

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMUNITY AFFAIRS**  
**Senator Flores, Chair**  
**Senator Farmer, Vice Chair**

**MEETING DATE:** Tuesday, January 21, 2020

**TIME:** 4:30—6:00 p.m.

**PLACE:** 301 Senate Building

**MEMBERS:** Senator Flores, Chair; Senator Farmer, Vice Chair; Senators Broxson, Pizzo, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 388</b> Hooper (Identical H 6027, Compare H 7039, S 1636)	Citrus/Hernando Waterways Restoration Council; Abolishing the Citrus/Hernando Waterways Restoration Council, etc.  EN 11/13/2019 Favorable CA 01/21/2020 Favorable RC	Favorable Yeas 3 Nays 0
2	<b>SB 514</b> Gruters (Similar H 223)	Homestead Exemptions; Providing that a person or family unit receiving or claiming the benefit of certain ad valorem tax exemptions or tax credits in another state is entitled to the homestead exemption in this state if the person or family unit demonstrates certain conditions to the property appraiser; providing that homestead exemption forms prescribed by the Department of Revenue may include taxpayer information relating to such ad valorem tax exemptions or tax credits in another state, etc.  CA 01/21/2020 Fav/CS FT AP	Fav/CS Yeas 3 Nays 0
3	<b>SB 1136</b> Brandes (Identical H 661)	Children's Services Councils; Expanding requirements for annual reports required to be submitted by councils on children's services to the respective governing body of the county; revising financial reporting requirements for such councils, etc.  CA 01/21/2020 Temporarily Postponed CF RC	Temporarily Postponed
4	<b>SB 1254</b> Wright (Identical H 851)	Community Development District Bond Financing; Requiring district boards to authorize bonds by a two- thirds vote of the members, etc.  CA 01/21/2020 Temporarily Postponed FT RC	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, January 21, 2020, 4:30—6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 1332</b> Hooper (Similar CS/H 133)	Towing and Immobilizing Vehicles and Vessels; Authorizing local governments to enact rates to tow or immobilize vessels on private property and to remove and store vessels under specified circumstances; prohibiting counties from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges; deleting requirements regarding notices and signs concerning the towing or removal of vehicles or vessels, etc.  CA 01/21/2020 Fav/CS IS RC	Fav/CS Yeas 3 Nays 0
6	<b>SB 1398</b> Flores (Identical H 1097)	Regional Planning Council Meetings; Providing requirements for establishing a quorum for meetings of certain councils when a voting member appears via telephone, real-time videoconferencing, or similar real-time electronic or video communication; requiring the member to give notice of intent to appear via telephone, real-time videoconferencing, or similar real-time electronic or video communication by a specified time, etc.  CA 01/21/2020 Favorable GO RC	Favorable Yeas 3 Nays 0

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 388

INTRODUCER: Senator Hooper

SUBJECT: Citrus/Hernando Waterways Restoration Council

DATE: January 15, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	<b>Favorable</b>
2.	<u>Toman</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 388 eliminates the Citrus/Hernando Waterways Restoration Council and the Citrus/Hernando Waterways Restoration Program.

**II. Present Situation:**

In 2003, in response to regional concerns for the health of Citrus and Hernando County springs and waterbodies, the Legislature created the Citrus/Hernando Waterways Restoration Council (Council).<sup>1</sup> The Council was created within the Withlacoochee and Coastal Rivers Basin Boards of the Southwest Florida Water Management District (SWFWMD). In 2006, the Legislature expanded the Council and its duties.<sup>2</sup> The Council must consist of 14 voting members: 7 appointed by the President of the Senate and 7 appointed by the Speaker of the House of Representatives. The Council must consist of representatives as follows:

- Two waterfront property owners from both Citrus and Hernando counties, including a property owner from the east side and west side of each county.
- An attorney from each county.
- A member of the board of directors of the chamber of commerce from each county.
- An environmental engineer from each county.
- An engineer from each county.
- A person from each county with training in biology or another scientific discipline.

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<sup>1</sup> Chapter 2003-287, s. 1, Laws of Fla.; Citrus/Hernando Waterways Restoration Council, *2015 Report to the Legislature*, 1 (2015), available at <https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/2015%20Report%20to%20the%20Legislature.pdf> (last visited Jan. 15, 2020).

<sup>2</sup> Chapter 2006-43, Laws of Fla.

The members of the Council form two separate county task forces to review and make recommendations on specific waterways.<sup>3</sup> The Hernando County Task Force develops plans and recommendations for the waterways in Hernando County, and the Citrus County Task Force develops plans and recommendations for the waterways in Citrus County. The Council or task forces meet at the call of their respective chairs, at the request of six members of the Council or task force, or at the request of the chair of the governing board of SWFWMD. SWFWMD must provide administrative support to the Council and coordinate Council activities along with the Fish and Wildlife Conservation Commission (FWC) and the Department of Environmental Protection (DEP).

There is a technical advisory group to the Council, to which each of the following agencies must appoint one representative: SWFWMD, DEP, FWC, Department of Transportation, Coastal Rivers Basin Board, Withlacoochee River Basin Board, the public works departments of each county, and the U.S. Army Corps of Engineers.<sup>4</sup>

The 2003 legislation also created the Citrus/Hernando Waterways Restoration Program.<sup>5</sup> Under the program, FWC and SWFWMD, in conjunction with DEP, pertinent local governments, and the Council, must review existing restoration proposals to determine the most environmentally sound and economically feasible methods of improving the natural systems of the waterways in the two counties. FWC and other agencies must develop tasks for the enhancement of wildlife habitat. Subject to appropriation by the Legislature and other funding sources, the appropriate agencies must, through competitive bid, award contracts to implement program activities.

The legislation provides for the Council the following powers and duties:

- Review audits and all data specifically related to lake and river restoration techniques and sport fish population recovery strategies, including data and strategies for all of the following as they may apply to Citrus and Hernando County waterways:
  - Shoreline restoration.
  - Sand and other sediment control and removal.
  - Exotic species management.
  - Floating tussock management or removal.
  - Navigation.
  - Water quality.
  - Fish and wildlife habitat improvement.
- Evaluate whether additional studies are needed.
- Explore all possible sources of funding to conduct the restoration activities.
- Report to the President of the Senate and the Speaker of the House of Representatives before November 25 of each year on the progress of the restoration program and any recommendations for the next fiscal year.

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<sup>3</sup> Citrus/Hernando Waterways Restoration Council, *2015 Report to the Legislature*, 3-4, 18-19 (2015), available at <https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/2015%20Report%20to%20the%20Legislature.pdf> (last visited Jan. 15, 2020).

<sup>4</sup> Chapter 2003-287, s. 1, Laws of Fla.

<sup>5</sup> Chapter 2003-287, s. 2, Laws of Fla.

In 2008, the Legislature's Joint Legislative Sunset Committee recommended that the Council be abolished.<sup>6</sup> In 2015, the Council submitted its most recent report to the Legislature.<sup>7</sup>

In 2014, SWFWMD formed the Springs Coast Steering, Management, and Technical Committees.<sup>8</sup> These groups manage and prioritize the district's five first-magnitude spring groups, including developing management plans for spring systems and identifying issues and solutions. SWFWMD's Springs Coast Steering and Management Committees have been active in 2019, including holding public meetings, giving presentations, and developing project lists to submit as funding requests to DEP.<sup>9</sup> According to SWFWMD, much of the work and many of the members of these committees coincide with the charge of the Council, which has not met since 2015.<sup>10</sup>

### III. Effect of Proposed Changes:

SB 388 repeals two chapters in the Laws of Florida:

- Chapter 2003-287, Laws of Fla., which establishes the Citrus/Hernando Waterways Restoration Council (Council) and the Citrus/Hernando Waterways Restoration Program; and
- Chapter 2006-43, Laws of Fla., which increases the number of members on the Council by two, expands the duties of the Council's task forces to include all waterways in Citrus and Hernando counties, and requires the counties' respective public works departments to each appoint a representative to the technical advisory group.

The bill would eliminate the Council and the restoration program.

The bill states that the act shall take effect upon becoming a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

<sup>6</sup> The Florida Legislature, *Report of the Joint Legislative Sunset Committee*, 11 (Mar. 2008), available at <http://www.leg.state.fl.us/sunset/UserContent/docs/File/final.doc> (last visited Jan. 15, 2020).

<sup>7</sup> Citrus/Hernando Waterways Restoration Council, *2015 Report to the Legislature* (2015), available at <https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/2015%20Report%20to%20the%20Legislature.pdf> (last visited Jan. 15, 2020).

<sup>8</sup> SWFWMD, *Springs Coast Steering, Management and Technical Committees*, <https://www.swfwmd.state.fl.us/projects/springs/springs-coast-steering-management-and-technical-committees> (last visited Jan. 15, 2020).

<sup>9</sup> SWFWMD, *Springs Coast Public Meetings*, <https://www.swfwmd.state.fl.us/projects/springs/springs-coast-public-meetings> (last visited Jan. 15, 2020).

<sup>10</sup> Letter from Cara Martin, Government and Community Affairs Office Chief, SWFWMD, *Citrus/Hernando Waterways Restoration Council* (Sept. 2019)(on file with the Senate Committee on Community Affairs).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill repeals the following chapters of the Laws of Florida: 2003-287 and 2006-43.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/SB 514

INTRODUCER: Community Affairs Committee and Senator Gruters

SUBJECT: Homestead Exemptions

DATE: January 21, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Ryon	CA	<b>Fav/CS</b>
2.			FT	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 514 establishes parameters by which a person or family unit can retain a homestead exemption in Florida in instances when they inadvertently also received an exemption in another state.

Current law provides that a property owner who is receiving or claiming an ad valorem tax exemption in another state that is conditioned upon permanent residency in that state may not receive the ad valorem homestead exemption in Florida. This provision operates regardless of whether the property owner applied for the exemption in the other state or was granted the exemption without applying for it.

The bill allows a person or family unit that has a homestead exemption in Florida and an ad valorem, residency-based exemption or credit in another state to retain the Florida homestead exemption if the person or family unit: 1) demonstrates to the satisfaction of the property appraiser that they did not apply for the exemption or credit in the other state and, 2) are no longer receiving or will no longer receive the tax exemption or tax credit in another state. An automatic renewal of a tax exemption or tax credit constitutes an application if the renewal is subsequent to the initial application. The provisions apply to tax exemption and credit circumstances discovered by a property appraiser after July 1, 2020.

The bill authorizes the Department of Revenue to require its homestead exemption forms to contain information about an applicant's receipt of residency-based tax exemptions or credits in another state.

## II. Present Situation:

### General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>1</sup> The property appraiser annually determines the assessed or "just value"<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

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<sup>1</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>3</sup> See s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> See FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

<sup>8</sup> FLA. CONST. art. VII, s. 4(b).

<sup>9</sup> FLA. CONST. art. VII, s. 4(e).

<sup>10</sup> FLA. CONST. art. VII, s. 4(j).



## Statewide Homestead Exemption

Every person<sup>11</sup> having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.<sup>12</sup> An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.<sup>13</sup> This exemption does not apply to ad valorem taxes levied by school districts.

Section 196.031(5), F.S., provides that a person who is receiving or claiming an ad valorem tax exemption or a tax credit in another state where permanent residency is required as a basis for the granting of that exemption or tax credit is not entitled to a homestead exemption in Florida.

## Improperly Granted Homestead Exemptions

Florida provides several property tax exemptions for homestead property.<sup>14</sup> Since Florida's homestead exemption requires that the property owner use the homestead property as a permanent residence, a property owner can only have one homestead exemption.

If a property appraiser determines that for any year or years within the prior 10 years a property owner was granted a homestead exemption, but was not entitled to it, the property appraiser must send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.<sup>15</sup> The property owner has 30 days to pay the taxes owed, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. If not paid within 30 days of notice, the property appraiser must file a tax lien.<sup>16</sup> The tax lien remains on the property until it is paid or until it expires after 20 years.<sup>17</sup> The lien process applies whether or not the taxpayer applied for the residency-based exemption in the other state.

If a homestead exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person improperly receiving the exemption shall not be assessed penalty and interest.<sup>18</sup>

## Department of Revenue Homestead Exemption Forms

Section 196.121, F.S., directs the Department of Revenue to provide, by electronic means or other methods designated by the department, filing forms for taxpayers claiming to be entitled to a homestead exemption. The forms require the taxpayer to furnish certain information to the property appraiser for the purpose of determining that the taxpayer is a permanent resident.

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<sup>11</sup> FLA. CONST. art VII, s. 6(b), appears to equate a person with a family unit: "Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit.

<sup>12</sup> FLA. CONST. art VII, s. 6(a).

<sup>13</sup> *Id.*

<sup>14</sup> *See, e.g.*, ss. 196.031, 196.071, 196.075, 196.081, and 196.091, F.S.

<sup>15</sup> *See* ss. 196.011(9)(a), 196.075, and 196.161(1)(b), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Section 95.091(1)(b), F.S.

<sup>18</sup> Section 196.161(1)(b), F.S.

### III. Effect of Proposed Changes:

**Section 1** amends s. 196.031, F.S., to specify that a person or family unit that receives or claims an ad valorem tax exemption or tax credit in another state where permanent residency is required as a basis for granting that exemption or credit is disqualified from the homestead tax exemption in Florida, unless the person or family unit demonstrates to the satisfaction of the property appraiser that the person or family unit did not apply for the exemption or credit in the other state and is no longer receiving or will no longer receive the tax exemption or tax credit in another state. An automatic renewal of a tax exemption or tax credit constitutes an application if the renewal is subsequent to the initial application.

**Section 2** creates an undesignated section of law to provide that the bill's amendment to s. 196.031, F.S., applies to ad valorem tax exemptions or tax credits in another state for which a benefit was received after 2009 and which are discovered by a property appraiser after July 1, 2020.

**Section 3** amends s. 196.121, F.S., to authorize the Department of Revenue to include on its forms for homestead exemptions the requirement that the homestead exemption applicant provide information about tax exemptions or tax credits in another state where permanent residency is required as a basis for the tax exemption or tax credit.

**Section 4** provides an effective date of July 1, 2020.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference adopted a negative indeterminate impact on the language contained in CS/SB 514.<sup>19</sup>

**B. Private Sector Impact:**

A property owner that has been found to have a Florida homestead exemption and a similar exemption or credit in another state may continue to qualify for the homestead exemption in Florida if she or he did not apply for the tax exemption or tax credit in another state and relinquishes the exemption or credit in the other state.

**C. Government Sector Impact:**

According to the Florida Department of Revenue (DOR), if the bill passes, DOR would need to amend Form DR-501 and Rule 12D-16.002, F.A.C.<sup>20</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 196.031 and 196.121.

The bill creates an undesignated section of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Community Affairs on January 21, 2020:**

- Establishes that a person or family unit retaining a Florida homestead exemption must no longer be receiving or will no longer be receiving the tax exemption or tax credit in another state.

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<sup>19</sup> Office of Economic and Demographic Research, The Florida Legislature, *Homestead Disqualification: HB 223 Proposed Strike-All* (HB 223 is the House companion to CS/SB 514) (Nov. 12, 2019), available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/\\_pdf/Impact0124.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/_pdf/Impact0124.pdf) (last visited Jan. 21, 2020).

<sup>20</sup> Florida Department of Revenue, *HB 223/SB 514 Agency Analysis* (November 5, 2019) (on file with the Senate Committee on Community Affairs).

- Provides that an automatic renewal of a tax exemption or tax credit constitutes an application if the renewal is subsequent to the initial application.
- Provides that bill's provisions apply to tax exemption and credit circumstances discovered by a property appraiser after July 1, 2020.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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301196

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2020	.	
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The Committee on Community Affairs (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (5) of section 196.031, Florida  
Statutes, is amended to read:

196.031 Exemption of homesteads.—

(5) (a) A person or family unit who is receiving or claiming  
the benefit of an ad valorem tax exemption or a tax credit in  
another state where permanent residency is required as a basis



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11 for the granting of that ad valorem tax exemption or tax credit  
12 is not entitled to the homestead exemption provided by this  
13 section, unless, upon the property appraiser's determination  
14 that the person or family unit is receiving or has received the  
15 tax exemption or tax credit in another state, the person or  
16 family unit demonstrates to the satisfaction of the property  
17 appraiser that the person or family unit did not apply for the  
18 tax exemption or tax credit in the other state and that the  
19 person or family unit is no longer receiving, or will no longer  
20 receive, the tax exemption or tax credit in the other state. For  
21 purposes of this paragraph, an automatic renewal of an ad  
22 valorem tax exemption or tax credit constitutes application for  
23 the tax exemption or tax credit if the renewal is subsequent to  
24 an initial application by the person or family unit.

25 (b) This subsection does not apply to a person or family  
26 unit who has the legal or equitable title to real estate in  
27 Florida and maintains thereon the permanent residence of another  
28 legally or naturally dependent upon the owner.

29 Section 2. The amendment to s. 196.031, Florida Statutes,  
30 made by this act applies to ad valorem tax exemptions or tax  
31 credits in another state for which a benefit was received after  
32 2009 and which are discovered by a property appraiser after July  
33 1, 2020.

34 Section 3. Subsection (2) of section 196.121, Florida  
35 Statutes, is amended to read:

36 196.121 Homestead exemptions; forms.—

37 (2) The forms shall require the taxpayer to furnish certain  
38 information to the property appraiser for the purpose of  
39 determining that the taxpayer is a permanent resident as defined



301196

40 in s. 196.012(16). Such information may include, but need not be  
41 limited to, the factors enumerated in s. 196.015 and any ad  
42 valorem tax exemption or tax credit granted in another state  
43 where permanent residency is required as a basis for the  
44 granting of the ad valorem tax exemption or tax credit described  
45 in s. 196.031(5).

46 Section 4. This act shall take effect July 1, 2020.

47  
48 ===== T I T L E A M E N D M E N T =====

49 And the title is amended as follows:

50 Delete everything before the enacting clause  
51 and insert:

52 A bill to be entitled

53 An act relating to homestead exemptions; amending s.  
54 196.031, F.S.; providing that a person or family unit  
55 receiving or claiming the benefit of certain ad  
56 valorem tax exemptions or tax credits in another state  
57 is entitled to the homestead exemption in this state  
58 if the person or family unit demonstrates certain  
59 conditions to the property appraiser; providing  
60 construction and retroactive applicability; amending  
61 s. 196.121, F.S.; providing that homestead exemption  
62 forms prescribed by the Department of Revenue may  
63 include taxpayer information relating to such ad  
64 valorem tax exemptions or tax credits in another  
65 state; providing an effective date.



# 2020 AGENCY LEGISLATIVE BILL ANALYSIS

## DEPARTMENT OF REVENUE

DL

### BILL INFORMATION

<b>BILL NUMBER:</b>	SB 514
<b>BILL TITLE:</b>	Homestead Exemptions
<b>BILL SPONSOR:</b>	Senator Gruters
<b>EFFECTIVE DATE:</b>	July 1, 2020

### COMMITTEES OF REFERENCE

1) Community Affairs
2) Finance and Tax
3) Appropriations
4)
5)

### CURRENT COMMITTEE

Community Affairs
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### SIMILAR BILLS

<b>BILL NUMBER:</b>	HB 223
<b>SPONSOR:</b>	Representative Buchanan

### IDENTICAL BILLS

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

### PREVIOUS LEGISLATION

<b>YEAR BILL NUMBER/SPONSOR/LAST ACTION:</b> 2019 HB 1151/Representative Buchanan/Died in Community Affairs 2019 SB 856/Senator Gruters/Died in Appropriations 2018 HB 727/Representative Grall/Died in Ways and Means Committee 2018 SB 934/Senator Hukill/Died in Appropriations Subcommittee on Finance and Tax
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### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	November 5, 2019
<b>LEAD AGENCY ANALYST:</b>	Debbie Longman (850) 617-8324



**POLICY ANALYSIS**

**1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.**

Section 1. Exemption of homesteads (pp. 1-2):

**PRESENT SITUATION**

Subsection 196.031(5), Florida Statutes, currently states that someone who receives or claims the benefit of an ad valorem tax exemption or tax credit in another state that requires permanent residency as a basis for that exemption or tax credit is not entitled to a homestead exemption in Florida.

**EFFECT OF THE BILL**

This bill amends subsection 196.031(5), F.S. to provide that unless the person or family unit receiving the tax exemption or tax credit in another state demonstrates to the satisfaction of the property appraiser that the person or family unit did not apply for the tax exemption or tax credit and that the person or family unit has relinquished the tax exemption or tax credit in the other state. Also, it adds that this subsection applies to a person or family unit.

Section 2. Homestead exemptions; lien imposed on property of person claiming exemption although not a permanent resident (p. 2):

**PRESENT SITUATION**

Section 196.121(2), F.S., provides that homestead exemption forms promulgated by the Department of Revenue should require the taxpayer to furnish information to the property appraiser, so they may determine that the taxpayer is a permanent resident of Florida.

**EFFECT OF THE BILL**

This bill amends section 196.121(2), F.S., to add that the forms to claim homestead exemption should ask whether the taxpayer receives an ad valorem tax exemption or tax credit in another state where permanent residency is required as a basis for the granting of that exemption.

Section 3 (p. 2): The amendments to sections 196.031 and 196.121, F.S., made by this act apply to taxable years beginning on or after January 1, 2021.

Section 4. Effective date (p. 2): This will be effective July 1, 2020.

**2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES?  YES  NO**

If yes, explain:	Form DR-501, Original Application for Homestead and Related Tax Exemptions
Rule(s) impacted (provide references to F.A.C., etc.):	12D-16.002, F.A.C.

**3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A**

**4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS?**  YES  NO

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

**5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?**  YES  NO

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS**

**6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?** The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

**7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**

Revenues:	The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government.
Expenditures: <i>(only expenditure impacts on the Department are identified)</i>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, BUT INSIGNIFICANT <input type="checkbox"/> UNABLE TO DETERMINE  See Additional Comments section below if it is determined there is a significant operational impact to the Department.
Does the legislation contain an appropriation to the Department?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

**8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?** The Department of Revenue does not conduct this analysis.

**9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES?** The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

**TECHNOLOGY IMPACT**

If any, see attached Fiscal Impact Analysis.

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**FEDERAL IMPACT**

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If any, see Additional Comments section below.

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**ADDITIONAL COMMENTS**

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**10. STATUTE(S) AFFECTED:** Section 196.031 and 196.121, F.S.

**11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION?**  YES  NO

If no, go to #12. If yes:

**A. Identify bill number or source.**

HB 223

**B. Were issues/problems identified?**  YES  NO

a. If yes, have they been resolved?  YES  NO If no, briefly explain.

**C. Are new issues/problems created?**  YES  NO If yes, briefly identify.

**12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT?**  YES  NO

If yes, describe administrative problems, technical errors, or other difficulties:

**13. OTHER:**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Speaker

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/24/2020

Meeting Date

514

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Home Stead Exemptions

Name Loren Levy

Job Title General Counsel, Property Appraisers' Ass'n of Fla.

Address 1828 Risperus Dr Phone 850-219-0220

Street Tallahassee State FL Zip 32308 Email pa@tcomcast.net

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Property Appraisers Ass'n of Fla.

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020  
Meeting Date

SB514  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Name Dona Bickley

Job Title Brevard Property Appraiser

Address 400 South St

Phone \_\_\_\_\_

Street Titusville City Titusville State FL Zip 32780

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 1136

INTRODUCER: Senator Brandes

SUBJECT: Children's Services Councils

DATE: January 14, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	<b>Pre-meeting</b>
2.	_____	_____	CF	_____
3.	_____	_____	RC	_____

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**I. Summary:**

SB 1136 amends s. 125.901, F.S., to require a children's services council (CSC) to provide additional quantitative research data concerning the effectiveness of its programs in its annual report to the governing body of a county. The bill also requires a CSC to file a monthly financial report with the governing body of a county, instead of a quarterly report and requires the report to itemize expenditures and receipts, instead of stating total amounts.

The bill may increase the costs associated with compiling and analyzing annual and financial report data for CSCs.

**II. Present Situation:**

**Children's Services Councils**

In 1986, the Legislature authorized Florida counties to create children's services councils (CSC) as countywide special districts to fund children's services.<sup>1</sup> Counties may create independent special districts,<sup>2</sup> for which the county governing body must seek voter approval to levy annual ad valorem property taxes, or dependent special districts, which are authorized to accept grants and donations from public and private sources.<sup>3</sup> A CSC funded by ad valorem taxation may not levy a rate of more than 0.5 mills.<sup>4</sup> Eight counties currently have CSCs: Alachua, Broward, Hillsborough, Martin, Miami-Dade, Okeechobee, Palm Beach, and St. Lucie.<sup>5</sup>

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<sup>1</sup> Ch. 86-379, Laws of Fla., codified as s. 125.901, F.S.

<sup>2</sup> Sections 189.012(2), (3), F.S.

<sup>3</sup> Sections. 125.901(1), (7), F.S.

<sup>4</sup> Section 125.901(3)(b), F.S.

<sup>5</sup> See Department of Economic Opportunity, *Official List of Special Districts Online*, available at: <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx> (last visited Jan. 14, 2020).

### ***CSC Board and Membership***

Each CSC is administered by a 10-member council consisting of:<sup>6</sup>

- The county's superintendent of schools;
- A member of the county school board;
- A district administrator from the Department of Children and Families (or the administrator's designee);
- A member of county's governing body;
- A judge assigned to juvenile cases; and
- Five members appointed by the Governor.

The selections of the Governor are made based on a list of three potential members submitted by the county's governing body and are intended to reflect the demographic diversity of the population of the county. The Governor must make a selection within 45 days or request the county's governing body to propose a new list of candidates. All members appointed by the Governor are required to be residents of the county for at least two years at the time of selection.

The judicial member of the CSC is prohibited from voting or participating in the setting of ad valorem tax rates.<sup>7</sup>

### ***CSC Powers and Functions***

CSCs may exercise the following powers and functions:<sup>8</sup>

- Provide and maintain preventive, developmental, treatment, rehabilitative, and other services for children;
- Provide such other services for all children as the council determines are needed for the general welfare of the county;
- Allocate and provide funds for other agencies that operate for the benefit of children, except the public school system;
- Collect information, statistical data, and research to determine the needs of the children in the county;
- Consult and coordinate with providers of children's services to prevent overlapping of child services;
- Lease or buy necessary real estate, equipment, and personal property and to construct such buildings as are needed; and
- Employ, pay, and provide benefits for any part-time or full-time personnel.

CSCs are expressly prohibited from issuing bonds of any nature or requiring the imposition of any bond by the governing body of the county.<sup>9</sup>

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<sup>6</sup> Section 125.901(1)(a), F.S. This provision does not apply to the Children's Trust of Miami-Dade County, which has a 33-member governing board. *See s. 125.901(1)(b), F.S.*

<sup>7</sup> Section 125.901(1)(a), F.S.

<sup>8</sup> Section 125.901(2), F.S.

<sup>9</sup> *Id.* at (2)(a)6.

### *CSC Reporting Requirements*

Newly-formed CSCs are required to identify the needs of children in the county and submit a report to the county's governing body containing:<sup>10</sup>

- The activities, services, and opportunities that will be provided by the CSC, along with an anticipated schedule;
- How children will be served, including a description of arrangements and agreements which will be made with community organizations, state and local educational agencies, federal agencies, public assistance agencies, the juvenile courts, foster care agencies, and other applicable public and private agencies and organizations;
- The special outreach efforts that will be undertaken to provide services to at-risk, abused, or neglected children; and
- How the CSC will seek and provide funding for unmet needs.

Each CSC is required to provide an annual written report to the governing body of the county no later than January 1 of each year containing:<sup>11</sup>

- Information on the effectiveness of activities, services, and programs offered by the CSC, including cost-effectiveness;
- A detailed anticipated budget for continuation of activities, services, and programs offered by the CSC, including a list of all sources of requested funding;
- Procedures used for early identification of at-risk children who need additional or continued services and methods for ensuring that the additional or continued services are received;
- A description of the degree to which the CSC's objectives and activities are consistent with statutory goals for CSCs;
- Detailed information on the various programs, services, and activities available to participants and the degree to which children have successfully used the programs, services, and activities; and
- Information on programs, services, and activities that should be eliminated; programs, services, and activities that should be continued; and programs, services, and activities that should be added to the basic format of the CSC.

CSCs adopt a budget, including proposed millage rates, using the same process as other units of local government.<sup>12</sup> The CSC is required to certify a copy of its budget with the county's governing body, but the budget is not subject to modification by the governing body of the county.<sup>13</sup> Each CSC is required to file a quarterly financial report with the county containing the CSC's total expenditures, receipts, and administrative costs for the quarter and a statement of the CSC's cash-on-hand and investments.<sup>14</sup> The financial positions of the eight CSCs substantially vary and mostly correspond to the population and needs of the county.<sup>15</sup>

<sup>10</sup> Section 125.901(2)(b)2., F.S.

<sup>11</sup> Section 125.901(2)(b)5., F.S.

<sup>12</sup> See Section 125.901(3)(b), F.S.

<sup>13</sup> Section 125.901(3)(c), F.S.

<sup>14</sup> Section 125.901(3)(f), F.S.

<sup>15</sup> See Florida Auditor General, *Children's Services Council of Okeechobee County*, available at: [https://flauditor.gov/pages/specialdistricts\\_efile%20pages/childrens%20services%20council%20of%20okeechobee%20county.htm](https://flauditor.gov/pages/specialdistricts_efile%20pages/childrens%20services%20council%20of%20okeechobee%20county.htm) (last visited Jan. 14, 2020) (CSC of Okeechobee County, 2017-2018 Financial Analysis. Total Revenue: \$684,834.); see also Florida Auditor General, *Children's Services Council of Broward County*, available at:



CSCs are also required to comply with all other statutory conditions for the filing of financial reports or compliance reports as enumerated in part III of ch. 218, or any other report or documentation requirement, including ss. 189.015, 189.016, and 189.08, F.S.<sup>16</sup>

### III. Effect of Proposed Changes:

The bill amends s. 125.901, F.S., to require each CSC to include performance data in its annual report to the county's governing body, describing activities, services, and programs offered by the council and data in the year the council was created and as of December 31st of the reporting year. This data must include:

- Percentage and total number of mothers who received or are receiving prenatal care through programs sponsored or supported by the CSC.
- Percentage of infants born with low birth weight.<sup>17</sup>
- Total number of infants born with a low birth weight whose mothers received or are receiving prenatal care through programs sponsored or supported by the CSC.
- Rate of infant deaths per 1,000 live births.
- Percentage of children under the age of 18 living in households whose income levels are below 100 percent of the federal poverty level.
- Rate of teen alcohol use.
- Rate of teen drug use.
- Rate of juvenile arrests.
- Rate of pregnancies among females under the age of 18.
- Percentage of students who performed or are performing at or above grade level on standardized tests.
- High school graduation rates.

The bill also revises financial reporting requirements for a CSC to require monthly financial reports containing itemized expenditures and receipts, as well as a statement of the CSC's cash-on-hand and total administrative costs.

The bill takes effect on October 1, 2020.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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[https://flauditor.gov/pages/specialdistricts\\_efile%20pages/childrens%20services%20council%20of%20okeechobee%20county.htm](https://flauditor.gov/pages/specialdistricts_efile%20pages/childrens%20services%20council%20of%20okeechobee%20county.htm) (last visited Jan. 14, 2020) (CSC of Broward County, 2017-2018 Financial Analysis. Total Revenue: \$85,943,806.)

<sup>16</sup> Section 125.901(6), F.S.

<sup>17</sup> For the purpose of this section, the term "low birth weight" is defined as a birth weight of less than 2,500 grams.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may cause CSCs to incur additional costs in the collection and preparation of increased reporting data.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 125.901 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 1254

INTRODUCER: Senator Wright

SUBJECT: Community Development District Bond Financing

DATE: January 17, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1254 increases the number of votes required for a community development district board to authorize bonds. The bill increases the passing threshold from a majority vote to a two-thirds vote of the board, beginning October 1, 2020.

**II. Present Situation:**

**Community Development Districts**

Community development districts (CDDs) are a type of special-purpose local government intended to develop and provide basic urban community services cost-effectively. These independent special districts<sup>1</sup> are created pursuant to and governed by the Uniform Community Development District Act of 1980.<sup>2</sup> The Act lays out the exclusive and uniform procedures for establishing and operating a CDD.<sup>3</sup> CDDs provide a means to manage and finance the delivery of basic services and capital infrastructure to developing communities without overburdening other governments and their taxpayers.<sup>4</sup> Currently, there are 711 active CDDs in Florida.<sup>5</sup>

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<sup>1</sup> A “special district” is “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.” Section 189.012(6), F.S. An “independent special district” is characterized by having a governing body the members of which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Section 189.012(3), F.S. *Also, see s. 189.012(2), F.S.*

<sup>2</sup> Section 190.001, F.S.

<sup>3</sup> *See ss. 190.004 and 190.005, F.S.*

<sup>4</sup> Section 190.002(1)(a), F.S.

<sup>5</sup> Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at: <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Jan. 11, 2020).

CDDs are created either by the Florida Land and Water Adjudicatory Commission (FLWAC)<sup>6</sup> or by local ordinance. CDDs of less than 2,500 acres are established by ordinance of the county having jurisdiction over the majority of the land in the area in which the CDD will be located, with certain exceptions.<sup>7</sup> For example, CDDs that lie wholly within a municipality are created by municipal ordinance.<sup>8</sup> CDDs that are 2,500 acres or more are established by petitioning the FLWAC to adopt an administrative rule creating the district.<sup>9</sup> CDDs remain in existence unless dissolved by statute, merged with another district, or all authorized services are transferred to a general-purpose unit of local government.<sup>10</sup>

## **CDD Board of Supervisors**

### ***Board Powers***

A CDD board is authorized to exercise general and special powers within the constraints of applicable comprehensive plans, ordinances, and regulations of the general-purpose local government.<sup>11</sup> General powers include the authority to assess and impose ad valorem taxes within the district and to issue bonds.<sup>12</sup> In part, the special powers over public improvements and community facilities include, unless prohibited elsewhere,<sup>13</sup> the power to finance, fund, plan, establish, acquire, construct, equip, operate, and maintain facilities and basic infrastructures for:

- Water management and control for the lands within the district;
- Water supply, sewer, and wastewater management, reclamation, and reuse;
- Water supply, sewer, and wastewater management, reclamation, and reuse;
- District roads and road improvements.<sup>14</sup>

### ***Board Elections and Membership***

A CDD board is controlled by a five-member board of supervisors (board), who are initially elected by the landowners<sup>15</sup> of the district. In the first board election, each landowner is entitled to one vote for each acre owned. Out of the five initial board members, three members serve 2-year terms and two members serve 4-year terms.<sup>16</sup> In two years, the landowners must hold the second board election to replace the three exiting 2-year term board members.<sup>17</sup> Two of the

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<sup>6</sup> Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet (The Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture compose the Cabinet. See s. 20.03(1), F.S.).

<sup>7</sup> Section 190.005(2), F.S.

<sup>8</sup> Section 190.005(2)(e), F.S.

<sup>9</sup> Section 190.005(1), F.S.

<sup>10</sup> Section 190.046(2), F.S.

<sup>11</sup> See s. 190.004(3), F.S.

<sup>12</sup> Section 190.011, F.S.

<sup>13</sup> Sections 190.005(1)(f) and (2)(d), F.S.

<sup>14</sup> Section 190.012, F.S.

<sup>15</sup> “Landowner” means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. Landowner shall also mean the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years. Section 190.003(14), F.S.

<sup>16</sup> Section 190.006, F.S.

<sup>17</sup> *Id.*

replacement board members will serve 4-year terms, and one will serve a 2-year term.<sup>18</sup> This system of replacing board members is known as a staggered board.<sup>19</sup>

### ***Transferring Board Control from Landowners to Qualified Electors***

Landowners are the private individuals and businesses that own the land located within a CDD.<sup>20</sup> Typically, landowners have a financial interest in building the infrastructure and public facilities for a new community through the operation of a CDD. Qualified electors<sup>21</sup> are the persons that reside within the boundaries of a CDD. During the initial six years of CDD operations, landowners are provided a broad right to elect and serve as CDD board members.<sup>22</sup> In practice, initial landowner control of a CDD board facilitates the governmental actions needed to develop and construct public infrastructure for future residents. However, the control of a CDD board eventually transfers from landowners to qualified electors. Florida law describes certain situations and timeframes in which qualified electors are required to elect and fill all five positions on a CDD board.<sup>23</sup>

Under s. 190.006(3)(a)1., F.S., if a landowner controlled board proposes to exercise ad valorem taxing power at any time, landowners are required to transfer control of the board to the district's qualified electors. The CDD must hold a general or special election, where qualified electors are the only individuals allowed to vote and hold a board position.<sup>24</sup>

Qualified electors may also gain the right to fill board positions starting either the 6th or 10th year after an initial CDD board election, as long as the district has the statutorily required number of qualified electors.<sup>25</sup> If the number of qualified electors within a district is below the statutory threshold during the 6th and 10th year elections, members of the board shall continue to be elected by landowners.<sup>26</sup>

Under s. 190.006(3)(a)2.b., if the district obtains the required number of qualified electors following the 6th or 10th year elections, then, at the next election, qualified electors would elect and fill two board member positions, and the landowners would elect and fill the remaining one. In this scenario, out of the five-member CDD board, the landowners have three elected members on the board, and the qualified electors have two. Under current law, this majority of landowner

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<sup>18</sup> *Id.*

<sup>19</sup> A staggered board is a board that consists of directors grouped into classes who serve terms of different lengths. A typical staggered board has three to five classes of positions on the board, each carrying terms of service that vary in length, allowing for a staggering of elections. See Investopedia, *Staggered Board*, available at: <https://www.investopedia.com/terms/s/staggered-board.asp> (last visited Jan. 13, 2020)

<sup>20</sup> Section 190.003(14), F.S.

<sup>21</sup> "Qualified elector" means any person at least 18 years of age who is a citizen of the United States, a legal resident of Florida and of the district, and who registers to vote with the supervisor of elections in the county in which the district land is located. Section 190.003(17), F.S.

<sup>22</sup> See s. 190.006(3)(a), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 2.a. ("If, in the 6th year after the initial appointment of members, or 10 years after such initial appointment for districts exceeding 5,000 acres in area or for a compact, urban, mixed-use district, there are not at least 250 qualified electors in the district, or for a district exceeding 5,000 acres or for a compact, urban, mixed-use district, there are not at least 500 qualified electors, members of the board shall continue to be elected by landowners.")

<sup>26</sup> *Id.*

board members may issue new bonds without needing any votes from qualified elector board members.<sup>27</sup>

### **CDD Bond Financing**

A CDD board may authorize general obligation, benefit, or revenue bonds by one or more resolutions approved by a majority of the members in office.<sup>28</sup> Bond resolutions authorize the terms, covenants, or conditions of bonds,<sup>29</sup> but cannot authorize bond proceeds to be used to fund the ongoing district operations,<sup>30</sup> bond interest rates that deviate from the statewide maximum,<sup>31</sup> or bonds that mature in more than 40 years.<sup>32</sup> If bond proceeds are insufficient to complete an associated project, a board may authorize additional bonds in compliance with the original bond resolution or proceeding.<sup>33</sup> Finally, if a CDD defaults on bond payments, the default does not become a debt of a general-purpose local government or the state.<sup>34</sup>

### ***General Obligation Bonds***

General obligation bonds are secured by a pledge of the full faith and credit and taxing power of the CDD in addition to special tax levies and other sources provided or pledged to pay the bonds.<sup>35</sup> A CDD board may also unconditionally and irrevocably pledge to levy ad valorem taxes on all taxable property in the district, with no limit on tax rate or amount, to repay general obligation bonds.<sup>36</sup> A pledge of the full faith and credit and taxing power of the district provides a bondholder with recourse against the district's general fund for payment.<sup>37</sup>

CDD boards may only authorize general obligation bonds to finance or refinance capital projects or refund outstanding bonds.<sup>38</sup> For bonds to be authorized, the total amount of outstanding bond principal for the district cannot exceed 35 percent of the assessed value of the taxable property within the district.<sup>39</sup> Except for refunding bonds, general obligation bonds must be approved at a referendum as prescribed by the State Constitution.<sup>40</sup>

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<sup>27</sup> Section 190.016(2), F.S.

<sup>28</sup> *Id.* Although the statute allows boards to authorize benefit bonds, these bonds are not defined nor discussed any further in the chapter.

<sup>29</sup> Section 190.016(2), F.S.

<sup>30</sup> Section 190.016(13), F.S.

<sup>31</sup> Section 215.84, F.S.

<sup>32</sup> Section 190.016(2), F.S.

<sup>33</sup> Section 190.016(6), F.S.

<sup>34</sup> Section 190.016(15), F.S.

<sup>35</sup> Section 190.003(13), F.S.

<sup>36</sup> Section 190.016(9)(b), F.S.

<sup>37</sup> Section 190.003(13), F.S.

<sup>38</sup> Section 190.016(9)(a), F.S.

<sup>39</sup> *Id.* Existing general obligation bonds are not included in the outstanding bond total if they are also secured by: 1) special assessments levied in an amount sufficient to pay bond principal and interest that have been equalized and confirmed as provided by s. 170.08, F.S.; 2) district revenues from water, sewer, or water and sewer user fees when the amount is sufficient to pay bond principal and interest; or 3) any combination of such assessments and revenues. Section 190.016(9)(d)1.-3., F.S.

<sup>40</sup> Art. VII, s. 12(a), Fla. Const. and Section 190.016(9)(a), F.S.

### ***Revenue Bonds***

Revenue bonds are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and do not pledge the property, credit, or general tax revenue of the district.<sup>41</sup> Pledged sources include anticipated project revenues, end-user rates or service charges, special assessments, and other revenue-generating district activities.<sup>42</sup> Revenue bonds don't count as a debt of the CDD.<sup>43</sup>

CDD boards can authorize revenue bonds without restrictions on the amount or type of project to be financed.<sup>44</sup> A referendum is not required unless the revenue bond will be secured by the full faith and credit and taxing power of the district.<sup>45</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 190.016, F.S., to increase the vote threshold required to authorize bonds issued by a CDD board from a majority vote to a two-thirds vote of the board, beginning October 1, 2020.

The bill takes effect on October 1, 2020.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

#### **E. Other Constitutional Issues:**

None identified.

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<sup>41</sup> Section 190.003(19), F.S.

<sup>42</sup> Section 190.016(8)(a), F.S.

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

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

<sup>45</sup> *Id.*



**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The revised voting requirement may reduce the number of CDD bond issuances compared to that which would occur under current law.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 190.016 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

## B. Amendments:

None.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/SB 1332

INTRODUCER: Community Affairs Committee and Senator Hooper

SUBJECT: Towing and Immobilizing Vehicles and Vessels

DATE: January 21, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	Fav/CS
2.	_____	_____	IS	_____
3.	_____	_____	RC	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1332 requires counties and municipalities to establish maximum rates for the towing and immobilization of vehicles and vessels and prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators or towing businesses. The bill provides that an authorized wrecker operator or tow business may impose and collect an administrative fee or charge against the owner of a vehicle or vessel on behalf of a county or municipality and is only required to remit the fee or charge to the county or municipality after it has been collected. The bill provides that a wrecker operator or towing business who recovers, removes, or stores a vehicle or vessel must have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

The bill exempts certain counties with towing or immobilization licensing, regulatory, or enforcement programs as of January 1, 2020, from the prohibition on imposing a fee or charge on an authorized wrecker operator or a towing business.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment. The bill may have an indeterminate fiscal impact on local governments.

The bill takes effect October 1, 2020.

## II. Present Situation:

### County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.<sup>1</sup> After the establishment of such contract(s), the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.<sup>2</sup> Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”<sup>3</sup>

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.<sup>4</sup> If the owner or operator initiates contact, the unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s or operator’s insurance company or lienholder;
- Whether he or she has an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.<sup>5</sup>

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.<sup>6</sup>

It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.<sup>7</sup> An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.<sup>8</sup> In either instance, the unauthorized wrecker operator’s wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.<sup>9</sup>

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<sup>1</sup> Section 323.002(1)(c), F.S. The definition of “vehicle” does not include a vessel or trailer intended for the transport on land of a vessel. *See s. 320.01, F.S.* (defining “motor vehicle” for the purpose of issuance of motor vehicle licenses and separately defining a “marine boat trailer dealer” as a person engaged in “business of buying ... trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.”)

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

<sup>3</sup> Section 323.002(1)(a)-(b), F.S.

<sup>4</sup> Section 323.002(2)(b), F.S.

<sup>5</sup> Section 323.002(2)(c), F.S.

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

<sup>7</sup> *Id.*

<sup>8</sup> Section 323.002(2)(d), F.S.

<sup>9</sup> Section 323.002(2)(c) and (d), F.S.

Unauthorized wrecker operators are also prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.<sup>10</sup>

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or from where the vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.<sup>11</sup> A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.<sup>12</sup>

### **Vehicle Holds, Wrecker Operator Storage Facilities, and Liens**

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.<sup>13</sup> A hold may be applied when the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.<sup>14</sup>

An officer may also apply a hold when the vehicle is impounded under s. 316.193, F.S., (relating to driving under the influence), or s. 322.34, F.S., (relating to driving with a suspended or revoked license), or when the officer is complying with a court order.<sup>15</sup> The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.<sup>16</sup>

The investigating agency must inform the wrecker operator within the five-day holding period if the agency intends to hold the vehicle for a longer time.<sup>17</sup> The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle is held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.<sup>18</sup>

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for

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<sup>10</sup> Section 323.002(2)(a), F.S.

<sup>11</sup> Sections 125.0103(1)(c) and 166.043(1)(c), F.S.

<sup>12</sup> Compare s. 125.0103(1)(c), F.S. (requiring a county to establish maximum rates for towing of vehicles) with s. 715.07, F.S. (towing of vehicles or vessels parked on private property).

<sup>13</sup> Section 323.001(1), F.S.

<sup>14</sup> Section 323.001(4)(a)-(e), F.S.

<sup>15</sup> Section 323.001(4)(f)-(g), F.S.

<sup>16</sup> Section 323.001(5), F.S.

<sup>17</sup> Section 323.001(2), F.S.

<sup>18</sup> Section 323.001(2)(a)-(b), F.S.

a reasonable towing fee and storage fee if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed according to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to enforcing a lien pursuant to s. 83.806, F.S., or for the removal of property left after a lease is vacated under s. 715.104, F.S.; or
- Any law enforcement agency.<sup>19</sup>

### **Authority for Local Governments to Charge Fees**

Counties and municipalities do not have the authority to levy taxes, other than ad valorem taxes, except as provided by general law.<sup>20</sup> However, local governments possess the authority to impose user fees or assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.<sup>21</sup> The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by the public at large.<sup>22</sup> On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”<sup>23</sup> Usually, a fee is applied for the use of a service and is tied directly to the cost of providing the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.<sup>24</sup>

### **Fees Related to Towing, Storage, and Wrecker Operators**

Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The towing company collects the administrative fee on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the towing company releases the vehicle to the registered owner or lienholder.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.<sup>25</sup> The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and

<sup>19</sup> Section 713.78(2), F.S.

<sup>20</sup> FLA. CONST., art. VII, s. 1(a).

<sup>21</sup> *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

<sup>22</sup> *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

<sup>23</sup> *Id.*

<sup>24</sup> See *Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

<sup>25</sup> Sarasota Police Department, *Vehicle Seizure Program*, available at <https://www.sarasotapd.org/about-us/vehicle-seizure-program> (last visited Jan. 13, 2020).

Control Act. The owner may post a bond equal to the civil penalty (\$500), hearing costs (\$50), and towing and storage fees for receiving the vehicle back, pending the outcome of the hearing; or the owner may leave the vehicle in impound, incurring additional fees; or

- The registered owner may waive the right to a hearing and pay the civil penalty (\$500).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses a similar process and rate structure.<sup>26</sup>

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.<sup>27</sup>

The City of Winter Springs imposes an administrative fee for impoundment arising from twelve offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.<sup>28</sup> The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee (\$550). If the registered owner waives the right to a hearing, the administrative fee is reduced to \$250.

By contrast, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for “the opportunity to provide” wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.<sup>29</sup>

Additionally, a county or municipality may require a fee from a towing business to be licensed to operate within that county or municipality. For example, to operate a towing business in Miami-Dade County a person or corporation must apply to be a registered towing business with the county, which includes a \$412 annual fee, a vehicle safety inspection with a \$94 decal fee, proof of insurance requirements, and background checks (\$24 fee) of the owners of the towing business.<sup>30</sup>

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<sup>26</sup> Bradenton, Fla. Code of Ordinances, ch. 54, art. IV, *available at* [https://library.municode.com/fl/bradenton/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH54OFMIPR\\_ARTIVIMMOVE\\_USFAPRDRRECR](https://library.municode.com/fl/bradenton/codes/code_of_ordinances?nodeId=PTIICOOR_CH54OFMIPR_ARTIVIMMOVE_USFAPRDRRECR) (last visited Jan. 13, 2020).

<sup>27</sup> Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c), *available at* [https://library.municode.com/fl/sweetwater/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH42MOVETR\\_ARTIINGE\\_S42-1IMMOVE](https://library.municode.com/fl/sweetwater/codes/code_of_ordinances?nodeId=PTIICOOR_CH42MOVETR_ARTIINGE_S42-1IMMOVE) (last visited Jan. 13, 2020).

<sup>28</sup> Winter Springs, Fla. Code of Ordinances, ch. 12, art. V., s. 12-100, *available at* [https://library.municode.com/fl/winter\\_springs/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH12MOVETR\\_ARTVIMMOVE\\_S12-100IMMOVEUSFACEMICRPATRRE](https://library.municode.com/fl/winter_springs/codes/code_of_ordinances?nodeId=PTIICOOR_CH12MOVETR_ARTVIMMOVE_S12-100IMMOVEUSFACEMICRPATRRE) (last visited Jan. 13, 2020).

<sup>29</sup> City of Sarasota, *Agreement for Wrecker Towing and Storage Services* (May 5, 2010) (on file with the Senate Committee on Community Affairs).

<sup>30</sup> Miami-Dade County, *Towing License*, *available at* <http://www.miamidade.gov/licenses/towing.asp> (last visited Jan. 13, 2020).

## Towing from Private Property

A vehicle or vessel may be towed at the direction of an owner or lessee of real property, or their designee if the vehicle or vessel is parked on the property without permission.<sup>31</sup> A person regularly engaged in the business of towing vehicles or vessels must conduct the tow. The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or another legally authorized person in control of that vehicle or vessel is subject to strict compliance with certain conditions and restrictions. These conditions and restrictions include:<sup>32</sup>

- Any towed or removed vehicle or vessel must be stored at a site within a specified distance of the point of removal.<sup>33</sup>
- The towing company must notify local law enforcement within 30 minutes of completing the tow of the storage site; the time the vehicle or vessel was towed; and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. The towing truck operation is required to record the name of the law enforcement officer who received the information in the trip record.
- The owner of a vehicle or vessel must be allowed to redeem the vehicle or vessel from the towing company if the owner seeks the return before the tow has occurred. The towing company may charge a reasonable service fee of up to one-half of the posted towing rate for the return of the vehicle or vessel and may tow the vehicle or vessel if the owner is unable to pay the fee after a reasonable opportunity.
- A towing company may not pay or accept money in exchange for the privilege of towing or removing vehicles or vessels from a particular location.
- If the towing company requires the owner of a vehicle to pay the costs of towing and storage before redemption, the towing company must file and keep on record its rate schedule with the local law enforcement agency and post the rate schedule at the storage site.
- Trucks and wreckers used by the towing company must have the name, address, and telephone number of the company printed on both sides of the vehicle in contrasting letters. The name of the towing company must be in 3-inch or taller permanently affixed letters, while the address and telephone number must be in 1-inch or taller permanently affixed letters.
- The towing company must exercise reasonable care when entering a vehicle or vessel to remove it. The towing company is liable for any damage to the vehicle caused by failure to exercise reasonable care.
- The vehicle or vessel must be released to its owner within one hour after request. The owner maintains a right to inspect the vehicle or vessel, and the towing company operation may not require a release or waiver of damages to be signed as a condition of returning the vehicle. The towing company operator must issue a detailed, single receipt to the owner of the vehicle or vessel.

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<sup>31</sup> Section 715.07(2), F.S.

<sup>32</sup> Section 715.07(2)(a), F.S.

<sup>33</sup> Section 715.07(2)(a)1.a., F.S. The vehicle or vessel must be stored within a 10-mile radius of the removal point in a county with a population of at least 500,000 and within a 15-mile radius of the removal point in a county with a population of fewer than 500,000. If no towing business operated within the given area, these radiuses are extended to 20 miles (for a county with a population of at least 500,000) and 30 miles (for a county with a population of fewer than 500,000). The site must be open from 8 am to 6 pm when the towing business is in operation and must post a telephone number where the operator of the site can be reached when the site is closed. The operator must return to the site within one hour.

Additionally, a vehicle or vessel may not be towed without consent of its owner, except from property appurtenant to a single-family residence, unless a notice is posted which states the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or that the vehicle or vessel is subject to being removed at the owner's or operator's expense and the notice meets the following requirements:<sup>34</sup>

- The notice is placed prominently at each driveway access or curb cut, within five feet from the public right-of-way line. If the property has no curbs or access barriers, signs must be posted at least once every 25 feet of lot frontage.
- The notice must indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense and contain the words "tow-away zone" in letters not less than 4 inches high.
- The notice must provide the name and telephone number of the towing company.
- The sign containing the notices must be permanently installed in such a way that the words "tow-away zone" is between 3 and 6 feet above ground level and the sign must have been continuously maintained on the property for not less than 24 hours before the towing of any vehicle or vessel.
- Local governments may also require permitting and inspection of signage before any towing is authorized.
- A business with 20 or fewer parking spaces may satisfy the requirement by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.
- A property owner towing or removing vessels from real property must post a notice, consistent with the requirements in the statute which apply to vehicles,<sup>35</sup> that unauthorized vehicles or vessels will be towed away at the owner's expense.

A vehicle or vessel may be towed even in the absence of a tow-away zone sign if the vehicle or vessel is parked in such a way that it restricts the normal operation of a business or restricts access to a private driveway and the business owner or lessee requests the tow.<sup>36</sup>

A county or municipality may adopt additional standards, including regulation of the rates charged when a vehicle or vessel is towed from private property.<sup>37</sup>

### III. Effect of Proposed Changes:

The bill authorizes a county or municipality to regulate the rates for the towing or immobilization of vessels. A county or municipality must establish a maximum rate that may be charged for the towing or immobilization of a vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators or a towing business. The bill defines the term "towing business" as a business providing towing services for monetary gains. The prohibition

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<sup>34</sup> Section 715.07(2)(a)5, F.S.

<sup>35</sup> These requirements are contained in s. 715.07(2)(a)5.a.-f., F.S.

<sup>36</sup> Section 715.07(2)(a)5, F.S.

<sup>37</sup> Section 715.07(2)(b), F.S.



would not impact the ability of the county or municipality to levy a business tax or impose a reasonable administrative fee or charge by ordinance on the legal owner of a vehicle or vessel to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public property. The administrative fee may not exceed 25 percent of the maximum towing rate.

The bill authorizes an authorized wrecker operator or towing business to impose and collect the administrative fee and provides that the authorized wrecker operator or towing business is not required to remit the fee to the county or municipality until it is collected. The bill requires the administrative fee to be included as part of the lien on the vehicle or vessel held by the towing operator.

The prohibition on county ordinances or rules that impose a fee or tax on authorized wrecker operators or towing businesses does not apply to tow or immobilization licensing, regulatory, or enforcement programs in effect on January 1, 2020, in charter counties where:

- 90 percent of the county's population lives in incorporated municipalities;<sup>38</sup>
- The county contains at least 38 incorporated municipalities within its territorial boundaries as of January 1, 2020;<sup>39</sup> or
- The county is a county as defined in s. 125.011(1), F.S.

These counties may continue to operate their existing towing or immobilization licensing, regulatory, or enforcement programs and are authorized to levy an administrative fee for enforcement costs. A county as defined in s. 125.011(1), F.S., is prohibited from imposing any new business tax, fee, or charge that was not in effect on January 1, 2020, on a towing business or authorized wrecker operator.

The bill prohibits a county or municipality from adopting or enforcing an ordinance that imposes any charge, cost, expense, fine, fee, or penalty on the registered owner of a vehicle or vessel, on the lienholder of a vehicle or vessel, or on an authorized wrecker operator when the vehicle or vessel is removed and impounded by an authorized wrecker operator. This prohibition does not apply to a reasonable administrative fee or charge, limited to 25 percent of the maximum towing rate, to cover the cost of enforcement and does not apply to the continuing operation of towing or immobilization licensing, regulatory, or enforcement programs in grandfathered charter counties.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment. This prohibition does not apply to an ordinance or rule adopted before January 1, 2020. The bill requires an authorized wrecker operator or towing business that does not accept credit cards as a form of payment to maintain an operable automatic teller machine for use by the public at its place of business.

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<sup>38</sup> As of April 1, 2018, more than 90 percent of the populations of Broward County and Duval County live in incorporated areas. EDR, *Florida Population Estimates for Counties and Municipalities*, available at: <http://edr.state.fl.us/Content/population-demographics/data/index-floridaproducts.cfm> (last visited Jan. 16, 2020). Broward County operates a towing or immobilization licensing, regulatory, or enforcement program, while Duval County does not.

<sup>39</sup> As of Oct. 1, 2019, only Palm Beach County has more than 38 municipalities. *See id.* (Palm Beach County has 39 municipalities).

The bill revises the requirement that a tow-away zone notice must be placed within five feet from the public right-of-way line and instead requires the tow-away zone notice be placed within ten feet of the “road,” as defined in s. 334.03(22), F.S.

The bill revises several provisions currently applicable to a person in control of a vehicle or vessel, making these provisions applicable also to those in custody of the vehicle.

The bill takes effect October 1, 2020.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenue.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate. However, these requirements do not apply to laws that have an insignificant fiscal impact<sup>40</sup> on local governments, which for the Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.<sup>41, 42</sup>

While local governments appear to benefit from potential revenue increases as a result of some of the bill’s provisions; *e.g.*, the authorized administrative fees charged to vehicle owners, authorized persons, and lienholders, other provisions in the bill prohibit local governments from imposing amounts that may currently be imposed; *e.g.*, requiring local governments to set a maximum fee amount and prohibiting fee collection from authorized wreckers and towing businesses.

The extent to which the potential revenue increases would be offset by the bill’s prohibitions against local government imposition of the specified fees, charges, etc., is indeterminate. Thus, the bill may reduce the authority of municipalities or counties to raise revenue. This reduction may be above the “insignificant impact” ceiling and approval of the bill by each house of the Legislature by a two-thirds vote of its members may be required.

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<sup>40</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 16, 2020)

<sup>41</sup> FLA. CONST. art. VII, s. 18(d).

<sup>42</sup> Based on the Florida Demographic Estimating Conference’s Dec. 3, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 16, 2020).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill contains provisions that may both increase and decrease revenues and expenses for the private sector, as the bill prohibits county and municipal imposition of the identified fees and charges on authorized wrecker operators or towing businesses, replaced by business taxes that businesses are likely already paying and limited administrative fees that such operators and businesses must remit to the county or municipality (when a vehicle or vessel is towed from public property). These revisions would presumably decrease expenses for such operators and businesses, thereby increasing revenue, in indeterminate amounts. The increase would be offset by costs associated with collecting and remitting the limited administrative fees, but only if an operator or business chooses to do so.

Also, Counties and municipalities will have to limit administrative wrecker and towing fees, which are not to exceed 25 percent of the maximum towing rate. This revision would presumably reduce expenses to owners or authorized persons whose vehicles or vessels are towed from public property, in indeterminate amounts.

**C. Government Sector Impact:**

The bill contains provisions that may both increase and decrease revenues and expenses for local governments. The bill prohibits local governments from imposing the identified fees on authorized wrecker operators or towing businesses, but these fees may still be imposed against the owners and lienholders of the vehicle and vessel being moved. This revision would presumably reduce revenue to local governments in indeterminate amounts or extend the time it takes for local governments to receive remitted fees from wreckers and towing businesses. The authorized reasonable administrative fee assessed

against owners or authorized persons, limited to 25 percent of the maximum towing rate, presumably would not offset the reduction in local government revenue due to the prohibition.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 125.0103, 166.043, 323.002, 713.78, and 715.07 of the Florida Statutes.

This bill creates sections 125.01047 and 166.04465 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Community Affairs on January 21, 2020:**

The committee substitute:

- Changes the current requirement that tow-away zone notices are placed within “5 feet” from the “public right-of-way line” to require the notices be placed within “10 feet” from the “road” as defined s. 334.03(22), F.S.;
- Removes proposed changes in the bill about attorney fees in connection with the towing of vehicles or vessels from private property; and
- Provides an effective date of October 1, 2020.

- B. **Amendments:**

None.



806630

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2020	.	
	.	
	.	
	.	

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The Committee on Community Affairs (Hooper) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 392 - 406  
and insert:  
access or curb cut allowing vehicular access to the property,  
within 10 ~~5~~ feet from the road as defined in s. 334.03(22)  
~~public right-of-way line~~. If there are no curbs or access  
barriers, the signs must be posted not fewer ~~less~~ than one sign  
for each 25 feet of lot frontage.

b. The notice must clearly indicate, in not fewer ~~less~~ than



806630

11 2-inch high, light-reflective letters on a contrasting  
12 background, that unauthorized vehicles will be towed away at the  
13 owner's expense. The words "tow-away zone" must be included on  
14 the sign in not fewer ~~less~~ than 4-inch high letters.

15 c. The notice must also provide the name and current  
16 telephone number of the person or firm towing or removing the  
17 vehicles or vessels.

18 d. The sign structure containing the required notices must  
19 be permanently installed with the words "tow-away zone" not less  
20 than 3 feet and not more than 6 feet above ground level and must  
21

22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete line 58

25 and insert:

26 amending s. 715.07, F.S.; revising requirements



116948

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2020	.	
	.	
	.	
	.	

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The Committee on Community Affairs (Hooper) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 490 - 505

and insert:

Section 8. This act shall take effect October 1, 2020.

===== **D I R E C T O R Y C L A U S E A M E N D M E N T**=====

And the directory clause is amended as follows:

Delete lines 314 - 315

and insert:



116948

11           Section 7. Subsection (2) of section 715.07, Florida  
12 Statutes, is amended to read:  
13  
14 ===== T I T L E   A M E N D M E N T =====  
15 And the title is amended as follows:  
16           Delete lines 67 - 73  
17 and insert:  
18           providing applicability; providing an effective date.



THE FLORIDA SENATE  
**APPEARANCE RECORD**

*Speaker*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 1/21/2020

Bill Number (if applicable) 1332

Topic \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Name Lise the Mariner

Job Title Executive Director

Address R40 Fiddler Ct.

Phone \_\_\_\_\_

Street Tallahassee, FL City 32308 State FL Zip 32308

Email Lmariner@flada.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Independent Automobile Dealers Association

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 1/21/20

Bill Number (if applicable) 1332

Amendment Barcode (if applicable) \_\_\_\_\_

Topic Tourism + Immobilizing

Name Harvey Spencer

Job Title Tow Carpay owner

Address 261 NE 341 Ave

Phone 352-672-8486

Street Old Town State FL Zip 32680

Email Tricitytowings326@yahoo.com

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against (The Chair will read this information into the record.)

Representing Professional Wrecker Operator of Florida

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 1/21/20

Bill Number (if applicable) 1332

Topic Towing + Immobilizations

Amendment Barcode (if applicable)

Name MARSH JOHNSON SR

Job Title Tow Company Owner

Address 1720 34th Street S.

Phone 727-323-3500

Street St Petersburg City FL State 33711 Zip

Email ELUIS.TOWING@AOL.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Professional Wrecker Operators of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 1/21/20

Bill Number (if applicable) 1332

Topic Towing + Immobilizing

Amendment Barcode (if applicable) \_\_\_\_\_

Name Sam Brewer

Job Title Past President - Professional Wracke Operators of FL

Address 1030 W. Jefferson St Phone 352-279-3592

Street Tallahassee City FL State 34601 Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information  In Support  Against  
(The Chair will read this information into the record.)

Representing Professional Wracke Operators of Florida

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

*Speaker*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 1/21/2020

Bill Number (if applicable) SB 1332

Topic Touring

Amendment Barcode (if applicable)

Name Edward G. Labrador

Job Title Legis Active Counsel

Address 100 S. Andrews Ave, Main Library - 8th Floor Phone 954-826-1155

Street Fort Lauderdale State FL Zip 33301

Email elabrador@broward.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 1398

INTRODUCER: Senator Flores

SUBJECT: Regional Planning Council Meetings

DATE: January 15, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Ryon	CA	<b>Favorable</b>
2.			GO	
3.			RC	

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**I. Summary:**

SB 1398 provides requirements for establishing a quorum for meetings of regional planning councils when a voting member appears via telephone, real-time video conferencing, or similar real-time electronic or video communication.

**II. Present Situation:**

**Open Meetings Law**

The Florida Constitution provides that the public has a right to access governmental meetings.<sup>1</sup> Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.<sup>2</sup> This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.<sup>3</sup>

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”<sup>4</sup> or the “Sunshine Law,”<sup>5</sup> requires all meetings of any board or commission of any state or local agency

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<sup>1</sup> FLA CONST., art. I, s. 24(b).

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

<sup>3</sup> FLA CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

<sup>4</sup> *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

<sup>5</sup> *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

or authority at which official acts are to be taken be open to the public.<sup>6</sup> The board or commission must provide the public reasonable notice of such meetings.<sup>7</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.<sup>8</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>9</sup> Failure to abide by public meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.<sup>10</sup> A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.<sup>11</sup>

The Legislature may create an exemption to public meetings requirements by passing a general law by at least a two-thirds vote of both the Senate and the House of Representatives.<sup>12</sup> The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>13</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>14</sup>

The following are general exemptions from the requirement that all meetings of any state agency or authority be open to the public:

- That portion of a meeting that would reveal a security or fire safety system plan; and
- Any portion of a team meeting at which negotiation strategies are discussed.<sup>15</sup>

### **Administrative Procedure Act**

The Administrative Procedure Act (APA)<sup>16</sup> outlines a comprehensive administrative process by which agencies exercise the authority granted by the Legislature while offering citizen involvement. The process subjects state agencies to a uniform procedure in enacting rules and issuing orders and allows citizens to challenge an agency's decision.<sup>17</sup>

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<sup>6</sup> Section 286.011(1)-(2), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 286.011(6), F.S.

<sup>9</sup> Section 286.011(2), F.S.

<sup>10</sup> Section 286.011(1), F.S.

<sup>11</sup> Section 286.011(3), F.S. Penalties include a fine of up to \$500 or a second degree misdemeanor.

<sup>12</sup> FLA CONST., art. I, s. 24(c).

<sup>13</sup> *Id.*

<sup>14</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>15</sup> Section 286.0113, F.S. "Team" means a group of members established by an agency for the purpose of conducting negotiations as part of a competitive solicitation.

<sup>16</sup> See ch. 120, F.S.

<sup>17</sup> See Joint Administrative Procedures Committee, *A Primer on Florida's Administrative Procedure Act*, available at <http://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf> (last visited Jan. 15, 2020).

The term “agency” is defined in s. 120.52(1), F.S., as:

- The Governor, each state officer and state department, and each departmental unit described in s. 20.04, F.S.;<sup>18</sup>
- The Board of Governors of the State University System;
- The Commission on Ethics;
- The Fish and Wildlife Conservation Commission;
- A regional water supply authority;
- A regional planning agency;
- A multicounty special district, but only if a majority of its governing board is comprised of non-elected persons;
- Educational units;
- Each entity described in chs. 163 (Intergovernmental Programs), 373 (Water Resources), 380 (Land and Water Management), and 582 (Soil and Water Conservation), F.S., and s. 186.504 (regional planning councils), F.S.;
- Each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county; and
- Each officer and governmental entity in the state having jurisdiction in one county or less than one county, to the extent they are expressly made subject to the act by general or special law or existing judicial decisions.<sup>19</sup>

### **Use of Electronic Media and Public Meetings**

Section 120.54(5)(b)2, F.S., requires the Administration Commission<sup>20</sup> to promulgate rules to create uniform rules of procedure for state agencies to use when conducting public meetings, hearings or workshops, including procedures for conducting meetings in person and by means of communications media technology.<sup>21</sup> The agency must state in the notice that the public meeting, hearing, or workshop will be conducted by means of communications media technology, or if attendance may be provided by such means.<sup>22</sup> The notice must also state how individuals interested in attending may do so.<sup>23</sup> Notwithstanding the use of electronic media technology, all evidence, testimony, and argument presented at the public meeting must be afforded equal consideration, regardless of the method of communication.<sup>24</sup> In addition to agencies required to comply with ch. 120, F.S., certain entities created by an interlocal agreement may conduct public meetings and workshops via communications media technology.<sup>25</sup>

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<sup>18</sup> Section 20.04, F.S., specifies the structure of the executive branch of state government.

<sup>19</sup> The definition of agency does not include a municipality or legal entity created solely by a municipality and expressly excludes certain legal entities or organizations found in chs. 343, 348, and 361, F.S., and ss. 339.175 and 163.01(7), F.S.

<sup>20</sup> Section 14.202, F.S. The Administration Commission is composed of the Governor and the Cabinet (The Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture compose the Cabinet. Section 20.03(1), F.S.).

<sup>21</sup> Section 120.54(5)(b)2, F.S. The term “communications media technology” means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Section 163.01(18), F.S. (Allowing public agencies located in at least five counties, of which at least three are not contiguous, to conduct public meetings and workshops by means of communications media technology).



While current law allows state agencies and certain entities created by an interlocal agreement to conduct meetings and vote by means of communications media technology, there has been a question over whether or not local boards or agencies may conduct meetings in the same fashion.<sup>26</sup> The Office of Attorney General has opined that only state agencies can conduct meetings and vote via communications media technology, thus rejecting a school board's request to conduct board meetings via electronic means.<sup>27</sup> The Attorney General reasoned that s. 120.54(5)(b)2, F.S., limits its terms only to uniform rules that apply to state agencies.<sup>28</sup> The Attorney General explained that "allowing state agencies and their boards and commissions to conduct meetings via communications media technology under specific guidelines recognizes the practicality of members from throughout the state participating in meetings of the board or commission."<sup>29</sup>

The Attorney General reasoned that a similar rationale is not applicable to local boards and commissions even though it may be convenient and save money since the representation on these boards and commissions are local thus, "such factors would not by themselves appear to justify or allow the use of electronic media technology in order to assemble the members for a meeting."<sup>30</sup> However, if a quorum of a local board is physically present at the public meeting, a board may allow a member who is unavailable to physically attend the meeting due to extraordinary circumstances such as illness, to participate and vote at the meeting via communications media technology.<sup>31</sup>

### **Florida Regional Planning Councils**

The Florida Regional Planning Council Act<sup>32</sup> allows the creation of regional planning councils (RPC). The Legislature has recognized RPCs as the "only multipurpose regional entity that is in position to plan for and coordinate intergovernmental solutions to growth-related problems on greater-than local issues, provide technical assistance to local governments, and meet other needs of the communities in each region."<sup>33</sup> RPCs span multiple counties within the geographical boundaries of any one comprehensive planning district.<sup>34</sup> The voting membership of a RPC must consist of representatives living within the geographical area covered by the council.<sup>35</sup> The ten RPCs are as follows: West Florida, Apalachee, North Central Florida, Northeast Florida, East Central Florida, Tampa Bay, Central Florida, Southwest Florida, Treasure Coast, and South Florida.<sup>36</sup> Each RPC consists of anywhere from three (South Florida) to 12 counties (North Central Florida).<sup>37</sup>

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<sup>26</sup> Robert Eschenfelder, *Modern Sunshine: Attending Public Meetings in the Digital Age*, 84 Fla. B.J. 28 (2010).

<sup>27</sup> Op. Att'y Gen. Fla. 98-28 (1998).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Section 186.501–186.513, F.S.

<sup>33</sup> Section 186.502(4), F.S.

<sup>34</sup> Section 186.504, F.S.

<sup>35</sup> Section 186.504(2), F.S.

<sup>36</sup> Section 186.512, F.S.

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

### III. Effect of Proposed Changes:

**Section 1** amends s. 120.525, F.S., to authorize the use of communication media technology for board meetings of RPCs that cover three or more counties. Specifically, a voting member who appears via telephone, real-time videoconferencing, or similar real-time electronic or video communication that is broadcast publicly at the meeting location may be counted toward the quorum requirement if at least one-third of the voting members of such RPC are physically present at the meeting location.

The bill also requires the member to provide oral, written, or electronic notice of his or her intent to appear via communications media technology to their respective planning council at least 24 hours before the scheduled meeting.

**Section 2** provides the bill takes effect July 1, 2020.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

### V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Authorizing RPCs to use media technology for quorum purposes may save on travel time and cost.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 120.525 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

# CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Community Affairs Committee

Judge:

Started: 1/21/2020 4:33:26 PM

Ends: 1/21/2020 5:04:32 PM

Length: 00:31:07

4:33:32 PM Quorum present  
4:33:49 PM SB 1136 is temporarily postponed  
4:34:02 PM SB 1254 by Senator Wright  
4:34:15 PM Senator Wright explains the bill.  
4:35:28 PM Senator Pizzo with questions.  
4:38:25 PM Senator Simmons with questions.  
4:40:46 PM SB 1254 will be Temporarily Postponed.  
4:41:47 PM SB 514 by Senator Gruters. There is one amendment barcode 301196 which is a delete-all.  
4:43:05 PM Questions  
4:43:23 PM Amendment adopted.  
4:43:29 PM Lauren Levy waives in support. Dana Blickley waives in support.  
4:43:54 PM Senator Pizzo with questions.  
4:44:24 PM Mr. Levy from Property Appraisers Assn. of Florida answers questions.  
4:46:24 PM Senator Simmons with questions.  
4:47:50 PM Senator Gruters waives close. SB 514 favorable.  
4:48:13 PM SB 388 by Senator Hooper.  
4:49:01 PM No questions, no appearance forms, no debate.  
4:49:11 PM SB 388 favorable.  
4:49:26 PM SB 1332 by Senator Hooper.  
4:50:34 PM Amendment barcode 806630 by Senator Hooper.  
4:51:05 PM Senator Flores with a question.  
4:51:20 PM Barcode 806630 adopted.  
4:51:46 PM Amendment Barcode 116948. Amendment adopted.  
4:53:40 PM Senator Pizzo with questions.  
4:54:30 PM Senator Pizzo with questions.  
4:54:31 PM Lisette Mariner with Florida Independent Automobile Dealers Assoc. against bill.  
4:55:58 PM Harvey Spencer, Sam Brewer, Marson Johnson waiving in support of the bill.  
4:56:40 PM Edward Labrador Legislative Counsel representing Broward County.  
4:57:04 PM Senator Pizzo with questions.  
5:01:34 PM Senator Hooper to close. SB 1332 is favorable.  
5:02:27 PM SB 1398 by Senator Flores.  
5:03:24 PM Questions, debate.  
5:03:43 PM Senator Flores waives close. SB 1398 is favorable.  
5:04:10 PM Meeting adjourned.