

## **LOCAL GOVERNMENT FINANCE**

### **CS/CS/CS/SB 708 — Local Government Accountability**

by Appropriations Committee; Finance and Taxation Committee; Education Committee; and Senator Atwater

This bill addresses issues of local government financial accountability based on the Auditor General's performance audit of the Local Government Financial Reporting System (AG Report 01-075) and recommendations from other state agencies and local governments. The bill:

- Expands the authority of the Legislative Auditing Committee to ensure compliance with local government reporting requirements;
- Simplifies statutory provisions relating to the filing of complaints for bond validation and bond refunding issues;
- Clarifies that special districts have the authority to provide some form of health insurance benefit to their officers and employees;
- Provides additional authority to the Department of Management Services, Division of Retirement, to compel local governments to respond timely to requests for actuarial information for local pension plans;
- Provides procedures for amending budgets of municipalities and special districts;
- Amends and clarifies procedures for dissolving municipalities and special districts;
- Requires information to clarify classification of special districts upon creation;
- Permits a candidate of a district board of trustees of a fire control board to not appoint a campaign treasurer or designate a primary campaign depository if they do not collect any contributions and the only expense is the filing fee, and provides that any board member who ceases to be a qualified elector is automatically removed from the board;
- Amends notification requirements for counties to report missing county officer fee reports to match current practice;
- Revises the Local Government Financial Emergencies Act to reflect new accounting standards, to provide for an improved process for designating local governments as being in a financial emergency, and to clarify the applicability of the financial emergency law to district school boards;
- Repeals restrictions which are inconsistent with other provisions in law pertaining to local governments bond or reporting issues; and
- Creates a pilot program for Monroe County to provide, through a non-profit corporation, a self-insurance plan, approved by the Office of Insurance Regulation, to insure residents of the county who are unable to obtain health insurance.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 113-0*

### **CS/SB 1738 — Tax Liens/Homestead Exemptions**

by Appropriations Committee and Senator Fasano

The bill extends the statute of limitations from 5 years to 20 years for a tax lien imposed under s. 196.161, F.S., relating to the fraudulent receipt of homestead exemption.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 37-0; House 116-0*

### **CS/SB 2264 — Discretionary Sales Surtaxes**

by Finance and Taxation Committee and Senator Smith

The bill authorizes all charter counties eligible to levy the Charter County Transit System Surtax to use up to 25 percent of surtax proceeds for non-transit purposes.

In addition, the bill restricts counties with a population of 75,000 or less, if otherwise qualified, from using the proceeds of the local government infrastructure surtax for the operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax. In addition, it amends the qualification criteria and clarifies the extent of the authority to use the proceeds for these purposes for counties with a population of 75,000 or more.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 116-0*

## **GROWTH MANAGEMENT**

### **CS/CS/SB 162 — Land Development Regulation**

by Judiciary Committee; Comprehensive Planning Committee; and Senator Bennett

This bill provides that a development order issued by a local government under its adopted land development regulations, which is not the subject of a pending appeal and where the time for filing an appeal has expired, may not be abrogated by a subsequent judicial determination that such land development regulations, or a portion thereof, are invalid because of a deficiency in approval standards. The bill states that its provisions do not preclude or affect any other remedy available at law or equity, including a common law writ of certiorari proceeding under Rule 9.190, Florida Rules of Appellate Procedure, or an original proceeding pursuant to s. 163.3215, F.S. The provisions of this bill apply retroactively to any development order granted on or after January 1, 2002.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 113-4*

### **HB 539 — Developments of Regional Impact**

by Rep. Justice and others (CS/SB 1310 by Comprehensive Planning Committee and Senator Jones)

The bill (Chapter 2004-10, L.O.F.) provides that individual use guidelines and standards for residential, hotel, motel, office, and retail developments shall be increased by 100 percent for multiuse developments in urban central business districts and regional activity centers if one land use of the multiuse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. In addition, the bill creates a presumption that the extension of the date of buildout of an areawide development of regional impact by more than five years but less than 10 years does not create a substantial deviation which would subject the development to additional development-of-regional-impact review.

These provisions were approved by the Governor and take effect July 1, 2004.

*Vote: Senate 40-0; House 116-0*

### **CS/CS/SB 2188 — Land Development**

by Finance and Taxation Committee and Comprehensive Planning Committee

The bill clarifies that lands available for taxes which revert to the county 3 years after being offered for public sale shall escheat to the county free and clear of all tax certificates, accrued taxes, and liens of any nature. It requires the clerk to issue an escheatment tax deed which vests title in the board of county commissioners. Further, the bill provides immunity for the county from environmental liability associated with properties that escheat to the county. It allows the county and the Department of Environmental Protection to enter into a written agreement addressing investigative and remedial activities for the property.

This bill provides legislative findings on the lack of affordable rentals for very-low-income, low-income, and moderate-income persons. The bill makes a finding that encouraging local governments to permit accessory dwelling units to increase the availability of affordable rentals serves a public purpose. It provides definitions and authorizes a local government to adopt an ordinance allowing accessory dwelling units (ADUs) in any areas zoned for single-family residential use based upon a finding that there is a shortage of affordable rentals. Building permit applications for an ADU under an ordinance adopted pursuant to this provision must include an affidavit from the applicant attesting that the unit will be rented at an affordable rate. Each ADU that is allowed under an ordinance adopted under this section shall count towards the affordable housing component of the housing element in the local government's comprehensive plan. The bill requires the Department of Community Affairs to report to the Legislature on January 1,

2007, regarding the effectiveness of using ADUs to address a local government's shortage of affordable housing.

This bill provides legislative findings regarding the benefits of mixed-use, high density development and requires the Department of Community Affairs to provide technical assistance to encourage mixed-use, high density urban infill and redevelopment projects. In addition, the bill contains legislative findings regarding transfer of development rights programs in urban areas and requires the Department of Community Affairs to provide technical assistance in order to promote the transfer of development rights for urban infill and redevelopment projects.

The bill requires a local government to address water supply sources necessary to meet existing and future water use demands in its comprehensive plan and revises the deadline for a local government to consider a regional water supply plan in its comprehensive plan. It also requires a local government's work plan for building water supply facilities to be updated at certain intervals.

Finally, the bill eliminates the pilot project status for the rural land stewardship area program. It requires the Department of Environmental Protection, the water management districts, and regional planning councils in addition to the Department of Community Affairs, to provide assistance to local governments in designating rural land stewardship areas. This bill provides that rural land stewardship area designation should be specifically encouraged as a future land use map overlay. Also, it allows for a multicounty rural land stewardship area. The 50,000-acre minimum threshold for a rural land stewardship area is reduced to 10,000 acres and the 250,000-acre maximum threshold is eliminated.

If approved by the Governor, these provisions take effect July 1, 2004.

*Vote: Senate 39-0; House 109-1*

### **CS/SB 2572 — Airport Zoning/Education Facilities**

by Comprehensive Planning Committee and Senator Garcia

This bill removes, for a limited number of qualified counties, a prohibition in s. 333.33, F.S., on the placement of educational facilities adjacent to or near airport facilities. However, the school board is required to hold a public hearing prior to site acquisition for such a facility.

If approved by the Governor, these provisions take effect July 1, 2004.

*Vote: Senate 39-0; House 116-2*

## **CONDOMINIUMS AND HOMEOWNERS' ASSOCIATIONS**

### **CS/CS/CS/SB 1184 — Condominium and Community Associations**

by Judiciary Committee; Health, Aging, and Long-Term Care Committee; Comprehensive Planning Committee; and Senators Campbell, Lynn, Garcia, and Smith

The bill provides immunity from liability to a condominium association and its authorized agent for providing information, other than that required by ch. 718, F.S., in good faith in response to a written request if the person providing the information includes a written statement as provided for in statute.

The bill provides immunity from liability under certain circumstances to community associations for damages caused by the use of an automated external defibrillator owned by the association. This bill also prohibits an insurer from requiring community associations to purchase medical malpractice liability coverage as a condition of issuing any other coverage carried by the association. Also, an insurer may not exclude damages resulting from the use of an automated external defibrillator from coverage under a general liability policy issued to a community association.

#### ***Condominium Associations***

The bill creates the Advisory Council on Condominiums to receive public input and make recommendations for changes in condominium law. The Office of the Condominium Ombudsman is created within the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation. The ombudsman must be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the Governor. The ombudsman shall make recommendations for legislation relating to division procedures, rules, jurisdiction, personnel and functions. The bill also authorizes fifteen percent of the total voting interests of a condominium association or six unit owners, whichever is greater, to petition the ombudsman to appoint an election monitor to attend the annual meeting and conduct the election of directors.

The bill authorizes voting by limited proxy on votes to forego retrofitting a condominium or cooperative with a fire sprinkler system. It also revises notice requirements relating to the vote to forego retrofitting.

The bill amends the Condominium Act to provide that a resale purchaser is entitled to receive from a nondeveloper, a question and answer sheet upon entering into a contract for sale and to require related disclosures in the resale purchase contract.

This bill provides that any amendment restricting condominium unit owners' rights relating to the rental of units applies only to unit owners who consent to the amendment or unit owners who purchase their unit after the effective date of the amendment.

### ***Homeowners' Associations***

This bill provides a method for reviving the expired declarations of covenants of a homeowners' association. The bill also amends several substantive provisions of ch. 720, F.S., relating to homeowners' associations. It redefines the term "member" to include any person or entity obligated by the governing documents to pay an assessment or amenity fee. The bill provides that parcel owners and members have the right to attend all meetings, and the right to speak for at least three minutes at meetings, provided that the parcel owner or member submits a request to speak prior to the commencement of the meeting. The bill also requires notice to parcel owners and members of all board meetings, and requires an association's board to address an item of business if 20 percent of the total voting interests petition the board. The board would have to take up the petitioned item at its next meeting or special meeting.

The bill requires associations to maintain a copy of their governing documents and records, and to provide parcel owners with copies requested, if a copy machine is available, during an inspection if the entire request is limited to no more than 25 pages. It requires associations to adopt reasonable rules that govern the inspection of the associations' records. The bill establishes financial reporting requirements and the format of financial statements. The bill establishes notice requirements for removal of directors. It provides the procedure for certification of the recall vote, for resolving a defective recall, for replacement of a recalled director and establishes dispute resolution procedures for recall and election disputes.

The bill expands flag display rights to include the right to display the official State of Florida and flags of the U.S. Armed Services. It prohibits "Strategic Lawsuits Against Public Participation" or "SLAPP" suits against a parcel owner, requires courts to award the prevailing party reasonable attorney's fees and costs, and bars associations from expending association funds in prosecuting a SLAPP suit against a parcel owner. It allows any parcel owner to construct an access ramp under certain circumstances. The bill also provides that parcel owners may display within 10 feet of any entrance to the home a sign of reasonable size provided by a contractor for security services.

In addition, the bill provides that a fine by an association against any member, tenant, guest, or invitee cannot become a lien against a parcel. It provides that in any action to recover a fine, the prevailing party is entitled to collect reasonable attorney's fees and costs. The bill establishes requirements for associations' contracts for products and services.

This bill revises notice requirements for a homeowners' association meeting at which the board intends to take action on any rules regarding the use of parcels or the board will consider assessments. It provides disclosure requirements for sellers of property in a community governed by a homeowners' association and allows a prospective purchaser to void a contract under certain circumstances for failure to receive the disclosure summary.

The bill provides a cause of action to rescind the contract for sale or for damages against a developer for false or misleading material statements. The bill grants the county courts original jurisdiction over disputes occurring in homeowners' associations, and provides for concurrent jurisdiction in the circuit courts.

### ***Community Development Districts***

The bill revises the Uniform Community Development District Act of 1980 to allow a community development district governing board to enforce deed restrictions (in specified circumstances), to correct deficiencies in the district dissolution process, and to correct deficiencies in district elections policies and procedures.

If approved by the Governor, these provisions take effect October 1, 2004.

*Vote: Senate 22-10; House 94-8*

### **SB 1728 — Condominiums and Cooperatives**

by Senator Fasano

The bill allows the unit owners in a residential condominium or cooperative that meets the definition of "housing for older persons" in s. 760.29(4)(b)3., F.S., to forego retrofitting or replacing the handrails and guardrails in common elements or units if approved by a two-thirds vote of all voting interests. It prohibits unit owners in a high-rise building from voting to forego such retrofitting in the common areas. It defines the terms "high-rise building" and "common areas."

The bill prohibits a local authority from requiring the retrofitting of common areas with handrails and guardrails before the end of 2014. In addition, it contains notice provisions for cooperatives and condominium associations in buildings that vote affirmatively to forego retrofitting and proscribes the use of proxies in such vote. This bill requires the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation to collect information on the number of cooperatives and condominiums that vote to forego the retrofitting or replacing of handrails and guardrails, and the per-unit cost of work if retrofitting is undertaken. The division is required to annually report to the Division of State Fire Marshal of the Department of Financial Services the number of condominiums or cooperatives that vote to forego retrofitting.

If approved by the Governor, these provisions take effect July 1, 2004.

*Vote: Senate 40-0; House 112-4*

## **GOVERNMENTAL LIABILITY**

### **CS/CS/CS/SB 1764 — Donated Firefighting Equipment**

by Judiciary Committee; Governmental Oversight and Productivity Committee; Comprehensive Planning Committee; and Senators Lynn and Bullard

The bill creates the “Good Samaritan Volunteer Firefighters’ Assistance Act” to provide immunity from civil liability for a state agency or subdivision, including its officers, employees, and agents who are acting within the scope of their employment or function, which donates qualified fire control or fire rescue equipment to a volunteer fire department. The immunity provided by the bill is from liability for personal injury, property damage, or death that is proximately caused, after the donation, by a defect in the equipment. This immunity, however, does not apply if: (a) the defect that proximately caused the personal injury, property damage, or death is the result of malice, gross negligence, recklessness, or intentional misconduct or the result of alterations or modifications by the agency or subdivision after recertification of the donated equipment; or (b) the agency or subdivision is the manufacturer of the qualified equipment. The bill also clarifies that nothing in the section is to be construed as a waiver of sovereign immunity.

The bill defines the terms “authorized technician,” “qualified fire control or fire rescue equipment,” and “state agency or subdivision.” The bill applies to any action that accrues on or after July 1, 2004.

If approved by the Governor, these provisions take effect July 1, 2004.

*Vote: Senate 38-0; House 116-0*

### **CS/SB 1790 — Paintball/Governmental Liability**

by Governmental Oversight and Productivity Committee and Senator Posey

The bill adds paintball to the list of activities for which liability is limited for governmental entities for personal property damage or bodily injuries. This bill does not constitute a waiver of sovereign immunity and does not limit the liability of a governmental entity for failure to guard against or warn of a dangerous condition, gross negligence, or failure to obtain written parental consent for participants in paintball under the age of 17. These limitations on liability with regard to paintball do not apply to independent concessionaires or others using governmental property, regardless of whether a contractual relationship exists with the governmental entity.

The bill adds paintball to those activities for which any person, regardless of age, who participates in, assists in, or observes paintball, assumes the known and unknown inherent risks in this activity and is legally responsible for resulting damages, injury, or death to himself or herself. A governmental entity which sponsors, allows, or permits paintball on its property is not required to eliminate, alter or control the inherent risks in that activity.

Finally, the bill includes paintball among those activities for which s. 316.0085(7)(b), F.S., prescribes duties required of a participant. Failure to comply with these requirements shall constitute negligence for purposes of comparative fault.

If approved by the Governor, these provisions take effect July 1, 2004.

*Vote: Senate 39-0; House 116-0*

## **PUBLIC RECORD EXEMPTIONS**

### **SB 1626 — Archival Material/Public Records**

by Senator Margolis

This bill provides an exemption from the public records law for manuscripts or other archival material donated to and held by an official archive of a municipality or county if the manuscripts or material are subject to special terms and conditions that limit public disclosure. It requires that such a manuscript or material be made available for inspection and copying 50 years after the date of creation of the manuscript or material, or earlier if specified in the terms and conditions or pursuant to a court order. This exemption is subject to legislative review and repeal under the Open Government Sunset Review Act of 1995, and is repealed on October 2, 2009, unless reenacted by the Legislature.

If approved by the Governor, these provisions take effect October 1, 2004.

*Vote: Senate 40-0; House 108-0*

## **MISCELLANEOUS LOCAL GOVERNMENT**

### **HB 213 — Surplus State Lands/Disposition**

by Rep. Killinger and others (CS/SB 424 by Governmental Oversight and Productivity Committee and Senators Geller and Constantine)

This bill modifies the process by which the Board of Trustees of the Internal Improvement Trust Fund may dispose of state-owned lands that have been surplus. If the surplus land was acquired from a municipality by gift or other conveyance at minimal or no cost to the state prior to 1958, and the Department of Management Services has filed by July 1, 2006, a notice of its intent to surplus, the board is required to offer to re-convey such surplus lands to that municipality at no cost, but for the fair market value of any building or other improvements to the land, unless otherwise provided in a deed restriction of record.

The bill also increases the minimum value of property required to be inventoried by local governments from \$750 to \$1,000.

Additionally, the bill requires special districts to comply with the provisions of ch. 274, F.S., Tangible Personal Property Owned by Local Governments, and not just comply with s. 274.12, F.S.

If approved by the Governor, these provisions take effect July 1, 2004.

*Vote: Senate 38-0; House 114-0*

### **HB 511 — Neighborhood Crime Watch Programs**

by Rep. Carroll and others (CS/SB 1410 by Comprehensive Planning Committee and Senators Miller, Aronberg, Crist, Dawson, Siplin, Bennett, Campbell, Margolis, Saunders, Bullard, Lawson, Wilson, and Lynn)

This bill (Chapter 2004-18, L.O.F.) authorizes a county sheriff or municipal police department to establish a neighborhood crime watch program. It creates a first degree misdemeanor offense if a person willfully harasses, threatens, or intimidates an identifiable member of a neighborhood crime watch program while the member is engaged in, or traveling to or from, an organized crime watch program activity or participating in an ongoing criminal investigation, as designated by a law enforcement officer. The bill defines the term “organized neighborhood crime watch program activity” as any prearranged event, meeting, or other scheduled activity, or neighborhood patrol conducted by or at the direction of the program or its authorized designee. The bill also defines the term “harass.”

These provisions were approved by the Governor and take effect July 1, 2004.

*Vote: Senate 40-0; House 110-0*