

1989

## Session Law 89-058

Florida Senate & House of Representatives

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**H 974 GENERAL BILL by Lippman (Identical S 646)**

~~Indian Reservations/Traffic Offenses~~; adds traffic offenses to law enforcement authority of special improvement districts within reservations of Seminole & Miccosukee Tribes. Amends 285.18. Effective Date: 06/16/89.

03/17/89 HOUSE Prefiled  
03/23/89 HOUSE Referred to Criminal Justice  
03/31/89 HOUSE Subreferred to Subcommittee on Standards and Training  
04/04/89 HOUSE Introduced, referred to Criminal Justice -HJ 92; Subreferred to Subcommittee on Standards and Training; On subcommittee agenda—Criminal Justice, 04/06/89, 8:00 am, 217-HOB  
04/06/89 HOUSE Subcommittee Recommendation: Favorable  
04/11/89 HOUSE On Committee agenda—Criminal Justice, 04/13/89, 8:00 am, 21-HOB  
04/13/89 HOUSE Preliminary Committee Action by Criminal Justice: Favorable  
04/20/89 HOUSE Comm. Report: Favorable by Criminal Justice, placed on Calendar -HJ 257  
04/28/89 HOUSE Placed on Special Order Calendar; Read second time -HJ 305  
05/02/89 HOUSE Read third time; Passed; YEAS 113 NAYS 0 -HJ 316; Immediately certified -HJ 316  
05/02/89 SENATE In Messages  
05/16/89 SENATE Received, referred to Governmental Operations; Transportation -SJ 362  
05/25/89 SENATE Withdrawn from Governmental Operations; Transportation; Substituted for SB 646; Passed; YEAS 38 NAYS 0 -SJ 462  
05/26/89 Ordered enrolled  
06/13/89 Signed by Officers and presented to Governor  
06/16/89 Approved by Governor; Chapter No. 89-58

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**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: h0974a.cj  
DATE: June 30, 1989

HOUSE OF REPRESENTATIVES  
COMMITTEE ON CRIMINAL JUSTICE  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 974

RELATING TO: Indian Reservations/Traffic Offenses

SPONSOR(S): Representative Lippman

EFFECTIVE DATE: Upon becoming law

DATE BECAME LAW: June 16, 1989

CHAPTER #: 89-58, Laws of Florida

COMPANION BILL(S): Identical SB 646, Compare SB 411

OTHER COMMITTEES OF REFERENCE: (1)

(2)

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I. SUMMARY:

A. PRESENT SITUATION:

Pursuant to s. 285.16, F. S., the State of Florida assumes jurisdiction over criminal offenses committed by or against Indians or other persons within Indian reservations. Section 285.17, F. S., creates a special improvement district within the Seminole and Miccosukee Tribe. Section 285.18, F. S., provides that the governing bodies of the Seminole and Miccosukee Tribes of Indians have the duty and power to employ personnel to exercise law enforcement powers. These powers include the investigation of violations of any criminal law occurring on reservations over which the state has jurisdiction and which are committed on Indian reservations as provided for in s. 285.16. All law enforcement personnel employed have the authority to bear arms, make arrests, and apply for, serve, and execute search arrest warrants within their respective special improvement districts.

B. EFFECT OF PROPOSED CHANGES:

HB 974 amends section 285.18(2)(b) to specifically authorize law enforcement personnel employed by the governing body of the special improvement districts to have the power to enforce criminal and noncriminal traffic offenses within their respective special improvement districts.

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C. SECTION-BY-SECTION ANALYSIS:

Section 1 extends the power and duties of the law enforcement personnel on Indian reservations.

Section 2 provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

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D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

This bill is consistent with the State Comprehensive Plan, s. 187.021, F. S., as its goal is to protect the public by preventing, discouraging, and punishing criminal behavior and lowering the highway death rate.

IV. COMMENTS:

This bill is consistent with the Committee Mission Statement in that it enables the Criminal Justice System to operate effectively and responsibly.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

  
\_\_\_\_\_  
Jeffrey E. Beckham

Staff Director:

  
\_\_\_\_\_  
Robin S. Hassler

SECOND COMMITTEE OF REFERENCE:

Prepared by:

\_\_\_\_\_

Staff Director:

\_\_\_\_\_

APPROPRIATIONS:

Prepared by:

\_\_\_\_\_

Staff Director:

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REVISED: May 17, 1989BILL NO. SB 646DATE: May 14, 1989Page 1

## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Hosack</u>	<u>Stengle</u>	1. <u>GO</u>	<u>Favorable</u>
2. <u>Mohler</u>	<u>Gargiulo</u>	2. <u>TR</u>	<u>Favorable</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

## SUBJECT:

Indian Reservations/  
Traffic Offenses

## BILL NO. AND SPONSOR:

SB 646 by  
Senator McPhersonI. SUMMARY:

## A. Present Situation:

Pursuant to s. 285.16, F.S., the State of Florida assumes jurisdiction over criminal offenses committed by or against Indians or other persons within Indian Reservations. The law specifies that the criminal laws of Florida are to be enforced on such reservations in the same manner as elsewhere throughout the state.

Section 285.18, F.S., designates the respective governing bodies of the Seminole and Miccosukee Indian Tribes as the governing bodies of the respective special improvement districts, and prescribes their powers and duties. The duties and powers of the governing boards of the respective districts, include employing personnel to exercise law enforcement powers for criminal acts which occur on the reservations. All law enforcement personnel have the authority to bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, and other process of the court, within their respective special improvement districts.

Section 943.10, F.S., defines "law enforcement officer" to include any person who is elected, appointed, or employed full time by any municipality or political subdivision of the state who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and the detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. According to the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, the law enforcement personnel of the Seminole and Miccosukee Indian Tribes have the same authority upon certification as any other state or local law enforcement officer.

The Florida Uniform Traffic Control Code is established in chapter 316, F.S. Section 316.640, F.S., specifies that the enforcement of traffic laws of this state is vested with particular entities, including the Division of Highway Safety and Motor Vehicles, the sheriff's office of each county, and the police department of each chartered municipality. The jurisdiction for enforcement of traffic laws on Indian Reservations is not specifically included. Although tribal police officers are recognized as having the authority to enforce criminal traffic violations under the authority provided in s. 285.18, F.S., their authority to enforce noncriminal traffic offenses is disputed.

The Department of Highway Safety and Motor Vehicles believes that tribal officers do not have the authority to issue noncriminal traffic citations. The department's view is based on an informal advisory opinion issued by the Attorney General to the Seminole Tribe on July 6, 1981. The advisory opinion

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stated that tribal police officers have only the authority to enforce criminal traffic violations as defined in ch. 316, F.S. The advisory opinion suggests that the Seminole Tribe either seek a legislative amendment specifying the authority of tribal officers to enforce noncriminal traffic violations, or that the tribe seek to have the tribal officers deputized by the county sheriff's office.

B. Effect of Proposed Changes:

The bill amends s. 285.18, F.S., to provide that law enforcement officers employed by the governing boards of the special improvement districts of the Seminole and Miccosukee Indian Tribes have the power to enforce criminal and noncriminal traffic offenses.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

According to the General Counsel of the Seminole Tribe, tribal officers issue traffic citations in three counties into which the reservations extend. Two of the county courts process the citations. The County Judge in Glades County, however, holds that the tribal law enforcement officers do not have the authority to issue traffic tickets, and such tickets are not processed.

Section 316.660, F.S., 1988 Supplement, and s. 318.21, F.S., do specifically provide that fines and forfeitures received from traffic violations committed within the special improvement districts created for the Seminole and Miccosukee Tribes must be paid to those tribes. The enforcement of the traffic violations, however, is not addressed.

IV. AMENDMENTS:

None.