

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1301

Violations of County Ordinances

**SPONSOR(S):** Rader

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 1980

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Military &amp; Local Affairs Policy Committee</u>	<u>13 Y, 0 N</u>	<u>Fudge</u>	<u>Hoagland</u>
2)	<u>Public Safety &amp; Domestic Security Policy Committee</u>	<u>10 Y, 0 N</u>	<u>Cunningham</u>	<u>Cunningham</u>
3)	<u>Economic Development &amp; Community Affairs Policy Council</u>	<u></u>	<u>Fudge</u>	<u>Tinker</u>
4)	<u></u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

Part III of Chapter 112, F.S., contains various statutes that set forth standards of conduct for state and local government employees. These statutes also contain various disclosure requirements for state and local government employees.

Section 112.326, F.S., authorizes the governing body of any political subdivision to impose upon its own officers and employees, by ordinance, additional or more stringent standards of conduct and disclosure requirements than those specified in Part III of ch. 112, F.S., provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of Part III of ch. 112, F.S. Generally, violations of county ordinances are prosecuted in the same manner as misdemeanors and are punishable by a fine not to exceed \$500 and/or by imprisonment in the county jail not to exceed 60 days.

The bill authorizes counties to specify, by ordinance, that a violation of any provision of an ordinance imposing standards of conduct and disclosure requirements pursuant to s. 112.326, F.S., is punishable by a fine not to exceed \$1,000 or a term of imprisonment in the county jail not to exceed one year.

The bill does not appear to have a fiscal impact and is effective July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

The Florida Constitution recognizes two types of county government: counties that are not operating under a county charter and counties that are operating under a county charter. The main difference between charter and non-charter county power is that a charter county has the power of self-government not inconsistent with general or special law,<sup>1</sup> while a non-charter county only has "such power of self-government as is provided by general or special law."<sup>2</sup>

##### Standards of Conduct

Part III of Chapter 112, F.S., contains various statutes that set forth standards of conduct for state and local government employees. For example, s. 112.313, F.S., sets forth standards of conduct for public officers, employees of agencies, and local government employees; and s. 112.3136, F.S., sets forth standards of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions. Part III of Chapter 112, F.S., also contains various disclosure requirements for state and local government employees.

Currently, a person who violates any of the standards of conduct or disclosure requirement provisions in Part III of Chapter 112, F.S., is subject to various penalties set forth in s. 112.317, F.S. These penalties currently include impeachment, removal from office, suspension from office, demotion, dismissal, reduction in salary level, public censure and reprimand, forfeiture of salary, restitution, and civil penalties.

##### County Ordinances

Section 112.326, F.S., authorizes the governing body of any political subdivision to impose upon its own officers and employees, by ordinance, additional or more stringent standards of conduct and disclosure requirements than those specified in Part III of ch. 112, F.S., provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of Part III of ch. 112, F.S.

County ordinances must be filed with the Secretary of State<sup>3</sup> and persons violating such ordinances are prosecuted and punished as provided by law.<sup>4</sup> Section 125.69(1), F.S., provides that violations of

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<sup>1</sup> Art. VIII, § 1(g), Fla. Const.

<sup>2</sup> Art. VIII, § 1(f), Fla. Const.

<sup>3</sup> Art. VIII, § 1(i), Fla. Const.

county ordinances are prosecuted in the same manner as misdemeanors in the name of the state in a court having jurisdiction of misdemeanors and are punishable by a fine not to exceed \$500 and/or by imprisonment in the county jail not to exceed 60 days.<sup>5</sup>

### **Effect of Proposed Changes**

The bill authorizes counties to specify, by ordinance, that a violation of any provision of an ordinance imposing standards of conduct and disclosure requirements pursuant to s. 112.326, F.S., is punishable by a fine not to exceed \$1,000 or a term of imprisonment in the county jail not to exceed one year.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 125.69, F.S., relating to penalties; enforcement by code inspectors.

Section 2: This bill takes effect July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Counties enacting ordinances authorized by the bill may generate revenues through the additional fines.

2. Expenditures:

Counties may experience increased expenditures from imprisoning violators in county jails.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

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<sup>4</sup> Art. VIII, § 1(j), Fla. Const.

<sup>5</sup> A county may also specify, by ordinance, a violation of which is punishable by a fine between \$500 and \$2,000 per day, if such enforcement authority is necessary to carry out a federally mandated program. Section 125.69(1), F.S.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**