Community & Urban Affairs Committee

Agenda

I. Call to Order
II. Opening Remarks
III. Sponsor Recognition and Remarks
IV. Meeting Overview
V. Meeting Process
VI. Consent Agenda
    a. Adopt
        i. CUA-PP-01: Landlord Requirements
        ii. CUA-PP-02: Code Enforcement Anonymous Complaints
        iii. CUA-PP-03: Extra-Jurisdictional Municipal Utility Service
        iv. CUA-PP-05: Local Occupational Licensing
        v. CUA-PP-06: Landscape Professional Certification
        vi. CUA-PP-07: Special District Reauthorization
    b. Adopt- Incorporate into Guiding Principles
        i. CUA-PP-04: Affordable Housing Funding Flexibility
    c. Guiding Principles
VII. Hurricane Ian Panel: President Lee Constantine, Mayor Jerry Demings (Orange County), Roger Desjarlais, County Manager (Lee County), Mandy Hines, County Administrator (Desoto County)
VIII. Other Business
IX. Adjournment

CUA-PP-01: LANDLORD REQUIREMENTS

COMMITTEE RECOMMENDATION: ADOPT

PROPOSED POLICY: SUPPORT legislation that would 1) criminalize the conduct of landlords who fail to provide and maintain the basic minimum housing standards, and intentionally ignore code violations that threaten their tenants' health and safety, 2) empower local governments to levy fines against landlords to recoup the costs of relocating residents from condemned properties, and 3) hasten the process allowing local governments, when in the interest of public safety, to foreclose on and take title to property owned by landlords who ignore code violations and fines.

BACKGROUND: In Palm Beach County, multiple instances of unscrupulous landlords have recently come to light. It is clear these cases only scratch the surface of the total number of slumlord properties throughout Florida. These rental properties often fail to meet the most basic of housing standards and pose a risk to the health and safety of tenants.

Slumlords maximize their profit by minimizing spending on property maintenance. Rather than fixing issues, they will ignore and/or defer maintenance, leaving their tenants to deal with the consequences on their own. Slumlords are quick to collect rent while intentionally leaving disadvantaged residents to live in squalor. Families living with mold, sewage backup, and insect and rodent infestations, to name just a few of the egregious conditions found in these cases, are prone to respiratory and other illnesses. Furthermore, slumlords take advantage of vulnerable tenants and exploit the difficulties they may have had getting accommodations. Tenants live in fear of landlord retaliation, possible eviction, and homelessness.

In one recent case, the residents of the Joe Louis Avenue Apartments near Pahokee were found to be living in deplorable conditions due to owner negligence. A litany of life-safety violations were identified, putting the vulnerable families at tremendous risk. The owner had been brought before a special magistrate previously, racking up hundreds of thousands of dollars in fines and liens over several years, but this was still not enough to compel compliance. Finally, an emergency special magistrate hearing was held and the owner was ordered to demolish the building, while Palm Beach County incurred costs to find housing for the displaced residents. The demolition is still ongoing given the significant opportunities for appeal and delays that are provided by statute.

ANALYSIS: Palm Beach County and other counties throughout Florida have an interest in ensuring their residents are living in safe, sanitary conditions and are not being exploited by slumlords.

FISCAL IMPACT: There may be an indeterminate cost to local governments in the enforcement of new laws against slumlords and the relocation of residents from condemned buildings; however, legislation should allow governments new avenues to recoup these costs from owners.

FAC STAFF NOTES:

- FAC 2022 Policy Conference
    - CUA-PP-01 was recommended for adoption by the committee.

- Relevant Statutes: Part II of Chapter 83, Florida Statutes *Florida Residential Landlord and Tenants Act* (sections 83.40, F.S. through section 83.683, F.S)
    - Requirements governing the rental of dwelling units and rental agreements are prescribed in Part II of Chapter 83, F.S., which creates the Florida Residential Landlord and Tenant Act. See s. 83.40, F.S., *Short title*.
    - s. 83.43, F.S.,*Definitions*. A "dwelling unit" is defined as structure or part of a structure that is rented for use as a home, residence, or sleeping place by one person, or by two or more persons who maintain a common household; a mobile home rented by a tenant; or a structure or part of a structure that is furnished, with or without rent, as an incident of employment for use as a home, residence, or sleeping place by one or more persons. See s. 83.43, F.S., relating to definitions.
    - Section 83.51, F.S., *Landlord's obligation to maintain premises.* This section specifies a landlord 's obligations to maintain the premises that are rented. The term premises is defined to mean " a dwelling unit and the structure of which it is a part and a mobile home lot and the appurtenant facilities and grounds, areas, facilities, and property held out for use of tenants generally." See s. 83.43(5), F.S.
    - During the tenancy, a landlord must:
    - Comply with the requirements of applicable building, housing, and health codes; or if there are no such applicable codes, maintain the roofs, windows, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and capable of resisting the normal forces and loads. The landlord must also maintain the plumbing in reasonable working condition. In addition, a landlord must screens are installed and in reasonable condition at the beginning of a tenancy, and thereafter, must repair any damage to such screens once annually if necessary until the rental agreement terminates. See s. 83.51(1), F.S.
    - Unless otherwise agreed to inwriting, in addition to the above obligations, a landlord must make provisions for the extermination of rats, mice, roaches, ants, wood-destroying organisms, and bedbugs. If the tenant is required to vacate the premises for the termination, the landlord must abate the rent. Additionally, a landlord must make provision for locks and keys; the clean and safe condition of common areas; garbage removal and outside receptacles; and functioning facilities for heat during winter, running water, and hot water. See s. 83.51(2)(a), F.S.
    - At the commencement of a tenancy involving a single-family home or duplex, unless otherwise agreed to in writing, a landlord must install working smoke detection devices, as defined in statute. See s. 83.51(2)(b), F.S.
- Section 83.52, F.S., *Tenant's obligation to maintain dwelling unit.* describes the obligations of tenants during the tenancy which includes:

- Complying with the obligation imposed on tenants by applicable building, housing, and health codes;
- Keeping the premises the tenant occupies or uses clean and sanitary;
- Removing all garbage from the dwelling unit in a clean and sanitary manner;
- Keeping all plumbing fixtures in the dwelling od used by tenant clean and sanitary, and in repair.
- Using and operating on a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators;
- Not destroying, defacing, damaging, impairing, or removing any part of the premises or property that belongs to the landlord or permitting any other person to do so; or
- Conducting himself or herself, or other persons on the premises with the tenant's consent, in a manner that does not unreasonably disturb the tenant's neighbors or constitute a breach of the peace.

- Section 83.54, F.S. *Enforcement of rights and duties; civil action; criminal offenses.* Violations of any rights or duties provided in the Act are enforceable by civil action. However, violations enforce through a civil action may also be prosecuted for a criminal offense relating to the lease or leased property.
- Section 83.55, F.S. If a landlord or tenant fails to comply with the rental agreement or the Act, the aggrieved party may recover damages that is caused by the noncompliance.
- Section 83.64, F.S., *Right of action for damages.* This section prohibits a landlord from engaging in retaliatory conduct. In particular, a landlord may not discriminatorily increase rent or decrease services to the tenant, or bring or threaten to bring an action for possession or any other civil action primarily the landlord is retaliating against the tenant. In addition, a landlord may not retaliate against a tenant in situations, including, but limited to, where:
  - The tenant has complained to a government agency that is responsible for enforcement of a building, housing, or health code applicable to the premises.
  - The tenant has organized, encouraged, or participated in a tenant organization.
  - Section 83.56(1), F.S. *Termination of rental agreement.* The tenant has complained to the landlord about its material noncompliance with the rental agreement and indicated his or her intent to terminate the rental agreement.
  - The tenant is a servicemember that has terminated the rental agreement as provided in s. 83.682, F.S., relating to termination of rental agreements by servicemembers; and
  - The tenant has exercised his or her rights under local, state, or federal fair housing laws.

SUBMITTING COUNTY AND CONTACT: Palm Beach – Commissioner Melissa McKinlay mmckinlay@pbcgov.org (561) 355-2206

ASSIGNED COMMITTEE: CUA

BOARD SUPPORT: Yes

UNFUNDED MANDATE: No

PROTECTIVE OF HOME RULE: Yes

CUA-PP-02: CODE ENFORCEMENT ANONYMOUS COMPLAINTS (AS AMENDED)

COMMITTEE RECOMMENDATION: ADOPT

PROPOSED POLICY: SUPPORT amending ~~the~~ Florida law ~~Statutes,~~ relating to county and municipal code enforcement, to restore the authority of county code inspectors under s. 125.69(4)(a), F.S., and s. 162.06(1), F.S., and code enforcement officers designated under s. 162.21, F.S., ~~its previous language allowing a code inspector~~ to act on a complaint submitted anonymously. SUPPORT legislation that also authorizes animal control officers to investigate alleged civil infractions, relating to animal control or cruelty, received anonymously from county residents, and to issue citations as provided in s. 828.27, F.S., or other state law.

BACKGROUND: Code enforcement investigations usually begin with a complaint or tip from the public - typically by phone or online form - or a code enforcement officer personally observing an alleged violation while performing his or her duties. As code enforcement is inherently an exercise in home rule by local governments, procedures for collecting complaints previously varied throughout the state. In many areas, complaints were made anonymously, while in other jurisdictions, a complainant must identify themselves. Code inspectors accept any information given to them in the complaints and, generally using their own judgment, may investigate the allegations made.

Chapter 2021-167 (a/k/a CS/SB 60) now requires a person who reports a potential violation of a code or an ordinance to provide his or her personal information to the local government. The Florida Senate Bill Analysis and Fiscal Impact Statement (FIS) does not identify the intended purpose of the bill or the defect the bill is intended to cure. It appears, however, that the intention of requiring personal information from the person filing the complaint is less about nuisance abatement and code compliance and more about preventing persons from using the code enforcement process as a weapon to harass the alleged code violator. Disclosing the personal information of the person reporting the violation, however, allows the alleged code or ordinance violator to harass, threaten or intimidate the person who filed the complaint. This law already has resulted in a reduction in code complaints, which increases the threat to public health, safety, and welfare caused by unreported potential code violations.

ANALYSIS: This reduction was noted by the FIS, which stated that local governments may experience a reduction in complaints filed due to individuals not wanting to provide personal identifying information. More importantly, this new law may have unintended

consequences. In today's polarized society, disclosing the personal information of a person who files a complaint could allow the alleged code or ordinance violator to retaliate against the person filing the complaint, including property damage, threats, acts of violence, and even death.

FISCAL IMPACT: Indeterminate.

FAC STAFF NOTES:

- FAC 2022 Policy Conference
  - The Committee recommended adopting CUA-PP-02 with an amendment to include reported animal cruelty violations as a category of anonymous complaints that a code inspector may investigate and take action.
- Relevant Statutes: Part II of Chapter 125, F.S.; Chapter 162, F.S.; Part I of Chapter 166, F.S.; and s. 828.27, F.S.
  - Ch. 2021-167, L.O.F., (CS/SB 60 by Sen. Bradley) took effect July 1, 2021, and amended several statutes relating to enforcement of county and municipal codes and ordinances contained in Chapter 125, F.S., Chapter 162, F.S., and Chapter 166, F.S.
  - s.125.69, F.S., *Penalties; enforcement by code inspectors*.
  - s. 162.06, F.S., *Enforcement procedure*.
  - s. 162.13, F.S., *Provisions of act supplemental*.
  - s. 162.21, F.S., *Enforcement of county or municipal codes or ordinances; penalties.*
  - s. 166.0415, F.S., *Enforcement by code inspectors; citations.*
  - s. 828.27, F.S., *Local animal control or cruelty ordinances; penalty.*
  - Specifically, the Act prohibits county and municipal code inspectors from initiating an investigation into violations of city or county codes based upon an anonymous complaint. It requires that an individual making a complaint about a potential violation provide his or her name and address before an investigation may occur.
  - The prohibition against initiation an investigation based upon an anonymous complaint or tip does not apply if the code inspector has reason to believe the alleged violation presents an imminent threat to public health, safety, or welfare or the imminent destruction of habitat or sensitive resources.

SUBMITTING COUNTY AND CONTACT: Marion – Matthew Cretul matthew.cretul@marionfl.org (352) 817-3139

ASSIGNED COMMITTEE: CUA

BOARD SUPPORT: Yes

UNFUNDED MANDATE: No

PROTECTIVE OF HOME RULE: Yes

CUA-PP-03: EXTRA-JURISDICTIONAL MUNICIPAL UTILITY SERVICE

COMMITTEE RECOMMENDATION: ADOPT

PROPOSED POLICY: SUPPORT legislation that provides that where a county has, by ordinance, established one or more utility service areas in the unincorporated area and where the county has the current ability to provide service, a municipality may not provide utility services within such county service area(s) without consent of the county.

BACKGROUND: The issue under consideration is the scope of power available to municipalities under s. 180.02, F.S, to establish extraterritorial utility zones or service areas within the unincorporated county. Once established, the municipality may require pursuant to subsection (3) that all persons or corporations living or doing business within said area to connect, when available with described municipal systems. Section 180.191(1)(a), F.S., authorizes a municipality to add a 25% surcharge to the rates, fees, and charges to consumers outside its service boundaries and the possibility, under paragraph (1)(b), that customers of the unincorporated area within such zone or service area may pay rates, fees and charges of up to 50% more than municipal customers pay for the corresponding service. If only the surcharge is imposed over municipal rates, a public hearing is not even required under paragraph (1)(a).

A public hearing is required under paragraph (1)(b). This statutory scheme creates the possibility that customers in the unincorporated area will be paying higher rates to subsidize the lower rates of municipal customers, and the city's elected officials have no political accountability to the customers in the unincorporated areas. This scenario recently occurred in the City of Dunnellon in Marion County, where the city acquired an investor-owned utility in the unincorporated area and, pursuant to the above statute, imposed the surcharges, and other impositions on the customers of that system. This resulted in litigation that was costly to the city and ultimately led to the system being acquired by the Florida Governmental Utility Authority. In addition to the above-described concerns for residents of the unincorporated county, the municipality's unrestricted power under s. 180.02, F.S., to establish such utility zones or service areas creates a disruptive influence on the planning and system development of County-owned utility systems.

Section 180.02, F.S., was originally adopted in 1935 and was last revised in 1995. It is suggested that the statute is obsolete, and not reflective of the scope of services provided by county governments in medium and large counties. When originally adopted, and for years thereafter, counties typically did not provide municipal services in unincorporated areas. All of that has changed with the advent of the county home rule powers act, s. 125.01, F.S., and many counties, including Marion, provide a broad range of municipal services. In fact, several of the municipalities in Marion County contract for the County to provide municipal services to their residents. What is most problematic for county utility departments is the ability of cities, under s. 180.02, F.S., to create such zones in unincorporated areas, regardless of the impact thereof on county utility

operations, and with no agreement or consent required by the county. While a county may file objections under s. 180.03(2), F.S., the city is free to ignore those objections.

ANALYSIS: It is urged that a reasonable resolution of the above situation is found in s. 180.06, F.S., relating to activities authorized by municipalities and private companies, which provides:

> However, a private company or municipality shall not construct any system, work, project or utility authorized to be constructed hereunder in the event that a system, work, project or utility of a similar character is being actually operated by a municipality or private company in the municipality or territory immediately adjacent thereto *unless such municipality or private company consents to such construction.*

(Emphasis supplied). It is this requirement for consent that is lacking for counties.

It is proposed that legislation be enacted that would provide that where a county has, by ordinance, established one or more utility service areas in the unincorporated area, and within such services, has the current ability to provide service, a municipality may not provide utility services within such county service areas. Within any county service area where the county does have the ability to provide service within months, a municipality may not provide service within such county service area without consent from the county. Counties and municipalities are encouraged to cooperatively establish utility service boundary agreements that will maximize the capacities and efficiencies of their respective systems, with the goal of providing the most cost-effective utility service to system customers. Counties and municipalities are encouraged to cooperatively establish utility service boundary agreements that will maximize the capacities and efficiencies of their respective systems, with the goal of providing the most cost-effective utility service to system customers.

FISCAL IMPACT: Indeterminant.

FAC STAFF NOTES:

- FAC 2022 Policy Conference
  - CUA-PP-03 was recommended for adoption by the committee.

- Except the title, this policy proposal is identical to CUA-PP-07: Utility Services Areas, which the CUA Committee adopted.
- **Relevant Statutes:** Chapter 153, Florida Statutes *Water and Sewer Systems*
  - Section 153.03(1), F.S., *General Grant of power*. This section provides a general grant of power to purchase, construct, improve, extend, enlarge and reconstruct water supply systems and sewer disposal systems with the county or within any adjoining county or counties; to operate, manage, and controls such systems; and furnish and supply water and sewage collection and disposal services counties, municipalities, and other consumers any such counties. However, a county may

not, without the consent of a municipality's governing board, construct, own, operate or maintain such water supply or sewage disposal systems within the jurisdictional limits of the municipality. In addition, a county may not furnish any similar facilities to any property that is being furnished similar facilities by the municipality without such municipality's consent.

- s. 153.50, F.S., *Short title.* In 1959, the Florida Legislature passed Ch. 59-446, L.O.F, which created the County Water and Sewer District Law. In so doing, the Legislature recognized the need for county governments to alleviate public health and water supply problems arising from a lack of municipal and private water and sewer facilities necessary to serve county unincorporated areas. In fact, the Legislature emphatically stated that "many unincorporated areas are in *extreme need of such sewage and water facilities,* and … *the purpose of this law [is] to provide means for the counties of the state to such conditions in in such unincorporated areas*." (Emphasis supplied). See s. 153.51, F.S., relating to legislative intent.
- Section 153.53, F.S., *Establishment of districts [water and sewer] in unincorporated areas.* This section empowers county governing boards to creates water and sewer district determined necessary in the public interest. A district may only consist of contiguous unincorporated areas of the county, except municipalities. This section also provides alternate means for creating water and sewer district by a petition process.

- **Previous FAC Statements:** Except the title, this policy proposal is identical to CUA-PP-07: Utility Services Areas (2021-22), which the CUA Committee adopted.
-

SUBMITTING COUNTY AND CONTACT: Marion – Matthew Cretul matthew.cretul@marionfl.org (352) 817-3139

ASSIGNED COMMITTEE: CUA

BOARD SUPPORT: Yes

UNFUNDED MANDATE: No

PROTECTIVE OF HOME RULE: Yes

CUA-PP-04: AFFORDABLE HOUSING FUNDING FLEXIBILITY (REVISED)

COMMITTEE RECOMMENDATION: INCORPORATE INTO GUIDING PRINCIPLES

PROPOSED GUIDING PRINCIPLE: CUA 7 The Florida Association of Counties supports retaining the full amount of dedicated documentary tax revenue to fund state and local affordable housing programs. The Florida Association of Counties further supports increased flexibility to counties participating in the State Housing Initiative Partnership program to maximize the distribution of funds in a manner that more effectively implements each county's local housing assistance plan, adopted local housing incentive strategies, housing-related priorities, and funding for housing projects; and also achieves greater housing availability and affordability for essential service personnel, very low-income, low-income and moderate-income residents, and residents with special housing needs consistent with each county's housing market.

BACKGROUND: The following proposal is recommended to be incorporated into guiding principles amending CUA 7: The Florida Association of Counties supports retaining the full amount of dedicated documentary tax revenue to fund state and local affordable housing programs. The Florida Association of Counties further supports increased flexibility to counties participating in the State Housing Initiative Partnership program to maximize the distribution of funds in a manner that more effectively implements each county's local housing assistance plan, adopted local housing incentive strategies, housing-related priorities, and funding for housing projects; and also achieves greater housing availability and affordability for essential service personnel, very low-income, low-income and moderate-income residents, and residents with special housing needs consistent with each county's housing market.

ANALYSIS: Affordable housing needs are evident in every county. Of significant impact is the lack of availability of affordable housing for teachers, law enforcement, health care providers and other public and private sector professionals. The housing need is evident in both urban and rural areas. The Florida Legislature should afford counties that receive SHIP funds greater flexibility in determining how to use allocated dollars to best meet the needs of each community. This should include a review and modification of the criteria in s. 420.9075(5), F.S.

FISCAL IMPACT: Indeterminate.

FAC STAFF NOTES:

- FAC 2022 Policy Conference
    - The Committee adopted the FAC staff recommendation to incorporate into the CUA Guiding Principles funding flexibility for affordable housing in lieu of considering the originally-filed policy proposals CUA-PP-04 (Volusia), CUA-PP-05 (Broward) and CUA-PP-06 (Walton). Specifically, FAC staff proposed amending

Guiding Principle CUA 7, to incorporate the intended aim of the three proposals – that is, providing to counties funding flexibility for affordable housing purposes. The Committee unanimously adopted FAC staff's recommendation.

- **Relevant Statutes:** Part VIII of Chapter 420, Florida Statutes *State Housing Initiatives Partnership* (sections 420.907 through section 420.9079)
    - The State Housing Initiatives Partnership (SHIP) program is created and governed pursuant to ss. 420.907-420.9079, F.S.
    - s. 420.9072, F.S., *State Housing Initiatives Partnership Program*. SHIP provides funds to local governments on a population-based formula as an incentive to create local housing partnerships, expand the production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and increase housing related employment. See s. 420.9072, F.S. When SHIP funds are available, they are distributed on an entitlement basis to all 67 counties and 53 Community Development Block Grant (CDBG) entitlement cities in Florida. The guaranteed allocation to each county is $350,000. However, counties may receive additional allocations as provided in s. 420.9073(2)(b), F.S.
    - s. 420.9071(2), F.S. *Definitions and* s. 420.9072, F.S., *State Housing Initiatives Partnership Program*. In order to participate, local governments must establish a local housing assistance program by ordinance; develop a local housing assistance plan and housing incentive strategy; amend land development regulations or establish local policies to implement the incentive strategies; form partnerships and combine resources in order to reduce housing costs; and ensure that rent or mortgage payments within the targeted areas do not exceed 30 percent of the area median income limits, unless authorized by the mortgage lender. See s. 420.9071(2), F.S.; s. 420.9072, F.S.
    - s. 420.9073(7), F.S., *Local housing distributions*. Generally, counties and eligible municipalities must expend SHIP funds as required in s. 420.9073(7), F.S. SHIP dollars may be used to fund emergency repairs, new construction, rehabilitation, down payment and closing cost assistance, impact fees, construction and gap financing, mortgage buy-downs, acquisition of property for affordable housing, matching dollars for federal housing grants and programs, and homeownership counseling. SHIP funds may be used to assist units that meet the standards of chapter 553; SHIP funds may also be used to assist manufactured housing constructed after June 1994 in accordance with the installation standards defined in the rules of the Department of Highway Safety and Motor Vehicles.
    - Section 420.9075(5), F.S., *Local housing assistance plans; partnerships.* This section specifies certain set asides for SHIP funds allocated to counties and eligible municipalities, including requiring that a minimum of 65 percent of SHIP funds be spent on eligible homeownership activities, and that up to 25 percent of available funds may be reserved for rental assistance to very low-income households with at least one adult who is a person with special needs or homeless.

See s. 420.9072(7)(b)3, F.S. Additionally, a minimum of 75 percent of available funds must be reserved on eligible construction, rehabilitation, or emergency repair of affordable, eligible housing. See s. 420.9075(5)(c), F.S. Current law also requires that units constructed, rehabilitated or assisted with SHIP funds must be occupied by very-low income, low income, or moderate income persons. See s. 420.9075(5)(g)1., F.S.

SUBMITTING COUNTY AND CONTACT: FAC Staff, Volusia, Broward, and Walton

ASSIGNED COMMITTEE: CUA

BOARD SUPPORT: N/A

UNFUNDED MANDATE: No

PROTECTIVE OF HOME RULE: Yes

CUA-PP-05: LOCAL OCCUPATIONAL LICENSING
(COMBINED, REVISED, AND RENUMBERED)

COMMITTEE RECOMMENDATION: COMBINE CUA-PP-07, CUA-PP-08 AND CUA-PP-09, RELATING TO LOCAL OCCUPATIONAL LICENSING, AND ADOPT RECOMMENDED COMBINED POLICY STATEMENT

COMBINED PROPOSED POLICY: SUPPORT legislation repealing Chapter 2021-214, Laws of Florida, including all the created or amended statutory provisions presently in effect, such as s. 163.211, F.S., to allow counties to retain the authority to operate programs requiring the licensure, certification, or registration of local general contractors and specialty contractors, and other occupations as determined by each county's governing body by ordinance or resolution. In the alternative, SUPPORT legislation amending s. 163.211(2)(a), F.S., to remove the expiration date of local government occupational licensing requirements and programs existing on or before the effective date of Chapter 2021-214, Laws of Florida, including the job scopes identified in s. 489.117(4)(a), F. S., and others that were locally licensed prior to the effective date Chapter 2021-214, Laws of Florida, to ensure the health, safety and welfare of county residents and businesses.

BACKGROUND: In 2021, Chapter 2021-214, Laws of Florida (the "Act"; also referred to as HB 735) preempted counties from having local occupational licensing programs with the exception of any licensing of occupations authorized by general law. The bill specifically prohibited county governments from requiring a license for a person whose job scope did not substantially correspond to that of a contractor or journeyman licensed by the Construction Industry Licensing Board, and specifically precluded local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

Due to the unintended consequences of HB 735, local small business owners are suffering. Under local regulations, that will no longer be effective as of July 1, 2023, licensees and contractors must have adequate insurance, including liability and workers compensation, and:

- Costs are typically tailored to the associate risks/requirements of the occupation type of license.
- Acts as a deterrence for unlicensed activities.
- Enables contractors to obtain permits.

Without the ability to gain local occupational licenses, specialty contractors are now required to subcontract with General Contractors, to obtain permits to do the normal course of their business. This has resulted in a negative fiscal impact to occupational licensees across the board.

ANALYSIS: Local governments have an interest in protecting consumers by requiring contractors to be appropriately licensed and insured in order to obtain a permit and to conduct contracting work within their jurisdiction. Local governments also have an interest in ensuring that work done in their jurisdiction conforms to applicable federal, state, and local regulations.

A professional license gives consumers the confidence their hired contractor has the necessary experience and professional responsibility. Part of this confidence comes from the knowledge that a professional license is subject to oversight and discipline. In most counties that regulate local occupations, including in construction related occupations, local contractor licenses require demonstrated experience, testing, and proof of insurance. Many of these counties have examining and licensing boards that oversee local licenses and certificates of competency, including reviewing violations and imposing fines. Local enforcement boards will have no power to discipline unlicensed contractors, so consumers will lose this important level of protection. They will no longer be able to trust that the work done to their property will be safe, legal, and professional.

At the state level, unlicensed contractors can be prosecuted under s. 489.127, F.S. Those doing work that now doesn't require a license would be given a free pass from potential criminal charges. This is yet another level of protection that consumers will no longer be able to rely on.

FISCAL IMPACT: The fiscal impact for government is indeterminable. However, it is significant for businesses and consumers involved in the contracting industry throughout the state. Insurance companies will face higher costs due to shoddy work performed by unlicensed contractors. Poor work leads to more problems that have to be covered by insurance. This would then affect the insurance rates for both homeowners and licensed contractors.

Licensed contractors will face several challenges that will reduce their income. They will lose work to unlicensed contractors, who can undercut their prices. They will also face higher insurance rates. Licensed contractors could also face increased costs because they will have to insure unlicensed sub-contractors. Higher costs of operation and less income due to competition could severely affect small contracting businesses. In fact,

small contracting businesses may be forced to cut employees and raise prices to continue operating, and could face the loss of their businesses.

Former locally licensed contractors will also face increased competition, without the benefit of a license to market themselves. These contractors will lose out on work when they cannot pull necessary permits. This situation may likely lead to the shuttering or shrinking of more small contracting businesses.

Increased costs to insurance companies and licensed contractors will then be passed on to the consumer. Ultimately, it will be Florida's homeowners facing higher construction costs and higher insurance costs.

FAC STAFF NOTES:

- FAC 2022 Policy Conference
    - The Committee adopted the FAC staff recommendation to combine CUA Policy Proposals CUA-PP-07 (Broward), CUA-PP-08 (Monroe), and CUA-PP-09 (Pinellas), all relating to local occupational licensing, and to adopt FAC staff's recommended combined proposed policy statement.
- State preemption precludes a local government from exercising authority in a particular area, and requires consistency with the state constitution or state statute. A local government enactment may be found inconsistent with state law if (1) the Legislature has preempted a particular subject area to the state or (2) the local regulation conflicts with a state statute.
- Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred. Express preemption of a field by the Legislature must be accomplished by clear language stating that intent. When local ordinances have been enacted in the face of state preemption, the effect has been to find such ordinances null and void.
- Implied preemption is a legal doctrine that addresses situations in which the legislature has not expressly preempted an area but, for all intents and purposes, the area is dominated by the state. Findings of implied preemption are for a very narrow class of areas in which the state has legislated pervasively.
- Relevant Statutes: Part I and Part II of Chapter 489, Florida Statutes *Contracting,* and Part I of Chapter 163 *Intergovernmental Programs*
    - Chapter 489, F.S., *Contracting*. Part I addressing the licensure and regulation of construction contracting, and Part II addressing the licensure and regulation of electrical and alarm system contracting. Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within Department of Business and

Professional Regulation (DBPR). The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate. The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline. See s. 489.107, F.S., *Construction Industry Licensing Board.*

- s. 489.105, F.S. *Definitions*. "Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state. See s. 489.105, F.S.
- s. 489.103, F.S. *Exemptions*. "Certified specialty contractors" are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.
- "Registered contractors" are individuals that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued. See s. 489.105(3)(a)-(o) and (q); Rule 61G4-15.015-040, F.A.C.
- s. 489.117, F.S., *Registration; specialty contractors.* Current law provides that local jurisdictions may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction. See s. 489.117, F.S., and s. 487.131, F.S. Local governments may only collect licensing fees that cover the cost of regulation. Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license, except that registration is not required by a person holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or certified specialty contractor. See s. 489.105, F.S., and 489.117(4), F.S.
- s. 489.505, F.S. *Definitions*. Electrical contractors, alarm system contractors, and electrical specialty contractors are certified or registered under the Electrical Contractors' Licensing Board (ECLB). Certified contractors can practice statewide and are licensed and regulated by the ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may only practice within that locality. See generally, s. 489.505, F.S.
    - Electrical contractors are contractors who have the ability to work on electrical wiring, fixtures, appliances, apparatus, raceways, and

conduits which generate, transmit, transform, or utilize electrical energy in any form. The scope of an electrical contractor's license includes alarm system work. See s. 489.505(12), F.S.
        - Alarm system contractors are contractors who are able to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems. An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency." See s. 489.505(1)-(2), F.S.
    - Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. The ECLB creates electrical certified specialty contractor licenses through rulemaking. Certified electrical specialty contractors can practice statewide. The ECLB has created the following certified specialty contractor licenses, including lighting maintenance specialty contractor; sign specialty electrical contractor; residential electrical contractor; limited energy systems specialty contractor; and utility line electrical contractor. See s. 489.505(19), F.S., and s. 489.511(4), F.S.; Rule 61G6-7.001, F.A.C.
- Ch. 2021-214, L.O.F., created s. 163.211, F.S., *Licensing of occupations preempted to the state*. This section defines the following terms:
    - "Local government" means a county, municipality, special district, or political subdivision of the state.
    - "Occupation" means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.
    - "Licensing" means any training, education, test, certification, registration, or license that is required for a person to perform an occupation along with any associated fee.
- The Act expressly preempts occupational licensing to the state. This preemption supersedes any local government licensing requirement of occupations unless the licensing of occupations by local governments is authorized by general law, or the local licensing scheme for an occupation was imposed before January 1, 2021. However, any such local licensing scheme expires on July 1, 2023. See s. 163.211(2), F.S.
- The Act prohibits local governments that license an occupation that qualifies for the exemption until July 1, 2023, from imposing additional licensing requirements on that occupation and from modifying such licensing. In addition, the Act provides that any local licensing of an occupation not authorized under the provisions of the bill or otherwise authorized by general law does not apply and may not be enforced. See s. 163.211(3)-(4), F.S.
- The Act further amended s. 489.117(4)(a), F.S., to provide that the preemption in s. 163.211, F.S., applies to licensing that is outside the scope of state contractor

licensing provisions. Specifically, subsection (4)(a) now provides that a county or municipality may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the CILB. The bill specifically precludes counties and municipalities from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

- s. 489.1455, F.S., *Journeyman, reciprocity, and standards.* The Act amended s.489.1455, F.S., to expressly authorize counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is a current practice by counties and municipalities. The licensing of those specific local journeyman license is exempt from the preemption in S. 163.211, F.S.

SUBMITTING COUNTY AND CONTACT: FAC Staff, Broward, Monroe, Pinellas

ASSIGNED COMMITTEE: CUA

BOARD SUPPORT: N/A

UNFUNDED MANDATE: No

PROTECTIVE OF HOME RULE: Yes

CUA-PP-06: LANDSCAPE PROFESSIONAL CERTIFICATION

COMMITTEE RECOMMENDATION: ADOPT

PROPOSED POLICY: SUPPORT allowing local governments to require certification for landscape professionals.

BACKGROUND: In 2021, Chapter 2021-214, Laws of Florida (also known as HB 735) preempted local governments from licensing certain occupations. The definition of licensing is any training, education, test, certification, registration, or license that is required for a person to perform an occupation. In Pinellas County, 51% of water bodies do not meet State Water Quality Standards for excess nutrient pollution. Pinellas County is required by its State NPDES permit and State Limits for Total Maximum Daily Loads of Nitrogen and Phosphorus to reduce nutrient pollution to the maximum extent practicable from all sources. Debris from landscape maintenance activities has been identified as a significant source of nutrient pollution in Pinellas County's highly developed, urban environment.

In an effort to meet State-mandated nutrient pollution reductions, in 2010, Pinellas County adopted Ordinance #10-06 which requires certification of individuals holding an occupation in landscape maintenance. The required training and education are to provide targeted outreach of best management practices to reduce nutrient pollution. It is imperative that local governments are able to maintain education requirements for an occupation that has a significant impact on nutrient pollution at the source.

ANALYSIS: When s. 163.211, F.S., takes full effect on July 1, 2023, it will eliminate the Landscape Best Management Practices training requirement for Landscape Professionals in Pinellas County. Removing this requirement will reduce one of the primary tools used to address nutrient pollution as required by the State. Additionally, counties throughout the state have adopted fertilizer ordinances which will be effected by the removal of local licensing. Pinellas County's fertilizer ordinance includes a ban on the retail sale of fertilizer that contains nitrogen or phosphorus during the rainy season. This provision is grandfathered and if required to change the ordinance to remove the certification requirement for landscape professionals, the retail sale provision and other provisions included in the ordinance will be eliminated. This will impact all counties that have a fertilizer ordinance in place to protect water quality.

FISCAL IMPACT: Indeterminate.

FAC STAFF NOTES:

- FAC 2022 Policy Conference
    - CUA-PP-06 was recommended for adoption by the committee.

- Previously, this proposal was CUA-PP-10 Lanscape Professional Certification.

- **Relevant Statutes:**
  - State preemption precludes a local government from exercising authority in a particular area, and requires consistency with the state constitution or state statute. A local government enactment may be found inconsistent with state law if (1) the Legislature has preempted a particular subject area to the state or (2) the local regulation conflicts with a state statute.
  - Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred. Express preemption of a field by the Legislature must be accomplished by clear language stating that intent. When local ordinances have been enacted in the face of state preemption, the effect has been to find such ordinances null and void.
  - Implied preemption is a legal doctrine that addresses situations in which the legislature has not expressly preempted an area but, for all intents and purposes, the area is dominated by the state. Findings of implied preemption are for a very narrow class of areas in which the state has legislated pervasively.
  - Chapter 489, F.S., relates to "contracting," with Part I addressing the licensure and regulation of construction contracting, and Part II addressing the licensure and regulation of electrical and alarm system contracting. Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within Department of Business and Professional Regulation (DBPR). The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate. The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline. See s. 489.107, F.S.
  - s. 489.105, F.S. *Definitions*. "Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.
  - s. 489.103, F.S. *Exemptions*. "Certified specialty contractors" are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.
  - "Registered contractors" are individuals that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the

license is issued. See s. 489.105(3)(a)-(o) and (q), F.S.; Rule 61G4-15.015-040, F.A.C.

- Current law provides that local jurisdictions may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction. See s. 489.117, F.S., and s. 487.131, F.S. Local governments may only collect licensing fees that cover the cost of regulation. Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license, except that registration is not required by a person holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or certified specialty contractor. See s. 489.105, F.S., and 489.117(4), F.S.
- s. 489.505, F.S. *Definitions*. Electrical contractors, alarm system contractors, and electrical specialty contractors are certified or registered under the Electrical Contractors' Licensing Board (ECLB). Certified contractors can practice statewide and are licensed and regulated by the ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may only practice within that locality.
- s. 489.505 (12), F.S. *Definitions*. Electrical contractors are contractors who have the ability to work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form. The scope of an electrical contractor's license includes alarm system work.
- s. 489.505 (1)-(2), F.S. *Definitions*. Alarm system contractors are contractors who are able to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems. An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency."
    - Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. The ECLB creates electrical certified specialty contractor licenses through rulemaking. Certified electrical specialty contractors can practice statewide. The ECLB has created the following certified specialty contractor licenses, including lighting maintenance specialty contractor; sign specialty electrical contractor; residential electrical contractor; limited energy systems specialty contractor; and utility line electrical contractor. See s. 489.505(19), F.S., and s. 489.511(4), F.S.; Rule 61G6-7.001, F.A.C.
- Chapter 2021-214 created s. 163.211, F.S., relating to licensing of occupations preempted to the state. This section defines the following terms:
    - "Local government" means a county, municipality, special district, or political subdivision of the state.

- "Occupation" means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.
- "Licensing" means any training, education, test, certification, registration, or license that is required for a person to perform an occupation along with any associated fee.

- s. 163.211(2), F.S. *Licensing of occupations preempted to state.* The bill expressly preempts occupational licensing to the state. This preemption supersedes any local government licensing requirement of occupations unless the licensing of occupations by local governments is authorized by general law, or the local licensing scheme for an occupation was imposed before January 1, 2021. However, any such local licensing scheme expires on July 1, 2023.
- s. 163.211(3)-(4), F.S. *Licensing of occupations preempted to state.* The Act prohibits local governments that license an occupation that qualifies for the exemption until July 1, 2023, from imposing additional licensing requirements on that occupation and from modifying such licensing. In addition, the Act provides that any local licensing of an occupation not authorized under the provisions of the bill or otherwise authorized by general law does not apply and may not be enforced.
- The Act further amended s. 489.117(4)(a), F.S., to provide that the preemption in s. 163.211, F.S., applies to licensing that is outside the scope of state contractor licensing provisions. Specifically, subsection (4)(a) now provides that a county or municipality may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the CILB. The bill specifically precludes counties and municipalities from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.
- The Act also amended s. 489.1455, F.S., relating to journeyman, reciprocity, and standards, to expressly authorize counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is a current practice by counties and municipalities. The licensing of those specific local journeyman license is exempt from the preemption in s. 163.211, F.S.

SUBMITTING COUNTY AND CONTACT: Pinellas – Brian Lowack blowack@pinellascounty.org (727) 464-5758

ASSIGNED COMMITTEE: CUA

BOARD SUPPORT: No position

UNFUNDED MANDATE: No

PROTECTIVE OF HOME RULE: Yes

CUA-PP-07: SPECIAL DISTRICT REAUTHORIZATION

COMMITTEE RECOMMENDATION: ADOPT

PROPOSED POLICY: SUPPORT legislation reauthorizing certain independent special districts, including those special districts located within fiscally-constrained counties, that were impacted by the enactment of Chapter 2022-266, Laws of Florida (also referred to as SB 4-C), during the 2022 Special Session C.

BACKGROUND: During the 2022 Special Session C, the Legislature passed SB 4-C, which the Governor signed into law and became Chapter 2022-266, Laws of Florida. While primarily directed at dissolving Disney's Reddy Creek Development District, the Act also impacted other special districts that were established by a special act prior to the ratification of the Florida Constitution on November 5, 1968, if such special districts have not been reestablished, re-ratified, or otherwise reconstituted by special act or general law after such date. Senate staff, in the bill's staff analysis identified several special districts in addition to the Reedy Creek Development District that would be impacted by the Act's passage including:

- Bradford County Development Authority (Bradford County)
- Sunshine Water Control District (Broward County)
- Eastpoint Water and Sewer District (Franklin County)
- Hamilton County development Authority (Hamilton County)
- Marion County Law Library (Marion County)

Additional research conducted by FAC staff, identified two other districts that could be impacted by Chapter 2022-266, Laws of Florida, including the Ocala Downtown Development District (Marion County) and the Taylor County Development Authority (Taylor County). All the impacted special districts will be dissolved effective June 1, 2023.

ANALYSIS: The Act allows an independent special district dissolved effective June 1, 2023, to be re-established on or after June 1, 2023, pursuant to the requirements and limitations of Ch. 189 F.S. Four of the above-referenced special districts are located in a fiscally-constrained county including the Bradford County Development Authority; Eastpoint Water and Sewer District; Hamilton County Development Authority; and the Taylor County Development Authority.

FISCAL IMPACT: Indeterminate.

FAC STAFF NOTES:

- FAC 2022 Policy Conference
    - CUA-PP-07 was recommended for adoption by the committee.
    - Previously, this proposal was CUA-PP-11 Special District Reauthorization.

- Relevant Statutes: Part II of Chapter 189, Florida Statutes *Definitions* (sections 189.012, F.S. and section 189.02) and Part III of Chapter 189 Independent Special Districts
    - s. 189.012(6), F.S., *Definitions*. A "special district" is a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.
    - See s. 189.031(3), F.S., s.189.02(1), F.S., and s. 190.005, F.S. Common types of special districts in Florida include community development districts, drainage and water control districts, fire control districts, and community redevelopment districts. Many of these entities perform a single function, but, in some instances, their enabling legislation allows them to provide several, usually related, types of services. Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. See generally, s. 189.012(6), F.S.
    - A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law. Like all powers a special district is provided, the method of financing a district must be stated in its charter. According to the Department of Economic Opportunity, there are 1,844 special districts in the state, in which 1,228 are independent special districts and 616 are dependent districts.
    - s. 189.01, F.S, *Uniform Special District Accountability Act*. Special districts are governed generally by the Uniform Special District Accountability Act (USDAA). The USDAA, initially passed in 1989, created Chapter 189, F.S., to centralize provisions governing special districts.
    - Chapter 189, F.S., *Uniform Special District Accountability Act,* applies to the formation (s. 189.02, F.S., and 189.031, F.S.), governance (s. 189.0311, F.S.), administration (s. 189.019, F.S.), supervision (s.189.034, F.S.), merger (s. 189.071, F.S., and 189.074, F.S.), and dissolution (s. 189.071, F.S., and 189.072, F.S.) of special districts, unless otherwise expressly provided in law. See s. 190.004, F.S. The USDAA also provides an extensive statement of legislative intent aiming to improve accountability of special districts to state and local governments and providing for more effective communication and coordination in the monitoring of required reporting. See s. 189.06, F.S.
    - Chapter 189, F.S., *Uniform Special District Accountability Act*. Establishes criteria defining whether a special district is a "dependent special district" or an "independent special district." As a general rule, dependent special districts are created at the prerogative of the counties and municipalities and independent special districts are created only as authorized by the Legislature.
    - s. 189.012(2), F.S., *Definitions*. A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed

by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality. A county is authorized to create, by ordinance, a dependent special district within the county, subject to the approval of the governing body of the incorporated area affected. See s. 189.02(2), F.S.

  - s. 189.02(3), F.S. *Dependent Special Districts*. Municipalities also are authorized to create, by ordinance, a dependent special district within the municipality. Additionally, the Legislature may create a dependent special district by special act at the request or with the consent of the local government upon which the special district will be dependent. See s. 189.02(5), F.S.
  - s. 189.012(3), F.S., *Definitions*. An "independent special district" is any special district that does not meet the definition of "dependent special district." Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely with the borders of a single municipality. Generally, independent special districts are created by the Legislature through a special act or general law of local application, and must comply with all other criteria mandated by the Florida Constitution, and the charter for any new independent special district must include the minimum elements required by Chapter 189, F.S. See s. 189.031(1), F.S.; See also, s. 189.031(3), F.S. (which lists the minimum charter requirements for an independent special district).

- Florida law authorizes the creation of certain types of independent special districts without specific action by the Legislature. For instance, the Governor and Cabinet, a municipality or county, or a regional combination of cities and counties may initiate the creation of certain special districts in compliance with statutory requirements.
- Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.
- Ch. 97-255, L.O.F. In 1997, the Legislature passed a comprehensive series of reforms relating to local government oversight that included a provision requiring each special district to codify its special acts into a single act for reenactment by the Legislature no later than December 1, 2001.; See also s. 189.019, F.S. Subsequent legislation extended the deadline for codification to December 1, 2004, and stated the Legislature may adopt a schedule for individual districts to codify their acts. See Chapter 98-320, Laws of Florida.
- s. 189.072(1), F.S. *Dissolution of an independent special district.* An independent special district may be dissolved voluntarily, by the district governing body, or involuntarily by the entity creating the independent special district, such as the Legislature or a county or municipality. See s. 189.072, F.S. If the governing body of an independent special district created and operating pursuant to a special act elects, by a majority vote plus one, to

dissolve the district, the voluntary dissolution of an independent special district may be effectuated only by the Legislature unless otherwise provided by general law.

- s. 189.072(2), F.S. *Dissolution of an independent special district.* In order for the Legislature to dissolve an active independent special district created and operating pursuant to a special act, the special act dissolving the independent special district must be approved by a majority of the resident electors of the district or, for districts in which a majority of governing body members are elected by landowners, a majority of the landowners voting in the same manner the independent special district's governing body is elected.
- s. 189.072(2)(b), F.S. *Dissolution of an independent special district.* If an independent special district was created by a county or municipality via referendum or other procedure, the county or municipality that created the district may dissolve the district pursuant to the same procedure by which the independent special district was created. However, if the independent special district has ad valorem taxation powers, the same procedure required to grant the independent special district ad valorem taxation powers is required to dissolve the district.
- s. 189.076(2), F.S. *Financial allocations*. Unless otherwise provided by law or ordinance, when there is dissolution of a special district government, the special district transfers the title to all property owned by the preexisting special district to the local general-purpose government, either a county or municipality, which shall also assume all indebtedness of the preexisting special district.

SUBMITTING COUNTY AND CONTACT: Franklin and Bradford – Ricky Jones and Chris Dougherty

ASSIGNED COMMITTEE: CUA

BOARD SUPPORT: N/A

UNFUNDED MANDATE: No

PROTECTIVE OF HOME RULE: Yes

COMMUNITY & URBAN AFFAIRS

Economic Development

Economic prosperity depends on communities with dependable basic services, but also where the quality of life encourages businesses and individuals to flourish. Maintaining and enhancing the standards that Floridians expect and deserve will require more innovative cooperation between the public and private sectors. Therefore, counties need flexible tools to develop economic strategies that target local strengths, enhance and expand employment opportunities, and maintain adequate infrastructure.

CUA 1. The Florida Association of Counties supports measures that empower local governments and provides resources to work with community partners towards the creation of quality jobs, more vibrant Florida communities, as well as an enhanced level of national and global competitiveness.

CUA 2. The Florida Association of Counties supports legislation and appropriation that enhances the efficiency and effectiveness of the state and local government partnership in economic development through the greater use of targeted strategic investments in infrastructure and programmatic enhancements designed to induce sustainable economic activity resulting in a consistent positive return on investment for both state and local governments.

CUA 3. The Florida Association of Counties supports state and local policies, programs, and funding mechanisms that not only preserve, but enhance as well, the Florida tourism and film industries.

Growth Management

The impact of growth and development in Florida during the last 30 years has brought significant benefits and costs to county government. Given Florida's expected future growth and because Florida's communities are remarkably diverse, Florida's counties must have flexibility in planning decisions to address unique local concerns and conditions. County officials must have the ability to make reasonable decisions for the advancement of the local community on zoning, comprehensive planning, transportation, and infrastructure issues without being subjected to prohibitive claims for damages for infringement on private property rights.

CUA 4. The Florida Association of Counties supports comprehensive policies that reduce a county's risk to the impacts of coastal and inland flooding.

CUA 5. The Florida Association of Counties recognizes and supports the critical role Regional Planning Councils play in supporting communities by coordinating intergovernmental solutions to growth problems on greater-than-local issues, providing technical assistance to local governments.

CUA 6. The Florida Association of Counties supports policies that provide a mechanism to ensure the extra-jurisdictional impacts from large-scale development projects are adequately addressed within the impacted counties prior to development approval.

CUA 7. The Florida Association of Counties supports retaining the full amount of dedicated documentary tax revenues to fund state and local affordable housing programs. The Florida Association of Counties further supports increased flexibility to counties participating in the State Housing Initiative Partnership program to maximize the distribution of funds in a manner that more effectively implements each county's local housing assistance plan, adopted local housing incentive strategies, housing-related priorities, and funding for housing projects; and also achieves greater housing availability and affordability for essential service personnel, very low-income, low-income and moderate-income residents, and residents with special housing needs consistent with each county's housing market.

CUA 8. The Florida Association of Counties supports the development and maintenance of dedicated funding of the Florida Forever Grant Program and Florida Communities Trust which provide recreational opportunities for parks, open space, greenways and trails to help meet growth challenges and protect natural resources.

CUA 9. The Florida Association of Counties supports the distribution of land management appropriations to local governments in proportion to the percentage of public conservation lands managed within local jurisdictions.

CUA 10. The Florida Association of Counties supports broad county authority to regulate the location and number of medical marijuana facilities within county boundaries.

Transportation

FAC believes that Florida's transportation system is a vital component in building and sustaining communities, moving people and goods, and developing competition at local and regional levels, and on a national scale. Florida's counties play a critical role in the state's transportation system. Florida's counties should be recognized as major partners in the maintenance and development of Florida's transportation infrastructure and provided levels of funding and authority that adequately reflect their role in the state's transportation system.

CUA 11. The Florida Association of Counties supports funding for all modes of the state and local transportation infrastructure network.

CUA 12. The Florida Association of Counties supports policies and funding that encourage and facilitate more efficient and effective use of regional transportation solutions.

CUA 13. The Florida Association of Counties supports increased critical state funding for the Small County Road Assistance program (SCRAP).

CUA 14. The Florida Association of Counties supports increased state funding for the Small County Outreach Program (SCOP).

CUA 15. The Florida Association of Counties supports policies providing for Strategic Intermodal System funds to be used on roads and other transportation facilities not designated on the SIS network if the improvement relieves congestion on the SIS.

CUA 16. The Florida Association of Counties opposes any effort to divert revenues from the state transportation trust fund for non-transportation purposes.