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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 96-410 Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STREAMLINING GOVERNMENTAL REGULATIONS
FINAL BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 751

RELATING TO: Administrative Procedures

SPONSOR(S): Select Committee on Streamlining Governmental Regulations and Representative Peadar Kirby

STATUTE(S) AFFECTED: Various statutes conforming cross references, ss. 120.60 and 218.65, F.S.

COMPANION BILL(S): SB 316 by Senator Thomas

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) STREAMLINING GOVERNMENTAL REGULATIONS YEAS 8 NAYS 0
- (2) FINANCE AND TAXATION (W/D)
- (3) APPROPRIATIONS (W/D)
- (4)
- (5)

I. SUMMARY:

This bill conforms the statutes to the revision of the Administrative Procedure Act, chapter 120, Florida Statutes, enacted in chapter 96-159, Laws of Florida (CS/SB's 2290 & 2288). It amends section 120.60, Florida Statutes, as amended by 96-159, Laws of Florida, to conform the new revision to current law.

The bill provides that once a county with a 50,000 population or less qualifies for specific provisions under certain enumerated statutes, it retains that qualification until its population reaches 75,000. The specific statutes are as follows: sections 40.015(1), 163.05(3), 163.3177(6)(i), 163.3191(12)(a), 212.055(2)(d)1., 212.055(2)(j), 218.075, 218.65, 252.373(3)(a), 265.286(1)(c), 403.706(4)(d), and 403.7095(7)(a), Florida Statutes.

The bill also amends section 218.65, Florida Statutes, to clarify the distribution of funds from the Local Government Half-Cent Sales Tax Program Trust Fund.

It appears that this bill would have an indeterminate fiscal impact on small counties and state government.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

During the 1996 Regular Session, the Legislature passed a complete revision of chapter 120, Florida Statutes, the Administrative Procedure Act. This revision, chapter 96-159, Laws of Florida (CS/SB 2290 & 2288), reorganized many of the provisions of the act and substantially changed many of the section numbers. Since the Administrative Procedure Act governs the procedural aspects of the operations of state government, it would cause considerably confusion if the cross references to the act were not corrected. Otherwise, it would be a year before the Division of Statutory Revision could prepare a revisor's bill to correct the cross references to the new act.

According to the Economic and Demographic Research Division, Joint Legislative Management Committee, there are 30 counties with a population of 50,000 or less as of April 1, 1995. These counties include in order from largest to smallest: Nassau, Jackson, Gadsden, Flagler, Sumter, Walton, Okeechobee, Suwannee, Levy, Hendry, DeSoto, Bradford, Hardee, Baker, Washington, Madison, Taylor, Holmes, Wakulla, Jefferson, Gulf, Union, Hamilton, Dixie, Calhoun, Gilchrist, Franklin, Glades, Liberty, and Lafayette. There are two counties that have a population between 50,000 and 75,000 -- Columbia and Putnam.

Section 40.015(1), Florida Statutes, provides that the chief judge, with the approval of a majority of the circuit court judges of the circuit, may create a jury district in any county having a population exceeding 50,000 according to the last decennial census. The county must have one or more locations, other than the county seat, where trials are held.

Chapter 92-309, Laws of Florida, established the small county technical assistance program for counties with a population of 50,000 or less. The program provides technical assistance to small counties to enable them to implement workable solutions to financial and administrative problems. The program is administered by the Comptroller and is codified at section 163.05(3), Florida Statutes.

Units of local government having populations of 50,000 or less are not required to have a mass-transit element or a traffic circulation element included in its comprehensive plan under section 163.3177(6)(i), Florida Statutes. For counties with populations over 50,000, these elements of the plan are mandatory not optional.

Section 163.3191(12)(a), Florida Statutes, authorizes the state land planning agency to enter into a written agreement with counties with fewer than 50,000 residents so that the jurisdiction may focus its planning resources on selected issues or elements in its comprehensive plan.

A county with a population of less than 50,000 may use the proceeds or any interest accrued from the local government infrastructure surtax, under section 212.055(2)(d)1., Florida Statutes, for long-term maintenance costs associated with the closure of solid waste landfills.

Currently, there is no section 212.055(2)(j), Florida Statutes, in the 1995 version of the Florida Statutes. Section 212.055(2)(i), Florida Statutes, provides that a county may not levy a local option sales surtax authorized by subsections (2), (3), (4), (5), and (6) of section 212.055, Florida Statutes, in excess of a combined rate of one percent. Prior to

1993, this provision was paragraph (j) of this section. This paragraph was re-lettered as paragraph (i) by chapter 93-222, Laws of Florida.

The Department of Environmental Protection and the water management district are required to reduce or waive permit processing fees, pursuant to section 218.075, Florida Statutes, for counties with a population of 50,000 or less based upon fiscal hardship or environmental need for a particular project.

If a county has a population of 50,000 or above, participates in the local government half-cent sales tax, and meets the other requirements of subsection (2) of section 218.65, Florida Statutes, it shall receive a monthly emergency distribution in addition to its regular monthly distribution under part vi of chapter 212, Florida Statutes. The distribution is from the Local Government Half-cent Sales Tax Clearing Trust Fund.

Section 252.373, Florida Statutes, governs the allocation of appropriated funds from the Emergency Management, Preparedness, and Assistance Trust Fund as allocated by the Department of Community Affairs. Subsection (3) of this section provides that the department shall allocate funds to local emergency management agencies and programs if the program has a director who works at least 40 hours a week, or has a emergency management coordinator who works at least 20 hours a week in a county that has fewer than 50,000 population or is a party to a recognized inter-jurisdictional emergency management agreement pursuant to section 252.38(3)(b), Florida Statutes.

The Department of State administers the Cultural Institutions Trust Fund which supports the State Touring Program in the amount of \$200,000, pursuant to section 265.2861(1)(c), Florida Statutes. First priority for grants under this program is to be given to applicants that reside in counties with a population of 50,000 or less.

Recycling goals for each county are provided in section 403.706(4), Florida Statutes. Counties with populations of 50,000 or less, under paragraph (d) of that section, may provide their residents with the "opportunity to recycle" rather than meeting the goals provided by paragraph (a) of that subsection.

Solid waste management recycling and education programs are funded through the grant program established by section 403.7095, Florida Statutes, and developed by the Department of Environmental Protection. This section provides the distribution formula for the grants to counties over 50,000 in population. Paragraph (a) of subsection (7) of this section provides that annual solid waste and recycling grants shall be available to counties with populations fewer than 50,000. The sum of \$50,000 shall be available annually to each eligible county from the Solid Waste Management Trust Fund through the year 1996.

B. EFFECT OF PROPOSED CHANGES:

This bill conforms the Florida Statutes to the changes made in the revision of chapter 120, Florida Statutes by chapter 96-159, Laws of Florida (CS/SB's 2290 & 2288).

Section 120.60, Florida Statutes, as amended by chapter 96-159, Laws of Florida, is amended to return the time frames under the licensing provisions to current law.

The bill also provides that once a county qualifies under the following statutes, (with a population of 50,000 or less) the county retains that qualification until its population exceeds 75,000.

The statutes include the following:

- section 40.015(1), Florida Statute, relating to jury districts;
- section 163.05(3), Florida Statutes, relating to small county assistance;
- section 163.3177(6)(i), Florida Statutes, relating to optional elements in the comprehensive plans;
- section 163.3191(12)(a), Florida Statutes, relating to written agreements with the state land planning agency;
- section 212.055(2)(d)1., Florida Statutes, relating to the use of local government infrastructure surtax proceeds and interest for long-term maintenance costs of landfill closures;
- section 212.055(2)(j), Florida Statutes, which is referenced in the bill as relating to using the local government infrastructure surtax proceeds and interest for the operation of parks and recreation programs and facilities established with the proceeds of the surtax, but does not exist in the current version of the 1995 Florida Statutes;
- section 218.075, Florida Statutes, relating to reduction or waiver of permit processing fees;
- section 218.65, Florida Statutes, relating to emergency distribution of funds from Local Government Half-cent Sales Tax Clearing Trust Fund;
- section 252.373(3)(a), Florida Statutes, relating to funds distributed from the Emergency Management, Preparedness, and Assistance Trust Fund;
- section 265.2861(1)(c), Florida Statutes, relating to priority for State Touring Program grants;
- section 403.706(4)(d), Florida Statutes, relating to recycling opportunities; and
- section 403.7095(7)(a), Florida Statutes, relating to annual solid waste and recycling grants.

The provisions of this section appear to be cumulative. It appears to require a county to qualify under each and every statutory provision. It provides that when a county qualifies under one statutory provision "and" the next one and so on, then it can retain that qualification until its population exceeds 75,000. If this is the case, it appears that no county can qualify under this provision because section 40.015(1), Florida Statutes, concerns counties that have a population of greater than 50,000 (not 50,000 or less) and this would prevent a county from qualifying for all of the statutory provisions.

C. SECTION-BY-SECTION ANALYSIS:

Sections 1 through 325. Conforms the statutes to the revision of the Administrative Procedure Act enacted in chapter 96-159, Laws of Florida (CS/SB's 2290 & 2288).

Section 326. Amends section 120.60, F.S., as amended by chapter 96-159, L.O.F., to conform the new revision to current law.

Section 327. Provides that once a county meets the 50,000 population threshold and qualifies for specific provisions under the cited statutes, the county retains that qualification until its population exceeds 75,000.

Section 328. Amends s. 218.65, F.S., to clarify distribution of funds from the Local Government Half-Cent Sales Tax Program Trust Fund and provides an effective date of July 1, 1996.

Section 329. Provides an effective date the same as CS/SB 2290 and 2288 which is October 1, 1996.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Providing that counties with a population of 50,000 or less that qualify for certain statutory provisions may retain that qualification until their population exceeds 75,000, will allow those counties to benefit from continued funding or continued reduction of the requirements under the programs specified in the bill. These counties will also avoid any additional costs that may be incurred if they were unable to continue under these programs.

2. Recurring Effects:

Same as above.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision of the Florida Constitution is inapplicable to the provisions of this bill. This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill also does not reduce the state tax shared with counties or municipalities.

V. COMMENTS:

This bill references section 212.055(2)(j), Florida Statutes, which does not exist in the 1995 version of the Florida Statutes. According to the Association of Counties, this provision was included in anticipation of the passage of SB 2892 by Senator Kirkpatrick, however, SB 2892 did not create a new paragraph (j). This bill amended section 212.055(2), Florida Statutes, by adding a new paragraph (i) and relettering (i) to (j). The new paragraph provides that a county which has 40 percent or more of the just value of real property is exempt or immune from ad valorem taxation, and the municipalities located in that county, may use the proceeds and interest from the local government infrastructure surtax for operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax. SB 2842 died on the Senate Calendar but its provisions passed as an amendment to SB 2334 by Senator Jones.

The population estimates provided in this analysis are prepared by the Bureau of Economic and Business Research of the University of Florida. The estimates are prepared under contract with the Economic and Demographic Research Division of the Joint Legislative Management Committee pursuant to section 186.901, Florida Statutes.

An similar bill, HB 1309, was introduced last session by Rep. Peaden and referred to the Select Committee on Streamlining Governmental Regulations, the Committee on Finance & Taxation Committee, and the Committee on Appropriations. It was passed by the select committee as a committee substitute. The committee substitute died on the House Calendar.

Bill History

HB 751 was heard by the Select Committee on Streamlining Governmental Regulations on February 19, 1996 and reported favorably as a committee substitute. It was withdrawn from the Committee on Finance & Taxation on March 19, 1996 and from the Committee on Appropriations on April 17, 1996. The bill was heard by the House on May 2, 1996 and passed as amended, 117 -0. The Senate substituted CS/HB 751 for CS/SB 316, amended it,

and passed it as amended, 37-0 on May 3, 1996. The House concurred in the Senate amendments and passed the bill as amended on May 3, 1996. The bill became law without the Governor's signature on June 5, 1996.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee substitute added small municipalities to the requirement that agencies consider the impact of their rules on small businesses and small counties. The agencies are required to "tier" their rules to lessen the impact on these entities.

CS/HB 751 was amended on the floor by a "strike everything after the enacting clause" amendment that included provisions that conform the Florida Statutes to the changes made in the revision of chapter 120, Florida Statutes, chapter 96-159, Laws of Florida (CS/SB's 2290 & 2288). The amendment was further amended to include provisions that allowed counties, which had qualified under certain statutes as a county with a population of less than 50,000, to retain that qualification indefinitely. The amendment also amended section 218.65, Florida Statutes, to clarify the distribution of funds from the Local Government Half-Cent Sales Tax Program.

The bill was amended further in the Senate to put a population cap of 75,000 on the qualification of small counties under the House amendment. The bill also amended section 120.60, Florida Statutes, as amended by chapter 96-159, Laws of Florida, (CS/SB's 2290 & 2288) to return the time frames for licensing to current law.

VII. SIGNATURES:

COMMITTEE ON Streamlining Governmental Regulations:

Prepared by:

Staff Director:

Patrick L. "Booter" Imhof

Jimmy O. Helms

FINAL ANALYSIS PREPARED BY COMMITTEE ON STREAMLINING GOVERNMENTAL REGULATIONS:

Prepared by:

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