

1989

Session Law 89-297

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

Recommended Citation

House of Representatives, Florida Senate &, "Session Law 89-297" (1989). *Staff Analysis*. 1090.
<https://ir.law.fsu.edu/staff-analysis/1090>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

B
I
L
L

H
I
S
T
O
R
Y

S 1336 GENERAL BILL/2ND ENG by Souto and others (Compare CS/H 920, H 1287, CS/S 635)

Prompt Payment Act; deletes obsolete language re maintenance & filing of papers by circuit court clerk; changes date for submission of tentative budgets by county officers to bd. of county commissioners; creates Fla. Prompt Payment Act; provides for establishment of date on which payment for purchases by local gov't. entity is due; provides procedures for calculation of such due date, etc. Amends Chs. 28, 129, 142; creates 218.70-.79. Effective Date: 10/01/89.

04/11/89 SENATE Filed

04/19/89 SENATE Introduced, referred to Governmental Operations; Community Affairs; Finance, Taxation and Claims -SJ 185

04/28/89 SENATE Extension of time granted Committee Governmental Operations

05/04/89 SENATE On Committee agenda—Governmental Operations, 05/08/89, 10:00 am, Room-H-(428)—Not considered

05/11/89 SENATE On Committee agenda—Governmental Operations, 05/17/89, 9:00 am, Room-H-(428)

05/12/89 SENATE Extension of time granted Committee Governmental Operations

05/17/89 SENATE Comm. Report: Favorable with 2 amendment(s) by Governmental Operations -SJ 380

05/18/89 SENATE Now in Community Affairs -SJ 380

05/26/89 SENATE Extension of time granted Committee Community Affairs

05/29/89 SENATE Withdrawn from Community Affairs -SJ 494; Now in Finance, Taxation and Claims; Withdrawn from Finance, Taxation and Claims -SJ 557; Placed on Calendar

05/31/89 SENATE Placed on Special Order Calendar -SJ 618; Passed as amended; YEAS 38 NAYS 0 -SJ 625

05/31/89 HOUSE In Messages

06/02/89 HOUSE Received, placed on Calendar; Read second time; Amendments adopted; Read third time; Passed as amended; YEAS 111 NAYS 0 -HJ 1132

06/02/89 SENATE In Messages; Concurred; Passed as amended; YEAS 40 NAYS 0 -SJ 969

06/02/89 Ordered engrossed, then enrolled -SJ 969

06/20/89 Signed by Officers and presented to Governor

07/05/89 Approved by Governor; Chapter No. 89-297

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.

REVISED: May 17, 1989BILL NO. SB 1336DATE: May 8, 1989Page 1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Kane XAK</u>	<u>Stengle</u>	1. <u>GO</u>	<u>Fav/2 amend.</u>
2. _____	_____	2. <u>CA</u>	_____
3. _____	_____	3. <u>FTC</u>	_____
4. _____	_____	4. _____	_____

SUBJECT:

Prompt Payment of Invoices
by Local Governments

BILL NO. AND SPONSOR:

SB 1336 by
Senator Souto

I. SUMMARY:**A. Present Situation:**

Section 215.422, F.S., requires state agencies to make payment for invoices submitted for the purchase of goods and services within 30 days of receipt of the invoice, and receipt and approval of the goods or services. Upon the failure of a state agency to mail a warrant in receipt of an invoice within 45 days after receipt of the invoice, and receipt and approval of the goods or services, the agency is required to pay to the vendor an interest penalty at a rate of 1 percent a month on the unpaid balance, beginning at the end of the grace period until the time the warrant is mailed by the vendor. The interest payment must either be included in the payment of the original amount owed, or sent separately within 15 days after the warrant is mailed.

Agencies currently do not pay to vendors all interest penalties to which vendors are entitled by law. The Department of Banking and Finance estimates that the average date of payment by agencies is 28 days after the receipt of the invoice. Some 40 percent of payments are made after the end of the 30-day period in which payment should be made. The department estimates that, while state agencies incur a liability of approximately \$1.7 million per year in interest penalties, only \$87,000 was paid to vendors in the past year.

Counties and municipalities currently are allowed to establish their own procedures for payment of commodities purchased.

Vendors to local governments report that these entities sometimes fail to make timely payments for invoices presented. Some small businesses report that they are at a disadvantage when compared to larger businesses when they do not receive timely payments for their goods and services.

B. Effect of Proposed Changes:

Local governments would be required to implement procedures to ensure prompt payment for purchases of goods and services, for purchase or lease of personal property, and for the lease of real property.

A time in which payment is due for a purchase by a local governmental entity would be established. Local governmental entities would be required to establish procedures to mark invoices with the date received. Payment would be due 30 days from the date specified. Provisions would be made for payment dates relating to purchases involving partial deliveries.

When payments are not made within 30 days of the established payment date, an interest penalty at the rate of 1 percent per month would accrue on the unpaid balance. A vendor would be

required to invoice the local governmental entity in order to receive payment for any interest accrued. Any overdue period of less than 1 month would be considered as 1 month in computing interest, and unpaid interest would compound monthly.

With respect to each past due payment, interest would cease to accrue after interest on the payment had accrued for 12 months.

Contractual provisions which prohibit vendors from billing the local governmental entity for interest owed would be invalid.

A local government receiving an improper invoice would be required to notify the vendor within 10 days of receipt, and to specify the corrective action necessary to supply a proper invoice.

Local governmental entities would be required to establish dispute resolution procedures concerning invoices. Proceedings would be required to begin not later than 30 days after the date on which the proper invoice was received by the local government, and would be required to be concluded within the succeeding 30 days. Such dispute resolution proceedings would not be subject to the provisions of ch. 120, F.S., the Administrative Procedure Act, and would not preclude the courts from deciding *de novo* any action arising out of the dispute. Upon resolution of the dispute in favor of the local governmental entity, interest charges would begin to accrue 15 days after the final decision of the entity. Upon resolution of the dispute in favor of the vendor, interest would begin to accrue as of the original date the payment became due.

Local governments would be required to ensure that, when intending to make purchases with federal funds, there is reasonable assurance that the funds will be received. Where payment or time of payment is contingent upon receipt of federal funds or approval, any contract and solicitation to bid would be required to state such circumstances.

Each local governmental entity would be required to report during December of each year to its governing body the number and amount of interest penalty payments made during the preceding fiscal year.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Some vendors to local governments could be eligible to receive interest penalties for certain overdue amounts upon presentation of an invoice therefor, and some vendors might receive more timely payments from local governments.

B. Government:

To the extent that local governmental entities do not timely make payments for invoices, they would be liable for interest penalty payments of 1 percent per month on the unpaid balance.

III. COMMENTS:

Substantial adjustments are proposed to be made to the invoice and interest provisions applicable to state agencies in s. 215.422, F.S., by CS/SB 905.

IV. AMENDMENTS:

#1 by Governmental Operations:

Changes the due date for local government payments to vendors from 30 days to 45 days from the due date specified in s. 218.73, F.S. In addition, changes from 30 days to 45 days the date by which proceedings to resolve disputes arising between a vendor and a

REVISED: May 17, 1989

BILL NO. SB 1336

DATE: May 8, 1989

Page 3

local government entity must be commenced after the date on which the governmental entity received a proper invoice.

#2 by Governmental Operations:

Provides for calculation of the time at which payment to a vendor is due from the date on which a proper invoice is received by the chief disbursement officer of the local governmental entity after approval by the governing body, if required.

SENATE COMMITTEE AMENDMENT

SB 1336

No. 1
(reported favorably)

HB _____

The Committee on...Gov. Operations....recommended the following amendment which was moved by Senator.....and adopted: and failed:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Senate Amendment

On page4....., line5....., and
on page5....., line ...15....., strike

30

If amendment is text from another bill insert:

<u>Bill No.</u>	Draft No.	With <u>Changes?</u>	No <u>-</u>	Yes <u>-</u>
-----------------	-----------	----------------------	-------------	--------------

and insert:

45

CODING: Words stricken are deletions; words underlined are additions.

 * Amendment No. 1, taken up by committee: 05/17/89 Adopted x *
 * Offered by Senator Langley Failed - *

(Amendment No. _____ Adopted _____ Failed _____ Date __/__/)

SENATE COMMITTEE AMENDMENT

SB 1336

No. 2
(reported favorably)

HB _____

The Committee on...Gov. Operations....recommended the following amendment which was moved by Senator.....and adopted: and failed:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Senate Amendment

On page3....., line13....., strike

all of said line

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No	Yes

and insert:

the chief disbursement officer of the local government entity after approval by the governing body, if required; or

CODING: Words stricken are deletions; words underlined are additions.

 * Amendment No. 2, taken up by committee: 05/17/89 Adopted x *
 * Offered by Senator Langley Failed _ *

(Amendment No. ____ Adopted ____ Failed ____ Date __/__/__)