442 government shall consider the previous and current proposed
443 changes in deciding whether such changes cumulatively constitute
444 a substantial deviation requiring further development-of-
445 regional-impact review.
446 5. The following changes to an approved development of
447 regional impact shall be presumed to create a substantial

448 deviation. Such presumption may be rebutted by clear and
449 convincing evidence.
450 a. A change proposed for 15 percent or more of the acreage
451 to a land use not previously approved in the development order.
452 Changes of less than 15 percent shall be presumed not to create
453 a substantial deviation.
454 ~~b. Except for the types of uses listed in subparagraph~~
455 ~~(b)16., any change which would result in the development of any~~
456 ~~area which was specifically set aside in the application for~~
457 ~~development approval or in the development order for~~
458 ~~preservation, buffers, or special protection, including habitat~~
459 ~~for plant and animal species, archaeological and historical~~
460 ~~sites, dunes, and other special areas.~~
461 b.~~c.~~ Notwithstanding any provision of paragraph (b) to the
462 contrary, a proposed change consisting of simultaneous increases
463 and decreases of at least two of the uses within an authorized
464 multiuse development of regional impact which was originally
465 approved with three or more uses specified in s. 380.0651(3)(c),
466 (d), (f), and (g) and residential use.
467 (f)1. The state land planning agency shall establish by
468 rule standard forms for submittal of proposed changes to a
469 previously approved development of regional impact which may
470 require further development-of-regional-impact review. At a
471 minimum, the standard form shall require the developer to
472 provide the precise language that the developer proposes to
473 delete or add as an amendment to the development order.
474 2. The developer shall submit, simultaneously, to the
475 local government, the regional planning agency, and the state
476 land planning agency the request for approval of a proposed
477 change.

478 3. No sooner than 30 days but no later than 45 days after
479 submittal by the developer to the local government, the state
480 land planning agency, and the appropriate regional planning
481 agency, the local government shall give 15 days' notice and
482 schedule a public hearing to consider the change that the
483 developer asserts does not create a substantial deviation. This
484 public hearing shall be held within 60 ~~90~~ days after submittal
485 of the proposed changes, unless that time is extended by the
486 developer.

487 4. The appropriate regional planning agency or the state
488 land planning agency shall review the proposed change and, no
489 later than 45 days after submittal by the developer of the
490 proposed change, unless that time is extended by the developer,
491 and prior to the public hearing at which the proposed change is
492 to be considered, shall advise the local government in writing
493 whether it objects to the proposed change, shall specify the
494 reasons for its objection, if any, and shall provide a copy to
495 the developer.

496 5. At the public hearing, the local government shall
497 determine whether the proposed change requires further
498 development-of-regional-impact review. The provisions of
499 paragraphs (a) and (e), the thresholds set forth in paragraph
500 (b), and the presumptions set forth in paragraphs (c) and (d)
501 and subparagraph (e)3. shall be applicable in determining
502 whether further development-of-regional-impact review is
503 required.

504 6. If the local government determines that the proposed
505 change does not require further development-of-regional-impact
506 review and is otherwise approved, or if the proposed change is
507 not subject to a hearing and determination pursuant to
508 subparagraphs 3. and 5. and is otherwise approved, the local

509 government shall issue an amendment to the development order
510 incorporating the approved change and conditions of approval
511 relating to the change. The decision of the local government to
512 approve, with or without conditions, or to deny the proposed
513 change that the developer asserts does not require further
514 review shall be subject to the appeal provisions of s. 380.07.
515 However, the state land planning agency may not appeal the local
516 government decision if it did not comply with subparagraph 4.
517 The state land planning agency may not appeal a change to a
518 development order made pursuant to subparagraph (e)1. or
519 subparagraph (e)2. for developments of regional impact approved
520 after January 1, 1980, unless the change would result in a
521 significant impact to a regionally significant archaeological,
522 historical, or natural resource not previously identified in the
523 original development-of-regional-impact review.
524 (g) If a proposed change requires further development-of-
525 regional-impact review pursuant to this section, the review
526 shall be conducted subject to the following additional
527 conditions:
528 1. The development-of-regional-impact review conducted by
529 the appropriate regional planning agency shall address only
530 those issues raised by the proposed change except as provided in
531 subparagraph 2.
532 2. The regional planning agency shall consider, and the
533 local government shall determine whether to approve, approve
534 with conditions, or deny the proposed change as it relates to
535 the entire development. If the local government determines that
536 the proposed change, as it relates to the entire development, is
537 unacceptable, the local government shall deny the change.
538 3. If the local government determines that the proposed
539 change~~, as it relates to the entire development,~~ should be

540 approved, any new conditions in the amendment to the development
541 order issued by the local government shall address only those
542 issues raised by the proposed change and require mitigation only
543 for the individual and cumulative impacts of the proposed
544 change.
545 4. Development within the previously approved development
546 of regional impact may continue, as approved, during the
547 development-of-regional-impact review in those portions of the
548 development which are not directly affected by the proposed
549 change.
550 (h) When further development-of-regional-impact review is
551 required because a substantial deviation has been determined or
552 admitted by the developer, the amendment to the development
553 order issued by the local government shall be consistent with
554 the requirements of subsection (15) and shall be subject to the
555 hearing and appeal provisions of s. 380.07. The state land
556 planning agency or the appropriate regional planning agency need
557 not participate at the local hearing in order to appeal a local
558 government development order issued pursuant to this paragraph.
559 (24) STATUTORY EXEMPTIONS.--
560 (a) Any proposed hospital ~~which has a designed capacity of~~
561 ~~not more than 100 beds~~ is exempt from the provisions of this
562 section.
563 (b) Any proposed electrical transmission line or
564 electrical power plant is exempt from the provisions of this
565 section~~, except any steam or solar electrical generating~~
566 ~~facility of less than 50 megawatts in capacity attached to a~~
567 ~~development of regional impact~~.
568 (c) Any proposed addition to an existing sports facility
569 complex is exempt from the provisions of this section if the
570 addition meets the following characteristics:

571 1. It would not operate concurrently with the scheduled
572 hours of operation of the existing facility.
573 2. Its seating capacity would be no more than 75 percent
574 of the capacity of the existing facility.
575 3. The sports facility complex property is owned by a
576 public body prior to July 1, 1983.
577
578 This exemption does not apply to any pari-mutuel facility.
579 (d) Any proposed addition or cumulative additions
580 subsequent to July 1, 1988, to an existing sports facility
581 complex owned by a state university is exempt if the increased
582 seating capacity of the complex is no more than 30 percent of
583 the capacity of the existing facility.
584 (e) Any addition of permanent seats or parking spaces for
585 an existing sports facility located on property owned by a
586 public body prior to July 1, 1973, is exempt from the provisions
587 of this section if future additions do not expand existing
588 permanent seating or parking capacity more than 15 percent
589 annually in excess of the prior year's capacity.
590 (f) Any increase in the seating capacity of an existing
591 sports facility having a permanent seating capacity of at least
592 50,000 spectators is exempt from the provisions of this section,
593 provided that such an increase does not increase permanent
594 seating capacity by more than 5 percent per year and not to
595 exceed a total of 10 percent in any 5-year period, and provided
596 that the sports facility notifies the appropriate local
597 government within which the facility is located of the increase
598 at least 6 months prior to the initial use of the increased
599 seating, in order to permit the appropriate local government to
600 develop a traffic management plan for the traffic generated by
601 the increase. Any traffic management plan shall be consistent

602 with the local comprehensive plan, the regional policy plan, and
603 the state comprehensive plan.
604 (g) Any expansion in the permanent seating capacity or
605 additional improved parking facilities of an existing sports
606 facility is exempt from the provisions of this section, if the
607 following conditions exist:
608 1.a. The sports facility had a permanent seating capacity
609 on January 1, 1991, of at least 41,000 spectator seats;
610 b. The sum of such expansions in permanent seating
611 capacity does not exceed a total of 10 percent in any 5-year
612 period and does not exceed a cumulative total of 20 percent for
613 any such expansions; or
614 c. The increase in additional improved parking facilities
615 is a one-time addition and does not exceed 3,500 parking spaces
616 serving the sports facility; and
617 2. The local government having jurisdiction of the sports
618 facility includes in the development order or development permit
619 approving such expansion under this paragraph a finding of fact
620 that the proposed expansion is consistent with the
621 transportation, water, sewer and stormwater drainage provisions
622 of the approved local comprehensive plan and local land
623 development regulations relating to those provisions.
624
625 Any owner or developer who intends to rely on this statutory
626 exemption shall provide to the department a copy of the local
627 government application for a development permit. Within 45 days
628 of receipt of the application, the department shall render to
629 the local government an advisory and nonbinding opinion, in
630 writing, stating whether, in the department's opinion, the
631 prescribed conditions exist for an exemption under this
632 paragraph. The local government shall render the development

633 order approving each such expansion to the department. The
634 owner, developer, or department may appeal the local government
635 development order pursuant to s. 380.07, within 45 days after
636 the order is rendered. The scope of review shall be limited to
637 the determination of whether the conditions prescribed in this
638 paragraph exist. If any sports facility expansion undergoes
639 development of regional impact review, all previous expansions
640 which were exempt under this paragraph shall be included in the
641 development of regional impact review.
642 (h) Expansion to port harbors, spoil disposal sites,
643 navigation channels, turning basins, harbor berths, and other
644 related inwater harbor facilities of ports listed in s.
645 403.021(9)(b), port transportation facilities and projects
646 listed in s. 311.07(3)(b), and intermodal transportation
647 facilities identified pursuant to s. 311.09(3) are exempt from
648 the provisions of this section when such expansions, projects,
649 or facilities are consistent with comprehensive master plans
650 that are in compliance with the provisions of s. 163.3178.
651 (i) Any proposed facility for the storage of any petroleum
652 product or any expansion of an existing facility is exempt from
653 the provisions of this section, if the facility is consistent
654 with a local comprehensive plan that is in compliance with s.
655 163.3177 or is consistent with a comprehensive port master plan
656 that is in compliance with s. 163.3178.
657 (j) Any renovation or redevelopment within the same land
658 parcel which does not change land use or increase density or
659 intensity of use.
660 (k)1. Any waterport or marina development is exempt from
661 the provisions of this section if the relevant county or
662 municipality has adopted a boating facility siting plan or
663 policy, which includes applicable criteria, considering such

664 factors as natural resources, manatee protection needs, and
665 recreation and economic demands ~~as generally outlined in the~~
666 ~~Bureau of Protected Species Management Boat Facility Siting~~
667 ~~Guide, dated August 2000~~, into the coastal management or land
668 use element of its comprehensive plan. The adoption of boating
669 facility siting plans or policies into the comprehensive plan is
670 exempt from the provisions of s. 163.3187(1). Any waterport or
671 marina development within the municipalities or counties with
672 boating facility siting plans or policies that meet the above
673 criteria~~, adopted prior to April 1, 2002,~~ are exempt from the
674 provisions of this section, when their boating facility siting
675 plan or policy is adopted as part of the relevant local
676 government's comprehensive plan.
677 2. ~~Within 6 months of the effective date of this law,~~ The
678 Department of Community Affairs, in conjunction with the
679 Department of Environmental Protection and the Florida Fish and
680 Wildlife Conservation Commission, shall provide technical
681 assistance and guidelines, including model plans, policies and
682 criteria to local governments for the development of their
683 siting plans.
684 (1) Any proposed development within an urban service
685 boundary established under s. 163.3177(14) is exempt from the
686 provisions of this section if the local government having
687 jurisdiction over the area where the development is proposed has
688 adopted the urban service boundary, ~~and~~ has entered into a
689 binding agreement with ~~adjacent~~ jurisdictions that would be
690 impacted and with the Department of Transportation regarding the
691 mitigation of impacts on state and regional transportation
692 facilities, and has adopted a proportionate share methodology
693 pursuant to s. 163.3180(16).

694 (m) Any proposed development within a rural land
695 stewardship area created under s. 163.3177(11)(d) is exempt from
696 the provisions of this section if the local government that has
697 adopted the rural land stewardship area has entered into a
698 binding agreement with jurisdictions that would be impacted and
699 the Department of Transportation regarding the mitigation of
700 impacts on state and regional transportation facilities, and has
701 adopted a proportionate share methodology pursuant to s.
702 163.3180(16).
703 (n) Any proposed development or redevelopment within an
704 area designated as an urban infill and redevelopment area under
705 s. 163.2517 is exempt from ~~the provisions of~~ this section if the
706 local government has entered into a binding agreement with
707 jurisdictions that would be impacted and the Department of
708 Transportation regarding the mitigation of impacts on state and
709 regional transportation facilities, and has adopted a
710 proportionate share methodology pursuant to s. 163.3180(16).
711 (o) The establishment, relocation, or expansion of any
712 military installation as defined in s. 163.3175, is exempt from
713 this section.
714 (p) Any self-storage warehousing that does not allow
715 retail or other services is exempt from this section.
716 (q) Any proposed nursing home or assisted living facility
717 is exempt from this section.
718 (r) Any development identified in an airport master plan
719 and adopted into the comprehensive plan pursuant to s.
720 163.3177(6)(k) is exempt from this section.
721 (s) Any development identified in a campus master plan and
722 adopted pursuant to s. 1013.30 is exempt from this section.

723 (t) Any development in a specific area plan which is
724 prepared pursuant to s. 163.3245 and adopted into the
725 comprehensive plan is exempt from this section.
726
727 If a use is exempt from review as a development of regional
728 impact under paragraphs (a)-(t) but will be part of a larger
729 project that is subject to review as a development of regional
730 impact, the impact of the exempt use must be included in the
731 review of the larger project.
732 (28) PARTIAL STATUTORY EXEMPTIONS.--
733 (a) If the binding agreement referenced under paragraph
734 (24)(l) for urban service boundaries is not entered into within
735 12 months after establishment of the urban service boundary, the
736 development-of-regional-impact review for projects within the
737 urban service boundary must address transportation impacts only.
738 (b) If the binding agreement referenced under paragraph
739 (24)(n) for designated urban infill and redevelopment areas is
740 not entered into within 12 months after the designation of the
741 area or July 1, 2007, whichever occurs later, the development-
742 of-regional-impact review for projects within the urban infill
743 and redevelopment area must address transportation impacts only.
744 (c) A local government that does not wish to enter into a
745 binding agreement or that is unable to agree on the terms of the
746 agreement referenced under paragraph (24)(l) or paragraph
747 (24)(n) shall provide written notification to the state land
748 planning agency of the failure to enter into a binding agreement
749 within the 12-month period referenced in paragraphs (a) and (b).
750 Following the notification of the state land planning agency,
751 the development-of-regional-impact review for projects within
752 the urban service boundary under paragraph (24)(l) or for an

753 urban infill and redevelopment area under paragraph (24)(n) must
754 address transportation impacts only.
755 Section 2. Paragraphs (d) and (e) of subsection (3) of
756 section 380.0651, Florida Statutes, are amended, paragraph (k)
757 of subsection (3) is redesignated as paragraph (l), and a new
758 paragraph (k) is added to that subsection, to read:
759 380.0651 Statewide guidelines and standards.--
760 (3) The following statewide guidelines and standards shall
761 be applied in the manner described in s. 380.06(2) to determine
762 whether the following developments shall be required to undergo
763 development-of-regional-impact review:
764 (d) Office development.--Any proposed office building or
765 park operated under common ownership, development plan, or
766 management that:
767 1. Encompasses 300,000 or more square feet of gross floor
768 area; or
769 2. Encompasses more than 600,000 square feet of gross
770 floor area in a county with a population greater than 500,000
771 and only in a geographic area specifically designated as highly
772 suitable for increased threshold intensity in the approved local
773 comprehensive plan ~~and in the strategic regional policy plan~~.
774 (e) Marinas and port facilities.--The proposed
775 construction of any waterport or marina is required to undergo
776 development-of-regional-impact review if it is~~, except one~~
777 designed for:
778 1.a. The wet storage or mooring of more ~~fewer~~ than 150
779 watercraft used ~~exclusively~~ for sport, pleasure, or commercial
780 fishing;~~,~~ or
781 ~~b. The dry storage of fewer than 200 watercraft used~~
782 ~~exclusively for sport, pleasure, or commercial fishing, or~~

783 b.~~c.~~ The wet ~~or dry~~ storage or mooring of more ~~fewer~~ than
784 150 watercraft on or adjacent to an inland freshwater lake
785 except Lake Okeechobee or any lake that ~~which~~ has been
786 designated an Outstanding Florida Water.~~, or~~
787 ~~d. The wet or dry storage or mooring of fewer than 50~~
788 ~~watercraft of 40 feet in length or less of any type or purpose.~~
789
790 The numeric thresholds contained in this subparagraph shall be
791 doubled for proposed marina developers who enter into a binding
792 commitment with the local government to set aside at least 15
793 percent of the wet storage or moorings for public use or rental.
794 2. The subthreshold exceptions to this paragraph's
795 requirements for development-of-regional-impact review do ~~shall~~
796 not apply to any waterport or marina facility located within or
797 which serves physical development located within a coastal
798 barrier resource unit on an unbridged barrier island designated
799 pursuant to 16 U.S.C. s. 3501.
800
801 In addition to the foregoing, for projects for which no
802 environmental resource permit or sovereign submerged land lease
803 is required, the Department of Environmental Protection must
804 determine in writing that a proposed marina in excess of 75 ~~10~~
805 slips or storage spaces or a combination of the two is located
806 so that it will not adversely impact Outstanding Florida Waters
807 or Class II waters and will not contribute boat traffic in a
808 manner that will have an adverse impact on an area known to be,
809 or likely to be, frequented by manatees. If the Department of
810 Environmental Protection fails to issue its determination within
811 45 days after ~~of~~ receipt of a formal written request, it has
812 waived its authority to make such determination. The Department

813 of Environmental Protection determination shall constitute final
814 agency action pursuant to chapter 120.
815 ~~2. The dry storage of fewer than 300 watercraft used~~
816 ~~exclusively for sport, pleasure, or commercial fishing at a~~
817 ~~marina constructed and in operation prior to July 1, 1985.~~
818 ~~3. Any proposed marina development with both wet and dry~~
819 ~~mooring or storage used exclusively for sport, pleasure, or~~
820 ~~commercial fishing, where the sum of percentages of the~~
821 ~~applicable wet and dry mooring or storage thresholds equals 100~~
822 ~~percent. This threshold is in addition to, and does not~~
823 ~~preclude, a development from being required to undergo~~
824 ~~development of regional impact review under sub subparagraphs~~
825 ~~1.a. and b. and subparagraph 2.~~
826 (k) Workforce housing.--The applicable guidelines for
827 residential development and the residential component for
828 multiuse development shall be increased by 20 percent where the
829 developer demonstrates that at least 15 percent of the
830 residential dwelling units will be dedicated to workforce
831 housing. For purposes of this subparagraph, the term "workforce
832 housing" means housing that is affordable to a person who earns
833 less than 120 percent of the area median income.
834 (l) ~~(k)~~ Schools.--
835 1. The proposed construction of any public, private, or
836 proprietary postsecondary educational campus which provides for
837 a design population of more than 5,000 full-time equivalent
838 students, or the proposed physical expansion of any public,
839 private, or proprietary postsecondary educational campus having
840 such a design population that would increase the population by
841 at least 20 percent of the design population.
842 2. As used in this paragraph, "full-time equivalent
843 student" means enrollment for 15 or more quarter hours during a

844 single academic semester. In career centers or other
845 institutions which do not employ semester hours or quarter hours
846 in accounting for student participation, enrollment for 18
847 contact hours shall be considered equivalent to one quarter
848 hour, and enrollment for 27 contact hours shall be considered
849 equivalent to one semester hour.
850 3. This paragraph does not apply to institutions which are
851 the subject of a campus master plan adopted by the university
852 board of trustees pursuant to s. 1013.30.
853 Section 3. Section 380.07, Florida Statutes, is amended to
854 read:
855 380.07 Florida Land and Water Adjudicatory Commission.--
856 (1) There is hereby created the Florida Land and Water
857 Adjudicatory Commission, which shall consist of the
858 Administration Commission. The commission may adopt rules
859 necessary to ensure compliance with the area of critical state
860 concern program and the requirements for developments of
861 regional impact as set forth in this chapter.
862 (2) Whenever any local government issues any development
863 order in any area of critical state concern, or in regard to any
864 development of regional impact, copies of such orders as
865 prescribed by rule by the state land planning agency shall be
866 transmitted to the state land planning agency, the regional
867 planning agency, and the owner or developer of the property
868 affected by such order. The state land planning agency shall
869 adopt rules describing development order rendition and
870 effectiveness in designated areas of critical state concern.
871 Within 45 days after the order is rendered, the owner, the
872 developer, or the state land planning agency may appeal the
873 order to the Florida Land and Water Adjudicatory Commission by
874 filing a <u>petition alleging that the development order is not</u>

875 consistent with the provisions of this part ~~notice of appeal~~
876 ~~with the commission~~. The appropriate regional planning agency by
877 vote at a regularly scheduled meeting may recommend that the
878 state land planning agency undertake an appeal of a development-
879 of-regional-impact development order. Upon the request of an
880 appropriate regional planning council, affected local
881 government, or any citizen, the state land planning agency shall
882 consider whether to appeal the order and shall respond to the
883 request within the 45-day appeal period. ~~Any appeal taken by a~~
884 ~~regional planning agency between March 1, 1993, and the~~
885 ~~effective date of this section may only be continued if the~~
886 ~~state land planning agency has also filed an appeal. Any appeal~~
887 ~~initiated by a regional planning agency on or before March 1,~~
888 ~~1993, shall continue until completion of the appeal process and~~
889 ~~any subsequent appellate review, as if the regional planning~~
890 ~~agency were authorized to initiate the appeal.~~
891 (3) Notwithstanding any other provision of law, an appeal
892 of a development order by the state land planning agency under
893 this section may include consistency of the development order
894 with the local comprehensive plan. However, if a development
895 order relating to a development of regional impact has been
896 challenged in a proceeding under s. 163.3215 and a party to the
897 proceeding serves notice to the state land planning agency of
898 the pending proceeding under s. 163.3215, the state land
899 planning agency shall:
900 (a) Raise its consistency issues by intervening as a full
901 party in the pending proceeding under s. 163.3215 within 30 days
902 after service of the notice; and
903 (b) Dismiss the consistency issues from the development
904 order appeal.

905 (4) The appellant shall furnish a copy of the petition to
906 the opposing party, as the case may be, and to the local
907 government that issued the order. The filing of the petition
908 stays the effectiveness of the order until after the completion
909 of the appeal process.
910 (5) ~~(3)~~ The 45-day appeal period for a development of
911 regional impact within the jurisdiction of more than one local
912 government shall not commence until after all the local
913 governments having jurisdiction over the proposed development of
914 regional impact have rendered their development orders. The
915 appellant shall furnish a copy of the notice of appeal to the
916 opposing party, as the case may be, and to the local government
917 which issued the order. The filing of the notice of appeal shall
918 stay the effectiveness of the order until after the completion
919 of the appeal process.
920 (6) ~~(4)~~ Prior to issuing an order, the Florida Land and
921 Water Adjudicatory Commission shall hold a hearing pursuant to
922 the provisions of chapter 120. The commission shall encourage
923 the submission of appeals on the record made below in cases in
924 which the development order was issued after a full and complete
925 hearing before the local government or an agency thereof.
926 (7) ~~(5)~~ The Florida Land and Water Adjudicatory Commission
927 shall issue a decision granting or denying permission to develop
928 pursuant to the standards of this chapter and may attach
929 conditions and restrictions to its decisions.
930 ~~(6) If an appeal is filed with respect to any issues~~
931 ~~within the scope of a permitting program authorized by chapter~~
932 ~~161, chapter 373, or chapter 403 and for which a permit or~~
933 ~~conceptual review approval has been obtained prior to the~~
934 ~~issuance of a development order, any such issue shall be~~
935 ~~specifically identified in the notice of appeal which is filed~~

936 ~~pursuant to this section, together with other issues which~~
937 ~~constitute grounds for the appeal. The appeal may proceed with~~
938 ~~respect to issues within the scope of permitting programs for~~
939 ~~which a permit or conceptual review approval has been obtained~~
940 ~~prior to the issuance of a development order only after the~~
941 ~~commission determines by majority vote at a regularly scheduled~~
942 ~~commission meeting that statewide or regional interests may be~~
943 ~~adversely affected by the development. In making this~~
944 ~~determination, there shall be a rebuttable presumption that~~
945 ~~statewide and regional interests relating to issues within the~~
946 ~~scope of the permitting programs for which a permit or~~
947 ~~conceptual approval has been obtained are not adversely~~
948 ~~affected.~~
949 Section 4. Section 380.115, Florida Statutes, is amended
950 to read:
951 380.115 Vested rights and duties; effect of size
952 reduction, changes in guidelines and standards ~~chs. 2002-20 and~~
953 ~~2002-296~~.--
954 (1) A change in a development-of-regional-impact guideline
955 and standard does not abridge ~~Nothing contained in this act~~
956 ~~abridges~~ or modify ~~modifies~~ any vested or other right or any
957 duty or obligation pursuant to any development order or
958 agreement that is applicable to a development of regional impact
959 ~~on the effective date of this act~~. A development that has
960 received a development-of-regional-impact development order
961 pursuant to s. 380.06, but is no longer required to undergo
962 development-of-regional-impact review by operation of a change
963 in the guidelines and standards or has reduced its size below
964 the thresholds in s. 380.0651 ~~of this act~~, shall be governed by
965 the following procedures:

966 (a) The development shall continue to be governed by the
967 development-of-regional-impact development order and may be
968 completed in reliance upon and pursuant to the development order
969 unless the developer or landowner has followed the procedures
970 for rescission in paragraph (b). The development-of-regional-
971 impact development order may be enforced by the local government
972 as provided by ss. 380.06(17) and 380.11.
973 (b) If requested by the developer or landowner, the
974 development-of-regional-impact development order shall ~~may~~ be
975 rescinded by the local government having jurisdiction upon a
976 showing that all required mitigation related to the amount of
977 development that existed on the date of rescission has been
978 completed ~~abandoned pursuant to the process in s. 380.06(26)~~.
979 (2) A development with an application for development
980 approval pending, ~~and determined sufficient~~ pursuant to s.
981 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the
982 guidelines and standards ~~this act~~, or a notification of proposed
983 change pending on the effective date of a change to the
984 guidelines and standards ~~this act~~, may elect to continue such
985 review pursuant to s. 380.06. At the conclusion of the pending
986 review, including any appeals pursuant to s. 380.07, the
987 resulting development order shall be governed by the provisions
988 of subsection (1).
989 (3) A landowner that has filed an application for a
990 development-of-regional-impact review prior to the adoption of
991 an optional sector plan pursuant to s. 163.3245 may elect to
992 have the application reviewed pursuant to s. 380.06,
993 comprehensive plan provisions in force prior to adoption of the
994 sector plan, and any requested comprehensive plan amendments
995 that accompany the application.

996 Section 5. Section 342.07, Florida Statutes, is amended to
997 read:
998 342.07 Recreational and commercial working waterfronts;
999 legislative findings; definitions.--
1000 (1) The Legislature recognizes that there is an important
1001 state interest in facilitating boating and other recreational
1002 access to the state's navigable waters. This access is vital to
1003 tourists and recreational users and the marine industry in the
1004 state, to maintaining or enhancing the $57 billion economic
1005 impact of tourism and the $14 billion economic impact of boating
1006 in the state annually, and to ensuring continued access to all
1007 residents and visitors to the navigable waters of the state. The
1008 Legislature recognizes that there is an important state interest
1009 in maintaining viable water-dependent support facilities, such
1010 as public lodging establishments and boat hauling and repairing
1011 and commercial fishing facilities, and in maintaining the
1012 availability of public access to the navigable waters of the
1013 state. The Legislature further recognizes that the waterways of
1014 the state are important for engaging in commerce and the
1015 transportation of goods and people upon such waterways and that
1016 such commerce and transportation is not feasible unless there is
1017 access to and from the navigable waters of the state through
1018 recreational and commercial working waterfronts.
1019 (2) As used in this section, the term "recreational and
1020 commercial working waterfront" means a parcel or parcels of real
1021 property that provide access for water-dependent commercial and
1022 recreational activities, including public lodging establishments
1023 as defined in chapter 509, or provide access for the public to
1024 the navigable waters of the state. Recreational and commercial
1025 working waterfronts require direct access to or a location on,
1026 over, or adjacent to a navigable body of water. The term

1027 includes water-dependent facilities that are open to the public
1028 and offer public access by vessels to the waters of the state or
1029 that are support facilities for recreational, commercial,
1030 research, or governmental vessels. These facilities include
1031 docks, wharfs, lifts, wet and dry marinas, boat ramps, boat
1032 hauling and repair facilities, commercial fishing facilities,
1033 boat construction facilities, and other support structures over
1034 the water. As used in this section, the term "vessel" has the
1035 same meaning as in s. 327.02(37). Seaports are excluded from the
1036 definition.
1037 Section 6. This act shall take effect July 1, 2006.
1038
1039 ========== T I T L E A M E N D M E N T ==========
1040 Remove the entire title and insert:
1041 A bill to be entitled
1042 An act relating to growth management; amending s. 380.06,
1043 F.S.; providing for the state land planning agency to
1044 determine the amount of development that remains to be
1045 built in certain circumstances; specifying certain
1046 requirements for a development order; revising the
1047 circumstances in which a local government may issue
1048 permits for development subsequent to the buildout date;
1049 revising the definition of an essentially built-out
1050 development; revising the criteria under which a proposed
1051 change constitutes a substantial deviation; clarifying the
1052 criteria under which the extension of a buildout date is
1053 presumed to create a substantial deviation; requiring
1054 notice of any change to certain set-aside areas be
1055 submitted to the local government; requiring that notice
1056 of certain changes be given to the state land planning
1057 agency, regional planning agency, and local government;

1058 requiring 45 days' notice to specified entities and
1059 publication of a public notice for certain proposed
1060 changes; requiring that a memorandum of notice of certain
1061 changes be filed with the clerk of court; revising the
1062 requirement for further development-of-regional-impact
1063 review of a proposed change; requiring the state land
1064 planning agency to initiate rulemaking to revise the
1065 development-of-regional-impact application of development
1066 approval form; revising the statutory exemptions from
1067 development-of-regional-impact review for certain
1068 facilities; providing statutory exemptions for the
1069 development of certain facilities; providing that the
1070 impacts from an exempt use that will be part of a larger
1071 project be included in the development-of-regional-impact
1072 review of the larger project; amending s. 380.0651, F.S.;
1073 revising the statewide guidelines and standards for
1074 development-of-regional-impact review of certain types of
1075 developments; allowing the state land planning agency to
1076 consider the impacts of independent developments of
1077 regional impact cumulatively under certain circumstances;
1078 amending s. 380.07, F.S.; eliminating the appeal of
1079 development orders within a development of regional impact
1080 to the Florida Land and Water Adjudicatory Commission;
1081 amending s. 380.115, F.S.; providing that a change in a
1082 development-of-regional-impact guideline and standard does
1083 not abridge or modify any vested right or duty under a
1084 development order; providing a process for the rescission
1085 of a development order by the local government in certain
1086 circumstances; providing an exemption for certain
1087 applications for development approval and notices of
1088 proposed changes; amending s. 342.07, F.S.; adding

1089 recreational activities as an important state interest;
1090 including public lodging establishments within the
1091 definition of the term "recreational and commercial
1092 working waterfront"; providing an effective date.
1093