

## RESOLUTION 22-2021

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA OPPOSING SENATE BILL 280 WHICH WOULD EVISERATE LOCAL CONTROL FOR FLORIDA CITIES WITH RESPECT TO ADOPTING AND ENFORCING ORDINANCES; CREATE A SUBSTANTIAL UNFUNDED MANDATE; AND REQUIRE COURTS TO CONSIDER SPECIFIC FACTORS IN DETERMINING IF AN ORDINANCE IS ARBITRARY OR UNREASONABLE; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION TO THE BREVARD LEGISLATIVE DELEGATION, THE FLORIDA LEAGUE OF CITIES, THE PRESIDENT OF THE SENATE, SPEAKER OF THE HOUSE AND THE GOVERNOR; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Malabar, like 411 other municipalities, enjoy Home Rule authority under the 1968 Constitutional revision adopted by the voters of Florida: and

**WHEREAS**, this Home Rule authority was formally adopted by the Florida Legislature in 1973 as the Home Rule Powers Act of 1973; and

**WHEREAS**, the Florida Constitution states in Article VIII, Section 2(b) for municipalities:

*“Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise power for municipal purposes except as otherwise provided by law.”*

**WHEREAS**, the proposed Senate Bill (SB) 280 would prohibit local governments from adopting local ordinances without first conducting unfunded equity studies to determine the economic impact to local businesses as well as businesses in the surrounding areas, determine the number of businesses likely to be affected by the ordinance, and determine the extent the ordinance would impede local businesses from competition; and

**WHEREAS**, SB 280 will also require a business impact statement that must include the following:

- The public purpose served by the ordinance;
- A statement of reasonable connection between the public purpose and the expected effects of the ordinance;
- Estimated direct and indirect effects of the ordinance on businesses inside and outside the municipality;
- An estimate of the number of businesses likely to be affected by the ordinance;
- An analysis of the extent to which the ordinance will impede the ability of businesses within the municipality to compete with other businesses in Florida or other domestic markets;
- An analysis of the extent to which the ordinance is likely to deter or encourage the formation of new businesses within the municipality;
- The scientific basis for the ordinance, if applicable; and
- Alternatives considered by the municipality that would reduce the impact of the ordinance on businesses.

**WHEREAS**, SB280 will create additional personnel or contractor budget costs on municipalities without input from the municipalities.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:**

**SECTION 1.** The Town of Malabar Council states that the “Whereas” statements above are true and correct and oppose the proposed SB 280 as it will preempt to the State the Home Rule Authority granted to local municipalities in the Constitution and the Home Rule Powers Act of 1973.

**SECTION 2.** The Town of Malabar Council encourages of local municipalities to communicate to the State that local regulations are best determined by local governments.

**SECTION 3.** The Town Council of Malabar directs the Town Clerk to forward copies of this resolution to each member of the Brevard County Legislative Delegation, the Senate President, the Speaker of the House; the Florida League of Cities; the Space Coast League of Cities, and to all Brevard County municipalities.

**SECTION 4.** This Resolution shall become effective immediately upon its adoption.

This Resolution was moved for adoption by Council Member  Rivet . This motion was seconded by Council Member  Scardino  and, upon being put to a vote, the vote was as follows:

- Council Member Marisa Acquaviva    Aye
- Council Member Brian Vail            Aye
- Council Member Steve Rivet          Aye
- Council Member David Scardino      Aye
- Council Member Danny White        Aye

This resolution was then declared to be duly padded and adopted this 1st day of November 2021.

TOWN OF MALABAR

Original signed  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

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Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer

APPROVED FOR LEGAL SUFFICIENCY:

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Karl Bohne, Jr., Town Attorney