

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

CITY OF GAINESVILLE; CITY OF LAKE
WORTH BEACH; CITY OF
LAUDERHILL; CITY OF MIRAMAR;
MUNICIPALITY OF NORTH BAY
VILLAGE; CITY OF NORTH MIAMI;
CITY OF NORTH MIAMI BEACH; CITY
OF TALLAHASSEE; and CITY OF
WILTON MANORS,

Plaintiffs,

v.

RON DESANTIS, in his official capacity as
Governor of the State of Florida and chair of
the Administration Commission; ASHLEY
MOODY, in her official capacity as Attorney
General of the State of Florida and member
of the Administration Commission; JIMMY
PATRONIS, in his official capacity as Chief
Financial Officer of the State of Florida and
member of the Administration Commission;
and NIKKI FRIED, in her official capacity as
Commissioner of Agriculture of the State of
Florida and member of the Administration
Commission,

Defendants.

CASE NO.

COMPLAINT

Plaintiffs, the City of Gainesville, the City of Lake Worth Beach, the City of Lauderhill, the City of Miramar, the Municipality of North Bay Village, the City of North Miami, the City of North Miami Beach, the City of Tallahassee, and the City of Wilton Manors (collectively, “Plaintiffs”), bring this action for declaratory and injunctive relief against the state officers comprising the Florida Administration Commission—Defendants Ron DeSantis, in his official capacity as Governor of the State of Florida, Ashley Moody, in her official capacity as Attorney General of the State of Florida, Jimmy Patronis, in his official capacity as Chief Financial Officer of the State of Florida, and Nikki Fried, in her official capacity as Commissioner of Agriculture of the State of Florida, and state as follows:

INTRODUCTION

1. Local governments are the closest to the people. Local governments provide the day-to-day services that Floridians rely on, from public transportation to parks and libraries to safety and emergency services. Municipalities have a responsibility to allocate these services in ways that best respond to the needs of the local community, and to do that, they need authority to craft budgets that reflect community values. This budget-making authority lies at the heart of a municipality’s legislative powers.

2. Local budgeting is a complex and dynamic process that requires municipalities to take into account variable local revenues, staffing and pension obligations, capital expenditures, and intergovernmental funding streams as they craft budgets that meet the needs of the public. Municipalities take months to develop their budgets in meetings with both local leadership and the public. Even after a budget is passed, it is revisited in public meetings throughout the year so that its implementation may be flexible and responsive to changing conditions. Municipalities begin

making plans with future budgets in mind months before such budgets are enacted. Local budgeting is thus a product of constant dialogue among locally elected officials, public employees with local, programmatic, and fiscal expertise, and the public.

3. Throughout Florida, municipalities have been engaging in meaningful dialogue with residents about investing in public safety strategies that emphasize social services separate from law enforcement, after thousands of Floridians called on municipalities to prioritize racial justice. This dialogue had spurred some initial local budget reform proposals for public safety measures that would be responsive to, and reflective of, community needs and values. However, progress on these proposals has varied.

4. The “Combating Violence, Disorder, and Looting and Law Enforcement Protection Act,” also known as HB 1,¹ has disrupted local budgeting authority by giving Florida’s executive branch the power to commandeer the local budgeting process. Section 1 of HB 1 inserts a new state executive review process to discourage any decreases to local police budgets. Pursuant to HB 1, if a local budget or certain budget amendments propose a funding reduction to the operating budget of the local police department—whether such reductions are in response to economic downturn, expired one-time expenditures, community input, or any other reason—the state attorney (an executive official) or an outvoted local commissioner can appeal the budget to the Administration Commission, which is made up of the Governor and Cabinet.

5. Once this appeal process has been triggered, the municipality loses control of its budget while the Governor and Cabinet have full authority to revise the municipality’s police budget, line by line, behind closed doors, and without the level of community input widely guaranteed in the local budgeting process. HB 1 prescribes no legislative standards or limits to

¹ Fla. HB 1 (2021).

cabin the state executive's revision of the local budget, and once the Administration Commission has completed its revision, the rewritten budget is binding on the local government, which must then figure out how to harmonize the state-mandated budget with actual local revenues and other obligations.

6. HB 1 thus overrides the local legislative process by enabling the Administration Commission to re-appropriate local tax dollars with no guiding standards, no limitations from the state legislature, and no accountability to the impacted local communities. The Governor's statements show that he intends to use this tool whenever possible to further his own agenda and to remake local law enforcement budgets as he sees fit, with little regard for local processes and input.

7. In just the few months since its enactment, HB 1 has already impacted local budgeting throughout Florida. The consequences of HB 1's commandeering process are so severe that municipalities do not want to trigger them. At the same time, municipalities have little ability to predict which decisions might cause executive override and how far the Administration Commission will go to reallocate local funding under HB 1. This untenable situation has injected uncertainty and insecurity into budgeting and planning, compromising municipalities' ability to form reasonable expectations about the future. Even fiscally conservative municipalities are inhibited from assessing the risk of pursuing cost-saving measures across all local departments, because HB 1 calls into question their legislative immunity and status as home rule units of government. As a result of this uncertainty and insecurity, HB 1 deters municipalities from carrying out budgeting reforms already begun and from considering new budgeting reforms called for by their residents.

8. HB 1 does not give municipalities clarity about the consequences of their budgetary decisions or a basis to form reasoned judgments about the fiscal consequences of those decisions. As a result, municipalities are chilled from structuring their budgets to serve the best interests and needs of their communities.

9. HB 1 violates the Florida Constitution on several grounds:

a. Separation of Powers: The state legislature does not have the authority to convey local budget oversight to the state executive branch under the Florida Constitution's separation of powers provisions, Art. II, § 3, Fla. Const.;

b. Nondelegation: The legislature does not have the authority to delegate unlimited and unguided discretion to the executive pursuant to the nondelegation doctrine;

c. Single-Subject Rule: HB 1 does not abide by the Florida Constitution's single-subject rule, Art. III, § 6, Fla. Const., because only its first section relates to local budgeting while its subsequent sections pertain to individual speech activities;

d. Unfunded Mandate: However it is applied, HB 1 creates an unfunded mandate, forcing municipalities to make expenditures at the command of the state without any financial support and in violation of the Florida Constitution, Art. VII, § 18, Fla. Const.; and

e. Home Rule: HB 1 disregards the protection of internal local governance under home rule that voters have time and time again guaranteed to cities in Florida, Art. VIII, § 2, Fla. Const.

10. These circumstances demonstrate a present practical need for declaratory relief and a permanent injunction of Section 1 of HB 1. Municipalities require reassurance that the state

executive branch cannot commandeer local budgeting processes so that they may enact budgets that reflect priorities and values of the communities they serve.

JURISDICTION AND VENUE

11. This is an action seeking declaratory relief, which this Court has jurisdiction to grant pursuant to Section 86.011 of the Florida Statutes, and injunctive relief, which this Court has jurisdiction to grant pursuant to Section 26.012 of the Florida Statutes.

12. Plaintiffs are proper parties to challenge the constitutionality of Section 1 of HB 1² because this law has created substantial insecurity and uncertainty about: (1) the status, rights, and powers of Plaintiffs as home rule units of government; (2) the immunity of Plaintiffs from the type of state action authorized by HB 1, based on their status as home rule units of government; and (3) the legal relation of Plaintiffs to the Administration Commission under HB 1. Plaintiffs are also proper parties because this law empowers the Administration Commission to require Plaintiffs to expend public funds on law enforcement that otherwise would have been allocated to other local services, or not spent at all, absent HB 1.

13. Venue is proper in Leon County because the Defendants are all located, or have their principal headquarters, in Leon County Florida. *See* § 47.011, Fla. Stat. (2021).

THE PARTIES

14. The City of Gainesville is a city established in 1869 and vested with “all governmental, corporate, and proprietary powers” that enable it to perform its local functions, which include, among others, “expend[ing] the money of the City for all lawful purposes,” “maintain[ing] a department or division of police,” and “do[ing] all things whatsoever necessary

² This lawsuit challenges only Section 1 of HB 1. Other sections of HB 1 have been challenged in a separate action in federal court and are not at issue in this action. *See Dream Defenders v. DeSantis*, 4:21-CV-00191 (May 11, 2021). Except as described in paragraphs 90-100 and 171-76, *infra*, references to HB 1 pertain only to the budgetary provisions contained in Section 1.

or expedient for promoting or maintaining the general welfare . . . peace, [and] government . . . of the city or its inhabitants.” Ch. 90-394, § 1.01, at 17, Laws of Fla.; Ch. 12760, § 7(e), (x)-(y), at 1393, 1398, Laws of Fla. (1927).

15. The City of Lake Worth Beach is a city incorporated by the Laws of Florida in 1913 with all of the powers given to cities under the Florida constitution, “construed liberally in favor of the city.” Lake Worth Beach, Fla., Charter art. I, § 3 (1979).

16. The City of Lauderhill, incorporated by the laws of the State of Florida in 1959, is “a local corporation having all governmental, corporate and proprietary powers enabling it to conduct municipal government, perform municipal functions and render municipal services, and further exercise any power for municipal purposes except as otherwise provided by law.” Lauderhill, Fla., Charter art. I § 1.01 (1995).

17. The City of Miramar is a city incorporated in 1955 and vested with “all available governmental, corporate and proprietary powers and may exercise them for municipal purposes,” which are to be construed liberally in favor of the city. Miramar, Fla., Charter art. I, § 1.04 (Supp. 2021).

18. North Bay Village is a municipality incorporated by the laws of the State of Florida in 1945 and created “to protect the governed, not the governing” by guaranteeing a budgeting process prepared by the Village Manager and heard by the public. North Bay Village, Fla., Charter Legislative History (Supp. 2021).

19. The City of North Miami is a city incorporated in 1926 and vested with “all the powers granted to municipal corporations and to cities by the Constitution and general laws of the state, together with all the implied powers necessary to carry into execution all the powers granted.” North Miami, Fla., Charter art. I, § 8(a) (1989 & Supp. 2021).

20. The City of North Miami Beach is a city incorporated in 1926 and “shall have all available governmental, corporate and proprietary powers and may exercise them except when prohibited by law.” North Miami Beach, Fla., Charter art. I, § 1.4 (Supp. 2021).

21. The City of Tallahassee is a city first incorporated by the laws of the State of Florida in 1825 and its charter incorporates the home rule authority protected by the Florida Constitution and state statute. *See Tallahassee, Fla., Charter § 7, 10 (Supp. 2021).*

22. The City of Wilton Manors is a city incorporated in 1953 and vested with all powers granted to a city under the Florida Constitution. Ch. 29609, Laws of Fla.

23. Defendant Ron DeSantis currently serves as the Governor of the State of Florida. He is sued in his official capacity. He is the Florida constitutional officer charged with “tak[ing] care that the laws [are] faithfully executed.” Art. IV, § 1(a), Fla. Const. As Chair of the Administration Commission, § 14-202, Fla. Stat. (2021), Governor DeSantis is responsible for the enforcement of Section 1 of HB 1 and an appropriate defendant in this action.

24. Defendant Ashley Moody currently serves as the Attorney General of the State of Florida. She is sued in her official capacity. She serves as Florida’s chief legal officer. Art. IV, § 4(b), Fla. Const. As a member of the Administration Commission, § 14-202, Fla. Stat. (2021), Attorney General Moody is responsible for the enforcement of Section 1 of HB 1 and an appropriate defendant in this action.

25. Defendant Jimmy Patronis currently serves as the Chief Financial Officer of the State of Florida. Art. IV, § 4(c), Fla. Const. He is sued in his official capacity. As a member of the Administration Commission, § 14-202, Fla. Stat. (2021), Mr. Patronis is responsible for the enforcement of Section 1 of HB 1 and an appropriate defendant in this action.

26. Defendant Nikki Fried currently serves as the Commissioner of Agriculture for the State of Florida. Art. IV, § 4(d), Fla. Const. She is sued in her official capacity. As a member of the Administration Commission, § 14-202, Fla. Stat. (2021), Commissioner Fried is responsible for the enforcement of Section 1 of HB 1 and an appropriate defendant in this action.

FACTS

I. The Florida Constitution Establishes a Robust Tripartite System of State Government and Floridians’ Right to Local Self-Governance.

27. From the very first words of the state Constitution, “We the People,” Florida stands as a system rooted in self-government. Pmbl., Fla. Const. A key tenet of the Florida constitutional tradition is the recognition that the powers imbued in government derive from the people.

28. Florida’s constitutional tradition of self-government is protected by a system of checks and balances. Constitutional checks and balances not only guard the liberties of the governed against abuse by their government, but also reserve ample power to the people so that the people may govern themselves and their own affairs.

29. One of the most vital checks and balances is the separation of powers among different branches and different levels of government. The Florida Constitution incorporates both *horizontal* separation of powers principles by establishing a tripartite system of state government³—consisting of a strictly delineated legislative, executive, and judicial branch—and *vertical* separation of powers principles by reserving power to the people and their local governments through home rule.⁴

³ See Art. II, § 3, Fla. Const.; Jim Rossi, Institutional Design and the Lingering Legacy of Antifederalist Separation of Powers Ideals in the State, 52 Vand. L. Rev. 1167, 1195 (1999) (“Florida [] endorses a strong separation of powers doctrine.”).

⁴ See Art. VII, Fla. Const. See generally Lynn A. Baker & Daniel Rodriguez, Constitutional Home Rule and Judicial Scrutiny, 86 Denv. L. Rev. 1337, Appendix (2009) (listing various state constitutional home rule provisions).

30. Vertical separation of powers provides a critical protection of democracy because local leadership is based in the community. At the local level, residents have easier access to their representatives—who often represent fewer constituents than at the state level—which in turn allows municipalities to craft policies that directly respond to community needs and more closely reflect community values.

31. The people of Florida guaranteed that vertical separation of powers would be protected when they amended the Florida Constitution in 1968 to explicitly grant municipalities the right to home rule. *See* Art. VIII, § 2, Fla. Const.

32. The amended article VIII, section 2(b) of the Florida Constitution establishes that “[m]unicipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.” This amendment ensured that home rule, a long-standing tradition in Florida since the earliest days of its history as a Spanish colony, would remain enshrined in the fabric of Florida’s democracy.⁵

33. The Florida Legislature and state courts have reaffirmed the principle of home rule since the people’s mandate. After the home rule amendment was initially interpreted narrowly, the Florida Legislature enacted the Municipal Home Rule Powers Act (MHRPA) (Ch. 166 of the Florida Statutes) to underline the importance of local control under the new constitutional amendment.⁶ The Florida Supreme Court has since emphasized: “The clear purpose of the

⁵ *See* Fla. H.R. Comm. on Cmty. Aff., Staff Report 1–2 (July 31, 1972), <https://tinyurl.com/8k238nvw>.

⁶ *See* J. James R. Wolf & Sarah Harley Bolinder, [The Effectiveness of Home Rule: A Preemption and Conflict Analysis](https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/), 83 Fla. B.J. No.6 92 (2009), <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (describing the 1973 MHRPA as a reaction to the Florida Supreme Court’s decision in *City of Miami Beach v. Fleetwood Hotel*, 261 So. 2d 801, 803 (Fla. 1972)).

[amendment] was to give the municipalities inherent power to meet municipal needs. *Lake Worth Utilities Auth. v. City of Lake Worth*, 468 So. 2d 215, 217 (Fla. 1985). And although MHRPA does not prohibit state preemption, it establishes that “[t]he legislature’s retained power is now one of limitation rather than one of grace. . . .” *Id.* (internal citation omitted).

34. Insofar as the state has retained power to influence local policy, it may only do so through valid exertion of legislative power. *See Askew v. Cross Key Waterways*, 372 So. 2d 913, 925 (Fla. 1978). In order to keep the legislature accountable to the communities they represent, this core legislative power cannot be delegated to another branch of state government.

35. Florida voters also have expanded the protections of local self-governance. In 1990, Floridians overwhelmingly voted to adopt a constitutional amendment that prevents the state legislature from imposing unfunded mandates on local governments.⁷ Article VII, section 18 of the Florida Constitution provides that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds” subject to certain limitations.

36. Florida’s horizontal and vertical separation of powers principles—its tripartite system of state government and its home rule guarantee—work together to reinforce checks and balances, empower the people of Florida to govern themselves, and protect this liberty from diminution by any means other than a valid and proper exercise of legislative power.

⁷ *See* Div. of Elections, November 6, 1990 General Election: Official Results: Constitutional Amendment, (Nov. 6, 1990) Fl. Dep’t of State, <https://results.elections.myflorida.com/DetailRpt.Asp?ELECTIONDATE=11/6/1990&RACE=A03&PARTY=&DIST=&GRP=&DATAMODE=> (showing 64% of votes in favor of the amendment).

II. Home Rule Empowers Florida Municipalities to Manage Their Affairs, Including by Making Crucial Budgeting Decisions Throughout the Year.

37. Plaintiffs are home rule municipalities, vested with all “governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services.” Art. VIII, § 2(b), Fla. Const.

38. Plaintiffs have adopted commissioner-manager or council-manager models of government that divide authority between an elected and publicly accountable local commission or council and an appointed manager.⁸

39. In general, the commission provides political leadership for the municipality and is charged with taking measures to ensure the health, safety, and welfare of the public.⁹ The commission typically creates or establishes local departments, including the police department, and prescribes the duties of such departments.¹⁰

40. The manager is tasked with managerial or administrative responsibilities, including day-to-day control or supervision of local departments, such as the police department.¹¹

41. As the expert on day-to-day management and needs of local departments, the manager develops the initial budget proposal. As the manager implements the adopted budget

⁸ For the purposes of this Complaint, references to the general authority of commissions should be read to describe the general authority of councils as well.

⁹ See, e.g., Ch. 12760, § 7, Laws of Fla. (1927) (describing the powers of the City of Gainesville); North Miami, Fla., Charter art. I, § 8(b)(5) (2021).

¹⁰ See, e.g., Ch. 12760, § 7(x), Laws of Fla. (1927) (granting the City of Gainesville full police powers and the power to establish and maintain a police department); Lake Worth Beach, Fla., Charter art. III, § 7, art. IV, § 5 (2021); Miramar, Fla., Charter § 2.02 (2021); North Miami, Fla., Charter art. III, § 14 (2021); North Miami Beach, Fla., Charter art. VIII § 8.1.1 (2021); Wilton Manors, Fla., Charter art. IIIA, § 8 (2021).

¹¹ See Gainesville, Fla., Charter § 3.02 (2021); Lake Worth Beach, Fla., Charter art. I § 4, art. IV, § 5 (2021); Lauderhill, Fla., Charter § 6.06 (2021); Miramar, Fla., Charter § 3.03 (2021); North Bay Village, Fla., Charter § 4.01 (2021); North Miami, Fla., Charter, art. IV, § 21 (2021); North Miami Beach, Fla., Charter art. I, § 3.1.1 (2021); Tallahassee, Fla., Charter § 27 (2021); Wilton Manors, Fla., Charter art. IIIB, §§ 1, 4 (2021).

throughout the year, they also monitor revenues and expenses to plan for the following year's budget. Over the course of the spring and summer each year, the manager develops a budget proposal that reflects projected revenues and expenses and incorporates priorities and direction provided by the commission throughout the year.¹²

42. After the manager compiles a budget proposal in early summer, this tentative budget is presented to the commission at a meeting for open dialogue with the public. The public right of access to these budget discussions is enshrined in Florida Law, *see* § 166.241, Fla. Stat. (2021), as well as some local charters.¹³ Indeed, several municipalities place their residents at the top of the chain of budgeting authority, symbolizing that commissioners derive their budget priorities from community input.¹⁴ Over the course of several months, the commission and the public provide feedback and further refine the tentative budget for the next year.

43. In the fall, following several months of discussion with the public, the commission votes to approve the budget.¹⁵ The budget that is approved is the “adopted budget” based on projections for the next fiscal year, but it is understood that the budget is subject to amendment and will reflect true revenue and expenditures at the end of a fiscal year because local appropriations cannot exceed local revenue or reserves. § 166.241(2), Fla. Stat.

¹² Note that this timeline and budget process may vary slightly in different cities, but Plaintiffs generally subscribe to the process described herein.

¹³ *See, e.g.*, Lauderhill, Fla. Charter, art. I, § 1.04 (2021) (describing the Citizens’ Bill of Rights, including the right to a public budget process and the right to be heard).

¹⁴ *See, e.g.*, City of Lake Worth Beach Fin. Dep’t, Annual Comprehensive Financial Report for the Fiscal Year Ended September 30, 2020 at viii, (Sept. 7, 2021); City of Lake Worth Beach, Fla., https://lwbddata.sfo3.cdn.digitaloceanspaces.com/finance/City%20of%20Lake%20Worth%20Beach%20Florida_20%20FS_FINAL.pdf.

¹⁵ *See, e.g.*, Lake Worth Beach, Fla., Charter art. I, § 4, art. IV, § 5 (2021); Lauderhill, Fla., Charter art. IX, § 9.01 (2021); Miramar, Fla., Ordinances ch. 2, art. VI, div. 1, § 2-202 (2021); North Bay Village, Fla., Charter art. VII, § 7.03 (2021); North Miami, Fla., Charter art. V., §§ 24–25 (2021).

44. When an adopted budget is approved for the fiscal year, the manager must implement the budget according to the real and changing circumstances of the municipality to maintain a balanced budget. Revenues might unexpectedly decrease, requiring cost-saving measures, or be supplemented by mid-year grants or relief funds, allowing new programs to be funded. Local departments might run through their allocation before the year is out or not spend the full amount allotted for a program. The manager has their finger on the pulse of these operations so that they may advise the commission to make any amendments and adjustments accordingly.¹⁶

45. Because unforeseen circumstances arise regularly and municipalities need flexibility to respond to them, the commission and manager revisit the budget regularly as it is implemented. If the total appropriation to a fund needs to be increased or decreased, then the amendment must be proposed and passed under the same processes as the original budget, including discussion at a public hearing and a commission vote to adopt. § 166.241(7), Fla. Stat.

46. Local budgeting is an iterative process that is informed throughout the year. The commission decides local priorities in response to community needs and develops new initiatives for the municipality. In the course of identifying priorities and developing new initiatives, the commission consults with the manager about budgetary impacts and options. The manager not only works with the commission on such initiatives as they arise, but also must remain attentive to the fluctuations in local revenue and the new or recurring needs of local departments, so that the budget is both responsive and balanced. The commission and manager are in regular conversation about budgetary considerations that will inform the creation of the tentative budget for the next year and the implementation of the adopted budget over the ongoing fiscal year. Thus, budgeting

¹⁶ See, e.g., *Lauderhill, Fla.*, Charter art. IX §§ 9.02–9.03 (2021) (describing procedures for the city manager to report and for the city commission to act to supplement or reduce appropriations based on changes to revenues during the fiscal year); *Miramar, Fla.*, Ordinances ch. 2, art. VI, div. 1, § 2-203 (2021) (same).

decisions, whether related to implementing the adopted budget or developing the next tentative one, are a local concern throughout the year.

47. The state executive branch is not involved in this day-to-day budget management and local legislative process. Unlike local managers, the state executive branch is not interacting with every local department to understand their expenses and needs. Unlike local commissions, the state executive branch is not holding public meetings with Florida community members to discuss their budgeting priorities. And unlike municipalities, the state executive branch does not have its finger on the pulse of the needs and values of local communities.

III. Florida Municipalities Are Best Positioned to Adopt Budgets that Reflect Their Residents' Needs, Values, and Priorities.

48. Local budgets reflect the priorities of the community. Municipalities are expected to provide a wide array of services to residents and must make difficult decisions about how to allocate finite resources to best serve the needs of their communities. In some communities, constituents may advocate for a more fiscally conservative budget, while in others, constituents may push for an increase in certain services, necessitating a reallocation of funding. Local budgeting enables and celebrates these differences that allow residents to have a voice in their communities.

49. Floridians rely on their local governments to provide and maintain a wide array of public services, such as parks, recreation centers, libraries, animal control, water, transportation, and public safety.

50. In Florida, local revenue streams are limited. The Florida Constitution caps local property taxes at \$10 per \$1,000 valuation, Art. VII, § 9(b), Fla. Const., so this funding stream

generally accounts for less than half of the revenue that Florida municipalities generate.¹⁷ Additionally, municipalities rely on a combination of proprietary and regulatory fees along with grants from the state and federal governments or other external entities.

51. These streams of revenue are naturally variable. Local tax and fee revenue fluctuates every year based on several factors, including economic conditions and individual activity. When there are natural decreases in local revenues, municipalities must make budget cuts across the board in order to achieve a balanced budget. In the aftermath of the 2010 recession, for example, several municipalities in Florida had to make budget reductions that impacted law enforcement:

a. In 2010, tax revenues plummeted in Panama City. In order to balance the books, the city unfunded all vacant positions. Of 31 positions, 11 cuts came from the police department, including sworn officers and civilian positions.¹⁸

b. The 2011-12 budget approved by the Gainesville City Commission cut Gainesville Police Department's budget by \$946,000, saving 3.2% of the \$29.6 million general fund. These funding reductions resulted in the elimination of several command staff positions in the department.¹⁹

¹⁷ See Center for Municipal Research, 2019 State of Cities 2, (2019) Florida League of Cities, http://www.floridaleagueofcities.com/docs/default-source/default-document-library/2019-state-of-the-cities.pdf?sfvrsn=c405dad5_6.

¹⁸ See Katie Landeck, Chief: Panama City Police Department 'Strained', (Jan. 7, 2017) Panama City News Herald, <https://www.newsherald.com/news/20170107/chief-panama-city-police-department-strained>.

¹⁹ See Cindy Swirko, Budget Cuts Hit GPD Command Staff Hard, (Sept. 17, 2010) The Gainesville Sun, <https://www.gainesville.com/article/LK/20100917/news/604164102/GS/>.

c. In Jacksonville, between the fiscal years of 2010 and 2013, 147 police officer positions were eliminated due to budget cuts, including the entire mounted police force.²⁰

52. Some decreases in local revenue may arise when an intergovernmental or external grant is time-limited and non-renewable. As the grant period ends, a municipality must decide how to maintain that funding stream or whether to allow the reduction. For example, in 2012, the City of Gainesville was one of only two cities to receive a grant from the Center for Children’s Law and Policy to reduce the arrest rates of youth of color. The grant and associated revenue stream expired after two years, so Gainesville allocated its own local funds toward the Disproportionate Minority Contact Initiative.²¹ Had Gainesville not allocated that continued revenue stream, the police department budget would have been reduced due to the expiration of the grant.

53. Other times, municipalities may reorganize departments and shift funding structures to promote economic efficiency. For example, in 1990, the Live Oak City Council voted to shift the city’s law enforcement responsibilities briefly to the Suwannee County Sheriff’s Office due to budget constraints.²² Likewise, Mexico Beach’s former police department was dissolved in October 2019 and the Bay County Sheriff’s Office took over law enforcement responsibilities.²³

²⁰ See David Bauerlein, 71 of 147 Police Cuts Not Linked to Mayor Brown, Analyses Find, (May 14, 2015) The Florida Times-Union, <https://www.jacksonville.com/article/20150514/NEWS/801245291>.

²¹ See Disproportionate Minority Contact, Gainesville Police Department, <http://www.gainesvillepd.org/About-GPD/Youth-and-Community-Services-Bureau/Disproportionate-Minority-Contact-Initiative> (last visited Nov. 14, 2021).

²² See History Page, (2019) City of Live Oak, Florida, https://www.cityofliveoak.org/pd_history.

²³ See Blake Brannon, Officials Look Back at Transition from Mexico Beach Police Department to Bay County Sheriff’s Office, (Nov. 2, 2020) WJHG News Channel 7, <https://www.wjhg.com/2020/11/03/officials-look-back-at-transition-from-mexico-beach-police-department-to-bay-county-sheriffs-office/>.

City officials reported that the switch saved Mexico Beach money that helped in other service areas.²⁴

54. In some cases, municipalities have used their budget authority to dismantle parts of police departments that were found to be engaging in malfeasance and misappropriation. In 1987, the City of West Palm Beach disbanded its ten-member tactical team after members of the city's Haitian community sued the city, accusing officers of violating their constitutional rights, conducting unreasonable strip searches, using slurs, and physically abusing them.²⁵ The city settled the lawsuit for \$75,000.²⁶ And in 1992, the City of Largo disbanded their special investigations unit after evidence surfaced of detectives misusing funds and police vehicles.²⁷ Money allocated for the special unit moved back into the city's general fund.²⁸

55. Municipalities face difficult budgetary decisions every year, and the current fiscal year is no different. As a result of the economic downturn caused by the COVID-19 pandemic, many municipalities have been forced to reduce their budgets. In 2020, the City of Miami was forced to cut 66 sworn police officer positions, along with over a dozen firefighters, due to a projected \$30 million shortfall.²⁹ Likewise, in the middle of 2020, the City of Miramar was forced to furlough local staff, including police officers and firefighters, to offset a \$23 million revenue

²⁴ *See id.*

²⁵ *See* Larry Aydlette, West Palm May Pay \$75,000 to End Lawsuit, (Dec. 30, 1987) The Palm Beach Post, <https://www.newspapers.com/image/129627445/>.

²⁶ *See id.*

²⁷ *See* Police Unit Disbanded, (Apr. 26, 1992) St. Petersburg Times, <https://www.newspapers.com/image/323640260/>.

²⁸ *See id.*

²⁹ *See* Joey Flechas, Miami's COVID Budget Passes with Police Layoffs, Transformed NET and Canceled Events, (Sept. 25, 2020) Miami Herald, <https://www.miamiherald.com/news/local/community/miami-dade/article245995330.html>.

shortfall from COVID-19.³⁰ Although it faced significant revenue shortfalls from FY 2020 to FY 2021 (as much as a 70% shortfall for police department revenues),³¹ the City of Lauderhill reached an agreement with municipal employees for a city-wide furlough so that the City could reduce its property tax rate to alleviate the burden on residents³²; as a result of this and other cost-saving measures, the police budget of Lauderhill decreased by approximately 4%.³³

56. Because developing a local budget requires a nuanced understanding of the municipality's capacity as well as residents' needs and values, doing so is considered a core application of legislative power—one properly exercised by the municipality itself through its constitutional home rule guarantee.

IV. Floridians Have Called on Their Local Governments to Reimagine Public Safety Through Meaningful Changes to Local Budgeting.

57. As local spending on law enforcement has far outpaced spending on public health and social services, residents have been engaging with their local governments to rebalance spending to support social services separate from law enforcement.

58. Law enforcement has grown to account for the lion's share of local spending. From 1977 to 2018, state and local spending on law enforcement nearly tripled from \$43 billion to \$119

³⁰ See Terrell Forney, City of Miramar to Furlough Employees, Including First Responders, (May 14, 2020) Local10.com, <https://www.local10.com/news/local/2020/05/14/coronavirus-in-florida-city-of-miramar-to-furlough-employees-including-first-responders/>.

³¹ See City of Lauderhill Fiscal Year 2021 Budget Book 110, (2021) City of Lauderhill, Fla., <https://www.lauderhill-fl.gov/home/showpublisheddocument/28565/637529818048370000>.

³² See *id.* at 12.

³³ See *id.* at 110.

billion, with cities contributing 86% of the funding.³⁴ Policing is now the single largest local expenditure in 35 of the country's 50 largest cities.³⁵

59. Local spending in Florida is no different. In the three largest cities in Florida, Jacksonville, Miami, and Tampa, police spending accounts for 35%, 33% and 41% of the local budget, respectively.³⁶ In both Gainesville and Miramar, police spending amounts to over one quarter of the city's general fund.³⁷ In 2020, both North Miami and North Miami Beach allocated nearly 40% of their respective general funds to law enforcement and Lake Worth Beach committed 45% of its FY 2021 budget to the police department.³⁸ North Bay Village committed 66% of its

³⁴ See State and Local Finance Initiative, Criminal Justice Expenditures: Police, Corrections, and Courts, Urb. Inst., <https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/state-and-local-backgrounders/criminal-justice-police-corrections-courts-expenditures> (last visited Nov. 16, 2021).

³⁵ See Carl Sullivan & Carla Baranauckas, Here's How Much Money Goes to Police Departments in Largest Cities Across the U.S., (June 26, 2020) USA Today, <https://www.usatoday.com/story/money/2020/06/26/how-much-money-goes-to-police-departments-in-americas-largest-cities/112004904/>.

³⁶ See What Policing Costs: A Look at Spending in America's Biggest Cities, Vera, <https://www.vera.org/publications/what-policing-costs-in-americas-biggest-cities> (last visited Nov. 16, 2021).

³⁷ See City Manager's Adopted Budget in Brief 30, (Oct. 1, 2020) City of Gainesville, Fla., <https://www.cityofgainesville.org/Portals/0/bf/FY21-FOP-adopted.pdf>; Fiscal Year 2020 Adopted Annual Budget 65, City of Miramar, Fla., <https://www.miramarfl.gov/ArchiveCenter/ViewFile/Item/387> (last visited Nov. 16, 2021).

³⁸ See Operating Budget: General Fund by Function (2020), City of North Miami Open Finance, North Miami, Fla., <https://northmiamifl.budget.socrata.com/#!/year/2020/operating/0/funddescription/GENERAL/0/governmentarea?x-return-url=https:%2F%2Fnorthmiamifl.finance.socrata.com%2F%23!%2Fdashboard&x-return-description=Return%20to%20Open%20Finance> (last visited Nov. 16, 2021); Adopted Budget Fiscal Year 2021 at 41, (Sept. 8, 2020) City of North Miami Beach, Fla., <https://www.citynmb.com/ArchiveCenter/ViewFile/Item/397>; Fiscal Year 2021 Budget Appropriation 2-3, City of Lake Worth Beach, Fla., <https://mccmeetingspublic.blob.core.usgovcloudapi.net/lakewthfl-meet-a66041e899a249cca7e8ea3e3bde7c4d/ITEM-Attachment-001-77ee2a9b043744c7b79d6d8d1f3d46a2.pdf> (last visited Nov. 16, 2021).

general fund budget to police in its adopted budget for fiscal year 2022-2022.³⁹ Tallahassee commits nearly 70% of its general budget to the police department.

60. As spending on law enforcement has grown, so has the scope of law enforcement activity. Only around 1% of 911 calls⁴⁰ and less than 5% of police arrests⁴¹ relate to serious violent crime. Instead, police officers spend the biggest share of their time responding to non-emergency calls,⁴² including by treating overdoses, responding to mental health crises, and addressing homelessness.⁴³

61. Local departments that specialize in providing public health and social services, on the other hand, receive a fraction of the dollars spent on policing. The ten largest cities in the U.S. spend anywhere from two to ten times more on policing than public health, even though health professionals have greater training than police in responding to behavioral or mental health emergencies.⁴⁴

62. While policing can account for a quarter to nearly half of a local budget,⁴⁵ the average city spends only 5% of funds on public housing.⁴⁶ As a result, the police are often required

³⁹ See Adopted Budget FY 2022 10, (Oct. 1, 2021) North Bay Village, Fla., <https://secureservercdn.net/166.62.112.107/w20.29e.myftpupload.com/wp-content/uploads/2021/10/FY-2022-ADOPTED-BUDGET.pdf>.

⁴⁰ See Jeff Asher & Ben Horwitz, How Do the Police Actually Spend Their Time?, (June 19, 2020) N.Y. Times, <https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html> (last updated Nov. 8, 2021).

⁴¹ See Betsy Pearl, Beyond Policing: Investing in Offices of Neighborhood Safety, (Oct. 15, 2020) Ctr. for Am. Progress, <https://www.americanprogress.org/issues/criminal-justice/reports/2020/10/15/491545/beyond-policing-investing-offices-neighborhood-safety/>.

⁴² See Asher & Horwitz, *supra* note 40.

⁴³ See Pearl, *supra* note 41.

⁴⁴ See Ellen Fassler, 10 Largest US Cities Will Spend More on Police Than Public Health This Year, (Feb. 24, 2021) TruthOut, <https://truthout.org/articles/10-largest-us-cities-will-spend-more-on-police-than-public-health-this-year/>.

⁴⁵ See Vera, *supra* note 36.

⁴⁶ See Emily Badger & Quoc Trung Bui, Cities Grew Safer. Police Budgets Kept Growing, (June 12, 2020) N.Y. Times, <https://www.nytimes.com/interactive/2020/06/12/upshot/cities-grew-safer-police-budgets-kept-growing.html>.

to respond to emergencies relating to homelessness rather than social services professionals trained to offer targeted and informed support and resources.⁴⁷

63. In Gainesville, with a particularly high ratio of police officers to private citizens, the police department receives seventeen times more funding than is allocated to human services.⁴⁸ In Tallahassee, the police department receives 10.3 times the funding dedicated to housing, homelessness and human services. In Miramar, only 2.5% of the budget is dedicated to community services.⁴⁹ Compared to the funds allocated to community development or redevelopment, policing receives nearly six times more funding in Wilton Manors.⁵⁰

64. Although the vast majority of police officers' time is spent responding to non-violent activity, they are primarily trained to respond to violent threats rather than to de-escalate or prevent escalation of a non-emergent, non-violent situation. The average local police department spends 168 hours training new officers on use of force, self-defense, and firearm tactics while only devoting 9 hours to conflict management and mediation.⁵¹ As a result, police officers are more conditioned to use tactics of force, rather than de-escalation, even in response to non-emergency situations.⁵²

⁴⁷ *See id.*

⁴⁸ *See City Manager's Adopted Budget in Brief* 14, 43, (Oct. 1, 2021) City of Gainesville, Fla., <https://www.cityofgainesville.org/Portals/0/bf/FY21-FOP-adopted.pdf>.

⁴⁹ *See FY 2021 Adopted Annual Budget* 32, (Oct. 1, 2019) City of Miramar, Fla., <https://www.miramarfl.gov/ArchiveCenter/ViewFile/Item/393>.

⁵⁰ *See Recommended Operating and Capital Budget Fiscal Year 2020-2021* at 15, (June 22, 2020) City of Wilton Manors, Fla., <https://www.wiltonmanors.com/DocumentCenter/View/5821/FY20-21-Proposed-Budget>.

⁵¹ *See Sarah Hansen & Halah Touryalai, Call 911: How Police Built Military Arsenals and A Firm Grip on Local Budgets, And Why Defunding May Be Inevitable*, (June 26, 2020) Forbes, <https://www.forbes.com/sites/sarahhansen/2020/06/26/call-911-how-police-built-military-arsenals-and-a-firm-grip-on-local-budgets-and-why-defunding-may-be-inevitable/?sh=204c8ce019c3>.

⁵² *See Roge Karma, We Train Police to Be Warriors - And Then Send Them Out to Be Social Workers*, (July 31, 2020) Vox, <https://www.vox.com/2020/7/31/21334190/what-police-do-defund-abolish-police-reform-training>.

65. Studies have shown that police use of force has been disproportionately directed at communities of color, particularly the Black community.⁵³ A national study of nearly 5,000 fatal police shootings between 2015 and 2020 demonstrated that police killed Black Americans at over 2.5 times the rate of white Americans and killed unarmed Black Americans at triple the rate of unarmed white Americans.⁵⁴ Florida’s rate of fatal police shootings between 2015 and 2018 was comparable to national statistics,⁵⁵ and analysis of the racial disparities in police shootings found that Black Floridians are “more likely to be shot in questionable circumstances.”⁵⁶

66. The summer of 2020 brought greater national attention to the disproportionate use of police violence toward communities of color.

67. On May 25, 2020, George Floyd, a 46-year-old Black man, was murdered by Minneapolis police officer Derek Chauvin, who knelt on Floyd’s neck for eight minutes and forty-six seconds as Mr. Floyd lay face-down on the street, handcuffed and gasping “I can’t breathe.”⁵⁷

⁵³ See Elle Lett, et al., Racial Inequity in Fatal U.S. Police Shootings, 2015-2020, 75 J. Epidemiology & Cmty. Health 394 (2021), <https://jech.bmj.com/content/75/4/394>; Emmanuella Asabor, et al., *Fatal Police Shootings Among Black Americans Remain High, Unchanged Since 2015*, Penn. Medicine News (Oct. 28, 2020), <https://www.pennmedicine.org/news/news-releases/2020/october/fatal-police-shootings-among-black-americans-remain-high-unchanged-since-2015>.

⁵⁴ See Asabor, et al., *supra* note 53.

⁵⁵ See Steve Stewart, By the Numbers: Florida Police Related Shooting Fatalities, (June 24, 2020) Tallahassee Reports, <https://tallahasseereports.com/2020/06/24/by-the-numbers-florida-police-related-shooting-fatalities/>.

⁵⁶ See Ben Montgomery, Why Cops Shoot, (2017) Tampa Bay Times, <https://projects.tampabay.com/projects/2017/investigations/florida-police-shootings/>.

⁵⁷ See Evan Hill, et al., How George Floyd Was Killed in Police Custody, (Nov. 1, 2021) N.Y. Times, <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

68. Just two months earlier, three plainclothes Louisville police officers forced entry into the apartment of Breonna Taylor, a 26-year-old Black woman, and fatally shot her five times as she slept.⁵⁸

69. These killings sparked what was deemed the largest mass movement for justice in United States history.⁵⁹ The two months following George Floyd's murder saw between 15 and 26 million Americans participate in thousands of racial justice demonstrations, many organized under the banner of or in solidarity with the Black Lives Matter movement.⁶⁰ These racial justice demonstrations spanned over 40% of counties in the United States.⁶¹

70. Thousands of Floridians joined this call for racial justice, participating in dozens of peaceful demonstrations across the state:

a. In Gainesville, over 1,000 people came together to demand police accountability in the days after Mr. Floyd's murder,⁶² and, in June 2020, over 1,000 united against racial injustice in a demonstration organized by the Dream Defenders, a Black-led organization seeking transformative justice in Florida.⁶³

⁵⁸ See Rukmini Callimachi, Breonna Taylor's Life Was Changing. Then the Police Came to Her Door., (Aug. 30, 2020) N.Y. Times, <https://www.nytimes.com/2020/08/30/us/breonna-taylor-police-killing.html>.

⁵⁹ See Larry Buchanan, et al., Black Lives Matter May be the Largest Movement in U.S. History, (July 3, 2020) N.Y. Times, <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>.

⁶⁰ See *id.*

⁶¹ See *id.*

⁶² See Cindy Swirko, Marchers Call for Justice, Police Accountability, (May 30, 2020) Gainesville Sun, <https://www.gainesville.com/news/20200530/marchers-call-for-justice-police-accountability>.

⁶³ See Ruelle Fludd & James J. Rowe, Over a Thousand People Join Protest for Black Lives in Gainesville, (June 13, 2020) WCJB, <https://www.wcjb.com/content/news/Thousands-join-protest-for-black-lives-in-Gainesville-571246111.html>.

- b. In Miramar, over 3,000 people came together in June 2020 to demonstrate against “systemic and institutional racism” in the aftermath of George Floyd’s murder.⁶⁴ The same month, community members and church leaders organized a symbolic funeral procession of 200 cars covered with the names of people killed in racially motivated attacks from past to present that traveled about 12 miles from Gulfstream Park in Hallandale Beach to the Miramar Town Center.⁶⁵
- c. In Tallahassee, hundreds came together to peacefully protest racial injustice at the state capitol building. During one event, the peaceful protest was disrupted by violence as a truck drove into the protesters;⁶⁶
- d. In Miami-Dade County, where North Miami and North Miami Beach are located, protesters continuously gathered for a week after Mr. Floyd’s murder in solidarity with the movement for racial justice;⁶⁷ and
- e. In Lake Worth Beach, 250 people gathered to stand peacefully against injustice in the days after Mr. Floyd’s murder.⁶⁸

⁶⁴ See Protesters Gather in Miramar, (June 6, 2020) NBC 6 South Florida, <https://www.nbcmiami.com/on-air/as-seen-on/protesters-gather-in-miramar/2245062/>.

⁶⁵ See Rebecca Schneid, et al., Protests Against Racism include Symbolic Funeral Procession in Broward, (June 3, 2020) Sun Sentinel, <https://www.sun-sentinel.com/local/fl-ne-symbolic-funeral-procession-20200603-hxmu6w2agjf25bssdnyc71b4hy-story.html>.

⁶⁶ See Nada Hassanein, et al., Peaceful Tallahassee Protests Marred After Truck Hits Demonstrators; No Serious Injuries, (May 31, 2020) Tallahassee Democrat, <https://www.tallahassee.com/story/news/2020/05/30/protests-erupt-tallahassee-after-minneapolis-local-police-involved-shootings/5291951002/>.

⁶⁷ See David Goodhue et al., Miami-Dade Protest Gets Tense at Entrance to Highway, (June 7, 2020) Miami Herald, <https://www.miamiherald.com/news/local/article243311171.html>.

⁶⁸ See Thomas Cordy, No Violence as Hundreds March for Justice in Lake Worth Beach, (May 30, 2020) Palm Beach Post, <https://www.palmbeachpost.com/gallery/news/2020/05/30/no-violence-as-hundreds-march-for-justice-in-lake-worth-beach/41926941/>.

71. Both across the nation and in Florida, these calls for racial justice and for an end to police violence against Black communities were overwhelmingly peaceful. Over 95% of protests were non-violent and involved no property damage.⁶⁹

72. This movement in Florida against racial injustice and police brutality elevated the conversation about reimagining the model for public safety through local budgeting changes. Advocacy groups organized discussions and educational events about the lack of resources for social services and programs that alleviate poverty compared to law enforcement funding. Community members called for innovative models for public safety that prioritize a public health approach, such as deploying social workers to deescalate non-violent emergency situations. Emphasizing the need for participatory budgeting, many Floridians asked their local governments to reevaluate local spending priorities to, in some places, reorient public safety programs to be more community-driven, and in others, reduce the tax burden to local taxpayers, especially to the extent certain expenditures are likely to contribute to systemic racial injustice and do not promote public safety.

V. Municipalities Throughout Florida Are Responding to Constituents by Considering New Approaches to Funding Public Safety.

73. Municipalities across the nation have heard their residents, and city halls have become central spaces for discussing community-based models for public safety. As a result, in 2020, nearly half of the largest U.S. cities increased their investment in social services and shifted non-law enforcement functions from the police budget to other local departments.⁷⁰ For example,

⁶⁹ See Erica Chenoweth & Jeremy Pressman, [This Summer's Black Lives Matter Protesters Were Overwhelmingly Peaceful, Our Research Finds](https://www.washingtonpost.com/politics/2020/10/16/this-summer-black-lives-matter-protesters-were-overwhelming-peaceful-our-research-finds/), (Oct. 16, 2020) Wash. Post, <https://www.washingtonpost.com/politics/2020/10/16/this-summer-black-lives-matter-protesters-were-overwhelming-peaceful-our-research-finds/>.

⁷⁰ See Sam Levin, [These U.S. Cities Defunded Police: "We're Transferring Money to the Community"](https://www.theguardian.com/us-news/2021/mar/07/us-cities-defund-police-transferring-money-community), (Mar. 11, 2021) The Guardian, <https://www.theguardian.com/us-news/2021/mar/07/us-cities-defund-police-transferring-money-community>.

Minneapolis, Minnesota redirected nearly \$8 million from its police budget toward mental health response and violence prevention programs to help vulnerable populations.⁷¹ Austin, Texas shifted \$153 million from the police budget to create new social service programs, including a “Reimagine Safety” fund, and to move non-law enforcement functions out of the police department.⁷²

74. In Florida, several municipalities listened to constituent feedback, adopting new policies and practices that invest in social services and increase accountability in policing.

City of Gainesville

75. After thousands of Gainesville residents peacefully demonstrated against racial injustice and called for meaningful reform, the Gainesville City Commission reexamined the Gainesville Police Department (“GPD”) budget and structure.

76. This evaluation brought to light several non-law enforcement functions under the purview of GPD. For example, the GPD Youth and Community Services Bureau included several purely social service programs, such as the Reichert House, an afterschool enrichment program for youth, and the B.O.L.D. Program, which provides case management and skills training for young men between the ages of 16 and 24 with a background of prior infractions.⁷³

77. On July 13, 2020, the Gainesville City Commission directed the City Manager to develop a proposal for reallocating non-law enforcement functions from the Gainesville Police Department to other local departments and to repurpose open sworn officer positions.

⁷¹ See Ayanna Alexander & Brenna Goth, “Defund the Police” in Cities Faces Ire of State GOP Lawmakers, (Mar. 16, 2021) Bloomberg Law, <https://news.bloomberglaw.com/social-justice/defund-the-police-in-cities-faces-ire-of-state-gop-lawmakers>.

⁷² See Levin, *supra* note 70.

⁷³ See Youth & Cmty. Servs. Bureau, (2021) Gainesville Police Department , <http://www.gainesvillepd.org/About-GPD/Youth-and-Community-Services-Bureau>.

78. The City Manager returned with a proposal to transfer a Fleet Manager to the Department of Mobility and five IT positions to the Information Technology Department. The City Commission approved this \$524,902 transfer on August 10, 2020.⁷⁴

79. The City Manager also proposed that two open sworn officer positions be frozen to allow the Reichert House to hire two non-law-enforcement intervention specialists, which the City Commission also approved on August 10, 2020.⁷⁵

80. As these decreases in local law enforcement spending were made, the Gainesville City Commission also voted to approve a \$3.2 million five-year expenditure to equip officers with functioning body cameras with the goal of increasing transparency and accountability in policing.⁷⁶

81. Although these revisions did not lead to a net decrease in the GPD's budget for the 2021 fiscal year, they started an ongoing discussion about the shifting of certain programs and functions from the GPD to existing or new local departments.

City of Tallahassee

82. As pilot programs across the country demonstrated the success of using non-law enforcement tactics to respond to non-violent mental health emergencies, Tallahassee began to consider whether such an approach would help address rising incidences of non-violent mental health emergencies during the pandemic. In fall 2020, Tallahassee authorized the creation of a pilot program, the Tallahassee Emergency Assessment Mobile (TEAM) Unit to innovate

⁷⁴ See Presentation by the Gainesville City Manager to the Gainesville City Commission, (Aug. 10, 2020) <https://gainesville.legistar.com/MeetingDetail.aspx?ID=800450&GUID=A359E0A1-77F6-47D5-A286-95540985CA7A&Search=>.

⁷⁵ See *id.*

⁷⁶ See Ruelle Fludd, Gainesville Approves Purchase of New Police Body Cameras, (Aug. 6, 2020) WCJB, <https://www.wcjb.com/2020/08/06/gainesville-approves-purchase-of-new-police-body-cameras/>.

community-based response systems for the over 2,000 non-violent mental health calls Tallahassee receives each year.⁷⁷

83. The TEAM Unit responds to mental health calls with a licensed mental health professional, paramedic from the fire department, and crisis-intervention trained police officer.⁷⁸

84. Within an hour of launching in March 2021, the program received its first call and was immediately recognized as a success.⁷⁹ In July 2021, Tallahassee expanded its investment in mental health services by creating “Resilience Hubs” where residents could access three free mental health sessions with a licensed provider.⁸⁰

85. As these community-based programs prove to be effective public safety investments, Tallahassee is continuing to consider how it can innovate to best support all of its residents. The Tallahassee City Commission will be in regular dialogue with the public and the City Manager to evaluate potential next steps for expansion of this pilot program.

86. Gainesville and Tallahassee are two of several municipalities in Florida that had begun to reimagine public safety through changes to local budgeting. The aim of these changes is to increase the emphasis on alternative strategies to traditional policing that promote the safety of all communities.

⁷⁷ See Mental Health, City of Tallahassee, <https://www.talgov.com/neighborhoodservices/hs-mental.aspx> (last visited Nov. 16, 2021).

⁷⁸ See *id.*

⁷⁹ See Tallahassee Reports Staff, City Launches Mental Health Crisis Response Unit, (Apr. 25, 2021) Tallahassee Reports, <https://tallahasseereports.com/2021/04/25/city-launches-mental-health-crisis-response-unit/>.

⁸⁰ See WTXL Digital Staff, Tallahassee Launches New Neighborhood- Based Mental Health Pilot Program, (July 30, 2021) WTXL, <https://www.wtxl.com/news/local-news/tallahassee-launches-new-neighborhood-based-mental-health-pilot-program>.

VI. Governor DeSantis Proposed HB 1 to Strike Back at Florida Residents and Municipalities Working to Reimagine a More Just Vision for Public Safety.

87. While local governments began working with constituents toward meaningful justice reform, Governor DeSantis responded by advocating to expand the authority of Florida's Executive Branch to commandeer these local legislative efforts and stymie reform.

88. Despite acknowledging that the demonstrations for racial justice were "largely peaceful,"⁸¹ Governor DeSantis demonized the Floridians who stood against racial injustice and police brutality as "crazed lunatics"⁸² and "angry mobs."⁸³ Within the first two weeks of peaceful gatherings, the Governor mobilized 700 Florida National Guard soldiers against his own constituents.⁸⁴

89. Governor DeSantis disparaged any local budget reforms aimed at transferring some local law enforcement spending to social services as "insane theor[ies]."⁸⁵ The Governor vowed that these local democratic initiatives were "not going to be allowed to ever carry the day in the state of Florida."⁸⁶

⁸¹ See News Release, Governor Ron DeSantis Reports that Florida Demonstrations Have Remained Largely Peaceful Over Last 24 Hours (June 2, 2020), <https://www.flgov.com/2020/06/02/governor-ron-desantis-reports-that-florida-demonstrations-have-remained-largely-peaceful-over-past-24-hours/>.

⁸² See Rev Staff, Florida Gov. Ron DeSantis Press Conference Transcript: Harsher Penalties for Violent Protesters, (Sept. 21, 2020) Rev, <https://www.rev.com/blog/transcripts/florida-gov-ron-desantis-press-conference-transcript-harsher-penalties-for-violent-protesters>.

⁸³ See News Releases, Office of Gov. Ron DeSantis, WHAT THEY ARE SAYING: Gov. Ron DeSantis Signs Hallmark Anti-Rioting Legislation Taking Unapologetic Stand for Public Safety (Apr. 19, 2021), <https://www.flgov.com/2021/04/19/what-they-are-saying-governor-ron-desantis-signs-hallmark-anti-rioting-legislation-taking-unapologetic-stand-for-public-safety/>.

⁸⁴ See Johari Canty, Gov. DeSantis Mobilizes 700 National Guard Soldiers to Assist with Protests (June 1, 2020), <https://wsvn.com/news/local/gov-desantis-mobilizes-700-national-guard-soldiers-to-assist-with-protests/>.

⁸⁵ See DeSantis Signs 'Anti-Riot' Bill into Law, published video (Apr. 19, 2021), <https://www.youtube.com/watch?v=Tz7qITKczNI>.

⁸⁶ See *id.*

90. True to his word, on September 21, 2020, Governor DeSantis held a press conference where he announced the “Combating Violence, Disorder and Looting, and Law Enforcement Protection Act,” also known as HB 1, a “very robust package” of criminal penalties for individuals associated with “disorderly assemblies” as well as separate budgeting restrictions for cities engaging in public safety reform.⁸⁷

91. Governor DeSantis did not deny that HB 1 would chill political speech. Rather, he made clear that a major goal of HB 1 was to ensure that “a ton of bricks rain down” on demonstrators, so that “people . . . think twice about engaging in this type of conduct” after the summer of 2020’s public movement for racial justice.⁸⁸

92. Governor DeSantis also stated that a separate goal of HB 1 was to preempt local efforts to deliver meaningful budgetary reforms. HB 1 would not permit local governments to exercise control over their budget priorities to shift any funds from law enforcement to other public services.⁸⁹

93. Immediately, the Florida public raised alarm about the political motivations underlying HB 1’s heightened sanctions of protest activities. Indeed, the *Miami Herald* Editorial Board warned that HB 1 “will have deadly consequences and, as history has shown, Black and brown people will likely pay the price.”⁹⁰

⁸⁷ See Rev Staff, *supra* note 82.

⁸⁸ See *id.*

⁸⁹ See *id.*

⁹⁰ See The Miami Herald Editorial Board, Could Anything be Worse than Florida’s Stand Your Ground? Yes, a New, Racist Legislative Proposal, (Feb. 11, 2021) Miami Herald, <https://www.miamiherald.com/opinion/editorials/article249138640.html>.

94. Many local leaders also opposed HB 1’s budgeting provisions aimed at hindering public safety reform. The Florida League of Cities publicly opposed HB 1.⁹¹ Twenty-eight local elected officials from throughout Florida wrote to the state legislature and Governor opposing HB 1 because it would allow “partisan statewide officer[s] to line-item-veto local, nonpartisan budgets.”⁹²

95. Nonetheless, following the Governor’s direction to make HB 1 a “focal point”⁹³ of the 2021 legislative session, the Florida Legislature fast-tracked the bill to passage.

96. Even as the Florida House of Representatives discussed the bill, there was not full clarity on how it would apply to municipalities or the impact that the Administration Commission could have. During questioning, Representative Juan Fernandez-Barquin, the sponsor of the bill, did not deny that cuts to the law enforcement operating budget resulting from a revenue shortfall, grant expiration, or reorganization of a department could bring a budget within the ambit of HB 1’s appeal process. Instead, Representative Fernandez-Barquin deferred to the Administration Commission’s ability to judge a reduction to the operating budget.⁹⁴ Representative Fernandez-Barquin admitted that if the Administration Commission did reverse a funding reduction, that “the

⁹¹ See Fla. League of Cities, Combating Public Disorder (Oppose - Impact on Local Operations) (Jan. 28, 2021), [https://www.flcities.com/blog/legislative-bulletin/2021/01/28/combating-public-disorder-\(oppose-impact-on-municipal-operations\)01-28-2021-10-02-49](https://www.flcities.com/blog/legislative-bulletin/2021/01/28/combating-public-disorder-(oppose-impact-on-municipal-operations)01-28-2021-10-02-49).

⁹² Letter from 28 local elected officials to the Florida State Legislature and Governor Ron DeSantis (Mar. 23, 2021), <https://localprogress.org/wp-content/uploads/2021/03/LPFL-Opposes-HB1-SB484.pdf>.

⁹³ Kirby Wilson, Ron DeSantis: Any City that ‘Defunds’ Police Will Lose State Funding, (Sept. 21, 2020) Tampa Bay Times, <https://www.tampabay.com/news/florida-politics/2020/09/21/ron-desantis-any-municipality-that-defunds-police-will-lose-state-funding/>.

⁹⁴ See Fla. H.R., recording of proceedings (March 25, 2020 at 47:25-1:04:08) (questioning of Representative Juan Fernandez-Barquin), *available at* <https://thefloridachannel.org/videos/3-25-21-house-session/>.

city would be responsible for figuring out a way to plug that hole” even if funds had been committed elsewhere.⁹⁵

97. After HB 1 passed the Florida House of Representatives, State Senator Danny Burgess introduced the bill in the Senate even while acknowledging HB 1 could be misapplied, could be enforced in a racially discriminatory manner, and might be wielded against peaceful protesters.⁹⁶ Despite these significant concerns, State Senate President Wilton Simpson limited public comment to a single session.⁹⁷

98. Because of the speed with which the legislature moved, consideration of the full range of concerns both from individuals and communities was nearly impossible. In addition, local officials and the public at large found it difficult to engage meaningfully with their representatives due to restrictions on meeting with legislators that were imposed and maintained throughout the duration of the 2021 legislative session ostensibly due to the COVID-19 pandemic.⁹⁸

⁹⁵ *See id.*

⁹⁶ *See* News Service of Florida, Protest Bill Backed in Florida Senate After Emotional Debate, (Apr. 9, 2021) Orlando Sentinel, <https://www.orlandosentinel.com/politics/os-ne-riot-bill-florida-senate-20210409-3nogdspusrbajbde33vo3uaa5m-story.html>.

⁹⁷ *See* Fla. S. Comm. On Approp., recording of proceedings (Apr. 9, 2021), *available at* https://www.flsenate.gov/media/VideoPlayer?EventID=1_3wpkrnbb-202104090830&Redirect=true.

⁹⁸ *See* Skyler Swisher, Florida May be an ‘Oasis of Freedom’ in COVID Reopenings—But the Capitol is Still Locked Down, (Apr. 21, 2021) South Florida Sun Sentinel, <https://www.sun-sentinel.com/news/politics/fl-ne-florida-capitol-lockdown-ss-prem-20210421-kcyh6ym2tvbjvhuaj754acrhu-story.html>; James Call, Controversial Bills, a Closed Capitol: How COVID Defined Florida’s 2021 Legislative Session, (Apr. 29, 2021) Tallahassee Democrat, <https://www.tallahassee.com/story/news/politics/2021/04/29/closed-public-capitol-defined-2021-florida-legislative-session/4856887001/>; *see also* Patricia Brigham & Pamela C. Marsh, Florida Lawmakers Used COVID as Excuse to Ignore Public Opinion, (May 4, 2021) Tallahassee Democrat, <https://www.tallahassee.com/story/opinion/2021/05/04/gov-ron-desantis-florida-lawmakers-knowingly-ignored-public-opinion-covid-19-excuse/4922599001/>.

99. With enormous support from the Governor’s office and without a single committee hearing fully open to the public, HB 1 was signed into law by Governor DeSantis on April 19, 2021.⁹⁹

100. The passage of HB 1 amended several criminal statutes to heighten penalties related to protesting and created new protest-related offenses:

a. Section 2 prohibits the willful obstruction of traffic with language broad enough to criminalize standing on the street and temporarily hindering traffic.

b. Section 8 creates a new first-degree misdemeanor offense for “mob intimidation,” which prohibits one person “assembled with two or more other persons and acting with a common intent, to use force or threaten to use imminent force, to compel or induce, or attempt to compel or induce, another person to do or refrain from doing any act or to assume, abandon, or maintain a particular viewpoint against his or her will,”¹⁰⁰ a charge that could be levied against those who successfully convince others to change their viewpoint in the course of a demonstration.

c. Section 14 prohibits cyber-intimidation by publishing an individual’s identity, including a public official, with intent for a third party to threaten, harass or commit violence against that person. This could allow individuals to be prosecuted for publicly criticizing a political official on an online forum, for example.

d. Section 15 makes a person who “willfully participates in a violent public disturbance involving an assembly of three or more persons, acting with a common intent to mutually assist each other in violent and disorderly conduct, resulting in”¹⁰¹ injury or

⁹⁹ See Fla. Legis., Final Legislative Bill Information, 2021 Reg. Sess., History of House Bill 1, <https://www.flsenate.gov/Session/Bill/2021/1/?Tab=BillHistory>.

¹⁰⁰ Fla. HB 1, §4 (2021).

¹⁰¹ Fla. HB 1, §15 (2021).

damage to another person or property. or imminent danger of injury to another person or damage to property liable for a third-degree felony charge, punishable by up to five years in prison. Section 15 does not define “participation,” so this third-degree felony charge could be levied against peaceful protestors who find themselves in close proximity to an act of violence or property destruction or who are defending themselves against attack from law enforcement or counter-protesters.

e. Section 16 withholds bail from individuals arrested for breaching the peace, in effect guaranteeing that protestors will spend at least one night in jail.

f. Section 18 creates an affirmative defense to civil liability against wrongful death, personal injury, and property damage for individuals who used force against someone convicted of an aggravated riot. Accordingly, those protesting racial injustice could be convicted of an aggravated riot while counter-protesters who use violence against them would have an affirmative defense.

VII. HB 1 Strips Municipalities of Budget-Setting Authority and Concentrates Power to Appropriate Law Enforcement Funds in the Executive Branch.

101. In addition to these individual criminal penalties, Section 1 of HB 1 creates a new mechanism by which the state executive branch can commandeer the local budgeting process and unilaterally require cities to reallocate funding for local police departments.

102. Although the state executive branch does not play a role in developing the local budget and is not a part of community conversations about setting local priorities, HB 1 creates a state oversight process that targets local decisions with respect to their law enforcement budget. A budget proposal or budget amendment that “contains a funding reduction to the operating budget of the municipal law enforcement agency”¹⁰² may be taken up by the state executive branch for

¹⁰² Codified at § 166-241(4)(a), Fla. Stat. (2021).

review. The review process can be easily triggered by a state attorney—an executive official—or a single outvoted member of the municipality’s governing body.

103. Section 1 provides no definition of what constitutes a funding reduction to the operating budget, making even the most routine budgetary fluctuations like pension obligations or capital expenditures vulnerable to commandeering under HB 1. Further, there is no clarification as to whether HB 1 would be triggered by any isolated line-item reduction to the operating budget or whether the reduction must lead to a net reduction of the operating budget. Ultimately, without any definition of a “funding reduction,” any number of changes to the local police budget could provide the basis for the state executive’s commandeering mechanism.

104. Once HB 1’s review process is triggered, the Executive Office of the Governor seizes the local budget before it can be implemented. A municipality has only five working days to file a written explanation of its budgeting decision to the Executive Office, and beyond that, HB 1 provides no further role for the municipality as its budget is reviewed by the state executive branch.¹⁰³

105. The Administration Commission, consisting of the Governor and Cabinet, then has unfettered discretion to remake the local budget as it sees fit. HB 1 empowers the Governor and Cabinet to “amend or modify the [local] budget as to each separate item within the operating budget of the municipal law enforcement agency”¹⁰⁴ without any further input from the city or its residents. HB 1 provides no legislative standards to guide or limit how the Governor and Cabinet evaluate, amend, or modify budgets.¹⁰⁵

¹⁰³ *Id.* at § 166-241(4)(b).

¹⁰⁴ *Id.* at § 166-241(5).

¹⁰⁵ Since the enactment of HB 1, the Administration Commission has published regulations about their process—that it will compare local law enforcement budgets with those passed two years prior as well as with other local departments—but these do not cure the lack of legislative direction,

106. HB 1 does not afford municipalities a meaningful opportunity to challenge the Administration Commission’s revision of their local budget, no matter how drastic. Indeed, the scope of potential judicial review is so narrow—limited to whether the Administration Commission “depart[ed] . . . from the essential requirements of law,” *Broward Cty. v. Administration Comm’n*, 321 So. 2d 605, 610 (Fla. 1st DCA 1975)—that it provides little recourse to a municipality that objects to the budget expenditures mandated by the Governor and Cabinet.

107. Thus, the revised budget decreed by the Governor and Cabinet has binding legal effect. Accordingly, upon receipt of this state-revised budget, the municipality must work to rebalance appropriations to other funds to accommodate revisions from the state executive. In essence, the municipality will be forced to expend funds it otherwise would not have spent at all or would have spent elsewhere simply to fulfill the state’s mandate.

108. HB 1’s budget takeover process does not provide any special consideration for the many reasons a municipality would need to make a reduction to its law enforcement funding, such as growth in demand for local services outpacing local tax revenues, the expiration of one-time expenditures or grants, across-the-board fiscal restraint, or rebalancing investment in needed social services.

109. Essentially, once the appeal process begins, HB 1 allows for a significant portion of the municipality’s budget to be wrested from its control by a state official (or a single dissenting local official), put to the judgment of the state executive branch, which does not have familiarity with the day-to-day operations of the municipality, and then revised line-by-line by the Governor and Cabinet with no further recourse.

nor do they provide further clarity as to what standards of evaluation will be used. Fla. Admin. Code R. 28-42.007 (Aug. 8, 2021).

110. HB 1 is not comparable to any other Administration Commission appeal process because it imposes a state commandeering process on a purely local budgeting process. The Florida Legislature has authorized the Administration Commission to hear certain appeals of budgeting items that relate to intergovernmental programs—such as enacting or amending comprehensive plans, which involves collaboration to resolve issues of state and regional interests between the state land planning agency, appropriate water district, Florida Department of Environmental Protection, Florida Department of State, and Florida Department of Transportation as well as the local government, § 163.3184, Fla. Stat. (2016) (in “Intergovernmental Programs” chapter)—or state constitutional officers, such as the sheriff, § 30.49, Fla. Stat. (2011).¹⁰⁶ The local budgeting process, however, is a purely local process committed to municipalities through home rule.

111. No part of HB 1’s state commandeering involves consultation with the municipality or provides for engagement with the municipality’s residents. Rather, HB 1 allows the Governor and Cabinet to mandate that a municipality fund law enforcement according to the Governor’s vision, rather than applying the considered judgment of local elected officials and advancing the best interests of the municipality and its residents.

VIII. Because of HB 1, Florida Municipalities Cannot Structure Their Budgets to Meet the Municipalities’ Needs or Respond to Constituents’ Calls for Reform.

112. After consulting with a variety of local officials—from managers to local department heads—and community members, most municipalities in Florida have adopted the

¹⁰⁶ Unlike local police departments that are born from city charters, there are several state constitutional provisions and state statutes that govern the duties and activities of sheriffs. *See, e.g.*, Art. IV, § 7, Fla. Const. (providing that the Governor can remove a sheriff under certain circumstances); §14.022(2), Fla. Stat. (1995) (authorizing the Governor to enlist sheriffs to keep the peace); §30.15, Fla. Stat. (2020) (enumerating the duties of sheriffs); §104.11, Fla. Stat. (1999) (providing state penalties for sheriffs that neglect their duties); §145.071, Fla. Stat. (2011) (requiring certain training of sheriffs, fixing a salary scale, and providing bonuses for sheriffs meeting certain state standards); §943.085, Fla. Stat. (1986) (regarding training of sheriffs).

initial budget for FY 2022. This adopted budget will be revisited throughout the year, particularly as economic circumstances continue to fluctuate in the pandemic. Several municipalities have emphasized that the adopted budget will be subject to change and thus requires flexibility. For example, the Village Manager of North Bay Village stated in his letter transmitting the adopted FY 2022 budget that “the one thing that I can promise the Commission and the community is that the assumptions underlying the budget I present today will change tomorrow, so adaptability and flexibility have been our guiding principles in preparing this budget.”¹⁰⁷

113. Although some municipalities may be considering larger changes to their public safety approaches, there are regular decisions that municipalities face that carry the potential to reduce either the current adopted budget for the police department or future budgets, including but not limited to the following:

a. Many local police departments are often funded in part by time-limited grants from federal and state government, or even non-governmental organizations. In Tallahassee, for example, grant funding makes up 2.4% of the police department budget. Grants are generally time-limited, however, and if not renewed, will expire. Municipalities face decisions every year about whether they will seek to apply for a grant, renew a grant, or allow the grant and any attached conditions to expire as priorities change, which affects the development of a future budget;

b. Municipalities regularly make one-time capital expenditures to purchase or improve infrastructure or resources used by the police department, including technology, body cameras, squad cars, and police department buildings. In FY 2021, for example,

¹⁰⁷ See FY 2021- 2022 Adopted Budget at B, North Bay Village, Florida, <https://seureservercdn.net/166.62.112.107/w20.29e.myftpupload.com/wp-content/uploads/2021/10/FY-2022-ADOPTED-BUDGET.pdf> (last visited Nov. 16, 2021).

Gainesville allocated \$3.2 million to equip officers with body cameras, an expenditure which will expire in 2025.¹⁰⁸ The City of Wilton Manors has undertaken \$391,000 in capital expenditures, roughly \$85,000 of which is being spent on body cameras in FY 2022. When such one-time capital expenditures expire, they are generally not replaced with new capital expenditures. Municipalities must decide what projects should benefit from temporary infusions of capital and where to reallocate that revenue when the project has been completed;

c. Revenue across many municipalities is variable and indeed dropped for many municipalities during the COVID-19 pandemic. Many municipalities were forced to make mid-year changes to their budget as revenue dropped, such as Miramar, which had to furlough staff across local departments in FY 2020, including the police department.¹⁰⁹ When revenue varies, either on an annual basis or mid-year due to sudden downturn, cities must adjust their budgets and expenditure accordingly;

d. To soften the blow of the economic challenges posed by the COVID-19 pandemic, the U.S. Congress appropriated \$150 billion in the CARES Act and \$350 billion in the American Rescue Plan Act (ARP) for state, local, and tribal governments. This funding has already been integrated into local police department budgets: In Tallahassee, for example, CARES Act and ARP funds made up 3.69% of the police department's budget in FY 2021 and will account for 3.43% of the police department's budget in FY 2022. However, because both of these aid packages require that funds are expended or obligated

¹⁰⁸ See Fludd, *supra* note 76.

¹⁰⁹ See Terrell Forney, City of Miramar to Furlough Employees, Including First Responders, (May 14, 2020) Local 10, <https://www.local10.com/news/local/2020/05/14/coronavirus-in-florida-city-of-miramar-to-furlough-employees-including-first-responders/>.

within a limited time, this stream of revenue will eventually have to be replaced, or the police department's operating budget will have to be reduced.

114. All of these standard decisions have the potential to lead to a reduction of the police budget and thus are overshadowed by HB 1. Because HB 1 provides no guidance or clarification about what qualifies as a reduction subject to its provisions, it injects uncertainty into local budgeting discussions and does not allow municipalities to weigh the full range of options available to them. As municipalities are implementing their current budgets, weighing necessary amendments, or considering decisions or expenditures that could impact a future budget, they do not know the parameters that HB 1 places on their consideration and cannot predict the consequences.

115. The Governor continues to change the rules governing the application of HB 1's local budgeting provisions as well. On June 15, 2021, in a session with the Cabinet, Governor DeSantis signed off on initial rules that would also allow a county sheriff to challenge a reduction of the law enforcement budget under HB 1. Attorney General Moody has been directed to publish a notice of final rule.¹¹⁰

116. In light of these ambiguous and evolving circumstances, it is infeasible for municipalities to know the scope of their authority to adjust their law enforcement budgets and to match those budgets with local revenues and priorities.

117. Local leaders have described the chilling effect of HB 1 on their budgeting discussions: Mayor Lauren Poe of Gainesville stated in a Commission meeting that he “feel[s] intimidated and threatened by [HB 1]” and believes that he is “being told [he] cannot make

¹¹⁰ See Matt Dixon, Florida Panel Paves Way for Law Enforcement to Appeal Local Police Budget Cuts, (June 15, 2021) Politico, <https://www.politico.com/states/florida/story/2021/06/15/florida-panel-paves-way-for-law-enforcement-to-appeal-local-police-budget-cuts-1386464>.

government decisions.”¹¹¹ Emphasizing that “[t]his was not a bill that was asked for [and] this was not a bill that was needed,” Mayor Wayne Messam of Miramar noted that HB 1 “doesn’t fully vet the impacts” on local budgeting and “would impede [the city’s] ability to serve our residents.”¹¹²

118. HB 1 has impacted municipalities’ evaluation of previously discussed budgetary options that could affect the law enforcement budget. Absent HB 1, municipalities would be free to consider all budgetary options before them and choose the option that best fits the municipality’s circumstances and their residents’ needs and values. But HB 1 has injected insecurity and uncertainty into local budgeting, deterring municipalities like Plaintiffs from considering all of the options before them.

City of Gainesville

119. After directing the City Manager to examine possibilities for transferring non-law-enforcement expenditures from the GPD budget to other local departments on July 13, 2020, Gainesville city leaders have engaged in multiple discussions surrounding the possible transfer of youth mentorship programs from the GPD budget.

120. Several youth services programs that are currently under the purview of GPD have little to do with law enforcement. For example, the Reichert House, an after-school program for male youth between the 2nd and 12th grades, provides educational support and enrichment as well as mentorship from intervention specialists and involves no provision of law enforcement, even though it is a program within GPD.

¹¹¹ Alexander Lugo, Gainesville City Commissioners Take First Step In Potential Lawsuit over House Bill 1, (May 24, 2021) Independent Florida Alligator, <https://www.alligator.org/article/2021/05/hb1lawsuit>.

¹¹² Miramar, Fla. City Commission Meeting, video recording, at 1:43:48-1:45:11 (Aug. 18, 2021), https://miramar.granicus.com/MediaPlayer.php?view_id=1&clip_id=593&Mode2=Video.

121. Similarly, the B.O.L.D. program describes itself as a “community-based organization” that does not involve law enforcement activity, but rather provides mental health, counseling, and job training services to formerly incarcerated youth between the ages of 16 and 24.¹¹³

122. The Gainesville City Commission had been evaluating whether to transfer these youth services programs to another local department or create a separate Youth Services Department. Recently, the Gainesville City Commission directed the City Manager to provide a variety of options to the Commission to accomplish these ends, including options that would lead to reductions of the GPD budget. Considerations of these options would have ramifications for future budgets.

123. HB 1 burdens the Gainesville City Commission’s consideration of these options. Prior to HB 1, the City Commission could focus on which budgetary options were in the best interests of the City of Gainesville and its residents. Now considerations must adjust to avoid triggering HB 1’s commandeering process. Because HB 1 fails to provide legislative standards that could give cities notice of what reductions could trigger commandeering and how the State Executive could wield this authority, it is difficult to predict reliably what path that will avoid commandeering.

124. This lack of clarity about the commandeering HB 1 authorizes injects uncertainty into local decision-making. Gainesville continues to discuss options for transferring youth programs to an independent local department, but without a sense of what boundaries HB 1 imposes.

¹¹³ See B.O.L.D. Reentry Program (2021), Gainesville Police Dep’t, <http://www.gainesvillepd.org/About-GPD/Youth-and-Community-Services-Bureau/BOLD-Program>.

City of Lauderhill

125. In 2020, the City of Lauderhill voluntarily reduced its property tax rate, even though the city was facing a \$6 million budget deficit entering FY 2021.¹¹⁴ To offset fallen revenue, including a 70% drop in police department revenue, Lauderhill had to significantly reduce its expenditures by removing funding for most vacant positions, instituting an eight-day furlough for municipal employees, and by reducing the police budget by approximately 4%, among other cost-saving measures.¹¹⁵ All of these reductions were in the service of balancing the municipal budget and “help[ing] alleviate the pressures on [Lauderhill’s] residents.”¹¹⁶

126. As the economic consequences of the COVID-19 pandemic continue to develop, revenues remain subject to variation. Lauderhill was able to respond to the economic challenges of 2020 in ways that centered and prioritized residents only because it had the flexibility to pursue cost-saving measures across all departments, including the police department. With HB 1’s commandeering mechanism as a powerful deterrent, Lauderhill now does not have the flexibility to meaningfully consider cost-saving measures that could impact the police department and thus surrender control of their budget to the state.

City of Miramar

127. After being forced to furlough local employees to offset a sudden \$23 million budget shortfall in 2020, Miramar sought out strategies to reduce its costs without terminating staff or cutting hours.

128. In January 2021, Miramar launched a Voluntary Retirement Incentive Program (VRIP), which offered local employees who had worked a certain number of years incentives to

¹¹⁴ See City Manager’s Budget Fiscal Year 2021 at 12, (2021) City of Lauderhill, Fla., <https://www.lauderhill-fl.gov/home/showpublisheddocument/28565/637529818048370000>.

¹¹⁵ See *id.* at 12, 110.

¹¹⁶ *Id.* at 12.

retire earlier than they otherwise would have been eligible. For example, although Miramar Police Officers generally become eligible for pension benefits after 20 years of credited service or 10 years if they are over the age of 55, they are eligible for VRIP after 10 years of credited service, regardless of age.

129. When a local employee elects for VRIP, Miramar gives them their earned benefits package and then freezes hiring on the vacated position for a period of five years for a non-law enforcement employee and 18 months for a police officer.

130. This voluntary program allows Miramar to reduce and contain its personnel costs amid continuing budget shortfalls, but in a way that maximizes local employees' incentive and agency as well. VRIP saw a 44% participation rate among eligible police officers, for example.

131. As of September 15, 2021, 42 local employees have elected for VRIP, which is projected to lead to a city-wide cost saving of \$11.3 million over five years. Twenty-six of participating employees, over half of the employees who elected for VRIP, were police officers.

132. As a result of VRIP, Miramar will freeze hiring for the next 18 months for at least 26 entry-level police officer positions. This will reduce personnel costs in the law enforcement budget.

133. Because of HB 1's total lack of standards, Miramar must make decisions without knowing whether, for example, a line-item reduction or a net reduction could trigger HB 1's budget-review appeal process. Miramar also does not know whether HB 1 allows the Administration Commission to direct the city to undertake new or increased law enforcement costs to offset this line-item reduction and, if so, by how much. This uncertainty is impacting current and ongoing discussions and implementation of the FY 22 Miramar budget, and limits Miramar's

ability to make informed decisions and set reasonable expectations about the amount of local tax dollars that the Administration Commission could require the city to spend.

City of Tallahassee

134. Tallahassee continues to find success with its innovative TEAM Unit pilot program and therefore has contemplated expanding the program. Currently, the TEAM Unit has been budgeted \$500,000 to fund activities carried out by staff in the human services division, the fire department, and the police department, together with contracted mental health professionals. The funding for the program includes an allocation of city resources (\$250,000) and a United States Department of Justice grant (\$250,000).

135. The staffing and funding of the TEAM Unit remain subject to observation and change as the Commission receives regular updates about the program and its needs.

136. As Tallahassee continues to grow and refine the TEAM Unit pilot program, it needs flexibility to structure the program to best meet the needs of residents, even if that includes reducing the allocation of budgeted funds for police department staffing. However, it is unclear whether such a reduction could trigger HB 1, especially given the uncertainty about the extent of the Administration Commission's discretion in enforcing the law. Tallahassee's ability to make informed decisions and set reasonable expectations about the full range of consequences if it proceeds with such a reduction is severely hampered. Tallahassee lacks the clarity that it needs to evaluate the future of this new pilot program and, thus, is limited in its ability to improve the public services it provides to its residents and local electorate.

City of Wilton Manors

137. After higher-than-average law enforcement expenditures in 2020, the City of Wilton Manors is anticipating fluctuation as it implements its FY 2022 budget. The pandemic

created additional work for Wilton Manors and its police department, resulting in \$265,000 spent on overtime for police officers, a 24.4% increase in overtime hours from the previous year. Although the overtime line item grew in 2020, it has since decreased and Wilton Manors projects that it will incur only \$240,000 in overtime costs in 2022, a 9.4% decrease from 2021. This projection could decrease further depending on actual expenditures, which are projected to drop.

138. Adding to the budgetary fluctuation, Wilton Manors has undertaken \$391,000 of capital expenditures for its police department. This capital will be spent on a number of one-time projects; for example, Wilton Manors will spend \$85,000 on body cameras, but once those cameras have been purchased, there are no further recurring capital costs. As these capital expenditures expire, they will create additional fluctuations and reductions in the local police budget.

139. The potential for budget fluctuations to trigger HB 1 has made Wilton Manors wary of capital expenditures. City leadership does not know if undertaking a large project to improve the city's police department will require the city to maintain spending at a higher-than-average level after the project is complete. This one-direction ratchet-up scenario, in which budgets can only ever go up, actually deters rather than encourages increased spending on law enforcement.

All Plaintiffs

140. All Plaintiffs make decisions throughout the year that can impact the police budget, ranging from decisions to apply for a one-time grant that will expire to shifting resources so that the municipality operates more efficiently.

141. Plaintiffs are currently particularly vulnerable to circumstances outside their control, as the economic ramifications of the COVID-19 pandemic continue to develop. Even when economic circumstances change, Plaintiffs will remain obligated to maintain a balanced budget.

142. HB 1 adds uncertainty that overshadows all Plaintiffs’ ability to make necessary choices because the law leaves them unable to predict the consequences of routine budget decisions. The presence of an unfettered mechanism for the state to commandeer the local budget impacts Plaintiffs universally.

143. By making the local budgeting subject to unilateral revision by the Governor and Cabinet, HB 1 utterly disregards Florida’s strict separation-of-powers principles and directly threatens the core home rule authority guaranteed to all Plaintiffs by the Florida Constitution, statute, and their charters.

CAUSES OF ACTION

COUNT I — Separation of Powers **(Article II, Section 3 of the Florida Constitution)**

144. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs 1 through 143 inclusive, as if fully set forth herein.

145. This count is an action for injunctive relief, pursuant to section 26.012 of the Florida Statutes (2021), and a declaratory judgment, pursuant to section 86.011, *et. seq.*, seeking a declaration from the Court that HB 1 violates the separation of powers under article II, section 3 of the Florida Constitution.

146. The Florida Constitution divides the powers of the state government into three branches—legislative, executive, and judicial—and prohibits any branch from “exercis[ing] any powers appertaining to either of the other branches unless expressly provided [by the constitution].” Art. II, § 3, Fla. Const. Additionally, no branch may delegate its constitutionally assigned power to another branch. *See Smith v. State*, 537 So. 2d 982, 987 (Fla. 1989).

147. To the limited extent that the state government has authority to restrict the power or override the governing body of a home rule unit of government, the Florida Constitution confers this authority exclusively upon valid exertions of legislative power. *See, e.g., Askew v. Cross Key Waterways*, 372 So. 2d 913, 915–19 (Fla. 1978). This is generally considered a home rule government’s “power of immunity,” or “the power of localities to act without fear of the supervisory authority of the state government.” *City of New Orleans v. Bd. of Com’rs*, 640 So. 2d 237, 242 (La. 1994).

148. Furthermore, the power to appropriate public funds is a “fundamentally legislative task” and appropriations must be passed through “duly enacted statutes” rather than through executive administrative decisions. *Chiles v. Child. A, B, C, D, E, & F*, 589 So. 2d 260, 265 (Fla. 1991). Likewise, the power to “reduce appropriations” is a legislative function. *House of Representatives v. Martinez*, 555 So. 2d 839, 846 (Fla. 1990).

149. HB 1 impermissibly delegates both of these legislative powers to the executive. HB 1’s budgeting review process supplants local authority by allowing the state executive branch to unilaterally revise the local budget. If the Florida Constitution allows the state to engage in such review at all, then this review is a legislative function that the Florida Constitution does not authorize for delegation to another branch.

150. HB 1’s budgeting review process also allows the Administration Commission to make appropriations decisions that are fundamentally legislative in character. The Florida Constitution does not authorize the legislature to delegate to the executive branch “its authority to make decisions regarding the purposes for which public funds may or may not be applied.” *Chiles*, 589 So. 2d at 265.

151. These impermissible delegations of legislative power interfere with Plaintiffs' ability to balance their operational budgets and interfere with Plaintiffs' ability to make fiscal decisions consistent with the political will of their constituents.

152. Because Section 1 of HB 1 impermissibly commits legislative functions to the executive branch, it violates article II, section 3 of the Florida Constitution. Section 1 of HB 1 should be enjoined in its entirety.

153. The Court should also declare that HB 1 violates the separation of powers principles articulated in article II, section 3 of the Florida Constitution.

COUNT II — Nondelegation Doctrine

154. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs 1 through 143 inclusive, as if fully set forth herein.

155. This count is an action for injunctive relief, pursuant to section 26.012 of the Florida Statutes (2021), and a declaratory judgment, pursuant to section 86.011, *et. seq.*, seeking a declaration from the Court that HB 1 violates the nondelegation doctrine.

156. Even assuming the legislative branch can delegate its power to appropriate public funds and control local budgets to the executive branch (which it cannot), HB 1's delegation is impermissible due to a lack of standards relating to the review by the Administration Commission. This dearth of standards is particularly problematic in light of HB 1's unprecedented reassignment of legislative powers.

157. Under Florida law, the nondelegation doctrine requires that "fundamental and primary policy decisions shall be made by members of the legislature." *Askew*, 372 So. 2d at 925.

158. Legislation delegating the administration of legislative programs "must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing

the program.” *Askew*, 372 So. 2d at 925. When legislation is “so lacking in guidelines that neither the agency nor the courts can determine whether the agency is carrying out the intent of the legislature in its conduct,” then the agency is exercising the core legislative power of policymaking, rather than its constitutionally assigned power of administering the law. *Id.* at 919.

159. The guidelines accompanying legislative delegation to an administrative agency “must clearly announce adequate standards to guide . . . in the execution of the powers delegated.” *S. All. for Clean Energy v. Graham*, 113 So. 3d 742, 748 (Fla. 2013) (quoting *Lewis v. Bank of Pasco Cnty.*, 346 So. 2d 53, 55–56 (Fla. 1976)). The statute delegating the power must “so clearly define the power delegated that the administrative agency is precluded from acting through whim, showing favoritism, or exercising unbridled discretion.” *Id.*

160. Delegation of legislative functions may pass facial constitutional muster if accompanied by “[c]arefully crafted legislation establishing, among other things, the extent to which appropriations may be reduced, coupled with a recitation of reduction priorities and provisions for legislative oversight.” *Chiles*, 589 So. 2d at 268.

161. HB 1 contains no standards or guidelines for the Administration Commission to follow in carrying out the legislature’s intent. It does not identify when local police budgets should be overridden, by how much the Administration Commission may amend or modify police budgets, or any factors at all for the Administration Commission to consider when making these determinations.

162. Section 1 merely provides that the Administration Commission “shall approve the action of the governing body of the municipality or amend or modify the budget as to each separate item within the operating budget of the municipal law enforcement agency.” § 166-241(5), Fla.

Stat. (2021). When the budget control provisions are triggered by complaint, HB 1 allows the Administration Commission full discretion to edit and revise a local police budget as they see fit.

163. Because HB 1 fails to provide guidelines, Plaintiffs' budget lines could be revised by unpredictable, arbitrary, and unconscionable amounts. Additionally, HB 1's lack of standards allows the Administration Commission to override the considered legislative judgment of local bodies for any reason or no reason at all. The Administration Commission's promulgation of administrative rules does not cure the lack of *statutory* guidelines, nor does it provide clarity or shed light on the evaluation metrics that the Administration Commission can or will use to review budget reductions. *See Fla. Admin. Code R. Ch. 28-42 (Aug. 8, 2021)*.

164. Plaintiffs' decision making and planning is currently impacted by the presence of this executive commandeering process. As Plaintiffs implement their current year's budgets and make plans that affect current or future spending on law enforcement, they run the risk, based on the Governor's stated position, of having their budgets commandeered. Thus, Plaintiffs can only avoid this interference by, at a minimum, maintaining the same level of law enforcement funding.

165. Because Section 1 of HB 1 impermissibly commits unfettered legislative discretion to the executive branch, it violates the nondelegation doctrine. Section 1 of HB 1 should be enjoined in its entirety.

166. The Court should also declare that HB 1 violates the nondelegation doctrine.

COUNT III — Single Subject and Clear Title Rule
(Article III, Section 6 of Florida Constitution)

167. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs 1 through 143 inclusive, as if fully set forth herein.

168. This count is an action for injunctive relief, pursuant to section 26.012 of the Florida Statutes (2021), and a declaratory judgment, pursuant to section 86.011, *et. seq.*, seeking a

declaration from the Court that HB 1 violates the single subject rule and the clear title rule contained in Article III, section 6 of the Florida Constitution.

169. Article III, section 6 of the Florida Constitution provides that “every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.”

170. The subject of an act may be wide ranging, but there must be “a natural or logical connection” between the various sections within a law. *Chenoweth v. Kemp*, 396 So. 2d 1122, 1124 (Fla. 1981) (quoting *Bd. of Pub. Instruction v. Doran*, 224 So. 2d 693, 699 (Fla. 1969)).

171. The legislature must include a preamble in complex legislation that connects disparate subject matter of the legislation. *See, e.g., Burch v. State*, 558 So. 2d 1, 2–3 (Fla. 1990); *Smith v. Dep’t of Ins.*, 507 So. 2d 1080, 1087–89 (Fla. 1987).

172. The title of an act must express the “real purpose” of the legislation and cannot be misleading or deceptively vague. *Butler v. Perry*, 67 Fla. 405, 410–11 (1914); *see also Fine v. Moran*, 74 Fla. 417 (1917); *Stokes v. Galloway*, 61 Fla. 437 (1911).

173. HB 1 combines two distinct and unrelated legal objects in one law. Section 1 restricts local authority by creating a mechanism for state review and control of local law enforcement budgets. Sections 2, 3, 8, 14, 15, 16, and 18 impose heightened criminal penalties upon individuals related to protest activities.

174. There is no “natural or logical connection” between Section 1 and Sections 2, 3, 8, 14, 15, 16 and 18. Section 1 impacts local authority while Sections 2, 3, 8, 14, 15, 16, and 18 affect individual liberty. Section 1 is unrelated to protest activities while Sections 2, 3, 8, 14, 15, 16, and 18 are unrelated to local budgeting for law enforcement.

175. The Legislature has given no explanation of the logical nexus between those sections, nor does the text of HB 1 include a preamble explaining how the budget provisions connect to the anti-protest provisions.

176. Further, the title of HB 1 is misleading and deceptively vague. The title of HB 1 does not briefly express the subjects of the legislation as the local law enforcement budget provisions are not expressed in “[a]n act relating to combating public disorder.”

177. Because HB 1 includes multiple subjects that are neither properly connected nor expressed in its title, it violates the single subject and clear title rule and accordingly should be enjoined.

178. The Court should also declare that HB 1 violates article III, section 6 of the Florida Constitution.

COUNT IV — Unfunded Mandate
(Article VII, Section 18 of the Florida Constitution)

179. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs 1 through 143 inclusive, as if fully set forth herein.

180. This count is an action for injunctive relief, pursuant to section 26.012, and a declaratory judgment, pursuant to section 86.011 *et. seq.*, seeking a declaration from the Court that HB 1 violates the unfunded mandate rule guaranteed under article VII, section 18 of the Florida Constitution.

181. The Florida Constitution broadly prohibits the state from enforcing an unfunded mandate—in other words “any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds”—subject to limited exceptions not applicable here. Art. VII, § 18(a), Fla. Const.

182. An unfunded mandate may only be enforced where such a mandate both “fulfills an important state interest” *and* where the legislature has either (1) ensured that funds have been appropriated to cover such an expenditure, (2) authorized the city to create a funding source not previously available to it that can cover the cost, or (3) approved the expenditure by a two-third majority in each house of the legislature. Art. VII, § 18(a), Fla. Const. An unfunded mandate will also be deemed acceptable if (4) the expenditure stems from compliance with a law that applies to all persons similarly situated or (5) the expenditure is required by a federal law or federal grant conditions that contemplate local action. *Id.* Certain laws are exempt from the prohibition against unfunded mandates, including criminal laws, elections laws, appropriations acts, reauthorizations of existing statutory authority, laws with an insignificant fiscal impact, noncriminal infractions, and laws funding existing pension benefits. Art. VII, § 18(d), Fla. Const.

183. HB 1 requires a municipality to expend funds in order to maintain the previous year’s funding of the law enforcement budget or else risk the state executive seizing budgetary control from the municipality and line-editing the budget without the municipality’s consent or collaboration and without review through the municipality’s budget approval process. This commandeering mechanism is already impacting Plaintiffs’ budgetary considerations and implementation for FY 22 and serves as a powerful deterrent against reducing or reallocating law enforcement funding.

184. The outcome of HB 1’s review process also necessarily requires a municipality to spend funds because final decisions by the Administration Commission direct municipalities to pass a particular budget item or otherwise give a budget item legal effect. Accordingly, if the Administration Commission denies a proposed reduction of the law enforcement budget, then it requires the municipality to expend funds to offset the denied reduction. Likewise, if the

Administration Commission amends or modifies any line item of the law enforcement budget, it requires the municipality to expend funds as it otherwise would not have. And even if the Administration Commission approves a proposed reduction, this gives the reduction final legal effect and amounts to a state command that the municipality expend funds. Thus, any outcome of the Administration Commission review process translates to a mandate to municipalities to expend funds.

185. HB 1 does not qualify for any of the narrow exceptions to the Florida Constitution's prohibition of unfunded mandates. Moreover, nowhere on the face of HB 1 does the legislature state that its unfunded mandate "fulfills an important state interest." *See* Art. VII, § 18(a), Fla. Const.

186. Nor has the Legislature undertaken any of the steps that could justify an unfunded mandate:

a. The Legislature has not appropriated any state funds to support municipalities maintaining the previous year's funding of law enforcement.

b. The Legislature has not authorized any municipality to create a new funding stream to cover the cost of maintaining the previous year's level of law enforcement spending.

c. HB 1 was not passed by a two-thirds majority in each house of the legislature. The Florida House passed HB 1 with a 63.3% majority while the Florida Senate passed HB 1 with a 57.5% majority.¹¹⁷

¹¹⁷ *See* Fla. Legis., *supra* note 99.

187. Maintaining the previous year’s level of law enforcement funding is not necessary to comply with any generally applicable law that applies equally to all persons. HB 1’s expenditure requirements are targeted at municipalities that make certain budgetary decisions.

188. Maintaining the previous year’s level of law enforcement funding additionally is not required by federal law or to maintain eligibility for any federal grant.

189. Because HB 1’s local budgeting provision constitutes an unfunded mandate and satisfies none of the narrow exceptions to the general prohibition of unfunded mandates, it violates article VII, section 18 of the Florida Constitution. Section 1 of HB 1 should be enjoined in its entirety.

190. Section 1 of HB 1 should also be declared an unfunded mandate under article VII, section 18 of the Florida Constitution, and thus enforcing it would run afoul of immunity created by section 18(a).

COUNT V — Home Rule
(Article VIII, Section 2 of the Florida Constitution)

191. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs 1 through 143 inclusive, as if fully set forth herein.

192. This count is an action for injunctive relief, pursuant to section 26.012 of the Florida Statutes (2021), and a declaratory judgment, pursuant to section 86.011, *et. seq.*, seeking a declaration from the Court that HB 1 violates the home rule amendment under article VIII, section 2 of the Florida Constitution.

193. Article VIII, section 2(b) of the Florida Constitution guarantees that “[m]unicipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services.” The

purpose of this constitutional protection of home rule is to “give municipalities inherent power to meet municipal needs.” *Thomas v. State*, 614 So. 2d 468, 472 (Fla. 1993).

194. The Florida Supreme Court has ratified a “broad construction of municipal powers” under article VIII, section 2(b) of the Florida Constitution. *Fla. Dep’t of Revenue v. City of Gainesville*, 918 So. 2d 250, 263 (Fla. 2005). Core to a municipality’s authority is the ability to expend local funds for the general welfare of its residents. *See City of Boca Raton v. Gidman*, 440 So. 2d 1277, 1281–82 (Fla. 1983); *City of Gainesville v. Bd. of Control*, 81 So. 2d 514, 518 (Fla. 1955).

195. HB 1 impacts Plaintiffs’ ability to carry out core governance functions protected by home rule, including budgeting and control of local expenditures. HB 1’s vague provisions not only inject uncertainty into the local budgeting process, but they also create substantial insecurity about Plaintiffs’ home rule immunity from state executive supervisory authority. In so doing, HB 1 prevents Plaintiffs from forming reasonable expectations about proposed changes to their local police budgets that are desired by their constituents and deters Plaintiffs from making such changes altogether.

196. Because Section 1 of HB 1 effectively inhibits municipalities from structuring their budgets in response to the needs of their constituents, it is in conflict with article VIII, section 2 of the Florida Constitution. Section 1 of HB 1 should be enjoined in its entirety.

197. Accordingly, the Court should declare that Section 1 of HB 1 violates the home rule amendment under article VIII, section 2 of the Florida Constitution.

PRAYER FOR RELIEF

WHEREFORE, in light of the foregoing facts and arguments, Plaintiffs request that the Court:

a) Declare that Section 1 of HB 1 violates the Florida Constitution as all of the elements necessary to support declaratory relief are present:

- 1) As HB 1 impacts Plaintiffs' ability to make budgetary decisions that serve the needs of their constituents, there is a bona fide, actual, and present need for a declaration that HB 1 is invalid and unconstitutional;
- 2) Given the ongoing and imminent harms to Plaintiffs as they are currently structuring and implementing their FY 22 budgets, the declaration sought deals with a present controversy as to an ascertainable set of facts;
- 3) Plaintiffs' constitutional rights, powers, and privileges are dependent upon the law applicable to the facts because HB 1 implicates Plaintiffs' budgeting power and right to be free from unfunded mandates;
- 4) The Plaintiffs and the Defendants have actual, present, adverse and antagonistic interests in the subject matter of this Complaint;
- 5) The antagonistic and adverse interests are all before this Court; and
- 6) Because of the facts described in the foregoing paragraphs, an actual, present and justiciable controversy has arisen between Plaintiffs and Defendants concerning Plaintiffs' ability to implement their local budgets;

b) Permanently enjoin Defendants from enforcing, utilizing, or otherwise invoking Section 1 of HB 1; and

c) Grant any relief as the Court may deem just and proper.

Respectfully submitted,

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