LOCAL BILL POLICIES AND PROCEDURES MANUAL 2015-2016

Local and Federal Affairs Committee

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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:

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317 House Office Building
402 South Monroe Street
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House Bill Drafting Service
Florida House of Representatives
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REVISIONS FOR 2016

The following changes to this manual and the specified local bill forms have been made for the 2016 Regular Session:

Local Bill Certification Form

- Added text clarifying the requirement for filing an Economic Impact Statement.

Economic Impact Statement Form

- Revised the date-ranges for certain data to 2016-2017 and 2017-2018.
- Expressly requests a description of potential impacts on present governmental services.
- Removed a provision designed to capture the estimated impact upon competition and the open market for employment.
- Added a provision for the document preparer to certify whether she/he has the required qualifications and knowledge to prepare the statement.

Local Bill Amendment Form

- Added a requirement to state whether the amendment is in a committee or on the floor.
- If the amendment alters the economic impact of the bill, requires a statement of whether and where the revised economic impact statement was filed.

Local Bill Policy and Procedures Manual

- Revised page 3 to more accurately state the bill filing deadline in House Rule 5.2(a).

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CHAPTER 1
Local Bill Basics

I. INTRODUCTION TO LOCAL BILLS

1. DEFINITION

A local bill is legislation relating to (or designed to operate only in) a specifically indicated part of the state or purporting to operate within classified territory when such classification is not permissible or legal in a general bill.[1] Local bills, when passed by the Legislature and not vetoed by the Governor, result in local laws. These are commonly referred to as "special acts."

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;[2] 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 local bill usually is requested by one of the following:

- A member of a local legislative delegation;
- The county governing body;
- The municipal governing body;
- A locally elected official;
- A special district or other local entity; or

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[1] *State ex rel. Landis v. Harris*, 163 So. 237, 240 (Fla.1934).
[2] The bill should identify the specific sections and subsections of statute from which the local area is being exempted.

- 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[3] 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 to consider the proposed local bill, a local public hearing is scheduled. 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 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 reviews all drafts, correcting any technical errors and making other changes to conform to the requirements of the Florida Constitution, Florida Statutes, and House Rules.

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. If the bill is subject to a vote of the citizens (referendum), this legal advertisement is not required.

An affidavit of proof of publication of the legal advertisement is furnished by the newspaper that published the notice.

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[3] A legislative delegation is a group of legislators who represent parts of the same county or geographical area, meet to hear issues, consider requests for funding, and afford citizens an opportunity to discuss issues of concern. A list of the local legislative delegations is found at http://www.myfloridahouse.gov.

An 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 is attached to the original copy of the bill when filed with the House Clerk or Senate Secretary.

Pursuant to House Rule 5.2, all local bills **must** be approved for filing with the Clerk no later than noon of the first day of the regular session.

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 Government Affairs Subcommittee as soon as possible after a bill is filed. (The forms are available at 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 must be noticed and open to the public. 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.

The Florida Attorney General has suggested the following guidelines:[4]

- 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).

- 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.

[4] 94-62 Fla. Op. Att'y Gen. (1994) *available at* http://www.myfloridalegal.com/ago.nsf/Opinions/305C1550D66DBD5E85256221004C238B.

II. NOTICE REQUIREMENTS FOR LOCAL BILLS

Before a local bill may be introduced into the Legislature, the requirements of article III, section 10, of the Florida Constitution,[5] as well as relevant provisions of ch. 11, F.S., must be met. In limited situations, a referendum in lieu of notice may be appropriate.[6]

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.[7]

Publication may be either 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 that county, including the courthouse.

In order to qualify as a newspaper of general circulation, a publication must conform to the following:[8]

- 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;
- 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).

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[5] FLA. CONST. art. III, s. 10. **"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.

[6] *See* Chapter 1, Section III, Part 1 of this manual for more information.

[7] Section 11.02, F.S., implementing article III, section 10, Florida Constitution.

[8] Ss. 50.011 & 50.031, F.S.

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.[9] A sample affidavit of proof of publication is provided in s. 11.03, F.S., and a link also appears in Appendix B of this manual.

2. NOTICE OF LEGISLATION FORMAT

An example of a notice of legislation is as follows:

> **NOTICE OF LEGISLATION [or]**
>
> **NOTICE OF INTENT TO SEEK LEGISLATION**
>
> **TO WHOM IT MAY CONCERN**: Notice is hereby given of intent to apply to the 2014 Legislature for passage of an act relating to Lee County, amending chapter 2000-000, Laws of Florida, relating to sales at auction, to exempt from the provisions thereof specified persons and firms; providing an effective date.

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, it is recommended that the notice include language that broadens the applicability to special or extended sessions, i.e., "intent to seek legislation before the 2014 Legislature, or 2014 Legislative Sessions, or 2014 Legislature and any Special or Extended Sessions."

For more information on the notice provision and drafting local bills, see *Guidelines for Bill Drafting* (2011), pp. 8 – 12, and *Drafting Local Legislation in Florida* (1995), both published by House Bill Drafting Service.

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 function of the notice requirement is to provide reasonable notice to a person whose interests may be directly affected by the proposed legislation so that he or she may inquire further into the details

[9] Ss. 11.021 & 11.03, F.S.

of the local bill and, if he or she so desires, seek to prevent enactment or to persuade the Legislature to change the substance of the proposed bill.

4. SUBSTANTIVE AMENDMENTS MUST CONFORM TO NOTICE REQUIREMENTS

Any substantive amendments to a local bill must conform to the notice requirements set out in article III, section 10, of the Florida Constitution, and s. 11.02, F.S. If an amendment substantially changes a bill as it was noticed, a constitutional problem may be created.

To avoid a potential constitutional challenge a 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 property from the district," the advertisement might state "excluding property from the district." Such an advertisement allows for unforeseen controversies to be resolved by amending the bill without affecting its notice.

There are times when a local bill passes the House with provisions that may create a defective notice. Once the bill is received by the Senate, the engrossed bill is reviewed by Senate staff. Constitutional concerns may be brought to the attention of the Senate, and the Senate may remove those provisions by amendment, thus correcting a potentially defective notice.

5. NOTICE ARRANGEMENT AND PAYMENT

Those parties most interested in the passage of the bill (a member of the Legislature, 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

Under article III, section 10 of the Florida Constitution, any local bill not properly advertised in advance must be conditioned upon approval of the affected voters. 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.

While referendum approval is not required for most local bills, in the case of certain bills (such as bills that create municipalities), legislators often allow the affected voters to decide and place a referendum requirement in a local bill as a matter of policy.

2. BOTH REFERENDUM AND NOTICE MAY BE REQUIRED

A referendum must be held for a local bill, even if the local bill is properly advertised in a newspaper, whenever the bill does the following:

- Creates or revises certain ad valorem taxing power, authorizes certain ad valorem millage rates, or provides for issuance of certain bonds.[10]

- Establishes, amends, or repeals a county charter.[11]

- 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.[12]

- 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.[13]

- 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 a local bill or general bill of local application. This action must be approved by the electors of each county.[14]

- 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.[15]

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[10] Fla. Const. art. VII, ss. 9(b) and 12(a). *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).
[11] Fla. Const. art. VIII, s. 1(c).
[12] Fla. Const. art. VIII, s. 1(d). 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.
[13] Fla. Const. art. VIII, s. 3.
[14] Fla. Const. art. IX, s. 4(a).
[15] Fla. Const. art. IX, s. 5.

IV. REQUIRED HOUSE FORMS

1. REQUIRED LOCAL BILL FORMS

House policy requires that an original (1) Local Bill Certification Form and (2) Economic Impact Statement Form be submitted to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Local bill policy requires that no local bill be considered by the Local & Federal Affairs Committee or any other House committee or subcommittee without these completed forms. The Committee 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 Rules of the House 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

The Local Bill Certification Form is used by a local legislative delegation to certify the purpose of the bill cannot be accomplished at the local level; a public hearing has been held in the area affected by the bill; all constitutional, statutory, and policy requirements have been satisfied; and the required number of legislative delegation members have approved the bill.

b. Economic Impact Statement

The Economic Impact Statement provides a description of any economic impacts that may be created by the bill. House policy requires this form be prepared at the local level 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).

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.[16] For those local bills not providing for a ratifying referendum, House Rule 5.5(c) requires the affidavit of proper advertisement accompany the bill.

2. REQUIRED LOCAL BILL AMENDMENT FORMS

House policy requires all amendments to local bills, except technical amendments, must be accompanied by a Local Bill Amendment Form. This form explains the intent of and

[16] *See,* FLA. CONST art. III, s. 10 and ss. 11.02, 11.021, and 11.03, F.S. Section 11.03, F.S., provides a suggested form for the affidavit of publication.

need for the amendment, attests that the local legislative delegation has approved the amendment, and is signed by the legislative delegation chair. This policy applies to committee/subcommittee and floor amendments to local bills.

These amendments and forms must be reviewed by Local Government Affairs Subcommittee staff prior to consideration.

V. CONSTITUTIONAL & STATUTORY PROVISIONS FOR LOCAL BILLS

1. CONSTITUTIONAL AND STATUTORY NOTICE PROVISIONS

- Article III, section 4(e), of the Florida Constitution.
- Article III, section 10, of the Florida Constitution.
- Sections 11.02, 11.021, and 11.03, F.S.
- Sections 50.011 and 50.031, F.S.

2. LOCAL BILL STRUCTURE

According to article III, section 6, of the Florida Constitution:

- A bill must consist of one subject and matter properly connected therewith.
- A bill must have a title and the subject of the bill must be properly expressed in its title.
- No existing law may be amended by reference to its title only.
- In order 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.

3. LOCAL BILL EFFECTIVE DATE

Article III, section 9, of the Florida Constitution, provides that a law either takes effect 60 days after final adjournment of the Legislature or as provided in the act. Unlike the enacting clause, an effective date is not an essential component of a bill. However, nearly every bill includes such a date, or provides that the bill is effective upon becoming law, in its final section.

4. CONSTITUTIONAL PROVISIONS FOR SUBJECT MATTER

a. Local Bill Constitutionally Prohibited Subjects

Article III, section 11(a), of the 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);

(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;

(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;

(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."[17]

It is good practice to check this list before initiating a local bill. However, the reader should not assume a local bill on a particular topic not found on the "prohibited subjects list" is acceptable constitutionally.

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.[18]

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.*[19]

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[17] 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.). Taxation for school purposes and the Florida Education Finance Program (s. 1011.77, F.S.).
(9) State Building Code for Public Educational Facilities Construction (s. 1013.37(5), F.S.).

[18] Fla. Const. art. III, s. 13.

Conversely, Miami-Dade County may abolish boards or governmental units created by legislative special act applicable only to Miami-Dade County. The County also may change any duties, functions, benefits, or regulatory or restrictive effect of such an act.[20]

VI. HOUSE RULES REGARDING LOCAL BILLS

1. RULE 5.2—FILING DEADLINES

(a) 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.[21]

(b) No ceremonial resolution shall be given first reading unless approved for filing with the Clerk before the 46th day of the regular session.

2. RULE 5.3—LIMITATION ON MEMBER BILLS FILED

(a) A member may not file more than six bills for a regular session. Of the six bills, at least two must be approved for filing with the Clerk no later than noon of the 6th Tuesday before the first day of the regular session. For purposes of this rule, the member considered to have filed a bill is the first-named sponsor of the bill.

(b) Bills not counted toward these limits include: (1) Local bills, including local claim bills.

3. RULE 5.5—LOCAL BILLS

(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.

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[19] FLA. CONST. art. VIII, s. 11 (1885), retained by reference in FLA. CONST. art. VIII, s. 6(e) (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).

[20] *Chase v. Cowart*, 102 So. 2d 147 (Fla. 1958).

[21] 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.

(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. RULE 5.11—REQUIREMENTS FOR INTRODUCTION

(a) All bills … shall either be prepared or, in the case of local bills, reviewed by the House Bill Drafting Service. After completion and delivery by the House Bill Drafting Service, 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.

VII. LOCAL BILL PROCESS IN THE HOUSE

1. HOUSE PROCEDURAL REQUIREMENTS FOR LOCAL BILLS

The Local Government Affairs Subcommittee or the first committee/subcommittee of reference is required to verify the following:

- The required notice has been published; or
- A referendum, if required, is provided in the bill; and
- The required House forms have been filed.[22]

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

All substantive amendments to local bills must be accompanied by a completed Local Bill Amendment Form, signed by the chair of the legislative delegation. The form explains the intent of and need for the amendment and ensures that the local legislative delegation has approved the amendment. This form is needed for all local bill amendments, including floor amendments, with the exception of technical amendments. All amendments to local bills must be reviewed by Local Government Affairs Subcommittee staff before consideration by committees, by subcommittees, or on the floor.

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[22] See page 8 for a discussion of the forms required by House local bill policy.

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 calendar provides a means for House members to move large numbers of non-contentious local bills to the Senate in an expeditious manner. When a sufficient number of these bills are either voted out of or withdrawn from committees/subcommittees, the Special Order Calendar may designate an expedited "local bill calendar."

Voting on the expedited local bill calendar is achieved by a single roll call vote rather than individual votes on each bill. The single roll call vote is taken at the conclusion of the reading of the bills on the expedited local bill calendar.

Any member wishing to vote "no" on a local bill on the expedited calendar must file the appropriate form with the Clerk. The Clerk then adjusts the expedited local bill calendar vote count accordingly to reflect all registered "no" votes.

Removing a bill from the expedited calendar requires notice by five members during consideration of the bill. The notice may be presented by a raising of hands during the reading of the bill or in written form delivered to the chair of the Rules & Calendar Committee prior to the reading. A bill removed from the expedited calendar is placed at the end of the Special Order Calendar for that day.

VIII. SENATE LOCAL BILL PROCESS

Local bills are introduced in the Senate but to a lesser extent than in the House. Senate local bills typically are referred to the Senate committee responsible for rules and calendar (usually called "Rules," or "Rules and Calendar") but occasionally are referred first to the Community Affairs Committee. Most of the time, a Senate local bill is then held in the first committee to which it is referred until the House passes and sends to the Senate its version of the bill. Upon receipt in the Senate, the House bill will be referred to the Senate Rules Committee (even if the Senate version is pending in a different committee), immediately withdrawn from the Rules Committee, placed on the Senate Local Calendar, and subsequently proceed to final vote in the Senate.

A Senate local bill usually is analyzed only to determine whether it complies with the legal requirements for a local bill. However, local bills creating an exemption from general law or relating to more than one county may be required to have a substantive Senate committee reference. Thus, it is strongly recommended that local bills with these characteristics be filed in both the House and Senate. This strategy reduces the possibility of the bill not being heard if Senate substantive committees are no longer meeting by the time the bill is passed by the House.

CHAPTER 2
Special Districts

I. DEFINITION

A special district is a unit of local special-purpose government that operates within limited boundaries and has a governing board. Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission (FLWAC);[23]

The following entities are not special districts:

- Units of local general-purpose government (municipalities and counties);
- School districts;
- Community college districts;
- Municipal service taxing or benefit units;[24]
- Seminole and Miccosukee tribe special improvement districts created under s. 285.17, F.S.; and
- Boards providing electrical services and are political subdivisions of a municipality or part of a municipality.

II. DEPENDENT VERSUS INDEPENDENT SPECIAL DISTRICTS

A dependent special district has at least one of the following characteristics:[25]

- 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.

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[23] Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least 2 Cabinet members.
[24] As specified in s. 125.01, F.S.
[25] S. 189.012, F.S.

- 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 does not have any characteristics of a dependent special district but may have one or more of the following characteristics:

- Boundaries covering more than one county.

- Boundaries exceeding those of a single municipality.

- Operating as an independent political subdivision within defined district boundaries.

- Having revenue raising authority such as ad valorem taxation, non-ad valorem assessments, fees, or charges on benefited property.

III. CREATING SPECIAL DISTRICTS

Independent special districts are created by the Legislature unless general law provides otherwise.[26] Dependent special districts may be created by an ordinance of a county or municipality having jurisdiction over the affected area.[27]

1. REQUIREMENTS FOR LEGISLATIVELY CREATED DISTRICTS

Certain unique requirements exist for legislatively created special districts. Statutory requirements relating to the creation of independent special districts by special act are contained in ch. 189, F.S.[28] The law prohibits the creation of independent special districts not conforming to the minimum statutory requirements. These requirements include the following:

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[26] S. 189.031, F.S.
[27] S. 189.02(1), F.S.
[28] 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*. While currently the law, these amendments will be enacted as the official statute law of the state during the 2015 regular session. *See*, s. 11.2421, F.S. (2013). For ease of reference, this manual refers to the renumbered sections in chapter 2014-22, Laws of Florida, for the current law.

- Providing a statement regarding the creation of the district; [29]
- Minimum charter requirements;[30] and
- Prohibiting certain exemptions.[31]

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;
- 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 is 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:[32]

- The district's purpose;
- The district's powers, duties, and functions regarding the following:
    - Ad valorem taxation;
    - Bond issuance;
    - Other revenue raising capabilities;

[29] S. 189.031(2)(e), F.S.
[30] S. 189.031(2)(a), F.S.
[31] S. 189.031(2)(b)-(d), F.S.
[32] S. 189.031(3), F.S.

    - 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;
- The authorized millage rate for a district which can levy ad valorem taxes;[33]
- The methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- Geographic boundary limitations.

After October 1, 1997, all special district charters must contain a status statement indicating whether the district is dependent or independent.[34]

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[33] 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.
[34] S. 189.031(5), F.S.

4. Laws that May Not be Exempted by a Local Bill Creating an Independent Special District

Pursuant to s. 189.031(2), F.S., local bills or general laws of local application creating an independent special district cannot exempt the district from the following general law provisions:

- The minimum requirements of s. 189.031(3), F.S.;
- The requirements and procedures for elections (s. 189.04, F.S.);
- Special district bond referenda requirements (s. 189.042, F.S.);
- Bond issuance reporting requirements (s. 189.051, F.S.);
- Special district public facilities reports (s. 189.08, F.S.);
- Special district meetings and notice (s. 189.015, F.S.); and
- Special district reports, budgets, and audits (s. 189.016, F.S.).

5. Referendum Requirement to Create 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.

6. Special Districts Statutory Provisions

Numerous Florida Statutes pertain to special districts. These laws 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

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 the special district codification effort is to produce an up-to-date and reader-friendly document.[35]

2. REQUIREMENTS FOR CODIFYING SPECIAL DISTRICT CHARTERS

By December 1, 2004, each special district must have submitted a draft codified charter to the Legislature for reenactment.[36] The codified act is filed with the Department of Economic Opportunity within 30 days after adoption.[37]

3. STATUTORY DEADLINE FOR CODIFIED CHARTERS

The statutory deadline for submitting charters to the Legislature for codification was December 1, 2004. However, any special district that has not yet submitted a draft codified charter to the Legislature for consideration is encouraged to do so – even after the statutory deadline. Submission of a draft codified charter is recommended for all special districts required to submit such a draft by December 1, 2004, and for which no codified charter has been enacted into law.

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[35] For a general example of an enacted charter recodification law, see chapter 2014-241, Laws of Florida, rechartering the Canaveral Port District.
[36] S. 189.019(1), F.S.
[37] S. 189.016(2), 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.[38] 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 sponsor of the measure.

5. SUBSTANTIVE CHANGES DURING CODIFICATION

Substantive changes to the charter may be made when codifying. It is advisable to identify any changes in background materials or information provided to the public, the governing board, and the Legislature.

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.[39] 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 Government Affairs Subcommittee.

When the Local Government Affairs Subcommittee receives a charter codification bill, all prior special acts are com
piled and merged into one document. Which prior acts have been repealed is 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.

- All local bills must be accompanied by the following:

[38] S. 189.031(5), F.S. The status statement is required to appear in the charter of any special district created after October 1, 1997.
[39] For an example of bill coding, see chapter 2014-22, Laws of Florida.

- Proof of publication;
- Completed and signed Local Bill Certification Form; and
- Completed and signed Economic Impact Statement.

- Because it is a local bill, a codification bill 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. SOME 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 Government 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 Government 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" below. This method is preferred by House Bill Drafting Service because it keeps the charter's provisions and the bill's provisions separate.

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. Have the Economic Impact Statement, Local Bill Certification Form, and Proof of Publication been completed and provided to the Local Government Affairs Subcommittee?

5. Is a status statement included in the codification bill?

6. Are the charter provisions numbered as part of the charter (rather than numbered as a bill section) and contained in one bill section?

7. Is the bill properly coded?

8. Does the bill preempt or exempt general law?

9. Does the bill include all valid provisions from prior special acts?

10. Have prior acts that have been repealed been identified?

11. Do the bill's repealer provisions expressly repeal all prior special acts pertaining to the district's charter?

12. If any existing provisions should be left intact, is that language included?

13. Has all information regarding the outcome of all prior required referenda been provided to the Committee?

14. If the district's boundaries have been changed or modified since the district's creation, has the proper documentation been submitted?

15. 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.[40]

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. Ordinarily, the organizational structure of a legislative delegation changes each election year.

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 Government 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.

[40] *See*, for example, s. 125.61, F.S.

APPENDIX B

Required House Forms

The following forms are available at http://myfloridahouse.gov/Sections/Committees/committees.aspx.

Local Bill Certification Form

Economic Impact Statement

Sample Affidavit of Notice of Publication

Local Bill Amendment Form

APPENDIX C

Resources for Local Bills

Local Government 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 Government Affairs Subcommittee
Florida House of Representatives
317 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300
(850) 717-4860

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, 2015-2016, 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.

Drafting Local Legislation in Florida, 1995, prepared by House Bill Drafting Service, Florida House of Representatives, Tallahassee, Florida.

Guidelines for Bill Drafting, 2011, 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. 2014-243, Laws of Fla. (2014 CS/HB 1145)
- 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 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 Containing All New Text – Ch. 2014-244, Laws of Fla. (2014 HB 1199)
- Bill Containing Codification Language – Ch. 2014-241, Laws of Fla. (CS/HB 1023)

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.,[41] 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."[42] 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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[41] 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.

[42] 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.[43]

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.[44]

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.[45] Although not bound by such opinions, Florida courts give them great weight when interpreting the laws and statutes.[46]

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.[66 (in original)]

[66(in original)] 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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[43] 83-27 Fla. Op. Att'y. Gen. 69 (May 5, 1983).
[44] 2003-54 Fla. Op. Att'y. Gen. (November 3, 2003).
[45] S. 16.01(3), F.S.
[46] *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."[47]

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.

[47] 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 Bill Drafting* (2011), and *Drafting Local Legislation in Florida* (1995).