



Florida's Anti-Protest Law and its Municipal Budget Control Provisions
Public Rights Project / Community Justice Project
Updated: May 14, 2021

Introduction to Florida's Anti-Protest Law, HB-1

Florida's Anti-Protest Law (formerly Florida 2021 Legislative Session HB 1- Combating Public Disorder) was signed into law on April 19, 2021. This fact sheet will discuss the section amending Florida Statute 166.241, which starts on page 5 of the [bill text](#). The Law significantly impairs the power of cities to control their own law enforcement budgets.

Following the nationwide and Florida racial justice protests of summer 2020, Governor DeSantis and other leading proponents of the Law used their public platforms to oppose demonstrations advocating for an end to police violence against Black people. Governor DeSantis, Senate President-Designate Wilton Simpson, and House Speaker-Designate Chris Sprowls all characterized the Law as a direct response to the Black-led protests advocating for racial justice and police reform that occurred throughout the summer of 2020.

To summarize, the Law permits state officials to complete a line-by-line review of municipal budgets and force modifications to those budgets. It also attempts to discourage protests by permitting any person who participates in a peaceful protest that turns violent (through no fault of their own) to be arrested and charged with a third-degree felony. The Law additionally augments several existing anti-protest criminal statutes by increasing penalties and felony and misdemeanor classifications, limiting bail for some charges, and instituting mandatory sentencing for some convictions. The Law further waives sovereign immunity for cities and makes them civilly liable for personal injury, wrongful death, or property damage that occurs during a riot or unlawful assembly if the cities fail to "respond appropriately" to the riot or unlawful assembly. The Law does not define what constitutes "respond[ing] appropriately".

The NAACP Legal Defense and Educational Fund, Inc. (LDF), the ACLU of Florida, and Community Justice Project, representing The Black Collective, Black Lives Matter Alliance Broward, Chainless Change, Dream Defenders, the Florida State Conference of the NAACP, and the Northside Coalition of Jacksonville, filed suit in the U.S. District Court for the Northern District of Florida on May 11, 2021. The suit raises First Amendment, Due Process Clause, and Equal Protection claims.

The Anti-Protest Law's Municipal Budget Control Provisions

Under the Anti-Protest Law's amendment to Florida Statute 166.241, if a city's tentative budget reduces the operating budget of the city's law enforcement agency, the Law permits the state attorney for the judicial circuit in which a city is located or any member of the city's governing body to file an appeal by petition to the Administration Commission, a body that is comprised of the Governor and his cabinet.



The Law does not define what a “reduction” is and does not define what constitutes a “municipal law enforcement agency”.

The Administration Commission will review the petition through an expedited process which gives cities only five days to file a reply. Following its review, the Administration Commission can approve, amend, or modify the city’s challenged budget. The Law does not provide cities with the ability to appeal this decision to a court.

In essence, the Law gives the Governor and his cabinet the power to rewrite city budgets, regardless of the economic and fiscal conditions cities are facing. It crucially does not exempt reductions to law enforcement budgets that are the result of across-the-board reductions due to, for example, decreased city revenues from a global pandemic. The Law instead empowers any member of a city council or the state attorney to potentially abuse this process for political reasons. This political challenge to local budget decisions will potentially force local municipalities to spend their limited time and resources defending locally informed decisions.

The impact of the Law on local control and democracy, as well as on police reform efforts, is very concerning. It may open the door to other state efforts to intrude on local budget decisions and further chill efforts by municipalities to reallocate their resources to best serve the needs of their constituents.

About Public Rights Project

[Public Rights Project](#) partners with over 70 local and state governments across the country. PRP works to empower state, local, and tribal governments to solve the biggest economic and civil rights barriers to safe, healthy, and thriving communities. PRP does that in a number of ways: by representing local governments in litigation (PRP [filed a case](#) as co-counsel to the cities of Portland and Oakland to challenge the deployment of federal law enforcement in response to racial justice protests last summer); by [placing and training fellows](#) in state, local, and tribal government office; by organizing and filing [amicus briefs](#) on behalf of local governments on issues like housing and workers’ rights; and by providing technical assistance to local and state government offices on the development of equitable and community-aligned enforcement actions and other litigation.

About Community Justice Project

[Community Justice Project](#) is a Florida Bar funded nonprofit movement lawyering firm that supports grassroots organizing for racial justice and human rights with innovative lawyering and creative strategy tools. When established in 2015, the founding members had over 30 years of combined experience working for Legal Services of Greater Miami and Florida Legal Services. Most recently, CJP along with the Southern Poverty Law Center represented the City of South Miami in its challenge to SB 168 (requiring local governments to expend maximum local resources to enforce federal immigration law), *City of South Miami, et al., v. Desantis*, Case No.: 1:18-cv-22956 in the Southern District of Florida.