

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1451 Identification Documents  
**SPONSOR(S):** Michael  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1174

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Local Administration, Federal Affairs & Special Districts Subcommittee	12 Y, 5 N	Mwakyanjala	Darden
2) State Affairs Committee		Mwakyanjala	Williamson

**SUMMARY ANALYSIS**

Current law prohibits counties and municipalities from providing funds to any person, entity, or organization for the purpose of issuing an identification card or document to a person who does not provide proof of lawful presence in the United States. Prior to the enactment of this prohibition, several counties had partnered with local organizations to offer a community identification card that would enable residents to provide a form of identification to law enforcement, schools, organizations, and social service agencies.

The bill prohibits a county or a municipality from accepting as identification any identification card or document that is issued by any person, entity, or organization that knowingly issues identification cards or documents to individuals who are not lawfully present in the United States. This prohibition does not extend to any documentation that is issued by or on behalf of the Federal Government.

The bill does not appear to have a fiscal impact on state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Immigration Laws

The Federal Government establishes and enforces immigration laws. The federal Immigration and Nationality Act (INA) contains many of the provisions of immigration law.<sup>1</sup>

The Department of Homeland Security (DHS) U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations is responsible for enforcing the immigration laws and identifying, apprehending, and removing aliens who are a risk to national security or public safety, who are in the country illegally, or who undermine the integrity of the country's immigration laws or border control efforts.<sup>2</sup>

##### Ordinances

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.<sup>3</sup> Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.<sup>4</sup> Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.<sup>5</sup> A local government enactment may be inconsistent with state law if the State Constitution preempts the subject area, the Legislature preempts the subject area, or the Local enactment conflicts with a state statute.

##### Driver Licenses

Current law prohibits a person from driving any motor vehicle upon a Florida highway unless such person has a valid driver license issued under ch. 322, F.S.<sup>6</sup> However, an individual is exempt from obtaining a Florida driver license if he or she is a nonresident who is:<sup>7</sup>

- At least 16 years of age and possesses a valid noncommercial driver license issued to him or her in his or her home state or country and operating a type of motor vehicle for which a Class E driver license is required in this state.
- At least 18 years of age and possesses a valid noncommercial driver license issued to him or her in his or her home state or country and operating a motor vehicle, other than a commercial motor vehicle, in this state.

Current law establishes requirements governing the issuance of driver licenses by the Department of Highway Safety and Motor Vehicles (DHSMV).<sup>8</sup> An applicant for a driver license or identification card must provide certain information, which is electronically verified with the Social Security Administration to confirm the person's identity, as required by the Real ID Act of 2005. Applicants must provide proof

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<sup>1</sup> 8 U.S.C. 12.

<sup>2</sup> U.S. Immigration and Customs Enforcement, *Enforcement and Removal Operations, Mission*, <https://www.ice.gov/ero> (last visited Jan. 26, 2024).

<sup>3</sup> Art. VIII, s. 1(f), Fla. Const.

<sup>4</sup> Art. VIII, s. 1(g), Fla. Const.

<sup>5</sup> Art. VIII, s. 2(b); *see also* s. 166.021(1), F.S.

<sup>6</sup> *See* s. 322.03, F.S.

<sup>7</sup> S. 322.04(1)(c) and (d), F.S.

<sup>8</sup> *See* s. 322.08, F.S.

of identity that is satisfactory to DHSMV. The following documents constitute acceptable proof of identification:<sup>9</sup>

- A certified copy of a United States birth certificate.
- A valid, unexpired passport or passport card.
- A Certificate of Naturalization issued by the DHS.
- A valid, unexpired alien registration receipt card (green card).
- A Consular Report of Birth Abroad.
- A valid, employment authorization card issued by DHSMV.

DHSMV may require an applicant for an original driver license to produce certain DHS or foreign documents to prove nonimmigrant classification for the sole purpose of establishing continuous lawful presence in the United States.<sup>10</sup>

DHSMV may waive the Class E knowledge (written) and skills requirements if an applicant for an original driver license presents a valid driver license from another state, province of Canada, or the United States Armed Forces when applying for a Florida driver license of equal or lesser classification.<sup>11</sup>

Current law provides that if a driver license is of a class of licenses issued by another state exclusively to undocumented immigrants who are unable to prove lawful presence in the United States when the license was issued, the driver license, or other permit purporting to authorize the holder to operate a motor vehicle on public roadways, is invalid in this state and does not authorize the holder to operate a motor vehicle in this state.<sup>12</sup> Such classes of licenses include licenses that are issued exclusively to undocumented immigrants or licenses that are substantially the same as licenses issued to citizens, residents, or those lawfully present in the United States but have markings establishing that the license holder did not exercise the option of providing proof of lawful presence. A law enforcement officer or other authorized representative of DHSMV who stops a person driving with such an invalid license must issue a citation to the driver for driving without a license in violation of s. 322.03, F.S., a second degree misdemeanor punishable by a fine of up to \$500 or a term of imprisonment of up to 60 days.<sup>13</sup>

### States Issuing Driver Licenses to Undocumented Immigrants

Currently, 19 states and the District of Columbia have enacted laws allowing undocumented immigrants to obtain a driver license.<sup>14</sup> These states issue a license (or a driving privilege card) if an applicant provides certain documentation, such as a foreign birth certificate, foreign passport, or consular card and evidence of current residency in the state.

### County and Municipal Community Identification Cards

Current law prohibits counties and municipalities from providing funds to any person, entity, or organization for the purpose of issuing an identification card or document to a person who does not provide proof of lawful presence in the United States.<sup>15</sup>

Prior to the enactment of this prohibition, several local governments had partnered with organizations to offer community identification cards. Though these organizations may no longer receive funding from their respective local governments as of July 1, 2023,<sup>16</sup> counties and municipalities appear to continue to accept identification cards issued by such organizations.

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<sup>9</sup> S. 322.08(2)(c), F.S.

<sup>10</sup> S. 322.08(2)(c)8., F.S.

<sup>11</sup> S. 322.12, F.S.

<sup>12</sup> S. 322.033, F.S.

<sup>13</sup> See ss. 775.082 or 775.083, F.S.

<sup>14</sup> National Conference of State Legislatures, *States Offering Driver's Licenses to Immigrants*, January 16, 2023, <https://www.ncsl.org/immigration/states-offering-drivers-licenses-to-immigrants> (last visited Jan. 26, 2024). The 19 states are California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Virginia, and Washington.

<sup>15</sup> Ss. 125.0156 and 166.246, F.S.

<sup>16</sup> *Id.*

In 2019, the City of West Palm Beach passed a resolution authorizing the city to accept identification cards issued by People Engaged in Active Community Efforts, affiliated with Legal Aid in Palm Beach County.<sup>17</sup> The city appropriated \$40,000 to the program to issue identification cards to those without access to other forms of identification, including undocumented immigrants. Cards are issued under this program for a fee of \$20.

On January 31, 2023, the Board of County Commissioners for Miami-Dade County adopted a plan to provide \$200,000 in funding to Branches, a non-profit tax preparation entity, to issue county identification cards to those without access to other forms of identification, including individuals who are homeless or who are undocumented immigrants.<sup>18</sup>

Broward County approved a program for Legal Aid Service of Broward County to issue the Broward Community ID Card for a fee of \$20.<sup>19</sup> The card is provided to individuals who can present a particular form of current or expired identification and prove they are a Broward County resident with an address effective within the past three months. The program cautions that the card neither authorizes driving or entitlement to social welfare benefits nor affects the cardholder's immigration status.

The City of Aventura and other municipalities offer resident identification cards that are conditioned on presentation of government-issued identification, such as a valid driver license or passport, and proof of residency. Cardholders can access discounted rates at fishing piers, city-owned recreational facilities, reduced pricing on programs and activities, and free entrance to certain events. Cards may require a small fee or may be provided for free and require renewal annually or may be valid for up to three years, depending on the locality.<sup>20</sup>

Certain private organizations like the FaithAction International House, in conjunction with local communities, have issued community identification cards with the goal of providing identification cards to individuals who may not currently have access to government issued forms of identification. FaithAction International House provides that the identification card is not a state issued form of identification and cannot be used to vote, does not entitle the cardholder to any social welfare benefits, and does not have any impact on an individual's immigration status.<sup>21</sup>

### **Effect of Proposed Changes**

The bill prohibits a county or a municipality from accepting as identification any identification card or document that is issued by any person, entity, or organization that knowingly issues identification cards or documents to individuals who are not lawfully present in the United States. This prohibition does not extend to any documentation that is issued by or on behalf of the Federal Government.

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

Section 1: Amends s. 125.0156, F.S., relating to county restrictions on identification documents.

Section 2: Amends s. 166.246, F.S., relating to municipal restrictions on identification documents.

Section 3: Provides an effective date of July 1, 2024.

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<sup>17</sup>Chris Gilmore, *New IDs for undocumented immigrants in Palm Beach County*, WPTV West Palm Beach (Jun. 19, 2019), <https://www.wptv.com/news/local-news/immigrants-in-south-florida/new-ids-for-undocumented-immigrants-in-palm-beach-county> (last visited Jan. 26, 2024).

<sup>18</sup>Lora Korpar, *Florida County to Issue IDs to Undocumented Immigrants Through Third Party*, Newsweek (Feb. 2, 2022), <https://www.newsweek.com/florida-county-issue-ids-undocumented-immigrants-through-third-party-1675585> (last visited Jan. 26, 2024).

<sup>19</sup>Legal Aid Service of Broward County, *Broward Community ID*, <https://www.browardlegalaid.org/communityid/> (last visited Jan 26, 2024).

<sup>20</sup>See City of Aventura, *Aventura ID Card*, <https://www.cityofaventura.com/221/Aventura-ID-Card>; City of Delray Beach, *Residency (Activities) Identification Cards*, <https://www.delraybeachfl.gov/government/city-departments/city-clerk/residency-identification-cards>; City of Sunny Isles Beach, *Resident ID Card*, <https://www.sibfl.net/ccs/residentid/>; The Villages, *Resident ID Card Information*, <https://districtgov.org/departments/Community-Service/idCards.aspx> (last visited Jan. 26, 2024).

<sup>21</sup>*Id.*

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None .

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

None.

### D. FISCAL COMMENTS:

The bill may result in reduced demand for government services by persons who are not lawfully present in the United States. Additionally, the bill might reduce the potential for fraud based on the use of unofficial identification documents.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.