

# **LOCAL BILL POLICIES AND PROCEDURES MANUAL 2017-2018**



**Government Accountability Committee**

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**Local, Federal & Veterans Affairs Subcommittee**

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## ***PREFACE***

This manual outlines the policies and procedures of the Florida House of Representatives for the drafting and filing of local bills. Additionally, the manual provides constitutional and statutory requirements for local bills, discusses the creation of independent special districts, and details the codification of special district charters.

More information is available at the following Legislative offices:

Local, Federal & Veterans Affairs Subcommittee  
Florida House of Representatives  
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House Bill Drafting Service  
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## ***REVISIONS FOR 2017***

The following changes to this manual and the specified local bill forms have been made for the 2017 Regular Session:

### **Local Bill Policy and Procedures Manual**

- Reviewed and updated citations to authorities.
- Added a new section on Frequently Asked Questions (FAQs)

### **Local Bill Certification Form**

- Added a section for the local legislative delegation to explain why the substance of the proposed local bill may not be enacted by local ordinance.

### **Economic Impact Statement**

- Revised the date-ranges for certain data to 2017-2018 and 2018-2019.
- Deleted the express reference to preparing the EIS “at the local level,” relying on the preparer’s certification for knowledge of the underlying facts and competence in preparing the analysis.

### **Local Bill Amendment Form**

- Added a requirement to state whether notice of the revised terms of the bill was published if the amendment expanded the bill beyond the scope of the original notice.

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# **CHAPTER 1**

## **Local Bill Basics**

### **I. INTRODUCTION TO LOCAL BILLS**

#### **1. THE DIFFERENT TYPES OF LAWS IN FLORIDA**

The Florida Constitution recognizes two basic types of laws: general law and special law.<sup>1</sup> These terms are not defined in the Florida Constitution but are explained by decisions of the Florida Supreme Court.<sup>2</sup> A general law operates universally throughout the state, uniformly on specific subjects throughout the state, uniformly within a permissible classification, or relates to a state function or entity.<sup>3</sup> Special laws operate on specific persons, things, or within classifications which would be impermissible or illegal for a general law.<sup>4</sup>

#### **General Law**

As stated above, a general law operates universally throughout the state, uniformly on specific subjects throughout the state, or uniformly within a permissible classification or relates to a state function or entity. For example, the statutes pertaining to the creation and administration of independent special districts operate universally throughout the state.<sup>5</sup> The statute excluding a community development district (CDD) from some general special district statutes<sup>6</sup> and those authorizing the creation and administration of a CDD<sup>7</sup> operate uniformly throughout the state upon this specific subset of independent special districts.

Uniform operation of a general law does not require universal application throughout the state. A valid general law may operate within a limited class of subjects provided that classification is based on some difference having a reasonable relationship to the

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<sup>1</sup> Art. III, ss. 10, 11(b), Fla. Const. These are not the only type of legislative actions but are the only ones resulting in laws. See H. R. 5.1. *But see* arts. V, s. 20(i), VIII, s. 6(g), XII, s. 11, Fla. Const.

<sup>2</sup> See *License Acquisitions, LLC v. Debary Real Estate Holdings, LLC*, 155 So. 3d 1137, 1142-1143 (Fla. 2015); *Cesary v. Second National Bank*, 369 So. 2d 917, 921 (Fla. 1979); *Bloxham v. Florida Central & Peninsular Railroad*, 17 So. 902, 924-925, 35 Fla. 625, 732-733 (Fla. 1895).

<sup>3</sup> *State ex rel. Landis v. Harris*, 163 So. 237, 240, 120 Fla. 555, 562-563 (Fla. 1934). *Harris* lists a fourth type of classification: "relating to a State function or instrumentality." As matters pertaining to the state would be uniform throughout Florida, this appears to be a variant of the first category.

<sup>4</sup> *License Acquisitions, LLC, supra* at 1142-1143.

<sup>5</sup> Ch. 189, F.S.

<sup>6</sup> Section 190.004, F.S.

<sup>7</sup> Ch. 190, F.S.

purpose of the statute.<sup>8</sup> The measure of a valid classification used in a general law is whether there is a reasonable possibility that others in the future may meet the criteria of the classification.<sup>9</sup> “Ultimately, the criterion that determines if a reasonable relationship exists between the classification adopted and the purpose of the statute is whether the classification is potentially open to additional parties.”<sup>10</sup>

### **General Law of Local Application**

A general law of local application is a general law operating within only a portion of the state due to a valid classification based on proper distinctions and differences between the affected geographical area(s) and the remainder of the state.<sup>11</sup> The lack of home rule authority under the former Constitution of 1885 led to the passage and accumulation of a large number of “population acts,” general laws applicable only to areas of the state falling within stated population ranges. Most of the population acts were repealed after adoption of the 1968 Florida Constitution and its provision for local government home rule.<sup>12</sup> The present laws implementing home rule<sup>13</sup> provide local governments with sufficient authority and flexibility, largely eliminating the impetus to enact local policy concerns through general law applicable to specific locations. Unlike special laws, particularly local laws, a valid general law of local application does not require either prior notice of intent to file the proposed law or approval by local referendum.

### **Special Law**

A special law operates on a specific category of people or subjects which classification either is impermissible or illegal.<sup>14</sup> A law purporting to create a separate classification of

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<sup>8</sup> “...statutory classifications must be reasonable and must be based upon some difference bearing a reasonable and just relationship to the subject matter regulated.” *Carter v. Norman*, 38 So. 2d 30 (Fla. 1948); *State ex rel. White v. Foley*, 182 So. 195, 132 Fla. 595 (1938). A statute which relates to subjects, persons, or things as a class, based upon proper differences which are inherent in or peculiar to the class is, a general law. *State ex rel. Gray v. Stoutamire*, 179 So. 730, 131 Fla. 69 (1938).” *Cesary, supra* at 921. See also *Lewis v. Mathis*, 345 So. 2d 1066 (Fla. 1977); *Biscayne Kennel Club, Inc. v. Florida State Racing Commission*, 165 So. 2d 762, 763 (Fla. 1964); *State ex rel. Baldwin v. Coleman*, 3 So. 2d 802, 803, 148 Fla. 155, 157 (1941); *State ex rel. Blalock v. Lee*, 1 So. 2d 193, 195, 146 Fla. 385, 388 (1941); *State ex rel. Buford v. Daniel*, 99 So. 804, 809, 87 Fla. 270, 286-287 (1924).

<sup>9</sup> *Fla. Dep’t of Bus. & Prof’l Regulation v. Gulfstream Park Racing Ass’n, Inc.*, 967 So. 2d 802, 808–09 (Fla.2007).

<sup>10</sup> *License Acquisitions, LLC, supra* at 1142-1143, citing *Dept. of Business Regulation v. Classic Mile, Inc.*, 541 So. 2d 1155, 1158-1159 (Fla. 1989) (quoting *Dep’t of Legal Affairs v. Sanford–Orlando Kennel Club, Inc.*, 434 So. 2d 879, 882 (Fla.1983)), *Ocala Breeders’ Sales Co., Inc. v. Fla. Gaming Ctrs., Inc.*, 731 So. 2d 21, 25 (Fla. 1st DCA 1999).

<sup>11</sup> See preceding note. See also House Bill Drafting Service, Guidelines for Drafting Legislation (2014), 4-5.

<sup>12</sup> See ch. 71-29, Laws of Fla.

<sup>13</sup> See art. VIII, ss. 1, 2, Fla. Const., and chs. 125, 166, and 189, F.S.

<sup>14</sup> *License Acquisitions, LLC, supra* at 1142-1143, and cases cited therein.

permit holders, but actually only acting to identify and provide an advantage to certain permit holders, was a special law.<sup>15</sup> Passage of a valid special law requires prior publication of a notice of intent to seek its enactment; alternatively, the law may provide it becomes effective only after approval by the affected voters in a referendum.<sup>16</sup>

## **Local Law**

A local law is a form of special law<sup>17</sup> “relating to, or designed to operate only in, a specifically indicated part of the State ... or one that purports to operate within classified territory when classification is not permissible or the classification adopted is illegal ....”<sup>18</sup> A local law expressly operates within a specific geographic area.<sup>19</sup> An example of a local law is an act providing for the proposed incorporation of a municipality.<sup>20</sup>

## **2. PURPOSE OF LOCAL BILLS**

Local bills generally are proposed in the following circumstances:

- A local government is limited in its authority to accomplish a specific goal and must ask the Legislature for a special act;
- An area wishes to be exempted from a general law;<sup>21</sup> or
- The Legislature has retained authority to decide the local issue by special act (e.g., municipal incorporation and creation of independent special districts).

## **3. INITIATING A LOCAL BILL**

A request for a local delegation to approve a local bill typically originates from:

- A member of a local legislative delegation;
- The county governing body;
- The municipal governing body;

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<sup>15</sup> *West Flagler Kennel Club, Inc. v. Florida State Racing Com.*, 153 So. 2d 5, 7-8 (Fla. 1963).

<sup>16</sup> Art. III, s. 10, Fla. Const.

<sup>17</sup> Art. X, s. 12(g), Fla. Const.

<sup>18</sup> *State ex rel. Landis v. Harris, supra* at 562-563.

<sup>19</sup> *License Acquisitions, LLC, supra* at 1142-1143.

<sup>20</sup> Ch. 2015-182, Laws of Fla., which provided the charter for a proposed City of Panacea. In the referendum provided in the act the voters rejected the proposed incorporation.

<sup>21</sup> The bill should identify the specific sections and subsections of statute from which the local area is being exempted.

- A locally elected official;
- A special district or other local entity; or
- A member of the public.

#### 4. LOCAL BILL FILING PROCESS IN THE HOUSE

An interested party may submit a request for a local bill either verbally or in writing to the local legislative delegation or to any member of the delegation.

The local legislative delegation has discretion whether to hear the issue being proposed for a local bill. If the local delegation agrees, the proposed local bill is considered at a public hearing of the delegation. Although the public hearing is not required by law, House policy requires all proposed local bills to be heard by the local legislative delegation at a public hearing in the area that would be subject to the legislation. Once an issue has been discussed and the intent of the bill is clear, the legislative delegation votes on whether or not to support the proposed bill.

A local legislative delegation's rules govern the requirements for approval of a local bill for introduction. Usually, a majority of the legislative delegation must approve the proposed local bill for introduction; however, a delegation's rules may require unanimous approval.

Custom and courtesy dictate that a member of the local legislative delegation in the area affected by a proposed bill sponsor the bill. County or municipal attorneys, or other appropriate local officials, are expected to draft local bills. House Bill Drafting Service reviews all drafts, correcting any technical errors and making other changes to conform to the requirements of the Florida Constitution, Florida Statutes, and Rules of the Florida House of Representatives.

If the local legislative delegation agrees to support the issue and introduce the local bill, the legislative delegation, or the local entity requesting the local bill (e.g., city, county, special district, incorporation study commission), is responsible for placing a legal advertisement in a newspaper of general circulation and ensuring proper notice.

A legal advertisement of the proposed bill **must** be placed in a newspaper of general circulation at least 30 days prior to introduction of the local bill in the House or Senate.<sup>22</sup> If the bill is subject to a vote of the citizens (referendum), this legal advertisement is not required.

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<sup>22</sup> Section 11.02, F.S. See art. III, s. 10, Fla. Const.

An affidavit of proof of publication of the legal advertisement is furnished by the newspaper that published the notice.<sup>23</sup> The original proof of publication must be provided to House Bill Drafting Services along with the bill drafting request for the local bill. The proof of publication then is attached to the original copy of the bill when filed with the House Clerk or Senate Secretary.<sup>24</sup>

All local bills **must** be approved for filing with the Clerk no later than noon of the first day of the regular session.<sup>25, 26</sup>

The House of Representatives' Local Bill Policy requires a completed, original, and signed **Local Bill Certification Form** and a completed, original, and signed **Economic Impact Statement** be provided to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. (The forms are available at [www.myfloridahouse.gov](http://www.myfloridahouse.gov).)

## 5. LOCAL DELEGATION MEETING REQUIREMENTS AND GUIDELINES

All meetings at which the local legislative delegation discusses and/or votes on a proposed local bill should be properly noticed and open to the public.<sup>27</sup> The delegation should provide sufficient notice of the meeting so that all interested parties have an opportunity to address the delegation. The type of notice provided depends upon the facts of the situation, but each notice should be designed to reach all persons who are interested in the bill. In some instances, posting of the notice in an area set aside for that purpose may be sufficient; in others, publication in a local newspaper may be advisable.<sup>28</sup>

The Florida Attorney General has suggested the following guidelines:<sup>29</sup>

- The notice should contain the time and place of the meeting and, if available, an agenda (or if no agenda is available, subject matter summaries may be used).
- The notice should be displayed prominently in an area set aside for that purpose (e.g., for cities, in city hall).

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<sup>23</sup> Sections 11.021, 11.03, F.S.

<sup>24</sup> House Rule 5.5(c). See also s. 11.03(2), F.S.

<sup>25</sup> House Rule 5.2(a).

<sup>26</sup> NOTE: References in this Manual to the House Rules are to those rules adopted for the 87<sup>th</sup> House (2014-2016). Please consult the current House Rules for the correct text and citation.

<sup>27</sup> See Op. Att'y. Gen. Fla. 2000-08 (Fla. 2000).

<sup>28</sup> See s. 286.011, F.S.

<sup>29</sup> Op. Att'y Gen. Fla. 94-62 (Fla. 1994).

- An emergency meeting should be afforded the most appropriate and effective notice under the circumstances. Special meetings should provide at least 24 hours reasonable notice to the public.
- The use of press releases and/or phone calls to wire services and other media is highly effective. On matters of critical public concern such as rezoning, budgeting, taxation, and the appointment of public officers, advertising in the local newspapers of general circulation is appropriate.

## II. NOTICE REQUIREMENTS FOR LOCAL BILLS

Before a local bill may be introduced into the Legislature, the requirements of the Florida Constitution<sup>30</sup> and relevant statutes<sup>31</sup> must be met. In limited situations, a referendum in lieu of notice may be appropriate.<sup>32</sup>

### 1. STATUTORY NOTICE REQUIREMENTS

A notice advertising intent to seek enactment of local legislation and describing the substance of the contemplated law **must be published one time, at least 30 days prior to the bill's introduction** in the Legislature.<sup>33</sup> Publication may be by advertisement in a newspaper of general circulation in each affected county or, if no such newspaper is published in or circulated throughout an affected county, by posting the notice for 30 days in three public places in each such county, including the courthouse.<sup>34</sup>

In order to qualify as a newspaper of general circulation, a publication must:<sup>35</sup>

- Be printed and published at least once a week;
- Contain at least 25 percent of its words in the English language;
- Be entered or qualified to be admitted and entered as periodicals matter at a post office in the county where it is published;

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<sup>30</sup> Art. III, s. 10, Fla. Const.. **“Special laws.**—No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the affected area.” Section 11.02, F.S., implements this constitutional requirement.

<sup>31</sup> Sections 11.02, 11.021, 11.03, F.S. *See also* s. 189.062(3), F.S.

<sup>32</sup> *See* Chapter 1, Section III, Part 1 of this manual for more information.

<sup>33</sup> Section 11.02, F.S., implementing art. III, s. 10, Fla. Const. *See also Totten v. Okaloosa County Gas District*, 164 So. 2d 15, 17 (Fla. 1964).

<sup>34</sup> *Id.*

<sup>35</sup> Sections 50.011, 50.031, F.S.

- Be for sale and available to the public generally for publication of official or other notices;
- Customarily contain information of a public character, or of interest or value to the residents or owners of property in the county where published, or of interest or of value to the general public; and
- Have been in existence for one year or longer (certain exceptions may apply).

For a local bill not subject to referendum, evidence the notice was properly published must be established in the Legislature by attaching an affidavit of proof of publication to the proposed local bill when it is introduced into the House or Senate.<sup>36</sup> A sample affidavit of proof of publication modeled on s. 11.03, F.S., appears in Appendix B of this manual.

## 2. FORMAT FOR NOTICE OF LEGISLATION

An example of a notice of legislation is as follows:

<p><b>NOTICE OF LEGISLATION [or]</b></p> <p><b>NOTICE OF INTENT TO SEEK LEGISLATION</b></p> <p><b>TO WHOM IT MAY CONCERN:</b> Notice is hereby given of intent to apply to the 2017 Florida Legislature, in the 2017 regular or any special or extended legislative sessions, for passage of an act relating to Lee County, amending chapter 30931, Laws of Florida, 1955, relating to sales at auction, to exempt from the provisions thereof specified persons and firms.</p>
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A local bill not passed during the regular session for which it is advertised may be heard during a subsequent special or extended session. Therefore, the above form of notice includes language broadening the applicability to special or extended sessions in the year given.

For more information on the notice provision and drafting local bills, see Guidelines for Drafting Legislation (2014), pp. 8 – 12, published by House Bill Drafting Service.

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<sup>36</sup> See, e.g., House Rule 5.5(c). See also ss. 11.021, 11.03, F.S.

### 3. SUBSTANCE INCLUDED IN THE NOTICE

The substance of a proposed local bill must be summarized in the advertised notice. The notice must include all matters contained in the body of the proposed legislation, although the specific contents need not be listed in detail. The notice must provide reasonable notice to a person whose interests may be directly affected by the proposed legislation so that person may inquire further into the details of the local bill and, if desired, seek to prevent enactment or persuade the Legislature to change the substance of the proposed bill.<sup>37</sup>

The title of the proposed bill often is used as the text of the notice because the Florida Constitution similarly requires the title to briefly express the subject of the legislation.<sup>38</sup> However, a broader description in the published notice allows room for potential amendments to the bill after its introduction that otherwise would be outside the scope of the original title and, consequently, would require publication of a new notice.<sup>39</sup>

### 4. SUBSTANTIVE AMENDMENTS MUST CONFORM TO NOTICE REQUIREMENTS

Once filed, a local bill is subject to the same amendatory process as any other bill.<sup>40</sup> If the bill as finally enacted into law “accord(s) in substance and purpose and (is) germane to and within the scope of the subject-matter of the published notice,”<sup>41</sup> the constitutional notice provision is met and no further notice need be published.<sup>42</sup> If an amendment substantially changes a bill so that the substance is outside the scope of the published notice, a constitutional problem may be created unless a new notice is published or the bill is amended to require a constitutionally-compliant referendum.<sup>43</sup> If the original bill includes a compliant referendum provision, the bill may be readily amended in compliance with the House Rules as long as the referendum provision is retained. The Legislature may choose to add a referendum provision even if notice of intent to file the bill was published properly.<sup>44</sup>

To avoid creating a potential constitutional issue the original bill should be advertised in a broad manner. A narrow, specific advertisement for a bill may limit the scope of substantive amendments for consideration. For example, if a local bill excludes a specific tract of property from a district, rather than advertising “excluding one tract of

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<sup>37</sup> *North Ridge General Hospital, Inc. v. Oakland Park*, 374 So. 2d 461, 463-464 (Fla. 1979), citing *Coldeway v. Board of Public Instruction*, 189 So. 2d 878, 880 (Fla. 1966).

<sup>38</sup> Art. III, s. 6, Fla. Const. See *North Ridge General Hospital, Inc.*, supra at 463-464.

<sup>39</sup> House Bill Drafting Service, *Guidelines for Drafting Legislation* (2014), 10.

<sup>40</sup> *State ex rel Landis v. Reardon*, 154 So. 868, 869, 114 Fla. 755, 757-758 (1934).

<sup>41</sup> *State ex rel. Watson v. Miami*, 15 So. 2d 481, 483, 153 Fla. 653, 656 (1941).

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

<sup>43</sup> Art. III, s. 10, Fla. Const.

<sup>44</sup> See Op. Att’y. Gen. Fla. 059-98 (1959).

property from the district,” the advertisement might state “excluding property from the district.” Such an advertisement allows for resolving unforeseen controversies by amending the bill without affecting its notice.

If a local bill passes one chamber with provisions creating a potentially defective notice, those provisions could be revised by the other chamber. Once the engrossed bill is reviewed by staff in the receiving chamber, constitutional concerns may be brought to the attention of the members. The provisions at issue then may be removed by amendment, correcting a potentially defective notice.

## **5. NOTICE ARRANGEMENT AND PAYMENT**

Those parties most interested in the passage of the bill (a citizens’ group, a local official, etc.) generally assume this responsibility. Neither the Florida Constitution nor Florida Statutes impose a duty on any particular person to arrange and pay for the notice.

### **III. REFERENDUM REQUIREMENTS FOR LOCAL BILLS**

#### **1. REFERENDUM IN LIEU OF NOTICE**

Any local bill not properly advertised in advance must be conditioned to become effective only upon approval by vote of the electors of the area affected.<sup>45</sup> In such bills, the effective date is replaced with a section calling for a referendum and basing the effectiveness of the act on the outcome of the election.

In certain bills not otherwise requiring approval by referendum (such as a bill creating a municipality), as a matter of policy the Legislature often allows the affected voters to decide by including a referendum requirement in the bill.

For a bill requiring approval in a referendum before the act may go into effect, the approval of a majority of those **voting** in the election is required for adoption of the act.<sup>46</sup> Those voting must be qualified electors within the affected area. If the referendum is to be held in a special election, the time for the election must be set by the county commission, city commission, or other specified appropriate local governing body.

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<sup>45</sup> Art. III, s. 10, Fla. Const. As used in the Florida Constitution, the phrase “(v)ote of the electors’ means the vote of the majority of those voting on the matter in an election, general or special, in which those participating are limited to the electors of the governmental unit referred to in the text.” Art. X, s. 12(d), Fla. Const. See also *Harris v. Baden*, 17 So. 2d 608, 609, 154 Fla. 373, 375 (1944).

<sup>46</sup> Art. X, s. 12(d), Fla. Const.

## 2. MODEL REFERENDUM PROVISION

A referendum section in a local bill should provide the following:

- Specify the act is to take effect only upon its approval by vote of the electors in the area affected by the law.
- Describe when and by whom the referendum must be held, and whether it will be held in conjunction with a special election, primary election, or general election.<sup>47</sup>
- Provide that the referendum section itself takes effect upon becoming law.

The following example is the referendum section from a local bill enacted into law (the bold text may be referenced as suggested model language):

**This act shall take effect only upon its approval by a majority vote of those qualified electors residing within the area** being transferred from Collier County to the Greater Naples Fire Rescue District **described in section 1 voting in a referendum to be held in conjunction with a general, special, or other election to be held in Collier County no later than December 31, 2016, except that this section shall take effect upon becoming law.**<sup>48</sup>

Note the text provides for “approval by a majority vote of those qualified electors residing within the area...voting in a referendum....” To reiterate, the Florida Constitution requires approval by vote of the electors of the affected area,<sup>49</sup> defined as a majority of those voting in an election in which participation is limited to the electors of that area.<sup>50</sup>

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<sup>47</sup> *City of Lake Wales v. Florida Citrus Canners Cooperative*, 191 So. 2d 453, 456-457 (Fla. 2d DCA 1966). See also Op. Att’y Gen. Fla. 072-2 (1972).

<sup>48</sup> Ch. 2016-261, s. 2, Laws of Fla.

<sup>49</sup> Art. III, s. 10, Fla. Const.

<sup>50</sup> Art. X, s. 12(d), Fla. Const. See also *Harris v. Baden*, supra at 17 So. 2d 609.

### 3. BOTH REFERENDUM AND NOTICE MAY BE REQUIRED

Even if notice of intent to file the local bill is published properly, a referendum must be held if the bill does any of the following:

- Creates or revises certain ad valorem taxing power, authorizes certain ad valorem millage rates, or provides for issuance of certain bonds.<sup>51</sup>
- Establishes, amends, or repeals a county charter.<sup>52</sup>
- Allows the selection of county officers in a manner other than by election when provided by county charter or by special law approved by the county electorate.<sup>53</sup>
- Consolidates municipal and county government. The referendum may involve the electors of the county in a single vote, or the electors of the county and municipality (or municipalities) voting separately, as provided in the consolidation plan.<sup>54</sup>
- Combines school districts. For purposes of the statewide system of public education, the Florida Constitution authorizes two or more contiguous counties to combine themselves into one school district. This could be accomplished locally or by the Legislature through a local bill. This action must be approved by the electors of each county.<sup>55</sup>
- Provides for an appointed (rather than elected) school superintendent. If authorized by special law or by resolution of the district school board, the school district may change the superintendent selection method from an election to direct employment by the district school board. Such a special law or resolution also must be approved by the voters in the district.<sup>56</sup>

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<sup>51</sup> Art. VII, ss. 9(b) and 12(a), Fla. Const. See, *City of Parker v. State*, 992 So. 2d 171, 179-180 (Fla. 2008); *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875, 893-899 (Fla. 1980). Certain revisions to taxing authority within existing millage limits, both of which were previously approved by referendum, may not require a new referendum. *Bailey v. Ponce de Leon Port Authority*, 398 So. 2d 812, 814-815 (Fla. 1981).

<sup>52</sup> Art. VIII, s. 1(c), Fla. Const.

<sup>53</sup> Art. VIII, s. 1(d), Fla. Const. This section also authorizes abolition of a county office when all of the duties of the office prescribed by general law are transferred to another office.

<sup>54</sup> Art. VIII, s. 3, Fla. Const.

<sup>55</sup> Art. IX, s. 4(a) Fla. Const.

<sup>56</sup> Art. IX, s. 5, Fla. Const.

## **IV. REQUIRED HOUSE FORMS**

### **1. REQUIRED LOCAL BILL FORMS**

House policy requires the original (1) Local Bill Certification Form and (2) Economic Impact Statement Form be submitted to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Under this policy, no local bill may be considered by the Local, Federal & Veterans Affairs Subcommittee or any other House committee or subcommittee without these completed forms. The Subcommittee serves as the central repository and distribution point for these forms in the event a local bill is referred to other committees or subcommittees. The House Rules require all local bills, including local claim bills, not providing for a ratifying referendum must be accompanied by an affidavit certifying proper advertisement of the notice of seeking enactment of the bill.

#### **a. Local Bill Certification Form**

Using the Local Bill Certification Form, the local legislative delegation certifies the purpose of the bill cannot be accomplished at the local level without a referendum;<sup>57</sup> a public hearing has been held on the substance of the bill in the area to be affected by the proposed law; all constitutional, statutory, and policy requirements for filing have been satisfied; whether the bill authorizes changes in the ad valorem millage rate for a special district; and whether the bill was approved by the required majority or unanimous vote of the delegation members.

#### **b. Economic Impact Statement**

The Economic Impact Statement describes projected changes in revenues, costs, funding sources, and the overall economic effects created by the bill. Additionally, those preparing the Economic Impact Statement certify to their qualifications to prepare the statement, personal knowledge of the information, and that the Statement is true and accurate (for example, a chief financial officer of a particular local government).

#### **c. Affidavit of Proper Advertisement**

As more fully discussed above in Part II, section 1 of this manual, the constitutional requirement for publishing notice of a proposed local bill is implemented by statute.<sup>58</sup> For those local bills not providing for a ratifying referendum, the affidavit of proper advertisement must accompany the bill when filed.<sup>59</sup>

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<sup>57</sup> House Rule 5.5(a).

<sup>58</sup> See art. III, s. 10, Fla. Const., and ss. 11.02, 11.021, 11.03, F.S. Section 11.03, F.S., provides a suggested form for the affidavit of publication.

<sup>59</sup> House Rule 5.5(c).

## 2. REQUIRED LOCAL BILL AMENDMENT FORMS

Before any substantive amendment to a local bill may be considered in a House subcommittee or committee or on the floor, a completed original Local Bill Amendment Form must be provided to and reviewed by staff of the Local, Federal & Veterans Affairs Subcommittee. This form briefly describes the amendment, explains the need for the change, states whether the amendment is consistent with the published notice, states whether the amendment alters the economic impact of the local bill, provides whether the amendment was approved by the local legislative delegation (if so, whether by a majority or unanimous vote), and is signed by the local delegation chair. The delegation need not meet formally or meet in the affected county to consider the amendment. An amendment form is not required for technical amendments. If the amendment alters the economic impact of the local bill, a revised Economic Impact Statement must be prepared and filed timely.

See Appendix B for exemplars of the local bill forms as well as the weblink to their location on the House website. The online versions are available as fillable .pdf forms.

## V. ***CONSTITUTIONAL & STATUTORY PROVISIONS FOR LOCAL BILLS***

### 1. CONSTITUTIONAL AND STATUTORY NOTICE PROVISIONS

- Article III, section 4(e), Florida Constitution.
- Article III, section 10, Florida Constitution.
- Article X, sections 12(d), 12(g), Florida Constitution.
- Sections 11.02, 11.021, 11.03, F.S.
- Sections 50.011, 50.031, F.S.

### 2. LOCAL BILL STRUCTURE

A local bill shares the same required basic structure as a general act:<sup>60</sup>

- A bill must consist of one subject and matter properly connected therewith.

The subject is expressed in the title of the bill. The basic “single subject” test is whether the provisions of the bill are designed to accomplish separate goals.<sup>61</sup>

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<sup>60</sup> Art. III, s. 6, Fla. Const.

- A bill must have a title in which the subject of the bill is expressed properly.

The title should express the subject of the bill by sufficiently stating the scope of the details contained in the body of the text.<sup>62</sup>

- No existing law may be amended by reference only to its title.
- To amend an existing law, that portion of the law being amended must be set out in full.
- Every bill must have an enacting clause that reads “Be It Enacted by the Legislature of the State of Florida.”

For more detailed direction on drafting the required components for a bill, consult the Guidelines for Drafting Legislation (2014) prepared by the House Bill Drafting Service.

### **3. LOCAL BILL EFFECTIVE DATE**

A law either takes effect 60 days after final adjournment of the Legislature or as provided in the act.<sup>63</sup> Unlike the enacting clause, an effective date is not an essential component of a bill. However, the final section of most bills includes such a date, or provides the bill is effective upon becoming law, or, if a local bill requiring approval by referendum, the final section provides the law does not go into effect until approved at the referendum also provided in the text.

### **4. CONSTITUTIONAL PROVISIONS FOR SUBJECT MATTER**

#### **a. Subjects Prohibited in Local Bills by the Florida Constitution**

Article III, section 11(a), Florida Constitution, states:

“There shall be no special law or general law of local application pertaining to:

- (1) Election, jurisdiction, or duties of officers (except officers of municipalities, chartered counties, special districts, or local governmental agencies);

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<sup>61</sup> See *State ex rel. Crump v. Sullivan*, 128 So. 478, 99 Fla. 1070 (1930); *Ex parte Knight*, 41 So. 786, 52 Fla. 144 (1906). See also House Bill Drafting Service, Guidelines for Drafting Legislation (2014), 2-3.

<sup>62</sup> Guidelines for Drafting Legislation (2014), 27.

<sup>63</sup> Art. III, s. 9, Fla. Const.

- (2) Assessment or collection of taxes for state or county purposes, including extension of time thereof, relief of tax officers from due performance of their duties, and relief of their sureties from liability;
- (3) Rules of evidence in any court;
- (4) Punishment for crime;
- (5) Petit juries, including compensation of jurors, except establishment of jury commissions;
- (6) Change of civil or criminal venue;
- (7) Conditions precedent to bringing any civil or criminal proceeding, or limitations of time thereof;
- (8) Refund of money legally paid or remission of fines, penalties, or forfeitures;
- (9) Creation, enforcement, extension, or impairment of liens based on private contracts, or fixing of interest rates on private contracts;
- (10) Disposal of public property, including any interest therein, for private purposes;
- (11) Vacation of roads;
- (12) Private incorporation or grant of privilege to a private corporation;<sup>64</sup>
- (13) Effectuation of invalid deeds, wills, or other instruments, or change in the law of descent;
- (14) Change of name of any person;
- (15) Divorce;
- (16) Legitimation or adoption of persons;
- (17) Relief of minors from legal disabilities;

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<sup>64</sup> The courts read “privilege” broadly to include not only financial benefits but also any right, benefit, or advantage granted to a corporation. See *Lawnwood Medical Center v. Seeger*, 990 So. 2d 503, 512 (Fla. 2008).

- (18) Transfer of any property interest of persons under legal disabilities or transfer of estates of decedents;
- (19) Hunting or fresh water fishing;
- (20) Regulation of occupations which are regulated by a state agency; or
- (21) Any subject when prohibited by general law passed by three-fifths vote of the membership of each house. Such law may be amended by like vote.”<sup>65</sup>

This list should be consulted before initiating a local bill. However, a local bill should not be presumed to comply with the Florida Constitution simply because the particular topic of the bill is not found on the “prohibited subjects list.”

### **Prohibited Special Laws “Like Vote” Requirement**

There has been no judicial decision directly determining whether the “like vote” provision in article III, section 11(a)(21), Florida Constitution, is met by passing a subsequent local bill by a three-fifths vote in each chamber, or requires amending the original general law by that margin before enacting an otherwise-prohibited local law. Those seeking passage of a local bill on a subject prohibited by general law passed under authority of article III, section 11(a)(21), Florida Constitution, should be aware of the three-fifths vote requirement. Until there is a definitive judicial decision, there may be potentially conflicting interpretations of the constitutional provision.<sup>66</sup>

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<sup>65</sup> The Legislature has used this authority to restrict local legislation on various subjects as follows:

- (1) Protection of public employee retirement benefits (s. 112.67, F.S.).
- (2) State-administered or state-supported retirement systems (s. 121.191, F.S.).
- (3) Compensation of designated county officials (s. 145.16, F.S.).
- (4) Independent special districts (s. 189.031(2), F.S.).
- (5) The creation of a special district having the power enumerated in two or more paragraphs of s. 190.012, F.S. (s. 190.049, F.S.).
- (6) The maximum rate of interest on bonds (s. 215.845, F.S.).
- (7) Grant of authority, power, rights or privileges to a water control district formed pursuant to ch. 298, F.S. (s. 298.76(1), F.S.).
- (8) Allocation of millage for water management purposes (s. 373.503(2)(b), F.S.).
- (9) Taxation for school purposes and the Florida Education Finance Program (s. 1011.77, F.S.).
- (10) State uniform building code for public educational facilities construction (s. 1013.37(5), F.S.).

<sup>66</sup> See Appendix E for a more detailed discussion of the three-fifths vote requirement.

## **b. Additional Constitutional Requirements**

Local bills may have additional constitutional requirements or prohibitions depending on their subject matter. For example, no general law or special law may create an office having a term greater than four years.<sup>67</sup>

## **c. Constitutional Restrictions for Local Bills Relating to Miami-Dade County**

The Legislature may enact general acts applicable to all counties and municipalities within the state. However, the Florida Constitution limits the Legislature's power to enact a local bill relating only to Miami-Dade County.<sup>68</sup> Conversely, the County may abolish boards or governmental units created by special act applicable only to Miami-Dade County, and may change any duties, functions, benefits, or regulatory or restrictive effect of such an act.<sup>69</sup>

## **VI. HOUSE RULES PERTAINING TO LOCAL BILLS<sup>70</sup>**

As with all legislation, local bills are filed and processed according to the rules adopted separately by the House and Senate.<sup>71</sup> This section summarizes the House Rules pertaining to filing and considering local bills.<sup>72</sup>

### **1. RULE 5.2—MEMBER BILL FILING DEADLINE**

Local bills are subject to the same filing deadline as general bills:

No general bill, *local bill*, joint resolution, concurrent resolution (except one relating to extension of a session or legislative organization or procedures), substantive House resolution, or memorial shall be given first reading unless approved for filing with the Clerk no later than noon of the first day of the regular session.<sup>73</sup>

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<sup>67</sup> Art. III, s. 13, Fla. Const.

<sup>68</sup> Art. VIII, s. 11, Fla. Const. (1885), retained by reference in art. VIII, s. 6(e), Fla. Const. (1968). See, *State ex rel. Worthington v. Cannon*, 181 So. 2d 346 (Fla. 1965), cert. den. 384 U.S. 981, 86 S.Ct. 1881, 16 L.Ed.2d 691 (1966); *Homestead Hospital, Inc. v. Miami-Dade County*, 829 So. 2d 259 (Fla. 3d DCA 2002).

<sup>69</sup> *Chase v. Cowart*, 102 So. 2d 147 (Fla. 1958).

<sup>70</sup> This manual discusses the House Rules adopted for 2016-2018. Please consult the most recently-adopted House Rules for any changes to the substance or numbering of rules discussed in this section.

<sup>71</sup> "Each house shall determine its rules of procedure." Art. III, s. 4(a), Fla. Const., quoted in part.

<sup>72</sup> The House adopts its rules for the legislative biennium during the organizational session held after every election. See art. III, s. 3(a), Fla. Const.

<sup>73</sup> House Rule 5.2(a), emphasis added. House Bill Drafting Service establishes a "bill drafting" deadline which usually is three weeks before the filing deadline established by rule. In addition, there may be deadlines established by each local legislative delegation. Persons interested in scheduling local bills for a local hearing should contact their legislative delegation for that information.

## 2. RULE 5.3—LIMITATION ON MEMBER BILLS FILED

While House members may not file more than six bills for a regular session,<sup>74</sup> local bills, including local claims bills, are not counted toward this limit.<sup>75</sup>

## 3. RULE 5.5—LOCAL BILLS

[The current House Rule on local bills is quoted in full below:]

(a) A committee or subcommittee may not report a local bill favorably if the substance of the local bill may be enacted into law by ordinance of a local governing body without the legal need for a referendum.

(b) A local bill providing an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

(c) All local bills, including local claim bills, must either, as required by Section 10 of Article III of the State Constitution, embody provisions for a ratifying referendum (stated in the title as well as in the text of the bill) or be accompanied by an affidavit of proper advertisement, securely attached to the original bill ahead of its first page.

## 4. OTHER RULES OF NOTE

House members need not wait until the beginning of the regular legislative session to file a local bill. Between the organizational session and the convening of the first regular session of the two-year period, and during the interim period between the first and second regular sessions, members may file local bills that have been reviewed by the House Bill Drafting Service.<sup>76</sup> Unlike general bills, the Bill Drafting Service only reviews local bill drafts. However, “no change may be made in the text or title of the bill without returning the bill to the House Bill Drafting Service before filing.”<sup>77</sup>

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<sup>74</sup> House Rule 5.3(a).

<sup>75</sup> House Rule 5.3(b).

<sup>76</sup> House Rule 5.13.

<sup>77</sup> House Rule 5.15(a).

## **VII. LOCAL BILL PROCESS IN THE HOUSE**

### **1. HOUSE PROCEDURAL REQUIREMENTS FOR LOCAL BILLS**

The Local, Federal & Veterans Affairs Subcommittee, or the first committee/subcommittee of reference, is required to confirm:

- The required notice has been published; or
- A referendum, if required, is provided properly in the bill; and
- The required House forms have been filed.<sup>78</sup>

A local bill follows the same process as a general bill. The bill is introduced and referred by the Speaker to committees and subcommittees. After being recommended favorably by or withdrawn from the committees or subcommittees to which it was referred, a local bill proceeds to the House calendar.

### **2. LOCAL BILL AMENDMENTS**

As discussed above in part IV, local bills may be amended in any subcommittee or committee or on the floor. All substantive amendments must be accompanied by a completed Local Bill Amendment Form. All amendments to local bills must be reviewed by the Local, Federal & Veterans Affairs Subcommittee staff before consideration by committees, by subcommittees, or on the floor.

### **3. EXPEDITED LOCAL BILL CALENDAR**

The expedited local bill calendar consists of local bills that do not contain exemptions from general law (House Rule 5.5), constitutional issues, or floor amendments. This procedure enables the House to move non-contentious local bills to the Senate in an expeditious manner. When a sufficient number of these bills are placed on the House calendar, the Rules & Policy Committee may designate an expedited “local bill calendar” as part of a Special Order Calendar.

In prior House practice, voting on the expedited local bill calendar was achieved by a single roll call vote rather than individual votes on each bill. The single roll call vote was taken at the conclusion of the reading of the bills on the expedited local bill calendar.

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<sup>78</sup> See chapter 1, part IV, above for a discussion of the forms required by House local bill policy.

Any member who wanted to vote “no” on a local bill on the expedited calendar was required to file the appropriate form with the Clerk. The Clerk then adjusted the expedited local bill calendar vote count accordingly to reflect all registered “no” votes.

Removing a bill from the expedited calendar required notice by five members during consideration of the bill. The notice was presented by a raising of hands during the reading of the bill or in written form delivered to the chair of the Rules & Policy Committee prior to the reading. A bill removed from the expedited calendar was placed at the end of the Special Order Calendar for that day.<sup>79</sup>

### **VIII. SENATE LOCAL BILL PROCESS**

Local bills may be introduced in the Senate but this occurs to a lesser extent than in the House. Rather than filing and handling companion measures to local bills filed in the House, in recent years the Senate receives all local bills passed by the House at one time due to the use of the expedited local bill calendar process. The House bills are then scheduled for consideration on the Senate floor. The expedited calendar bills are considered in a single vote similar to the House process. The local bills passed separately are considered by the Senate on an individual basis. When filing a local bill, the applicable rules of the Senate,<sup>80</sup> and their differences with the House procedures,<sup>81</sup> should be considered.

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<sup>79</sup> Subject to revision and final approval under the House Rules, it is anticipated the local bill passage process will continue as described. Interested parties should consult the latest version of the House Rules and procedures adopted by the Rules & Policy Committee for the process the House will follow.

<sup>80</sup> For the 2014-2016 biennium, Senate Rule 3 controlled the preparation and filing of bills. Senate Rule 3.3 stated the required form for local bills filed in the Senate.

<sup>81</sup> Unlike the House, the Senate Rules did not require local bills to be filed with the Secretary of the Senate by noon on the first day of session. Senate Rule 3.7(d) (2014-2016).

## **CHAPTER 2**

### **Special Districts<sup>82</sup>**

#### **I. DEFINITION**

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,<sup>83</sup> special act,<sup>84</sup> local ordinance,<sup>85</sup> or by rule of the Governor and Cabinet.<sup>86</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. A special district provides only those public services as authorized in its charter.<sup>87</sup>

The following entities are not special districts:<sup>88</sup>

- Units of local general-purpose government (counties and municipalities);
- School districts;
- Community college districts;
- Municipal service taxing or benefit units,<sup>89</sup>
- Seminole and Miccosukee tribe special improvement districts created under s. 285.17, F.S.; and
- Boards providing electrical services and that are political subdivisions of a municipality or part of a municipality.

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<sup>82</sup> In 2014, the Legislature extensively revised ch. 189, F.S., including renumbering each statutory section and organizing them into eight parts. Ch. 2014-22, Laws of Fla., *passim*, now integrated into the current version of ch. 189, F.S. In 2016, the Legislature clarified and refined these revisions and provided additional substantive law amendments. Ch. 2016-22, Laws of Fla., *passim*. While the provisions of ch. 2016-22, Laws of Fla., currently are the law, these amendments will be integrated into the official statute law of the state during the 2017 regular session. See s. 11.2421, F.S. (2015).

<sup>83</sup> Section 189.031(3), F.S.

<sup>84</sup> *Id.*

<sup>85</sup> Section 189.02(1), F.S.

<sup>86</sup> Section 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

<sup>87</sup> See ss. 189.011(2), 189.031, F.S.

<sup>88</sup> Section 189.012(6), F.S. See also art. VIII, ss. 1(a), 2(b), Fla. Const.; ss. 125.01(1). (3), 166.021(1), F.S.

<sup>89</sup> See s. 125.01(q), F.S.

## **II. DEPENDENT VERSUS INDEPENDENT SPECIAL DISTRICTS**

A “dependent special district” has at least one of the following characteristics:<sup>90</sup>

- Governing body identical to the governing body of a single county or a municipality.
- Governing body appointed by the governing body of a single county or a municipality.
- Governing body members subject to removal by the governing body of a single county or municipality during unexpired terms.
- Budget requires approval through an affirmative vote by the governing body of a single county or municipality.
- Budget may be vetoed by the governing body of a single county or municipality.

An “independent special district” is any district that is not a dependent special district.<sup>91</sup> Independent special districts may have one or more of the following characteristics:

- Boundaries covering more than one county.<sup>92</sup>
- Boundaries exceeding those of a single municipality.<sup>93</sup>
- Operating as an independent political subdivision within defined district boundaries.<sup>94</sup>
- Having revenue raising authority such as ad valorem taxation, non-ad valorem assessments, fees, or charges on benefited property.<sup>95</sup>

## **III. CREATING SPECIAL DISTRICTS**

Independent special districts are created by the Legislature unless general law provides otherwise.<sup>96</sup> Dependent special districts may be created by an ordinance of a county or municipality having jurisdiction over the affected area<sup>97</sup> or by the Legislature.<sup>98</sup>

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<sup>90</sup> Section 189.012(2), F.S.

<sup>91</sup> Section 189.012(3), F.S.

<sup>92</sup> Section 189.012(3), F.S.

<sup>93</sup> See s. 189.02(3), F.S.

<sup>94</sup> See s. 189.031(3), F.S.

<sup>95</sup> *Id.*

<sup>96</sup> Section 189.031(4), F.S.

## 1. REQUIREMENTS FOR LEGISLATIVELY CREATED DISTRICTS

In 1989, exercising its authority in article III, section 11(a)(21), Florida Constitution, the Legislature prohibited local laws or general laws of local application pertaining to independent special districts from having certain effects<sup>99</sup> unless the general law is amended or repealed by a similar three-fifths vote.<sup>100</sup> Generally, a local bill may not create an independent special district with a charter that does not include the minimum statutory requirements<sup>101</sup> or for which a statement regarding the creation of the district was not submitted to the Legislature.<sup>102</sup> Further, a local bill may not exempt an independent special district from any of the following:

- The statutory requirements and procedures for special district elections.<sup>103</sup>
- Special district bond referenda requirements.<sup>104</sup>
- Special district bond issuance reporting requirements.<sup>105</sup>
- Special district public facilities reports.<sup>106</sup>
- Special district public meeting and notice requirements.<sup>107</sup>
- Special district reports, budgets, and audits.<sup>108</sup>

## 2. STATEMENT REGARDING THE CREATION OF A DISTRICT

The proposed creation of the independent special district must include a statement to the Legislature documenting the following:

- The purpose of the proposed district;
- The authority of the proposed district;

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<sup>97</sup> Section 189.02(1), F.S.

<sup>98</sup> See Ch. 2016-22, s. 5, Laws of Fla., creating s. 189.02(5), F.S., providing that a local government may request the Legislature create a dependent district or that the local government may expressly agree with such legislative creation.

<sup>99</sup> Ch. 89-169, s. 6, Laws of Fla., now codified as s. 189.031(2), F.S. The three-fifths vote requirement was recited expressly in s. 67 of the act.

<sup>100</sup> See Appendix E for further discussion of the three-fifths vote requirement.

<sup>101</sup> Section 189.031(2)(a), F.S. See s. 189.031(3), F.S.

<sup>102</sup> Section 189.031(2)(e), F.S.

<sup>103</sup> Section 189.031(2)(b), F.S. See s. 189.04, F.S.

<sup>104</sup> Section 189.031(2)(c), F.S. See s. 189.042, F.S.

<sup>105</sup> Section 189.031(2)(d), F.S. See s. 189.051, F.S.

<sup>106</sup> Section 189.031(2)(d), F.S. See s. 189.08, F.S.

<sup>107</sup> Section 189.031(2)(d), F.S. See s. 189.015, F.S.

<sup>108</sup> Section 189.031(2)(d), F.S. See s. 189.016, F.S.

- An explanation of why the district is the best alternative; and
- A resolution or official statement of the appropriate local governing body in which the proposed district would be located stating the following:
  - The creation of the proposed district is consistent with approved local government plans of the local governing body; and
  - The local government has no objection to the creation of the proposed district.

### **3. MINIMUM CHARTER REQUIREMENTS**

Local bills enacted after September 30, 1989, creating independent special districts, must include the following minimum charter elements:<sup>109</sup>

- The district’s purpose;
- The district’s powers, duties, and functions regarding ad valorem taxation, bond issuance, other revenue raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates for non-ad valorem assessments, and contractual agreements;
- The method for establishing the district;
- The methods for amending the district’s charter;
- The membership and organization of the district’s governing board;
- The maximum compensation of the district’s governing board members;
- The administrative duties of the district’s governing board;
- The financial disclosure, noticing, and reporting requirements for the district;
- The procedures and requirements for issuing bonds, if the district has such authority;
- The district’s election and referendum procedures and the qualifications to be a district elector;
- The district’s financing methods;

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<sup>109</sup> Section 189.031(3), F.S.

- The authorized millage rate for a district which can levy ad valorem taxes;<sup>110</sup>
- The methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- Geographic boundary limitations.

All special district charters must contain a status statement indicating whether the district is dependent or independent.<sup>111</sup>

#### **4. REFERENDUM REQUIREMENT FOR AN INDEPENDENT SPECIAL DISTRICT**

If properly noticed, a bill creating a new independent special district is not required to be approved by referendum unless the district is authorized to levy ad valorem taxes.

#### **5. SPECIAL DISTRICTS STATUTORY PROVISIONS**

The statutes pertaining to special districts include, but are not limited to, the following:

- Chapter 189, F.S.: Special Districts: General Provisions
- Chapter 190, F.S.: Community Development Districts
- Chapter 191, F.S.: Independent Special Fire Control Districts
- Chapter 298, F.S.: Drainage and Water Control
- Chapter 348, F.S.: Expressway and Bridge Authorities
- Chapter 374, F.S.: Navigation Districts
- Chapter 388, F.S.: Mosquito Control
- Chapter 421, F.S.: Public Housing
- Chapter 582, F.S.: Soil and Water Conservation

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<sup>110</sup> Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by vote of the electors of the district, need not be included.

<sup>111</sup> Section 189.031(5), F.S. See ch. 2016-22, s. 6 (creating s. 189.022, F.S.) and s. 7, (amending s. 189.031(5), F.S.), Laws of Fla.

# **CHAPTER 3**

## ***Codification of Special District Charters***

### ***I. CODIFICATION BASICS***

#### **1. DEFINITION**

“Codification” is the process of collecting and systematically arranging the various special acts comprising a special district’s charter. The Florida Statutes are codified, compiled into several volumes, and published on a yearly basis to provide a complete, up-to-date presentation of the current state of the laws of a general and permanent nature. This process does not include special acts.

Special acts are located in the Laws of Florida and are not codified. After the Legislature passes the initial enabling act, subsequent special acts may amend or alter previously enacted special acts. To ascertain the current status of any special act, it is necessary to research all amendments made to the act since its original passage.

Codification of a district’s charter allows researchers and those served by the district to refer to one special act to determine the current charter of a district. The purpose of recodifying the charter of a special district is to produce an up-to-date and accurate document.<sup>112</sup>

#### **2. REQUIREMENTS FOR CODIFYING SPECIAL DISTRICT CHARTERS**

Recodifying the charter of a special district requires integrating the special act comprising the current charter, together with all subsequent special acts modifying the charter, into a single local bill filed with the Legislature. Once enacted into law, the codified act is filed with the Department of Economic Opportunity within 30 days after adoption.<sup>113</sup>

#### **3. STATUTORY DEADLINE FOR CODIFIED CHARTERS**

A statutory deadline for submitting charters to the Legislature for codification previously was set for December 1, 2004.<sup>114</sup> Any special district that had not yet submitted a draft codified charter to the Legislature for consideration was encouraged to do so. Submission of a draft codified charter is recommended for all special districts for which no codified charter was enacted into law.

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<sup>112</sup> For a general example of an enacted charter recodification law, see ch. 2014-241, Laws of Fla., rechartering the Canaveral Port District.

<sup>113</sup> Section 189.016(2), F.S.

<sup>114</sup> Section 189.019(1), F.S.

#### **4. STATUS STATEMENT**

The charter of any newly created special district shall contain, and the charter of a preexisting special district must be amended as practical to contain, a statement of the special district's status as dependent or independent.<sup>115</sup> When necessary, the status statement must be amended to conform to the Department of Economic Opportunity's determination or declaratory statement regarding the status of the district. If the district fails to have a status statement within the district's codification bill, the statement may be amended into the bill after consulting with the district and the bill sponsor.

#### **5. SUBSTANTIVE CHANGES DURING CODIFICATION**

While substantive changes to the charter could be made when codifying, the better practice is to recodify the existing charter provisions in one local bill and make substantive charter amendments in subsequent legislation. When making substantive charter amendments, any changes in background materials or information provided to the public, the governing board, and the Legislature should be identified.

#### **6. CODING A CHARTER CODIFICATION BILL**

"Coding" is the drafting process whereby all proposed new language in a bill is underlined and unwanted current language is struck through.<sup>116</sup> This technique allows an analyst to readily identify changes proposed by a bill. A district should submit a coded copy of a charter codification bill to the Local, Federal & Veterans Affairs Subcommittee.

When the Local, Federal & Veterans Affairs Subcommittee receives a charter codification bill, all prior special acts are compiled and merged into one document, and prior acts that have been repealed are determined. A line-by-line analysis is then performed between the bill and current charter.

### ***II. PREPARING & DRAFTING A CHARTER CODIFICATION BILL***

The district is responsible to prepare the initial draft for submission to the local legislative delegation. Some important points for the preparation of a charter codification bill are as follows:

- A charter codification bill is a local bill and must meet the notice requirements of article III, section 10, of the Florida Constitution, and ch. 11, F.S.

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<sup>115</sup> Sections 189.022, 189.031(5), F.S. See ch. 2016-22, ss. 6, 7, Laws of Fla.

<sup>116</sup> For an example of bill coding, see ch. 2014-22, Laws of Fla.

- All local bills must be accompanied by the proof of publication, a completed and signed Local Bill Certification Form, and a completed and signed Economic Impact Statement.
- As a local bill, a charter codification must be approved by the local legislative delegation.
- All the required special act provisions relating to the district must be accounted for in the codified bill.
- The bill must include a repeal of all existing special acts as one of its last sections.
- The special acts being repealed may contain certain provisions that should be left intact. This language must be included in the bill.
- A status statement must be provided in the bill.
- The provisions of the codification bill should be checked to determine whether general law is being preempted or exempted.

### ***III. SPECIAL CONSIDERATIONS FOR CODIFYING A SPECIAL DISTRICT CHARTER***

#### **1. DISTRICT BOUNDARY CHANGES**

Some districts have charter authority to alter their original boundaries without legislative approval. These boundary changes may result in the codification bill containing a different district boundary description than the original charter. Therefore, the Local, Federal & Veterans Affairs Subcommittee requires a written notice from the district's attorney or district staff if a codification bill changes a district's boundaries.

#### **2. REPEALING EXISTING CHAPTER LAWS**

Generally, all existing special acts relating to a special district should be repealed when codifying the charter. Special care must be taken when repealing a district's existing special acts which govern or amend the district's charter provisions relating to bonds or tax authority. The repealer language, if used, should be clear and expressly repeal and cite all special acts (e.g., "chapters 2001-001, 2001-002, and 2001-003, Laws of Florida, are hereby repealed"). Do not use language such as "unless reenacted herein."

#### **3. REFERENDUM PROVISIONS IN PRIOR SPECIAL ACTS**

If any of the district's prior special acts required referenda to become effective, the outcome of those referenda must be determined when codifying the charter. To determine the current status of any bill provisions effectuated by referendum, the bill drafter should contact the supervisor of elections in each affected county. The bill

drafter should forward their findings to the Local, Federal & Veterans Affairs Subcommittee.

#### **IV. DRAFTING A CHARTER CODIFICATION BILL**

All charter sections are numbered independently from the rest of the bill and contained in a single bill section, as illustrated by “Section 3” in the below example. This method keeps the charter’s provisions separate from the bill’s provisions and is preferred by House Bill Drafting Service.

The following is an example of a special district codification bill format:

- Section 1: *Intent language*. For example, “Pursuant to s. 189.019, F.S., this act constitutes the codification of all special acts relating to . . . .”
- Section 2: *Codifying, reenacting, amending, and repealing the specific special acts of the district’s charter*.
- Section 3: *Codification language*. For example, “The (name of district) District is reenacted, and the charter for the district is recreated and reenacted to read:”
  - Section 1: District Charter First Section.
  - Section 2: District Charter Second Section
  - ...
- Section 4: *Repeal of prior special acts*.
- Section 5: *Effective date*.

Additional provisions may be included as sections of the bill depending on an individual district’s circumstances, such as providing for the liberal construction of the bill’s language. The above sample language does not contain all bill requirements, such as the title and the enacting clause.

#### **V. CHARTER CODIFICATION BILL CHECKLIST**

1. Was the proposed bill approved by the local delegation?
2. Have the notice requirements for local bills been met?
3. Is the bill’s “notice of legislation” broad enough to allow subsequent amendments?

4. Has the Proof of Publication affidavit been completed and the original ready to be submitted to House Bill Drafting Service with the draft bill?
5. Have the original Economic Impact Statement and Local Bill Certification Forms been completed and provided to the Local, Federal & Veterans Affairs Subcommittee, together with a copy of the proof of publication?
6. Is a status statement included in the codification bill?
7. Are the charter provisions numbered as part of the charter (rather than numbered as a bill section) and contained in one bill section?
8. Is the bill properly coded?
9. Does the bill preempt or exempt general law?
10. Does the bill include all valid provisions from prior special acts?
11. Have prior acts that have been repealed been identified?
12. Does the bill expressly repeal all prior special acts pertaining to the district's charter?
13. If any existing provisions should be left intact, is that language included?
14. Has all information regarding the outcome of all prior required referenda been provided to the Local, Federal & Veterans Affairs Subcommittee?
15. If the district's boundaries have been changed or modified since the district's creation, has the proper documentation been submitted?
16. If the bill makes substantive changes to the charter, are those changes properly listed and provided?

# APPENDIX A

## The Role of Legislative Delegations

Florida's local legislative delegations serve important functions such as providing a public forum to identify local bills. Although legislative delegations are not statutorily defined, various Florida Statutes assign duties to legislative delegations.<sup>117</sup>

The legislative delegations are comprised of both House and Senate members from the county (or counties) they represent. Many legislative delegations are well organized, having a chair, vice-chair, and a legislative liaison. Other legislative delegations operate on a more informal basis. Most legislative delegations choose new leaders after every general election.

Most legislative delegations meet several times prior to an upcoming legislative session to discuss local issues that may become local bill proposals. These meetings often produce meaningful dialogue between representatives of local government, citizens, and legislative delegation members regarding the language and intent of a local bill.

The Local, Federal & Veterans Affairs Subcommittee updates a list of Florida's legislative delegations as changes are submitted by the delegations. The list of local legislative delegation members is available online at <http://www.myfloridahouse.gov>.

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<sup>117</sup> See, for example, s. 125.61, F.S.

## **APPENDIX B**

### **Required House Forms**

The following forms are available in fillable .pdf format at <http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911>.

Model Affidavit of Notice of Publication

2017 – 2018 Local Bill Certification Form

2017 – 2018 Economic Impact Statement

2017 – 2018 Local Bill Amendment Form



**HOUSE OF REPRESENTATIVES  
2017 - 2018 LOCAL BILL CERTIFICATION FORM**

**BILL #:** \_\_\_\_\_

**SPONSOR(S):** \_\_\_\_\_

**RELATING TO:** \_\_\_\_\_

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

**NAME OF DELEGATION:** \_\_\_\_\_

**CONTACT PERSON:** \_\_\_\_\_

**PHONE NO.:** (\_\_\_\_) \_\_\_\_\_ **E-Mail:** \_\_\_\_\_

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

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

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

**YES [ ]                      NO [ ]**

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**YES [ ]                      NO [ ]**

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

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

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

**YES [ ]                      NO [ ]                      UNANIMOUSLY APPROVED [ ]**

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

**YES [ ]                      NO [ ]**

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

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

**Notice published: YES [ ] NO [ ] DATE \_\_\_\_\_**

**Where? \_\_\_\_\_ County \_\_\_\_\_**

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

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

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

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

**YES [ ] NO [ ]**

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

**YES [ ] NO [ ]**

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

**YES [ ] NO [ ]**

**Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee.**

\_\_\_\_\_  
Delegation Chair (Original Signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2017 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

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

**BILL #:** \_\_\_\_\_

**SPONSOR(S):** \_\_\_\_\_

**RELATING TO:** \_\_\_\_\_

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

**I. REVENUES:**

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

	<u>FY 17-18</u>	<u>FY 18-19</u>
Revenue decrease due to bill:	\$ _____	\$ _____
Revenue increase due to bill:	\$ _____	\$ _____

**II. COST:**

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

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 17-18</u>	<u>FY 18-19</u>
	\$ _____	\$ _____

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

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

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

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

	<u>FY 17-18</u>	<u>FY 18-19</u>
Local:	\$ _____	\$ _____
State:	\$ _____	\$ _____
Federal:	\$ _____	\$ _____

**IV. ECONOMIC IMPACT:**

Potential Advantages:

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

Include specific figures for anticipated job growth.

1. Advantages to Individuals: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Advantages to Businesses: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Advantages to Government: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Potential Disadvantages:

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

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

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

1. Disadvantages to Individuals: \_\_\_\_\_  
\_\_\_\_\_
2. Disadvantages to Businesses: \_\_\_\_\_  
\_\_\_\_\_
3. Disadvantages to Government: \_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**VII. CERTIFICATION BY PREPARER**

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

PREPARED BY: \_\_\_\_\_  
**[Must be signed by Preparer]**

Print preparer's name: \_\_\_\_\_

\_\_\_\_\_  
**Date**

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

\_\_\_\_\_

REPRESENTING: \_\_\_\_\_

PHONE: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

**HOUSE OF REPRESENTATIVES  
2017 – 2018 LOCAL BILL AMENDMENT FORM**

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

**BILL NUMBER:** \_\_\_\_\_

**SPONSOR(S):** \_\_\_\_\_

**RELATING TO:** \_\_\_\_\_

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

**SPONSOR OF AMENDMENT:** \_\_\_\_\_

**AMENDMENT FOR:**  **Committee:** \_\_\_\_\_  
(Check One) (Name of Committee or Subcommittee)

**Floor**

**CONTACT PERSON:** \_\_\_\_\_

**PHONE NO:** \_\_\_\_\_ **E-MAIL:** \_\_\_\_\_

**Reviewed by staff of the Local, Federal & Veterans Affairs Subcommittee**

\*Must Be Checked\*

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

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

**III. NOTICE REQUIREMENTS**

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

YES  NO  NOT APPLICABLE

B. If the amendment is not consistent with the published notice, was a revised notice published in the area affected by the bill at least 30 days prior to the bill being amended?

YES  NO  NOT APPLICABLE

C. If the amendment is not consistent with the published notice, does the amendment

require voter approval in order for the bill to become effective?

YES [ ] NO [ ] NOT APPLICABLE [ ]

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

YES [ ] NO [ ]

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

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

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

[ ] **Floor Amendment:** EIS filed with staff of Local, Federal & Veterans Affairs Subcommittee.

YES [ ] NO [ ]

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

YES [ ] NO [ ] UNANIMOUSLY APPROVED [ ]

For substantive amendments considered in committee or subcommittee, the properly-executed original of this form must be filed with the committee or subcommittee staff prior to the amendment being heard.

[Note to committee staff: after receiving this form the original must be filed with the House Clerk.]

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

\_\_\_\_\_  
Delegation Chair (*Original Signature*)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name of Delegation Chair

## APPENDIX C

### Resources for Local Bills

Local, Federal & Veterans Affairs Subcommittee staff is available to answer questions about local bill policies and procedures. House Bill Drafting Service should be contacted with technical questions regarding the drafting of local bills.

Local, Federal & Veterans Affairs Subcommittee  
Florida House of Representatives  
209 House Office Building  
402 South Monroe Street  
Tallahassee, FL 32399-1300  
(850) 717-4890

House Bill Drafting Service  
Florida House of Representatives  
1501 The Capitol  
402 South Monroe Street  
Tallahassee, FL 32399-1300  
(850) 717-5300

The Local Government Formation Manual, 2017-2018, prepared by the Local Government Affairs Subcommittee, Florida House of Representatives, Tallahassee, Florida.

Special Districts & the Delivery of Municipal Services, April 1996, prepared by the Committee on Community Affairs, Florida House of Representatives, Tallahassee, Florida.

Guidelines for Drafting Legislation, 2014, prepared by House Bill Drafting Service, Florida House of Representatives, Tallahassee, Florida.

# APPENDIX D

## Examples of Local Bills

For samples illustrating the format and general organization of local bills, please see the following:

- Bill Amending Current Law – Ch. 2016-249, Laws of Fla. (2016 HB 709)
- Bill Repealing Current Law – Ch. 2014-231, Laws of Fla. (2014 HB 809)
- Bill Amending a Law Previously Amended – Ch. 2014-245, Laws of Fla. (2014 HB 1297)
- Bill Providing Exception to General Law – Ch. 2014-237, Laws of Fla. (2014 CS/HB 929)
- Bill Containing a Land Description – Ch. 2014-242, Laws of Fla. (2014 CS/HB 1143)
- Bill Containing WHEREAS Clauses – Ch. 2014-232, Laws of Fla. (2014 HB 817)
- Bill Recodifying an Existing Charter for an Independent Special District – Ch. 2014-241, Laws of Fla. (2014 CS/HB 1023)
- Bill Creating an Independent Special District – (2016 CS/HB 937)
- Bill Creating an Independent Special District by Abolishing Existing District and Transferring Assets, Liabilities, and Responsibilities to New District – Ch. 2015-202, Laws of Fla. (2015 CS/CS/HB 1255)
- Bill Creating an Independent Special District by Merger of Existing Districts Subject to Subsequent Referendum – Ch. 2014-240, Laws of Fla. (2014 CS/HB 951)
- Bill Creating an Independent Special District by Merger of Existing Districts After Referendum Approving Merger – Ch. 2015-191, Laws of Fla. (2015 CS/CS/HB 899)
- Bill Abolishing an Independent Special District – Ch. 2016-244, Laws of Fla. (2016 HB 419)
- Bill Providing for Incorporation of a New Municipality – Ch. 2015-182, Laws of Fla. (2015 CS/HB 593)

## APPENDIX E

### Prohibited Special Laws “Like Vote” Provision

Article III, section 11(a)(21), of the Florida Constitution prohibits special laws or general laws of local application pertaining to “any subject when prohibited by general law passed by a three-fifths vote of the membership of each house.” Furthermore, “[s]uch law may be amended or repealed *by like vote.*” (emphasis added).

The law is unsettled on the implementation of this “like vote” requirement. Under one interpretation, amending or repealing “such law” prohibiting a special law or general law of local application on a particular subject may be achieved only by directly amending or repealing the original general law by a three-fifths vote. Under a second approach, amending or repealing “such law” prohibiting a special law or general law of local application on a particular subject may be achieved through any general or special law passed by a three-fifths vote. There is no relevant case law and Florida attorneys general at various times appear to have taken both positions.

In 1969 the Attorney General was asked whether the Legislature could pass special legislation providing for compensation of certain county officers listed in s. 145.16(2), F.S.,<sup>118</sup> although the statute expressly prohibited such legislation, was enacted as a general law under authority of article III, section 11(a)(21) of the Florida Constitution, and was passed by three-fifths vote in each chamber. The Attorney General opined ch. 69-211, Laws of Fla., prohibited and prevented the effectiveness of any special act on the specified subject “until amendment or repeal of Ch. 69-211.”<sup>119</sup> The opinion went on to conclude the constitutional provision thus prohibited special acts on the subject as specified by s. 145.16(2), F.S., but permitted “amendment thereof, direct or indirect, only by acts passed by like vote.” The opinion could be interpreted as narrowly applying the “like vote” requirement to allow alteration of a statutory prohibition only by amending or repealing the original statute. However, the opinion is less clear because the Attorney General also found the constitutional provision permitted “direct or *indirect*” amendment of a statutory prohibition “by acts passed by like vote.”

In a 1983 opinion the Attorney General quoted the 1969 opinion and concluded:

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<sup>118</sup> Current officials include members of the Board of County Commissioners, Clerk of the circuit court, Sheriff, Superintendent of Schools, Supervisor of elections, Property appraiser, Tax Collector, and District school board members. S. 145.16(2)(a)-(h), F.S. (School board members were added to the statute in 1993. Chapter 93-146, s. 2, Laws of Fla.

<sup>119</sup> 69-80 Fla. Op. Att’y Gen. 111 (August 28, 1969).

Therefore I am of the view, until judicially determined to the contrary, that a general law passed by a three-fifths vote of the Legislature prohibiting special or local laws on the same subject may be amended or repealed by a special act which has passed by a like vote, i.e., by a three-fifths vote of each house of the Legislature.<sup>120</sup>

In 2003, the Board of Trustees for the Orlando Firefighters Pension Fund asked whether by special act the Legislature could authorize broader investment powers for the Board without jeopardizing the receipt of amounts from the Police Officers' and Firefighters' Premium Tax Trust Fund. Turning to ch. 112, part VII, F.S., the Attorney General noted s. 112.67, F.S., prohibited special laws or general laws of local application conflicting with part VII unless passed by three-fifths majority in each chamber. Accordingly, the opinion concluded a special act or general law of local application conflicting with the statute would require passage by three-fifths majority in each chamber.<sup>121</sup>

The Attorney General is authorized to provide specific state officers, including those of a county, municipality, or other unit of local government, with an official opinion and legal advice in writing on questions of law relating to the official duties of the requesting officer.<sup>122</sup> Although not bound by such opinions, Florida courts give them great weight when interpreting the laws and statutes.<sup>123</sup>

The 1983 opinion raised concerns with both House and Senate bill drafting offices. Senate Bill Drafting promptly expressed disagreement with the opinion in a memorandum dated May 10, 1983. The current Senate *Manual for Drafting Legislation* states:

Section 11(a)(21), Article III of the State Constitution provides that the Legislature may, by a general law enacted by a three-fifths vote of the membership of each house, prohibit special laws on a particular subject. The prohibition contained in the general law may be amended or repealed only by a like vote. Consequently, the Legislature may not pass a local law on a subject prohibited by a general law enacted by this procedure until it has expressly amended or repealed that general law by a three-fifths vote of the membership of each house.<sup>66 (in original)</sup>

<sup>66(in original)</sup> The Attorney General, in Attorney General Opinion 83-27, opined that a local law prohibited under this provision may be enacted if it is passed by a three-fifths vote of the membership of each house of the Legislature. The Office of Bill Drafting Services, however, feels

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<sup>120</sup> 83-27 Fla. Op. Att'y. Gen. 69 (May 5, 1983).

<sup>121</sup> 2003-54 Fla. Op. Att'y. Gen. (November 3, 2003).

<sup>122</sup> Section 16.01(3), F.S.

<sup>123</sup> *Beverly v. Div. of Beverage of the Dept. of Business Regulation*, 282 So. 2d 657, 660 (Fla. 1st DCA 1973).

strongly that this opinion is wrong and agrees with an earlier Attorney General Opinion (69-80) which reached the opposite conclusion.

In its manual entitled *Drafting Local Legislation in Florida* (1985), House Bill Drafting also took issue with the 1983 opinion and argued that the interpretation therein “negates the whole point of the constitutional provision.”<sup>124</sup>

While there has been no definitive judicial interpretation, an earlier court decision viewed a statute not passed under this constitutional provision as “not insulated from modification by subsequent special act,” apparently implying the three-fifths vote requirement would apply simply to the subsequent enactment altering the general law’s prohibition.<sup>125</sup>

Notwithstanding these expressions of disagreement with the position taken in the 1983 and 2003 Attorney General Opinions on the meaning of “like vote,” the Legislature has continued to pass special acts on matters prohibited by general laws enacted pursuant to the article III, section 11(a) (21), of the Florida Constitution, by more than three-fifths vote. The concerns noted above may be partially alleviated by House Rule 5.5(b), which provides:

A local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

Those wishing to create a local exception to a general law creating a prohibited subject as provided in article III, section 11(a) (21), of the Florida Constitution should note this difference of opinion exists and are advised that amendment or repeal for a local area through the vehicle of a local bill involves some risk, particularly if the bill is controversial.

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<sup>124</sup> More recently, the House Bill Drafting Service has not expressed a position on the interpretation of article III, section 11(a)(21), of the Florida Constitution. See, House Bill Drafting, *Guidelines for Drafting Legislation* (2014).

<sup>125</sup> See *School Board of Escambia County v. State*, 353 So. 2d 834, 839 (Fla. 1977).

# APPENDIX F

## Frequently Asked Questions

(References are to the applicable pages in this Manual)

1. What is a local bill? (Pg. 3)
  - A local bill is legislation limited in effect to a particular area such as a county, city, or special district.
2. What is the difference between a special act and a local law? (Pg. 2-3)
  - A special act operates on a specific category of people or subjects which classification either is impermissible or illegal.
  - A local law is a type of special act relating to a specific territory in the state.
3. May a local bill amend a general law? (Pg. 1-3)
  - No. A local bill may create an exemption to a general law within the specific area affected but cannot amend the general law.
4. Who is responsible for drafting a local bill? (Pg. 4)
  - The draft local bill typically is prepared by the party requesting the legislation.
  - All draft local bills are submitted by their House sponsors to the House Bill Drafting Service, which reviews the proposed bills for compliance with the House bill drafting requirements.
5. Is a meeting of the local delegation to consider local bills a public meeting requiring notice? (Pg. 5)
  - Yes. All meetings at which the local legislative delegation discusses and/or votes on proposed legislation must be noticed and open to the public.
6. Must notice of the local delegation meeting be published at least 30 days before the meeting? (Pg. 5-6)
  - There is no set deadline by when the notice must be published.
  - The standard is reasonable notice under the circumstances.

7. May the required notice of intent to file the local bill be published before the delegation meeting?
- While there is no prohibition to publishing the required notice of intent to file the local bill prior to the delegation meeting, the practice is discouraged because changes to the proposed bill at the meeting may require publishing a new notice.
8. Who is responsible for publishing notice of intent to file the local bill? (Pg. 8)
- Those parties most interested in the passage of the bill (a citizens' group, a local official, etc.) generally assume this responsibility.
9. Must the published notice identify the party requesting the local bill be filed?
- No.
10. Where must the notice of intent be published? (Pg. 9)
- The notice must be published in each county affected by the proposed local bill.
11. In which legislative session may the local bill be filed? (Pg. 7)
- Normally, a local bill is filed in the regular session immediately following the publication of the notice.
12. How does filing a local bill differ from filing a general bill? (Pg. 11-12)
- Unlike a general bill, each local bill filed in the House requires the following documentation:
- **Affidavit of Publishing Notice**
  - **Local Bill Certification**
  - **Economic Impact Statement**
13. Where do I find the local bill forms? (App. B)
- The local bill forms are available in a fillable .pdf format at <http://myfloridahouse.gov/>

14. Which forms must be filed with the local bill? (Pg. 11-12)

- **Affidavit of Publishing Notice** – submit original together with proposed bill to House Bill Drafting.
- **Local Bill Certification form** – submit original to House Local, Federal & Veterans Affairs Subcommittee prior to the first hearing in a committee or subcommittee.
- **Economic Impact Statement** – submit original to House Local, Federal & Veterans Affairs Subcommittee prior to the first hearing in a committee or subcommittee.

15. Who completes the Local Bill Certification Form? (Pg. 12)

- The local legislative delegation.
- The form is signed by the delegation chair.

16. Who completes the Economic Impact Statement? (Pg. 12)

- A person qualified to prepare economic statements and personally familiar with the information used to prepare the statement.

17. Must the Economic Impact Statement (EIS) form be completed within the area of the county, municipality, or district affected by the local bill? (Pg. 12)

- Provided the one preparing the EIS meets the criteria of the preparer's certification stated on the form, the *location* where the EIS is completed is immaterial.

18. What is the deadline to file a local bill? (Pg. 18)

- As with any general bill, a local bill must be approved for filing no later than noon on the first day of the regular session, per House Rule 5.2(a).

19. Should a Senate companion also be filed? (Pg. 20-21)

- This usually is not necessary. Only when there is some reason the bill may be delayed in the Senate and filing a companion would eliminate the delay.

20. Once filed, are local bills handled differently in committee than other bills? (Pg. 19)

- No. Local bills go through the same referral and committee process as general bills before being considered by the entire House on the floor.

21. May a local bill be amended in a committee? (Pg. 12-13, 20)

- Yes.

22. Are there special requirements to amend a local bill? (Pg. 12-13, 20)

- Unless the local bill must be approved by the local voters in a subsequent referendum, the proposed amendment must be within the scope of the published notice. If not, publication of a new notice may be necessary.
- If the amendment changes the economic impact of the local bill, a revised economic impact statement must be prepared and filed.
- Completion and filing of a Local Bill Amendment form is required for all amendments changing the substance of the bill.
  - Any change to a property description in the bill, even to correct a scrivener's error, is a substantive change because the bill would then describe different real property.
  - The form is completed by the local delegation and signed by the delegation chair. The local delegation is not required to conduct a meeting on the proposed amendment in the county or counties affected by the amended local bill.
  - The original is filed with staff of the Local, Federal & Veterans Affairs Subcommittee.
  - If the amendment is offered in a different committee, a copy of the completed form must be filed with that committee's staff BEFORE the committee meeting at which the bill will be considered.
- A Local Bill Amendment form is not required for merely technical amendments.

23. Under what circumstances would a local bill need to be readvertised?

- If a substantive amendment takes the bill outside the scope of the published notice, a new notice encompassing the amended substance of the bill must be published.

24. How are local bills handled on the House floor? (Pg. 19-20)

- Most local bills are considered on the floor in the expedited local bill calendar.
- Local bills creating an exception to general law or amended on the floor are considered separately.

25. May a local bill be amended on the House floor? (Pg. 20)

- Yes. Substantive amendments require completion and filing of the Local Bill Amendment form. Technical amendments require no such form.

26. Can Senators sponsor local bills? (Pg. 20-21)

- Yes, if the bill is filed in the Senate.

27. Is a member of the delegation obligated to sponsor a local bill? (Pg. 4)

- Under custom and courtesy of the House, local bills are sponsored by a House member of the delegation.

28. Who may vote in a referendum required in a local bill? (Pg. 9-10)

- The qualified electors within the geographic area affected by the local bill.

29. If the local bill requires approval by local referendum may the bill be amended without requiring an additional referendum on the amendment? (Pg. 9-10)

- Yes. The referendum would be held on the final version of the bill enacted into law.