Local Government Council

Wednesday, March 29, 2006
1:00 p.m.
404 House Office Building

Allan G. Bense
Speaker

Ken Sorensen
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Local Government Council

Start Date and Time:	Wednesday, March 29, 2006 01:00 pm
End Date and Time:	Wednesday, March 29, 2006 04:00 pm
Location:	404 HOB
Duration:	3.00 hrs

Consideration of the following bill(s):

HJR 39 CS Limitations on Assessments of Real Property by Farkas
HB 293 Fiscally Constrained Counties by Pickens, Brown
HB 323 CS Reemployment After Retirement by Patterson
HB 381 Firefighter Pensions by Gibson, H.
HB 423 CS Professional Regulation by the Department of Business and Professional Regulation by Gibson, H.
HB 613 CS Police Pursuits of Fleeing Vehicles by Antone
HB 737 CS Tax Benefits Related to Catastrophic Emergencies by Grant
HB 749 CS Sewage Treatment and Disposal Systems by Bowen
HB 949 Municipalities by Arza
HB 993 City of Southport, Bay County by Coley
HB 1091 Insurer Insolvency by Ambler
HB 1355 City of Lauderhill, Broward County by Sobel
HB 1363 CS Affordable Housing by Davis, M.
HB 1367 Contracting Exemptions by Evers
HB 1375 Manatee County by Reagan
HB 1399 North Naples Fire Control and Rescue District, Collier County by Davis, M.
HB 1445 West Villages Improvement District, Sarasota County by Reagan
HB 1481 Homosassa Special Water District, Citrus County by Dean
HB 1583 Community Redevelopment by Davis, M.
HB 1609 Collection of Delinquent Property Taxes by Goldstein

NOTICE FINALIZED on 03/27/2006 16:12 by ADEYEMO.MARTHA

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 39 CS Limitations on Assessments of Residential and Commercial Property
SPONSOR(S): Farkas
TIED BILLS: **IDEN./SIM. BILLS:** SJR 22

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Committee	8 Y, 1 N, w/CS	Hogge	Hogge
2) Local Government Council		DiVagno	Hamby
3) Finance & Tax Committee			
4) Justice Council			
5)			

SUMMARY ANALYSIS

This joint resolution proposes to amend Article VII, section 4 of the State Constitution to authorize the Legislature to by general law authorize counties, subject to the conditions specified therein, to provide by ordinance for the extension of the Save Our Homes assessment limitation to all real property, other than agricultural land, land producing high water recharge for Florida's aquifers, land used exclusively for non commercial recreational purposes and historic property assessed on the basis of character or use. This authority would not extend to determinations of the value of real property taxed for school purposes. As a result, the annual assessed value of real property included within this joint resolution could not be increased more than 3 percent over the prior year's assessment or the percentage change in the U. S. Consumer Price Index, whichever is less.

If approved by the voters, authorized by the Legislature, and if market values continue to outpace the proposed assessment cap, this extension of the "Save Our Homes" limitation could reduce the growth in total assessed property values of those counties choosing to implement this extension and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless the county, municipality, or other local taxing authority were to adopt a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a county, municipality, or other local tazing authority is unable to offset the reductions in growth by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. However, they could presumably avoid this result by choosing not to implement this option. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total taxable values.

If authorized by the Legislature, counties adopting the assessment limitation as provided in this joint resolution would be expected to experience a significant adverse fiscal impact, assuming no offsetting change in millage rates. Staff has requested a fiscal impact from the Special Impact Session of the Revenue Estimating Conference since the joint resolution is substantially different from the version originally evaluated by the conference.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill implicates the following House Principle:

Ensure lower taxes— If authorized by the legislature, implemented by counties, and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation from homestead[1] to all real property, other than certain properties specified in the constitution, would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a county, municipality, or other local taxing authority adopted a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a county, municipality, or other local taxing authority is unable to offset these reductions by increasing the millage rate because of a lack of millage capacity or if the remaining millage capacity is outstripped by the reduction in growth of assessed value, property owners would experience reduced property taxes. However, counties are able to choose not to adopt this option and avoid any such impact.

B. EFFECT OF PROPOSED CHANGES:

Background

Ad valorem property taxes are the single largest source of tax revenues for general purpose local governments in Florida. In FY 2002-03, the last year for which fiscal information is available, property taxes accounted for 31 percent of county governmental revenue ($6.3 billion), and almost 20 percent of municipal government revenue ($2.4 billion). Ad valorem property tax revenues also are the primary local revenue source for school districts. For that same fiscal year, school districts levied $8.4 billion in property taxes.

Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards by the taxable value of property within that jurisdiction. Each entity may levy up to 10 mills and, in most cases, the real property must be assessed at just value.[2] Article VII, s. 6 of the State Constitution authorizes a $25,000 ad valorem property tax exemption for homestead property.

In 1992, Florida voters approved the so-called "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year's assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It does not limit assessment increases for other types of property such as non-homestead residential, commercial, or industrial property. This has produced valuation differentials for tax purposes among properties having similar market values. The "Save Our Homes" exception is one of several exceptions to the just value requirement found in Article VII, s. 4 of the State Constitution.[3]

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[1] That is, real property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner.

[2] "Just value" is the estimated market value of the property. "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the $25,000 homestead exemption.

[3] These include exceptions for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Tangible personal property that is held as inventory may also be assessed at a specified percentage of its value or totally exempted. Additionally, counties and cities may be authorized to assess historical property based solely on the basis of its character or use, without regard to just value. The Legislature also has provided for differential treatment of specific property, to include pollution control devices and building renovations for the physically handicapped.

Largely due to the recent surge in housing values[4] and lack of corresponding millage rate reductions by local officials to offset double-digit increases in taxable values, ad valorem property tax revenues have increased substantially in recent years: 9.2 percent in 2002, 11.5 percent in 2003, and 10.4 percent in 2004.[5] These annual property tax increases are twice as high as the 5 percent average increase experienced between 1991 and 2000, but comparable to the 12.5 percent average annual increase from 1981 to 1990.[6] Despite the growth in total taxable values, the statewide average actual millage rates have remained relatively unchanged, although on a generally downward trend.[7] However, the differential between the actual millage rate and the so-called "roll back rate" (i.e., millage rate necessary to generate the same amount of revenue as the prior year excluding new construction and boundary changes) is substantially more pronounced since 2000, then it was from 1990 to 1999.

The taxable value of all real property has increased 53 percent over the past four years.

The amount of value removed from the tax rolls from the "Save Our Homes" provision is growing at a much faster rate than the amount of value removed by the homestead exemption. For example, in 2005, the amount of value excluded from the tax rolls as a result of the Save Our Homes provision grew by $81 billion over the previous year, compared to $1.7 billion removed as a result of the homestead exemption.

Proposed Change

This joint resolution proposes to amend Article VII, section 4 of the State Constitution to authorize the Legislature to by general law authorize counties, subject to the conditions specified therein, to provide by ordinance for the extension of the Save Our Homes assessment limitation to all real property, other than agricultural land, land producing high water recharge for Florida's aquifers, land used exclusively for non commercial recreational purposes and historic property assessed on the basis of character or use. This authority would not extend to determinations of the value of real property taxed for school purposes. As a result, the annual assessed value of real property included within this joint resolution could not be increased more than 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less.

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

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[4] The boom in housing values does not translate into an identical increase in "just values" or "assessed values" since not all property is taxed at "just value." "Just values" have experienced double-digit increases since 2001: 10.6% in 2001; 11.3% in 2002; 12.4% in 2003; and 14.0% in 2004. For the period 1990-2000, the largest increase was 8.3%, with two years, 1992 and 1993, experiencing an increase of only 2.0%. Although not as large, the growth in "taxable values" resulted in a similar experience.

[5] "Taxes Levied and Millage Rates 1974-2004," from 2006 Property Tax Roll Estimates prepared by the Revenue Estimating Conference, November 8, 2005. The amount of ad valorem property tax levied for 2005 is not yet available, but the value of property subject to the tax increased by approximately 20%.

[6] Id.

[7] Actual average millage rates for all jurisdictions for 2004—20.18; for 2003—20.60; for 2002—20.57. Excluding public school levies for 2004—11.96; for 2003—12.06; for 2002—11.93.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

If authorized by the Legislature, counties adopting the assessment limitation as provided in this joint resolution, as well as municipalities and other local taxing authorities, would be expected to experience a significant adverse fiscal impact, assuming no offsetting change in millage rates. Staff has requested a fiscal impact from the Special Impact Session of the Revenue Estimating Conference since the joint resolution is substantially different from the version originally evaluated by the conference.

2. Expenditures:

Art. XI, s. 5, of the Florida Constitution, requires that each proposed amendment to the Constitution be published in a newspaper of general circulation in each county two times prior to the general election. The Division of Elections within the Department of State estimates that the cost of compliance for a proposal with a ballot summary of 75 words or less would be approximately $50,000.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply to House Joint Resolutions.

2. Other:

Article XI, Section 1 of the State Constitution provides the Legislature with the authority to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Critics of the existing constitutional provision—the so-called "Save Our Homes" amendment—point to the disparities it can produce in assessed values between properties of equivalent market values. For example, for two homes with a market value of $250,000, the assessed value of one may be $100,000, and for another, $175,000. This can result in one homeowner paying substantially more in property taxes as a percentage of their respective market values. Without a similar cap on other non-homestead properties, it can also result in other non-homestead property owners having to pay disproportionately more in taxes due to taxable values closer to true market values. This joint resolution would give both the Legislature and the counties the authority to address this disparate result.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 8, 2006 the House Judiciary committee adopted an amendment that effectively converts the original bill as filed into one requiring the Legislature to authorize and county discretion to implement. The Legislature would be authorized to permit counties to extend the Save Our Homes homestead property assessment limitation to certain other real property. Additionally, this authority would not extend to determinations of value of homestead property for school purposes.

CHAMBER ACTION

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1 The Judiciary Committee recommends the following:
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3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 House Joint Resolution
6 A joint resolution proposing an amendment to Section 4 of
7 Article VII of the State Constitution, relating to
8 limitations on assessments of property, to authorize the
9 Legislature to authorize counties to provide by ordinance
10 for applying to all real property, with specified
11 exceptions, the limitations on assessments applicable only
12 to homestead property, and to declare nonapplicability to
13 determinations of the value of real property taxed for
14 school purposes.
15
16 Be It Resolved by the Legislature of the State of Florida:
17
18 That the following amendment to Section 4 of Article VII of
19 the State Constitution is agreed to and shall be submitted to
20 the electors of this state for approval or rejection at the next
21 general election or at an earlier special election specifically
22 authorized by law for that purpose:
23 ARTICLE VII

24 FINANCE AND TAXATION
25 SECTION 4. Taxation; assessments.--By general law
26 regulations shall be prescribed which shall secure a just
27 valuation of all property for ad valorem taxation, provided:
28 (a) Agricultural land, land producing high water recharge
29 to Florida's aquifers, or land used exclusively for
30 noncommercial recreational purposes may be classified by general
31 law and assessed solely on the basis of character or use.
32 (b) Pursuant to general law tangible personal property
33 held for sale as stock in trade and livestock may be valued for
34 taxation at a specified percentage of its value, may be
35 classified for tax purposes, or may be exempted from taxation.
36 (c) All persons entitled to a homestead exemption under
37 Section 6 of this Article shall have their homestead assessed at
38 just value as of January 1 of the year following the effective
39 date of this amendment. This assessment shall change only as
40 provided herein.
41 (1) Assessments subject to this provision shall be changed
42 annually on January 1st of each year; but those changes in
43 assessments shall not exceed the lower of the following:
44 a. Three percent (3%) of the assessment for the prior
45 year.
46 b. The percent change in the Consumer Price Index for all
47 urban consumers, U.S. City Average, all items 1967=100, or
48 successor reports for the preceding calendar year as initially
49 reported by the United States Department of Labor, Bureau of
50 Labor Statistics.
51 (2) No assessment shall exceed just value.

52 (3) After any change of ownership, as provided by general
53 law, homestead property shall be assessed at just value as of
54 January 1 of the following year. Thereafter, the homestead shall
55 be assessed as provided herein.
56 (4) New homestead property shall be assessed at just value
57 as of January 1st of the year following the establishment of the
58 homestead. That assessment shall only change as provided herein.
59 (5) Changes, additions, reductions, or improvements to
60 homestead property shall be assessed as provided for by general
61 law; provided, however, after the adjustment for any change,
62 addition, reduction, or improvement, the property shall be
63 assessed as provided herein.
64 (6) In the event of a termination of homestead status, the
65 property shall be assessed as provided by general law.
66 (7) The provisions of this amendment are severable. If any
67 of the provisions of this amendment shall be held
68 unconstitutional by any court of competent jurisdiction, the
69 decision of such court shall not affect or impair any remaining
70 provisions of this amendment.
71 (d) The legislature may, by general law, for assessment
72 purposes and subject to the provisions of this subsection, allow
73 counties and municipalities to authorize by ordinance that
74 historic property may be assessed solely on the basis of
75 character or use. Such character or use assessment shall apply
76 only to the jurisdiction adopting the ordinance. The
77 requirements for eligible properties must be specified by
78 general law.

79 (e) A county may, in the manner prescribed by general law,
80 provide for a reduction in the assessed value of homestead
81 property to the extent of any increase in the assessed value of
82 that property which results from the construction or
83 reconstruction of the property for the purpose of providing
84 living quarters for one or more natural or adoptive grandparents
85 or parents of the owner of the property or of the owner's spouse
86 if at least one of the grandparents or parents for whom the
87 living quarters are provided is 62 years of age or older. Such a
88 reduction may not exceed the lesser of the following:
89 (1) The increase in assessed value resulting from
90 construction or reconstruction of the property.
91 (2) Twenty percent of the total assessed value of the
92 property as improved.
93 (f) By general law, the legislature may authorize
94 counties, subject to the conditions specified therein, to
95 provide by ordinance for the application of the provisions of
96 subsection (c) to all real property, other than property
97 assessed under subsection (a) or subsection (d). This subsection
98 shall not apply to determinations of the value of real property
99 taxed for school purposes.
100 BE IT FURTHER RESOLVED that the following statement be
101 placed on the ballot:
102 CONSTITUTIONAL AMENDMENT
103 ARTICLE VII, SECTION 4
104 LIMITATIONS ON ASSESSMENTS OF REAL PROPERTY.--Proposing an
105 amendment to the State Constitution to authorize the
106 Legislature, by general law, to authorize counties to provide by

107 ordinance for applying to all real property, other than
108 agricultural land, land producing high water recharge to
109 Florida's aquifers, land used exclusively for noncommercial
110 recreational purposes, and historic property assessed on the
111 basis of character or use, the limitations on assessments of
112 property at just value currently applicable only to homestead
113 property and specify that the amendment does not apply to
114 determinations of the value of real property taxed for school
115 purposes.

HB 0293

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 293 Fiscally Constrained Counties
SPONSOR(S): Pickens and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1612

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	9 Y, 0 N	Monroe	Diez-Arguelles
2) Local Government Council		DiVagno	Hamby
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

This bill sets aside 0.082 percent of available sales tax revenues for distribution to fiscally constrained counties. A "fiscally constrained county" is defined as a county in which a one mill property tax rate will raise no more than $4 million in revenue annually. Twenty-nine counties currently qualify as a fiscally constrained county. Funds will be distributed by the Department of Revenue using a formula that factors in both the revenue raising potential of one mill, measured on a per capita basis, and a local-effort factor based on the county-wide operating millage levied by each county. Counties may use the distributions for any public purpose other than to pay debt service on any form of indebtedness. Distributions to counties that cease to qualify as a "fiscally constrained county" will be phased-out over a two-year period.

This bill also changes the criteria by which a county currently qualifies for an additional distribution of sales tax revenues under s. 218.65, F.S., by eliminating criteria under which a county with a population over 65,000 could continue to qualify for a distribution. The bill also provides for a two-year phase out of the distribution to a county which grows beyond the population cap.

This bill amends s. 985.2155(2), F.S., to redefine the term "fiscally constrained counties" as a county in which a one mill property tax rate will raise no more than $4 million in revenue annually. The section provides for state funds to be used to cover the costs of juvenile detention in fiscally constrained counties.

Additionally, the bill appropriates $2 million from the General Revenue Fund for the 2006-2007 fiscal year to the Office of Tourism, Trade, and Economic Development for the implementation of the rural priority recommendation within the statewide strategic economic development plan.

Finally, this bill reduces general revenue funds by a certain percentage and increases the revenues of fiscally constrained counties by the same amount. Based on 2005 sales tax revenue estimates, this percentage would have been equal to $15 million.

This bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:
The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Distributions to Fiscally Constrained Counties

Current Situation: Section 212.20(6), F.S., currently provides a formula for distributing the proceeds generated by the state tax on sales, use, and other transactions; communications services taxes other than those classified as gross receipts taxes; and, taxes on the retail sales price of any direct-to-home satellite service. After the required distribution to certain trust funds, the remaining tax proceeds are distributed in accordance with specific statutory standards to the General Revenue Fund, the Ecosystem Management and Restoration Trust Fund, the Local-Government Half-cent Sales Tax Clearing Trust Fund, the Revenue Sharing Trust Fund for Counties, and the Revenue Sharing Trust Fund for Municipalities. After these distributions are made, a specific amount of the remaining proceeds is distributed to each county, to qualified facilities for a new professional sports franchise or facilities for a retained spring training franchise, to professional golf halls of fame, and to International Game Fish Association World Center facilities. Any remaining proceeds remain in the General Revenue Fund.

Effect of Proposed Changes: This bill amends s. 212.20(6), F.S., to provide that, after initial distributions are made to the General Revenue Fund, the Ecosystem Management and Restoration Trust Fund, and the Local-Government Half-cent Sales Tax Clearing Trust Fund, 0.082 percent of the available proceeds is transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund to be distributed to "fiscally constrained counties" pursuant to s. 218.67, F.S.

The bill creates s. 218.67, F.S., to provide distributions of funds to fiscally constrained counties. The term "fiscally constrained county" is defined as each county for which the value of one mill will raise no more than $4 million annually, based on the property valuations and tax data annually published by the Department of Revenue. Twenty-nine counties qualify as a "fiscally constrained county" under this definition: Baker, Bradford, Calhoun, Columbia, De Soto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, and Washington. Based upon 2005 taxable values of property, distributions to fiscally constrained counties range from $142,554 to $703,902, with 16 counties receiving over $500,000.

The amount to be distributed to each fiscally constrained county will be determined by the Department of Revenue at the beginning of the fiscal year, using the prior fiscal year property valuations, tax data, population estimates and the previous year's millage rate. The amount distributed must be allocated based upon the following factors:

- The relative revenue-raising-capacity factor, which is the ability of the eligible county to generate ad valorem revenues from one mill of taxation on a per capita basis. A county that raises no more than $25 per capita from one mill shall be assigned a value of 1; a county that raises more than $25 but no more than $30 per capita from one mill shall be assigned a value of 0.75; and a county that raises more than $30 but no more than $50 per capita from one mill shall be assigned a value of 0.5. No value shall be assigned to counties that raise more than $50 per capita from one mill of ad valorem taxation.

- The local-effort factor, which is a measure of the relative level of local effort of the eligible county as indicated by the previous year's millage rate. The local-effort factor is the most recently adopted countywide operating millage rate for each eligible county multiplied by 0.1.

- Each eligible county's proportional allocation of the total amount available to be distributed to all of the eligible counties is the same proportion as the sum of the county's two factors is to the sum of the two factors for all eligible counties

For counties that no longer qualify as a "fiscally constrained county" after the effective date of this act, there will be a 2-year phase-out period. Beginning on July 1 of the year following the year in which the value of a mill for that county exceeds $4 million in revenue, the county will receive two-thirds of the amount received in the prior year, and beginning on July 1 of the second year following the year in which the value of a mill for that county exceeds $4 million in revenue, the county will receive one-third of the amount received in the last year that the county qualified as a fiscally constrained county. Following the 2-year phase-out period, the county will no longer be eligible to receive any distributions under this section unless the county can be considered a fiscally constrained county.

Distributions received by fiscally constrained counties may be used by a county for any public purpose, except to pay debt service on bonds, notes, certificates of participation, or any other forms of indebtedness.

Additional Distribution for Small Counties under Section 218.65(2), F.S.

Current Situation: Pursuant to s. 218.65(2), F.S., a county may receive, in addition to its regular distribution of funds from the Local Government Half-cent Sales Tax, an additional distribution if it is receiving less than a prescribed per capita amount based on its population. However, if the county has a population over 65,000, it must also meet additional criteria showing that it had minimal increases in their property tax base between 1977 and 1981. Once the county ceases to meet the criteria designated, it ceases to receive any supplemental distribution under this provision.

Effect of Proposed Changes: Under this bill, any county where the population grew to an amount over 65,000 would cease to qualify for a supplemental distribution under Section 218.65(2), F.S. However, for counties that no longer qualify under Section 218.65(2), F.S., after the effective date of this act, there will be a 2-year phase-out period. Beginning on July 1 of the year following the year in which the population grows above 65,000, the county will receive two-thirds of the amount received in the prior year, and beginning on July 1 of the second year following the year in which the population exceeds 65,000, the county will receive one-third of the amount received in the last year that the county qualified for such distribution. Following the 2-year phase-out period, the county will no longer be eligible to receive any distributions under this subsection. If there are insufficient funds in the Local-Government Half-cent Sales Tax Clearing Trust Fund to provide for this distribution, eligible counties will receive an amount proportional to the share they would have received had there been enough funding.

Strategic Rural Marketing Program

Current Situation: One of the priority recommendations of the 2003 statewide strategic plan for economic development, "Roadmap to Florida's Future", is the implementation of an economic stimulus strategy for rural areas. To that end Enterprise Florida, Inc. (EFI), convened three forums, one in each of the State's Rural Areas of Critical Economic Concern (RACEC). EFI then coordinated a Rural Summit in Sebring on October 27, 2004. Participants included members of the local and regional economic development organizations, Rural Economic Development Initiative (REDI) members, regional partners, local businesses, utilities, (cooperatives and investor-owned) and interested persons. The outcome was the "7-Point Plan for Rural Florida" that would allow the three regions to speak with one voice, leverage limited resources and reach out to partner agencies and organizations for assistance and advocacy.

Further, the "7-Point Plan" was reviewed and overwhelmingly endorsed by the Rural Issues Working Group, the Enterprise Florida Partners Council, the Statewide Strategic Plan Committee and the Board of Directors for Enterprise Florida and accepted by the Office of Tourism, Trade and Economic Development (OTTED). Systemic issues will be addressed through the "7-Point Plan" developed at the Rural Summit.[1]

Funds allocated for this initiative will be used, but not exclusively, for the following activities:

- Potential site identification
- Industry cluster identification and direct marketing
- Identification of costs and barriers related to site preparation – including permitting and infrastructure availability
- Development of regional memoranda of agreement and interlocal agreements with units of local government and property owners
- Development and implementation of incidental marketing support materials and expenses.

Effect of Proposed Changes: The bill amends s. 288.0656, F.S., to provide that OTTED may accept and administer moneys appropriated to the office to support the implementation of the rural priority recommendation within the statewide strategic economic development plan, including the development of significant regional economic development projects in each of the designated rural areas of critical economic concern. OTTED may contract with Enterprise Florida, Inc., to develop regional project implementation plan components to include the identification of potential sites, direct marketing campaigns within the industry clusters for each area, identification of costs and barriers related to site preparation including permitting and infrastructure availability, development of memoranda of agreement and interlocal agreements with participating property owners and units of local government within each area regarding the parameters of project participation, and the development of incidental marketing support materials and expenses.

The bill appropriates $2 million from the General Revenue Fund for the 2006-2007 fiscal year to the Office of Tourism, Trade, and Economic Development for the implementation of the rural priority recommendation within the statewide strategic economic development plan.

Shared Responsibility for Juvenile Detention

Current Situation: In accordance with s. 985.2155(1), F.S., it is the policy of this state that the state and counties have a joint obligation to contribute to the financial support of detention care provided for juveniles. Therefore, each county must pay the costs incurred by the county in providing detention care for juveniles for the period of time prior to final court disposition. However, the state pays all costs of detention care for juveniles for which a fiscally constrained county would otherwise be billed. The term "fiscally constrained county" is defined as a county designated as a rural area of critical economic concern under s. 288.0656, F.S., for which the value of a mill in the county is no more than $3 million, based on the property valuations and tax data annually published by the Department of Revenue under s. 195.052, F.S.

Effect of Proposed Changes: This bill amends s. 985.2155(2), F.S., to redefine the term "fiscally constrained counties" for purposes of that section. Under the new definition, a county is fiscally constrained if the value of a mill in the county is no more than $4 million. The new definition does not require a county to be classified as a "rural area of critical economic concern." Twenty-nine counties qualify as a "fiscally constrained county" under this definition, including: Baker, Bradford, Calhoun, Columbia, De Soto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, and Washington. Highlands, Wakulla, and Sumter are the counties which do not currently qualify but will receive funds under this bill.

[1] Information provided by Bridget Merrill, Director, Rural Competitiveness and Policies, Enterprise Florida.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.20(6), F.S., to provide for 0.082 percent of available sales tax proceeds to be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund for distribution to fiscally constrained counties. In addition, it makes a number of stylistic changes to promote uniformity in the provisions of the statute, and deletes obsolete language.

Section 2. Amends s. 218.65, F.S., to provide for a transitional emergency distribution from the Local Government Half-cent Sales Tax Clearing Trust Fund to certain fiscally constrained counties and revises criteria for receiving certain funds from the Local Government Half-cent Sales Tax Clearing Trust Fund.

Section 3. Creates s. 218.67, F.S., providing a distribution formula to apportion the funds among fiscally constrained counties.

Section 4. Amends s. 288.0656, F.S., authorizing the Office of Tourism, Trade, and Economic Development to accept and administer moneys appropriated to the office to support the implementation of the rural priority recommendation within the statewide strategic economic development plan, including the development of significant regional economic development projects in each of the designated rural areas of critical economic concern.

Section 5. Amends s. 288.1169(6), F.S., to update a cross reference.

Section 6. Amends s. 985.2155, F.S., revising the definition of "fiscally constrained county".

Section 7. Provides an appropriation of $2 million from the General Revenue Fund for the 2006-2007 fiscal year to the Office of Tourism, Trade, and Economic Development for the implementation of the rural priority recommendation within the statewide strategic economic development plan.

Section 8. Provides that this bill shall take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: This bill will reduce the state's share of sales tax revenues, which the 2005 revenue estimating conference estimated to have a negative impact of $15 million recurring to the General Revenue Fund.

2. Expenditures: This bill appropriates $2 million from the General Revenue Fund for the 2006-2007 fiscal year to OTTED for the implementation of the rural priority recommendation within the statewide strategic economic development plan. In addition, the juvenile detention provision of this bill will result in approximately $825,000 worth of additional expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: This bill will distribute annually to fiscally constrained counties a percentage of the state sales tax, which was estimated to equal $15 million by the 2005 revenue estimating conference.

2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other: None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to fiscally constrained counties; amending
3 s. 212.20, F.S.; providing for a distribution of tax
4 revenue to fiscally constrained counties; amending s.
5 218.65, F.S.; providing for a transitional emergency
6 distribution from the Local Government Half-cent Sales Tax
7 Clearing Trust Fund to certain fiscally constrained
8 counties; revising criteria for receiving certain funds
9 from the Local Government Half-cent Sales Tax Clearing
10 Trust Fund; creating s. 218.67, F.S.; providing
11 eligibility criteria to qualify as a fiscally constrained
12 county; providing for the distribution of additional funds
13 to certain fiscally constrained counties; providing for a
14 phaseout period; providing for the use of funds; amending
15 s. 288.0656, F.S.; authorizing the Office of Tourism,
16 Trade, and Economic Development to accept and administer
17 moneys appropriated for rural economic development;
18 authorizing the office to contract with Enterprise
19 Florida, Inc.; amending s. 288.1169, F.S.; correcting a
20 cross-reference; amending s. 985.2155, F.S.; revising the
21 definition of the term "fiscally constrained county"
22 applicable to shared county and state responsibility for
23 juvenile detention; providing an appropriation; providing
24 an effective date.
25
26 Be It Enacted by the Legislature of the State of Florida:
27
28 Section 1. Paragraph (d) of subsection (6) of section

29 212.20, Florida Statutes, is amended to read:
30 212.20 Funds collected, disposition; additional powers of
31 department; operational expense; refund of taxes adjudicated
32 unconstitutionally collected.--
33 (6) Distribution of all proceeds under this chapter and s.
34 202.18(1)(b) and (2)(b) shall be as follows:
35 (d) The proceeds of all other taxes and fees imposed
36 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
37 and (2)(b) shall be distributed as follows:
38 1. In any fiscal year, the greater of $500 million, minus
39 an amount equal to 4.6 percent of the proceeds of the taxes
40 collected pursuant to chapter 201, or 5 percent of all other
41 taxes and fees imposed pursuant to this chapter or remitted
42 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
43 monthly installments into the General Revenue Fund.
44 2. Two-tenths of one percent shall be transferred to the
45 Ecosystem Management and Restoration Trust Fund to be used for
46 water quality improvement and water restoration projects.
47 3. After the distribution under subparagraphs 1. and 2.,
48 8.814 percent of the amount remitted by a sales tax dealer
49 located within a participating county pursuant to s. 218.61
50 shall be transferred into the Local Government Half-cent Sales
51 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to
52 be transferred pursuant to this subparagraph to the Local
53 Government Half-cent Sales Tax Clearing Trust Fund shall be
54 reduced by 0.1 percent, and the department shall distribute this
55 amount to the Public Employees Relations Commission Trust Fund
56 less $5,000 each month, which shall be added to the amount

57 calculated in subparagraph 4. and distributed accordingly.
58 4. After the distribution under subparagraphs 1., 2., and
59 3., 0.095 percent of the available proceeds shall be transferred
60 to the Local Government Half-cent Sales Tax Clearing Trust Fund
61 and distributed pursuant to s. 218.65.
62 5. After the distributions under subparagraphs 1., 2., 3.,
63 and 4., 2.0440 percent of the available proceeds ~~pursuant to~~
64 ~~this paragraph~~ shall be transferred monthly to the Revenue
65 Sharing Trust Fund for Counties pursuant to s. 218.215.
66 6. After the distributions under subparagraphs 1., 2., 3.,
67 and 4., 1.3409 percent of the available proceeds ~~pursuant to~~
68 ~~this paragraph~~ shall be transferred monthly to the Revenue
69 Sharing Trust Fund for Municipalities pursuant to s. 218.215. If
70 the total revenue to be distributed pursuant to this
71 subparagraph is at least as great as the amount due from the
72 Revenue Sharing Trust Fund for Municipalities and the former
73 Municipal Financial Assistance Trust Fund in state fiscal year
74 1999-2000, no municipality shall receive less than the amount
75 due from the Revenue Sharing Trust Fund for Municipalities and
76 the former Municipal Financial Assistance Trust Fund in state
77 fiscal year 1999-2000. If the total proceeds to be distributed
78 are less than the amount received in combination from the
79 Revenue Sharing Trust Fund for Municipalities and the former
80 Municipal Financial Assistance Trust Fund in state fiscal year
81 1999-2000, each municipality shall receive an amount
82 proportionate to the amount it was due in state fiscal year
83 1999-2000.
84 7. After the distributions under subparagraphs 1., 2., 3.,

85 and 4., 0.082 percent of the available proceeds shall be
86 transferred to the Local Government Half-cent Sales Tax Clearing
87 Trust Fund and distributed pursuant to s. 218.67.
88 8.~~7.~~ Of the remaining proceeds:
89 a. In each fiscal year, the sum of $29,915,500 shall be
90 divided into as many equal parts as there are counties in the
91 state, and one part shall be distributed to each county. The
92 distribution among the several counties shall begin each fiscal
93 year on or before January 5th and shall continue monthly for a
94 total of 4 months. If a local or special law required that any
95 moneys accruing to a county in fiscal year 1999-2000 under the
96 then-existing provisions of s. 550.135 be paid directly to the
97 district school board, special district, or a municipal
98 government, such payment shall continue until ~~such time that~~ the
99 local or special law is amended or repealed. The state covenants
100 with holders of bonds or other instruments of indebtedness
101 issued by local governments, special districts, or district
102 school boards prior to July 1, 2000, that it is not the intent
103 of this subparagraph to adversely affect the rights of those
104 holders or relieve local governments, special districts, or
105 district school boards of the duty to meet their obligations as
106 a result of previous pledges or assignments or trusts entered
107 into which obligated funds received from the distribution to
108 county governments under then-existing s. 550.135. This
109 distribution specifically is in lieu of funds distributed under
110 s. 550.135 prior to July 1, 2000.
111 b. The department shall distribute $166,667 monthly
112 pursuant to s. 288.1162 to each applicant that has been

113 certified as a "facility for a new professional sports
114 franchise" or a "facility for a retained professional sports
115 franchise" pursuant to s. 288.1162. Up to $41,667 shall be
116 distributed monthly by the department to each applicant that has
117 been certified as a "facility for a retained spring training
118 franchise" pursuant to s. 288.1162; however, not more than
119 $208,335 may be distributed monthly in the aggregate to all
120 certified facilities for a retained spring training franchise.
121 Distributions shall begin 60 days following such certification
122 and shall continue for not more than 30 years. Nothing contained
123 in this paragraph shall be construed to allow an applicant
124 certified pursuant to s. 288.1162 to receive more in
125 distributions than actually expended by the applicant for the
126 public purposes provided for in s. 288.1162(6). However, a
127 certified applicant is entitled to receive distributions up to
128 the maximum amount allowable and undistributed under this
129 section for additional renovations and improvements to the
130 facility for the franchise without additional certification.
131 c. Beginning 30 days after notice by the Office of
132 Tourism, Trade, and Economic Development to the Department of
133 Revenue that an applicant has been certified as the professional
134 golf hall of fame pursuant to s. 288.1168 and is open to the
135 public, $166,667 shall be distributed monthly, for up to 300
136 months, to the applicant.
137 d. Beginning 30 days after notice by the Office of
138 Tourism, Trade, and Economic Development to the Department of
139 Revenue that the applicant has been certified as the
140 International Game Fish Association World Center facility

141 pursuant to s. 288.1169, and the facility is open to the public,
142 $83,333 shall be distributed monthly, for up to 168 months, to
143 the applicant. This distribution is subject to reduction
144 pursuant to s. 288.1169. ~~A lump sum payment of $999,996 shall be~~
145 ~~made, after certification and before July 1, 2000.~~
146 9.~~8.~~ All other proceeds shall remain with the General
147 Revenue Fund.
148 Section 2. Section 218.65, Florida Statutes, is amended to
149 read:
150 218.65 Emergency distribution.--
151 (1) Each county government which meets the provisions of
152 subsection (2) or subsection (8) ~~(7)~~ and which participates in
153 the local government half-cent sales tax shall receive a
154 distribution from the Local Government Half-cent Sales Tax
155 Clearing Trust Fund in addition to its regular monthly
156 distribution as provided in this part.
157 (2) The Legislature hereby finds and declares that a
158 fiscal emergency exists in any county which meets the following
159 criteria ~~specified in paragraph (a), if applicable, and the~~
160 ~~criterion specified in paragraph (b)~~:
161 (a) ~~If~~ The county has a population of 65,000 or less; and
162 ~~above:~~
163 ~~1. In any year from 1977 to 1981, inclusive, the value of~~
164 ~~net new construction and additions placed on the tax roll for~~
165 ~~that year was less than 2 percent of the taxable value for~~
166 ~~school purposes on the roll for that year, exclusive of such net~~
167 ~~value; or~~
168 ~~2. The percentage increase in county taxable value from~~

169 ~~1979 to 1980, 1980 to 1981, or 1981 to 1982 was less than 3~~
170 ~~percent.~~
171 (b) The moneys distributed to the county government
172 pursuant to s. 218.62 for the prior fiscal year were less than
173 the current per capita limitation, based on the population of
174 that county.
175 (3) Qualification under this section shall be determined
176 annually at the start of the fiscal year. Emergency and
177 supplemental moneys shall be distributed monthly with other
178 moneys provided pursuant to this part.
179 (4) For the fiscal year beginning in 1988, the per capita
180 limitation shall be $24.60. Thereafter, commencing with the
181 fiscal year which begins in 1989, this limitation shall be
182 adjusted annually for inflation. The annual adjustment to the
183 per capita limitation for each fiscal period shall be the
184 percentage change in the state and local government price
185 deflator for purchases of goods and services, all items, 1983
186 equals 100, or successor reports for the preceding calendar year
187 as initially reported by the United States Department of
188 Commerce, Bureau of Economic Analysis, as certified by the
189 Florida Consensus Estimating Conference.
190 (5) At the beginning of each fiscal year, the Department
191 of Revenue shall calculate a base allocation for each eligible
192 county equal to the difference between the current per capita
193 limitation times the county's population, minus prior year
194 ordinary distributions to the county pursuant to ss.
195 212.20(6)(d)3., 218.61, and 218.62. If moneys deposited into the
196 Local Government Half-cent Sales Tax Clearing Trust Fund

197 pursuant to s. 212.20(6)(d)4., excluding moneys appropriated for
198 supplemental distributions pursuant to subsection (8) ~~(7)~~, for
199 the current year are less than or equal to the sum of the base
200 allocations, each eligible county shall receive a share of the
201 appropriated amount proportional to its base allocation. If the
202 deposited amount exceeds the sum of the base allocations, each
203 county shall receive its base allocation, and the excess
204 appropriated amount, less any amounts distributed under
205 subsection (6), shall be distributed equally on a per capita
206 basis among the eligible counties.
207 (6) If moneys deposited in the Local Government Half-cent
208 Sales Tax Clearing Trust Fund pursuant to s. 212.20(6)(d)4.
209 exceed the amount necessary to provide the base allocation to
210 each eligible county, the moneys in the trust fund may be used
211 to provide a transitional distribution, as specified in this
212 subsection, to certain counties whose population has increased.
213 The transitional distribution shall be made available to each
214 county that qualified for a distribution under subsection (2) in
215 the prior year but does not, because of the requirements of
216 paragraph (2)(a), qualify for a distribution in the current
217 year. Beginning on July 1 of the year following the year in
218 which the county no longer qualifies for a distribution under
219 subsection (2), the county shall receive two-thirds of the
220 amount received in the prior year, and beginning July 1 of the
221 second year following the year in which the county no longer
222 qualifies for a distribution under subsection (2), the county
223 shall receive one-third of the amount it received in the last
224 year it qualified for the distribution under subsection (2). If

225 insufficient moneys are available in the Local Government Half-
226 cent Sales Tax Clearing Trust Fund to fully provide such a
227 transitional distribution to each county that meets the
228 eligibility criteria in this section, each eligible county shall
229 receive a share of the available moneys proportional to the
230 amount it would have received had moneys been sufficient to
231 fully provide such a transitional distribution to each eligible
232 county.
233 (7) ~~(6)~~ There is hereby annually appropriated from the
234 Local Government Half-cent Sales Tax Clearing Trust Fund the
235 distribution provided in s. 212.20(6)(d)4. to be used for
236 emergency and supplemental distributions pursuant to this
237 section.
238 (8) ~~(7)~~(a) Any county the inmate population of which in any
239 year is greater than 7 percent of the total population of the
240 county is eligible for a supplemental distribution for that year
241 from funds expressly appropriated therefor. At the beginning of
242 each fiscal year, the Department of Revenue shall calculate a
243 supplemental allocation for each eligible county equal to the
244 current per capita limitation pursuant to subsection (4) times
245 the inmate population of the county. If moneys appropriated for
246 distribution pursuant to this section for the current year are
247 less than the sum of supplemental allocations, each eligible
248 county shall receive a share of the appropriated amount
249 proportional to its supplemental allocation. Otherwise, each
250 shall receive an amount equal to its supplemental allocation.
251 (b) For the purposes of this subsection, the term:
252 1. "Inmate population" means the latest official state

253 estimate of the number of inmates and patients residing in
254 institutions operated by the Federal Government, the Department
255 of Corrections, or the Department of Children and Family
256 Services.
257 2. "Total population" includes inmate population and
258 noninmate population.
259 Section 3. Section 218.67, Florida Statutes, is created to
260 read:
261 218.67 Distribution for fiscally constrained counties.--
262 (1) Each county for which the value of a mill will raise
263 no more than $4 million in revenue, based on the property
264 valuations and tax data annually published by the Department of
265 Revenue under s. 195.052, shall be considered a fiscally
266 constrained county.
267 (2) Each fiscally constrained county government that
268 participates in the local government half-cent sales tax shall
269 be eligible to receive an additional distribution from the Local
270 Government Half-cent Sales Tax Clearing Trust Fund, as provided
271 in s. 212.20, in addition to its regular monthly distribution
272 provided under this part and any emergency or supplemental
273 distribution under s. 218.65.
274 (3) The amount to be distributed to each fiscally
275 constrained county shall be determined by the Department of
276 Revenue at the beginning of the fiscal year, using the prior
277 fiscal year property valuations, tax data, and population
278 estimates and the millage rate levied for the prior fiscal year.
279 The amount distributed shall be allocated based upon the
280 following factors:

281 (a) The relative revenue-raising-capacity factor shall be
282 the ability of the eligible county to generate ad valorem
283 revenues from 1 mill of taxation on a per capita basis. A county
284 that raises no more than $25 per capita from 1 mill shall be
285 assigned a value of 1; a county that raises more than $25 but no
286 more than $30 per capita from 1 mill shall be assigned a value
287 of 0.75; and a county that raises more than $30 but no more than
288 $50 per capita from 1 mill shall be assigned a value of 0.5. No
289 value shall be assigned to counties that raise more than $50 per
290 capita from 1 mill of ad valorem taxation.
291 (b) The local-effort factor shall be a measure of the
292 relative level of local effort of the eligible county as
293 indicated by the millage rate levied for the prior fiscal year.
294 The local-effort factor shall be the most recently adopted
295 countywide operating millage rate for each eligible county
296 multiplied by 0.1.
297 (c) Each eligible county's proportional allocation of the
298 total amount available to be distributed to all of the eligible
299 counties shall be in the same proportion as the sum of the
300 county's two factors is to the sum of the two factors for all
301 eligible counties. The counties that are eligible to receive an
302 allocation under this subsection and the amount available to be
303 distributed to such counties shall not include counties
304 participating in the phaseout period under subsection (4) or the
305 amounts they remain eligible to receive during the phaseout.
306 (4) For those counties that no longer qualify under the
307 requirements of subsection (1) after the effective date of this
308 act, there shall be a 2-year phaseout period. Beginning on July

309 1 of the year following the year in which the value of a mill
310 for that county exceeds $4 million in revenue, the county shall
311 receive two-thirds of the amount received in the prior year, and
312 beginning on July 1 of the second year following the year in
313 which the value of a mill for that county exceeds $4 million in
314 revenue, the county shall receive one-third of the amount
315 received in the last year that the county qualified as a
316 fiscally constrained county. Following the 2-year phaseout
317 period, the county shall no longer be eligible to receive any
318 distributions under this section unless the county can be
319 considered a fiscally constrained county as provided in
320 subsection (1).
321 (5) The revenues received under this section may be used
322 by a county for any public purpose, except that such revenues
323 may not be used to pay debt service on bonds, notes,
324 certificates of participation, or any other forms of
325 indebtedness.
326 Section 4. Subsection (7) of section 288.0656, Florida
327 Statutes, is amended to read:
328 288.0656 Rural Economic Development Initiative.--
329 (7) REDI may recommend to the Governor up to three rural
330 areas of critical economic concern.
331 (a) A rural area of critical economic concern must be a
332 rural community, or a region composed of such, that has been
333 adversely affected by an extraordinary economic event or a
334 natural disaster or that presents a unique economic development
335 opportunity of regional impact that will create more than 1,000
336 jobs over a 5-year period. The Governor may by executive order

337 designate up to three rural areas of critical economic concern
338 which will establish these areas as priority assignments for
339 REDI as well as to allow the Governor, acting through REDI, to
340 waive criteria, requirements, or similar provisions of any
341 economic development incentive. Such incentives shall include,
342 but not be limited to: the Qualified Target Industry Tax Refund
343 Program under s. 288.106, the Quick Response Training Program
344 under s. 288.047, the Quick Response Training Program for
345 participants in the welfare transition program under s.
346 288.047(8), transportation projects under s. 288.063, the
347 brownfield redevelopment bonus refund under s. 288.107, and the
348 rural job tax credit program under ss. 212.098 and 220.1895.
349 Designation as a rural area of critical economic concern under
350 this subsection shall be contingent upon the execution of a
351 memorandum of agreement among the Office of Tourism, Trade, and
352 Economic Development; the governing body of the county; and the
353 governing bodies of any municipalities to be included within a
354 rural area of critical economic concern. Such agreement shall
355 specify the terms and conditions of the designation, including,
356 but not limited to, the duties and responsibilities of the
357 county and any participating municipalities to take actions
358 designed to facilitate the retention and expansion of existing
359 businesses in the area, as well as the recruitment of new
360 businesses to the area.
361 (b) The Office of Tourism, Trade, and Economic Development
362 may accept and administer moneys appropriated to the office to
363 support the implementation of the rural priority recommendation
364 within the statewide strategic economic development plan as

365 provided in s. 288.905, including the development of significant
366 regional economic development projects in each of the designated
367 rural areas of critical economic concern. The office may
368 contract with Enterprise Florida, Inc., to develop regional
369 project implementation plan components to include, but not be
370 limited to, the identification of potential sites, direct
371 marketing campaigns within the industry clusters for each area,
372 identification of costs and barriers related to site preparation
373 including permitting and infrastructure availability,
374 development of memoranda of agreement and interlocal agreements
375 with participating property owners and units of local government
376 within each area regarding the parameters of project
377 participation, and the development of incidental marketing
378 support materials and expenses. The office may approve the
379 expenditure of funds under this paragraph only to the extent
380 that funds are appropriated for such purpose by the Legislature.
381 Section 5. Subsection (6) of section 288.1169, Florida
382 Statutes, is amended to read:
383 288.1169 International Game Fish Association World Center
384 facility.--
385 (6) The Department of Commerce must recertify every 10
386 years that the facility is open, that the International Game
387 Fish Association World Center continues to be the only
388 international administrative headquarters, fishing museum, and
389 Hall of Fame in the United States recognized by the
390 International Game Fish Association, and that the project is
391 meeting the minimum projections for attendance or sales tax
392 revenues as required at the time of original certification. If

393 the facility is not recertified during this 10-year review as
394 meeting the minimum projections, then funding will be abated
395 until certification criteria are met. If the project fails to
396 generate $1 million of annual revenues pursuant to paragraph
397 (2)(e), the distribution of revenues pursuant to s.
398 212.20(6)(d)8.d. ~~212.20(6)(d)7.d.~~ shall be reduced to an amount
399 equal to $83,333 multiplied by a fraction, the numerator of
400 which is the actual revenues generated and the denominator of
401 which is $1 million. Such reduction shall remain in effect until
402 revenues generated by the project in a 12-month period equal or
403 exceed $1 million.
404 Section 6. Paragraph (b) of subsection (2) of section
405 985.2155, Florida Statutes, is amended to read:
406 985.2155 Shared county and state responsibility for
407 juvenile detention.--
408 (2) As used in this section, the term:
409 (b) "Fiscally constrained county" means a county
410 ~~designated as a rural area of critical economic concern under s.~~
411 ~~288.0656~~ for which the value of a mill in the county is no more
412 than $4 ~~$3~~ million, based on the property valuations and tax
413 data annually published by the Department of Revenue under s.
414 195.052.
415 Section 7. There is hereby appropriated the sum of $2
416 million from the General Revenue Fund for the 2006-2007 fiscal
417 year to the Office of Tourism, Trade, and Economic Development
418 for the implementation of the rural priority recommendation
419 within the statewide strategic economic development plan.
420 Section 8. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 323 CS Reemployment After Retirement
SPONSOR(S): Patterson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1474

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	7 Y, 0 N, w/CS	Mitchell	Williamson
2) Local Government Council		Nelson ADN	Hamby TJC
3) Fiscal Council			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

The bill creates a restriction on the reemployment of law enforcement officers, correctional officers and correctional probation officers who retire from an agency under the Florida Retirement System. If these officers seek employment at the agency from which they retired, they may only be appointed, reappointed, employed or reemployed at the lowest rank and pay scale for a certified law enforcement officer, correctional officer or correctional probation officer within that agency for a minimum period of three years. The bill makes the certification of a law enforcement officer, correctional officer or correctional probation officer who violates the reemployment restriction inactive.

The bill does not otherwise limit employment or appointment opportunities for the law enforcement officer, correctional officer or correctional probation officer at any other employing agency. This bill also does not change other limitations on employment after retirement.

This bill does not appear to create, modify or eliminate rulemaking authority.

This bill does not appear to have a fiscal impact on any revenues of state government, although the bill may create compliance expenditures for the Florida Department of Law Enforcement.

This bill does not appear to have a fiscal impact on any revenues of local governments. It is unknown, however, whether this bill will create expenditures for local governments for law enforcement or correctional personnel or compliance costs.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty–This bill limits the reemployment of law enforcement officers, correctional officers and correctional probation officers after retirement to "entry level positions" under specified conditions.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Retirement System Act

Chapter 121, F.S., the "Florida Retirement System Act," governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.[1]

Section 121.091, F.S., governs the payment of benefits under the FRS. This section requires a member of the FRS to terminate employment or begin participation in the Deferred Retirement Option Program in order to receive benefits. Termination occurs when a member ceases all employment relationships with FRS employers.[2] Termination is void if a member becomes reemployed by any member of the FRS within the next calendar month.[3]

Subsection (9) of s. 121.091, F. S., governs employment after retirement. This provision permits any person who is a retired member of the FRS to be employed by a non-FRS employer and receive retirement benefits. Yet, those persons who are retired members of the FRS and who are reemployed by an FRS employer may not receive both a salary from reemployment and retirement benefits in the period between two and 12 months after the date of retirement. After 12 months from the date of retirement, a person may receive both a salary from reemployment from the FRS employer and retirement benefits.

There currently are several provisions that allow a person who has retired to receive both a salary from reemployment with an FRS employer and retirement benefits in the period between two and 12 months after the date of retirement.[4] These provisions limit the types of positions that the retired FRS member may accept, the number of hours the retired FRS member may work, or both. There currently are no restrictions on the types of positions or the number of hours that a retired FRS member may work with an FRS employer after 12 months.

Department of Law Enforcement Act

Chapter 943, F.S., is entitled the "Department of Law Enforcement Act," and includes various provisions relating to law enforcement within the State of Florida. Section 943.1395, F.S., of that act provides conditions relating to the certification of law enforcement officers, correctional officers and correctional probation officers for employment or appointment, and provides for inactive status and revocation of certification.

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[1] Section 121.025, F.S.
[2] Section 121.021(39)(a), F.S.
[3] *Id.*
[4] For example, a district school board may reemploy a retired member as a substitute or hourly teacher, education paraprofessional, transportation assistant, bus driver or food service worker on a noncontractual basis. See, s. 121.091(9)(b)3, F.S.

Effect of Proposed Changes

This bill amends s. 943.1395, F.S., to create a restriction on the reemployment of law enforcement officers, correctional officers and correctional probation officers who retire from an agency under ch. 121, F. S. If these officers seek employment at the agency from which they retired, they may only be appointed, reappointed, employed or reemployed at the lowest rank and pay scale for a certified law enforcement officer, correctional officer, or correctional probation officer within that agency for a minimum period of three years. The bill makes the certification of a law enforcement officer, correctional officer or correctional probation officer who violates the reemployment restriction inactive.[5]

The bill does not otherwise limit the employment or appointment opportunities for the law enforcement officer, correctional officer or correctional probation officer at any other employing agency. This bill also does not change the limitations on employment after retirement in s. 121.091(9), F.S.

Only anecdotal data was available on the extent to which law enforcement officers, correctional officers and correctional probation officers are reemployed in their previous positions after retiring. Anecdotal data also was the only source for the number of law enforcement/corrections agencies that have policies similar to those proposed by the bill.[6] Some of these incidents, however, have been attributed to employees participating in the Deferred Retirement Option Program,[7] who are required to submit binding letters of termination establishing a deferred termination date.[8]

The changes made by this bill are significantly different from most other limitations on reemployment with an FRS employer after retirement:[9] The bill does not allow receipt of salary and retirement benefits, the bill affects reemployment with only a single FRS employer and applies for three years, and the bill adversely impacts a professional certification.

C. SECTION DIRECTORY:

Section 1: Amends s. 943.1395, F.S., to limit the reemployment of law enforcement officers, correctional officers and correctional probation officers.

Section 2: Corrects a statutory reference in s. 943.22, F.S.

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to create, modify, amend or eliminate any revenues of state government.

2. Expenditures:

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[5] Law enforcement officers, correctional officers or correctional probation officers must be certified for appointment to or employment in most positions.

[6] For example, the Florida Highway Patrol has such a practice. Telephone conversation with Colonel Christopher Knight, Florida Highway Patrol (Feb. 2, 2006). The Marion County Sheriff's Office also has a similar policy. Testimony before the Fla. House Gov't Ops. Comm. (Mar. 15, 2006) (recording on file with the Fla. House of Representatives.).

[7] Testimony before the Fla. House Gov't Ops. Comm. (Mar. 15, 2006) (recording on file with the Fla. House of Representatives.).

[8] Section 121.091(13)(b)2.b, F.S.; see, *also* s. 121.091(13)(c)5.d., F.S. (reestablishing membership in the Florida Retirement System and requiring repayment plus interest for a participant who fails to terminate employment).

[9] As previously discussed, most limitations allow a person who has retired to receive both a salary from reemployment with an FRS employer and retirement benefits in the period between two and 12 months after the date of retirement as long as the retired person works in designated positions and/or not more than a certain number of hours.

This bill may create expenditures for state government if the Florida Department of Law Enforcement is required to change its certification monitoring process to comply with the provisions of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to create, modify, amend or eliminate any revenues of local governments.

2. Expenditures:

It is unknown whether this bill will create expenditures for local governments for law enforcement or correctional personnel or compliance costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Department of Management Services provided a fiscal note from the Enrolled Actuary regarding the bill as filed:

> This bill does not alter existing reemployment exceptions or create new exceptions or requirements for forfeiture of benefits during reemployment. In its current form, this bill would not have a fiscal impact on the FRS.[10]

The Committee Substitute does not appear to change this fiscal note.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Because any expenditure required by this bill is likely to be fiscally insignificant, this bill does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that counties or municipalities have to raise revenue.

2. Other:

Benefit changes to the state retirement system are governed by s. 14 of Art. X of the State Constitution. Since this bill does not change state retirement system benefits, it does not need to comply with the requirements of this section.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create, modify or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

[10] *Id.*

The Florida Sheriffs Association raised three concerns regarding this bill: (1) it conflicts with the independence of constitutional officers provided in s. 30.53, F.S.; (2) it creates a discriminatory policy towards three classes of employees; and (3) it runs counter to recent legislative changes that encourage the reemployment of employees with specialized experience.[11]

The Florida Police Benevolent Association (FPBA) is a proponent of this bill. It believes that the bill will serve to prevent an abuse of the state retirement system whereby employees retire and then return to work in their previously-held positions. Also, the FPBA believes that by ensuring that employees permanently retire from higher-level positions, the bill will remove impediments for other officers seeking promotion through the ranks.[12]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its meeting on March 15, 2006, the Governmental Operations Committee adopted a substitute strike-everything amendment and approved the bill with committee substitute. The substitute strike-everything amendment provided that if a law enforcement officer, correctional officer or correctional probation officer seeks to return to the agency from which that officer retired, that officer may only be appointed, reappointed, employed or reemployed at the lowest rank and pay scale for those officers within that agency for a minimum period of three years. The substitute amendment made the certification of a law enforcement officer, correctional officer or correctional probation officer who violates this reemployment restriction inactive.

[11] Florida Sheriffs Association, *Reemployment of Retired Officers* (Feb. 7, 2006); Testimony before the Fla. House Gov't Ops. Comm. (Mar. 15, 2006) (recording on file with the Fla. House of Representatives.).
[12] Telephone conversation with FPBA representative on March 27, 2006.

CHAMBER ACTION

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1 The Governmental Operations Committee recommends the following:
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3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to reemployment after retirement; amending
7 s. 943.1395, F.S.; prohibiting certain reemployment for
8 certain law enforcement, correctional, and correctional
9 probation officers; conforming cross-references; amending
10 s. 943.22, F.S.; conforming a cross-reference; providing
11 an effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. Subsections (4) through (10) of section
16 943.1395, Florida Statutes, are renumbered as subsections (5)
17 through (11), respectively, present subsections (8) and (9) are
18 amended, and a new subsection (4) is added to that section, to
19 read:
20 943.1395 Certification for employment or appointment;
21 concurrent certification; reemployment or reappointment;
22 <u>reemployment after retirement;</u> inactive status; revocation;
23 suspension; investigation.--

24 (4) A law enforcement officer, correctional officer, or
25 correctional probation officer seeking appointment,
26 reappointment, employment, or reemployment with the same
27 employing agency from which the law enforcement officer,
28 correctional officer, or correctional probation officer retired
29 under chapter 121 may only be appointed, reappointed, employed,
30 or reemployed at the lowest rank and pay scale for a certified
31 law enforcement officer, correctional officer, or correctional
32 probation officer within the employing agency for a minimum of 3
33 years. The certification of a law enforcement officer,
34 correctional officer, or correctional probation officer who
35 violates the provisions of this subsection shall become
36 inactive. This subsection shall not otherwise limit the
37 employment or appointment opportunities for the law enforcement
38 officer, correctional officer, or correctional probation officer
39 at any other employing agency. This subsection shall not change
40 the applicable limitations in s. 121.091(9).
41 (9) ~~(8)~~(a) The commission shall, by rule, adopt
42 disciplinary guidelines and procedures to administer the
43 penalties provided in subsections (7) ~~(6)~~ and (8) ~~(7)~~. The
44 commission may, by rule, prescribe penalties for certain
45 offenses. The commission shall, by rule, set forth aggravating
46 and mitigating circumstances to be considered when imposing the
47 penalties provided in subsection (8) ~~(7)~~.
48 (b)1. The disciplinary guidelines and prescribed penalties
49 must be based upon the severity of specific offenses. The
50 guidelines must provide reasonable and meaningful notice to
51 officers and to the public of penalties that may be imposed for

52 prohibited conduct. The penalties must be consistently applied
53 by the commission.
54 2. On or before July 1 of each odd-numbered year, the
55 commission shall conduct a workshop to receive public comment
56 and evaluate disciplinary guidelines and penalties. The
57 commission chair shall appoint a 12-member advisory panel,
58 composed of six officers and six representatives of criminal
59 justice management positions, to make recommendations to the
60 commission concerning disciplinary guidelines.
61 (c) For the purpose of implementing the penalties provided
62 in subsections (7) ~~(6)~~ and (8) ~~(7)~~, the chair of the commission
63 may appoint one or more panels of three commissioners each to
64 determine probable cause. In lieu of a finding of probable
65 cause, the probable cause panel may issue a letter of guidance
66 to the officer.
67 (d) When an employing agency disciplines an officer and
68 the officer's employment is continued or reinstated by the
69 agency, the Criminal Justice Professionalism Program shall
70 review the sustained disciplinary charges and disciplinary
71 penalty to determine whether the penalty conforms to the
72 disciplinary penalties prescribed by commission rule, and, in
73 writing, notify the employing agency and officer of the results
74 of the review. If the penalty conforms to the disciplinary
75 penalty provided by rule, the officer and employing agency shall
76 be notified, by a letter of acknowledgment, that no further
77 action shall be taken. If the penalty does not conform to such
78 disciplinary penalty prescribed by rule, the officer and
79 employer shall be notified, in writing, of further action to be

80 taken. The commission shall adopt rules establishing procedures
81 for administering this subsection.
82 (e) An administrative law judge assigned to conduct a
83 hearing under ss. 120.569 and 120.57(1) regarding allegations
84 that an officer is not in compliance with, or has failed to
85 maintain compliance with, s. 943.13(4) or (7) must, in his or
86 her recommended order:
87 1. Adhere to the disciplinary guidelines and penalties set
88 forth in subsections (7) ~~(6)~~ and (8) ~~(7)~~ and the rules adopted
89 by the commission for the type of offense committed.
90 2. Specify, in writing, any aggravating or mitigating
91 circumstance that he or she considered in determining the
92 recommended penalty.
93
94 Any deviation from the disciplinary guidelines or prescribed
95 penalty must be based upon circumstances or factors that
96 reasonably justify the aggravation or mitigation of the penalty.
97 Any deviation from the disciplinary guidelines or prescribed
98 penalty must be explained, in writing, by the administrative law
99 judge.
100 (10) ~~(9)~~ Each person employed pursuant to s. 943.131 is
101 subject to discipline by the commission. Persons who have been
102 subject to disciplinary action pursuant to this subsection are
103 ineligible for employment or appointment under s. 943.131.
104 (a) The commission shall cause to be investigated any
105 conduct defined in subsection (7) ~~(6)~~ or subsection (8) ~~(7)~~ by a
106 person employed under s. 943.131 and shall set disciplinary

107 guidelines and penalties prescribed in rules applicable to such
108 noncertified persons.
109 (b) The disciplinary guidelines and prescribed penalties
110 must be based upon the severity of specific offenses. The
111 guidelines must provide reasonable and meaningful notice to
112 officers and to the public of penalties that may be imposed for
113 prohibited conduct. The penalties must be consistently applied
114 by the commission.
115 (c) In addition, the commission may establish violations
116 and disciplinary penalties for intentional abuse of the
117 employment option provided by s. 943.131 by an individual or
118 employing agency.
119 Section 2. Subsection (5) of section 943.22, Florida
120 Statutes, is amended to read:
121 943.22 Salary incentive program for full-time officers.--
122 (5) An officer is not entitled to full or proportional
123 salary incentive payments for training completed pursuant to s.
124 943.1395(8) ~~(7)~~.
125 Section 3. This act shall take effect July 1, 2006.

HB 0381

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 381 Firefighter Pensions
SPONSOR(S): Gibson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1380

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Operations Committee	5 Y, 0 N	Mitchell	Williamson
2) Local Government Council		Nelson	Hamby
3) Fiscal Council			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

This bill expands the statutory definition of "special fire control district" to include community development districts that perform fire suppression and related services so that these entities may establish Chapter 175 pension plans for their firefighters and become eligible for state premium tax revenues to assist in the funding of such plans.

This bill does not appear to create, modify or eliminate rulemaking authority.

This bill does not appear to have a fiscal impact on the local government revenues or expenditures of counties, municipalities or the majority of special districts. The bill may have a fiscal impact on the revenues and expenditures of community development districts offering fire prevention and control.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families

This bill may facilitate the creation of a pension plan for firefighters employed by a community development district providing fire suppression services.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Community Development Districts

Chapter 190, F.S., the "Uniform Community Development District Act of 1980," sets forth the uniform procedure for the establishment and operation of a particular type of independent special district, the community development district (CDD), which serves as an alternative method to manage and finance basic services for community development.[1] There currently are 381 active CDDs in Florida.[2]

Among the general powers granted to a CDD include the authority to: sue and be sued, participate in the state retirement system, contract for services, borrow money, accept gifts, adopt rules and orders, maintain an office, lease, issue bonds, raise money by user charges or fees, assess and impose ad valorem taxes upon lands in the CDD, and levy and enforce special assessments.[3]

CDDs also have special powers related to the following systems, facilities and basic infrastructures: water management, water supply, sewer, wastewater management, roads, bridges, culverts, street lights, buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, signage, environmental contamination, conservation areas, mitigation areas and wildlife habitat.[4]

Additionally, CDDs can be authorized by local governments to address: parks and facilities for indoor and outdoor recreational, cultural and educational uses; fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment; school buildings and related structures; security; control and elimination of mosquitoes and other arthropods of public health importance; and waste collection and disposal.[5]

The number of community development districts providing fire prevention and control ("Fire CDDs") in existence is not available from the Department of Management Services, the Special District Information Program of the Department of Community Affairs, or the State Fire Marshal and, thus, unknown. However, it is estimated that only a small number of these entities exist.[6] The pay and benefits of any firefighter working for a Fire CDD are determined by the Fire CDD.

Municipal and Special District Firefighter Pensions

Chapter 175, F.S., sets forth the minimum benefits and standards for municipal and special district firefighter pension plans. This chapter creates a purely voluntary program whereby these local governments may receive state-collected taxes, imposed on property insurance premiums, with which

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[1] Section 190.002, F.S.
[2] Fla. Dep't of Comm'y Aff., Div. of Hous. and Comm'y Dev., Special Dist. Info. Program, *Create Your Own List of Special Districts* (search "community development" under "Functions to Include")(visited Mar. 14, 2005) <http://www.floridaspecialdistricts.org/ OfficialList/criteria.asp>.
[3] Section 190.011, F.S.
[4] Section 190.012(1), F.S.
[5] Section 190.012(2), F.S.
[6] Conversations and e-mails with attorneys representing CDDs (Jan. and Feb. 2005).

to fund retirement programs for local firefighters.[7] There currently are 20 special fire control districts and 159 municipalities that have established Chapter 175 plans.[8] These plans had revenues of approximately $66,319,992 in 2004; $5,096,380 of those revenues were generated by special fire control districts.[9]

Section 175.032 (16), F.S., defines "special fire control district" to mean "a special district, as defined in s. 189.403(1), F.S., established for the purposes of extinguishing fires, protecting life, and protecting property within the incorporated or unincorporated portions of any county or combination of counties, or within any combination of incorporated and unincorporated portions of any county or combination of counties. The term does not include any dependent or independent special district, as defined in s. 189.403(2) and (3), respectively, the employees of which are members of the Florida Retirement System pursuant to s. 121.051(1) or (2)."

The following sources provide funding for the firefighters' pension trust fund:

- payment from the "premium tax"—the net proceeds of the 1.85-percent excise upon fire insurance companies, fire insurance associations, or other property insurers on their gross receipts on premiums from holders of policies covering real or personal property within the legal boundaries of the municipality/special fire control district;
- payment of a designated percentage deducted from the salary of each uniformed firefighter;
- payment of all fines and forfeitures imposed and collected from the violation of any rule and regulation promulgated by the board of trustees;
- mandatory payment from the municipality/special fire control district of the normal cost of and the amount required to fund any actuarial deficiency shown by an actuarial valuation as provided in part VII of ch. 112, F.S.;
- all gifts, bequests and devises when donated;
- all increases in the fund by way of interest or dividends on bank deposits; and
- other sources or income authorized by law for the augmentation of such firefighters' pension trust fund.[10]

Chapter 175, F.S., provides requirements for the retirement,[11] disability,[12] death[13] and presumed injuries[14] of municipality/fire control special district firefighters under the plan.

The Division of Retirement is responsible for the daily oversight and monitoring of any firefighter pension plan of a municipality/special fire control district.[15] Actuarial deficits are not, however, obligations of the State of Florida.[16]

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[7] See, The City of Orlando v. State of Florida Department of Insurance, 528 So. 2d 468 (Fla. 1st DCA 1988).
[8] Dep't of Mgmt. Serv., HB 381 (2006) Staff Analysis (Nov. 25, 2005) (on file with dep't).
[9] *Id.*
[10] Section 175.091, F.S.
[11] Section 175.162, F.S.
[12] Section 175.191, F.S.
[13] Section 175.201, F.S.
[14] Section 175.231, F.S. (Conditions or impairment of health of a firefighter caused by tuberculosis, hypertension, or heart disease resulting in total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty after passing a physical examination and subject to rebuttal).
[15] Section 175.341, F.S.
[16] Section 175.051, F.S..

Effect of Proposed Changes

This bill expands the Chapter 175 definition of "special fire control district" to include community development districts that perform fire suppression and related services. As a result, these entities may establish Chapter 175 pension plans for their firefighters and become eligible for state premium tax revenues to assist in the funding of such plans. Only those CDDs that have their own fire departments and equipment, as provided in s. 175.041, F.S., and actually employ their own firefighters will qualify.

CDDs may not exercise the special powers of "fire prevention and control" without the consent of the appropriate local government.[17] Therefore, it is assumed that there will not be a conflict between these entities and municipal or special fire control districts over premium tax revenues.[18]

C. SECTION DIRECTORY:

Section 1: Amends subsection (16) of s. 175.032, F.S., to amend the definition of "special fire control district."

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on any state government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on the revenues of counties. The bill may have a fiscal impact on the revenues of municipalities or special districts.

2. Expenditures:

   This bill does not appear to have a fiscal impact on the expenditures of counties. The bill may have a fiscal impact on the expenditures of municipalities or special districts.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Insurance companies are obligated to report and remit the excise tax on property insurance premiums pursuant to s. 175.101, F.S. These companies may be impacted by the addition of a new entity authorized to receive these taxes.

D. FISCAL COMMENTS:

None.

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[17] Section 190.012(2)(b), F.S.

[18] Department of Management Services, Substantive Bill Analysis for HB 381, dated November 25, 2005, on file with the Local Government Council.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

2. Other:

   Benefit changes to the state retirement system are governed by s. 14 of Art. X of the State Constitution. Changes to ch.175, F.S., are not changes to the state retirement system as governed by this provision.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Authority to Collect the Tax on Property Insurance Premiums

The Department of Management Services has suggested that ch. 190, F.S., which governs CDDs, may need to be amended to give CDDs the authority to levy the premium tax.[19] Although s. 175.101(1), F.S., provides that each special fire control district "may assess and impose" the premium tax, the sponsor may wish to consider the following amendment to s. 190.011, F.S.:

(17) To assess and impose the state excise tax authorized under s. 175.101, if exercising the powers permitted under s. 190.012(2)(b).

Different Types of Districts

CDDs and special fire control districts are different types of independent special districts which are governed by two different chapters of the Florida Statutes: chs.190 and 191, respectively. This bill, however, includes certain CDDs in the definition of special fire control district for purposes of ch. 175, F.S. Given the different legal and statutory status of these two types of districts, it would be better to define and provide for CDDs throughout the chapter. Yet, given the unknown and expected low number of Fire CDDs, such considerable amendment to ch.175, F.S., may not be warranted.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

[19] Ibid.

1 A bill to be entitled
2 An act relating to firefighter pensions; amending s.
3 175.032, F.S.; revising the definition of the term
4 "special fire control district" to include certain
5 community development districts performing fire
6 suppression and related services; providing an effective
7 date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Subsection (16) of section 175.032, Florida
12 Statutes, is amended to read:
13 175.032 Definitions.--For any municipality, special fire
14 control district, chapter plan, local law municipality, local
15 law special fire control district, or local law plan under this
16 chapter, the following words and phrases have the following
17 meanings:
18 (16) "Special fire control district" means a special
19 district, as defined in s. 189.403(1), established for the
20 purposes of extinguishing fires, protecting life, and protecting
21 property within the incorporated or unincorporated portions of
22 any county or combination of counties, or within any combination
23 of incorporated and unincorporated portions of any county or
24 combination of counties. <u>The term includes community development</u>
25 <u>districts providing fire suppression and related services</u>
26 <u>pursuant to s. 190.012(2)(b).</u> The term does not include any
27 dependent or independent special district, as defined in s.
28 189.403(2) and (3), respectively, the employees of which are

29 members of the Florida Retirement System pursuant to s.
30 121.051(1) or (2).
31 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 423 CS Professional Regulation by the Department of Business and Professional Regulation
SPONSOR(S): Gibson
TIED BILLS: **IDEN./SIM. BILLS:** SB 552

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation Committee	16 Y, 0 N, w/CS	Livingston	Liepshutz
2) Local Government Council		Smith T.L.S.	Hamby JDE
3) Transportation & Economic Development Appropriations Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

Auctioneers are licensed and regulated pursuant to part VI of chapter 468, F.S., by the Florida Board of Auctioneers under the Department of Business and Professional Regulation (DBPR). Auctioneers are required to meet certain statutory qualifications and pass a written examination. This part provides for disciplinary actions, including disciplinary actions for failure to account for money that has come into an auctioneer's control through an auction. Building code administrators, inspectors and plans examiners are regulated by part XII of chapter 468, F.S. This regulation is under the Florida Building Code Administrators and Inspectors Board and administered by the DBPR. Construction contracting is regulated under part I of chapter 489, F.S. With certain statutory exemptions from licensure, construction contractors are regulated by the Construction Industry Licensing Board (CILB) under the DBPR.

The bill addresses auctioneers to require fingerprints to be submitted and processed for licensure.

The bill addresses building code administrators, inspectors and plans examiners to: provide for additional options to qualify to take the licensing examination to be a building code inspector or plans examiner; allow a licensee within a statutorily defined small county to provide services to another jurisdiction; exempt building code licensees from the building code bill of rights when they are subject to disciplinary action for offenses that occur outside of the scope of their employment; authorize discipline of when the licensee fails to enforce the Florida Building Code or permitting requirements, even if the violation occurs outside their official jurisdiction or duties; require education study in ethics and professional standards; and prohibit an enforcement official from accepting labor, services, or materials for free or at a noncompetitive rate from any person who performs work that may be under the enforcement authority of the enforcement official.

The bill addresses construction contractors to: authorize the CILB to conduct a criminal records background check on applicants for licensure to determine moral character and to deny licensure for felons who have not had their civil rights restored; provide that the CILB rules pertaining to financial stability may include minimum requirements for net worth, cash, and bonding; provide that a state certified or registered contractor, or a locally licensed contractor, may not perform work for which he or she is not properly licensed, subcontract work to an unlicensed person when the work requires a license, or fail to obtain required local permits; and provide that local jurisdictions may issue civil citations against state certified contractors and such citations are not considered discipline.

The bill is not anticipated to have a significant fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/promote personal responsibility - The bill authorizes the board, by rule, to adopt guidelines for the determination of financial stability, which may include minimum requirements for net worth, cash, and bonding.

The bill provides for the submittal and processing of fingerprints for background checks of applicants for licensure as an auctioneer, and requires the applicant to bear the cost of processing fingerprints and conducting the background check. The bill provides for the application of the building code enforcement officials' bill of rights to certain disciplinary investigations and proceedings. The bill provides for disciplinary proceedings for violations involving failure to follow building code, licensing, or permit requirements, obstructing an investigation, and accepting services at a noncompetitive rate from any person whose work may be under the enforcement authority of the official, under certain circumstances. The bill requires applicants for initial issuance of a certificate or registration as a contractor to submit to criminal history records checks, and requires certain applicants for a certificate or registration to provide documentation regarding the status of civil rights.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Auctioneers

Auctioneers are licensed and regulated pursuant to part VI of chapter 468, F.S., by the Florida Board of Auctioneers under the DBPR. Auctioneers are required to pass a written exam prepared and administered by the DBPR. This part provides for disciplinary actions, including disciplinary action for failure to account for money that has come into an auctioneer's control through an auction. The Auctioneer Recovery Fund was established to allow persons to recover losses when they otherwise could not collect a court judgment against an auctioneer.

Building code administrators, inspectors, and plans examiners

Building code administrators, inspectors and plans examiners are regulated by part XII of chapter 468, F.S. This regulation is under the Florida Building Code Administrators and Inspectors Board and administered by the DBPR. The board consists of nine members, five of whom are licensees under the board. Applicants for licensure must pass an examination and meet certain experience requirements. Once licensed, individuals must comply with all regulatory provisions.

A building code administrator supervises building code activities, including plans review, enforcement, and inspection. A building code inspector inspects construction that requires permits to determine compliance with building codes and state accessibility laws. A plans examiner reviews plans submitted for building permits to determine compliance with construction codes.

There are several categories of inspector and plans examiner certificates, relating to the scope of the activities the licensee may perform (e.g., building inspector, commercial or residential electrical inspector, mechanical inspector, building plans examiner, plumbing plans examiner, etc.). Part XII of chapter 468, F.S., sets forth the requirements for licensure for the various types and categories of certificate holders, including credentials from specified private organizations or specified experience (or a combination of education and experience) and an examination.

Section 468.607, F.S., provides that no person may be employed by a state agency or local government to perform the duties of building code administrator, plans examiner, or inspector after October 1, 1993, without possessing a proper valid certificate issued in accordance with the provisions of part XII of chapter 468, F.S.

Section 468.619, F.S., establishes the enforcement officials' bill of rights. This section provides controls relating to reasonable times, places, and procedures for DBPR when questioning building enforcement officials against whom a complaint has been filed; and establishes time frames for keeping DBPR from having "open ended" investigations and prosecutions. Specific provisions include requiring DBPR to:

1) Inform the licensee of any complaint within 10 days;
2) Reach a preliminary conclusion about "where the case is going" after 60 days, and notify the enforcement official of the preliminary conclusion;
3) Complete its investigation and be prepared to send it to probable cause within six months of the receipt of the complaint; and
4) Allow the enforcement official to obtain a copy of the investigative report prior to the case being sent to probable cause, and letting him or her submit explanatory or mitigating material to the panel for their consideration.

DBPR is required to investigate all legally sufficient complaints it receives pursuant to the provisions of section 455.225, F.S., which is a part of the "general powers" of the DBPR. The determination of legal sufficiency is made upon initial receipt of a complaint received from the public or other source. A complaint is legally sufficient when the allegation, if true, amounts to a licensure violation.

DBPR complaint, investigatory, and prosecutorial processes are as follows: first the complaint is received; it then must be forwarded to the proper office (complaints against regulated professionals are received by the Bureau of Consumer Services in Tallahassee), processed, and referred to a complaint analyst for review. Next legal sufficiency is determined, if possible, from the description of the alleged violation. Sometimes, additional information, such as copies of documents, may be required. In some cases this can be done quickly, but in others it can take a much longer period of time and require the cooperation of sources outside the control of DBPR.

If legal sufficiency is determined, the case is sent to the investigative office in the area where the alleged violation occurred. This can take several days to get the complaint to the proper office and assigned to an investigator. The investigator must rely on the cooperation of others to conduct the investigation. Sometimes subpoenas must be issued to get information. As an investigation progresses, new leads and sources of information are revealed and must be pursued. Sometimes, especially in a technical area such as building code matters, experts must be retained to perform expert analysis.

Once an investigation of a legally sufficient complaint is completed, it is forwarded to the Office of General Counsel for review and presentation to the probable cause panel of the board. The panel, which consists of at least two board members, determines whether there is probable cause to support prosecution of the matter. The complaint, the investigation, and the panel's deliberations are confidential until ten days after probable cause is found by the panel. If probable cause is not found, the case remains confidential and may be closed or sent back for further investigation. However, this exemption from section 119.07(1), F.S., does not apply to actions against unlicensed persons.

When probable cause is found, DBPR files an administrative complaint and pursues prosecution of the matter. Each prosecuted case eventually ends up before the board. The board is the agency head for purposes of taking final agency action in each case.

Appeals may be taken to the District Courts of Appeal pursuant to section 120.68, F.S. The rights of licensees are protected during the disciplinary process by chapter 120, F.S., and the uniform rules adopted by the Administration Commission pursuant thereto, section 455.225, F.S., and the Florida and United States Constitutions.

Construction – Contractors scope of work

Construction contracting is regulated under part I of chapter 489, F.S. With certain statutory exemptions from licensure, construction contractors are regulated by the CILB within the DBPR. Contractors must either be certified (i.e., licensed by the state to contract statewide), or registered (i.e., licensed by a local jurisdiction and registered by the state to contract work within the geographic confines of the local jurisdiction only).

The CILB is statutorily divided into two divisions. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors. Division II has jurisdiction over the remaining contractors under the CILB, including plumbing contractors, air conditioning contractors and mechanical contractors. Construction contractors include general, building, and residential contractors, and several categories of subcontractors, including roofing, plumbing, mechanical, sheet metal, air-conditioning, pool and spa, solar, pollutant storage systems, and underground utility contractors.

The "scope of work" for which licensure is required is specified in statute by definition. Each definition of the various professions is known as the "practice act" for that profession and establishes the guidelines for the individual practitioners.

To provide recourse for consumers who suffer monetary damages because of improper actions by contractors, section 489.140, F.S., creates the "Florida Homeowners' Construction Recovery Fund" (FHCRF) as a separate account within the Professional Regulation Trust Fund. The FHCRF is funded through a one-half cent per square foot surcharge on building permits collected and distributed pursuant to section 468.631, F.S., relating to the Building Code Administrators and Inspectors Fund.

Section 468.631, F.S., provides for the assessment of the surcharge by the appropriate local government, which may retain up to 10% of the money to fund projects intended to improve building code enforcement. Additional amounts are to be used to fund the regulation of building code administrators and inspectors by the Florida Building Code Administrators and Inspectors Board. After adequately funding this regulation, excess monies are transferred to the FHCRF. Any money remaining after the FHCRF is sufficiently funded is applied to the costs of the regulation of contractors by the CILB.

Section 489.141, F.S., provides that a person may recover from the FHCRF based on a civil judgment against a contractor arising from a contract or based on a board order of restitution for a violation of part I of chapter 489, F.S., relating to building code violations, financial mismanagement, abandonment of a project, or certain false representations.

Section 489.143, F.S., provides the mechanism for and limitations on payment from the fund. The cap for individual claim is $50,000 and the aggregate amount that may be paid as a result of the actions of any one contractor is $500,000.

Continuing education

Section 468.627(5), F.S., provides that a building official must provide proof that at least 14 classroom hours of continuing education courses have been completed during each biennium since the issuance or renewal of the license.

Effect of Proposed Changes

Fingerprints

The bill amends section 468.385(4), F.S., to require fingerprints for a criminal history record check, to be submitted and processed for licensure of an auctioneer.

Definitions

The bill adds to section 468.603, F.S., relating to building code administrators, inspectors and plans examiners, and to section 489.105, F.S, relating to contracting, the following definitions:

- "Willful" means the mental state in which a person commits an act knowing that, or showing reckless disregard for whether, the act is prohibited under this part or does not commit an act while knowing that, or showing reckless disregard for whether, the act is required under this part. A person knows that an act is prohibited or required if the person is aware of the provision of this part that prohibits or requires the act, understands the meaning of that provision, and performs the act that is prohibited or fails to perform the act that is required. "Willful" does not include specific intent to defraud.

- "Knowing" or "knowingly" means the mental state in which a person, with respect to information, has actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information, or acts in reckless disregard of the information. "Knowing" or "knowingly" does not include specific intent to defraud.

- "Reckless disregard" means the mental state in which a person commits an act despite the act's being prohibited or required under this part and wholly disregards the law without making any reasonable effort to determine whether the act would constitute a violation of this part. "Reckless disregard" does not include specific intent to defraud.

Education options

The bill amends section 468.609(2) and (5)(a), F.S., to provide for a fifth and sixth option to qualify to take the licensing examination to be a building code inspector or plans examiner. One program is 400 hours of technical education and 2 years, with at least 1 year of experience in construction, building code inspection, or plans review experience. The education must include at least 20 hours of study in ethics and professional standards. The other option is an associate degree program or higher from an accredited institution in construction management with a major in building code administration.

Small county reciprocity

The bill amends section 468.617(4), F.S., to allow building officials, building code inspectors or plans examiners who hold a limited certificate and are employed by a jurisdiction within a statutorily defined small county (75,000 populations) to provide building code inspection, plans review, or building code administration services to another jurisdiction within a statutorily defined small county.

Protections under the bill of rights

The bill amends section 468.619(10), F.S., to exempt building code enforcement officials licensed under chapter 468, F.S., who are under investigation or the subject of disciplinary proceedings for actions that occur outside the scope of their employment as an enforcement official, from the rights and privileges as specified in the building code enforcement officials' bill of rights. As a result, the time limitations for investigations would not be applicable.

Disciplinary proceedings

The bill amends section 468.621(1), F.S., to authorize the Florida Building Code Administrators and Inspectors Board to discipline building code enforcement officials when the licensee fails to enforce the Florida Building Code or permitting requirements, even if the violation occurs outside their official jurisdiction or duties. The bill creates a ~~potential~~ violation if a building official obstructs an investigation or provides forged documents or false evidence or testimony in an investigation.

The bill prohibits an enforcement official from accepting labor, services, or materials for free or at a noncompetitive rate from any person who performs work that may be under the enforcement authority of the enforcement official. It creates an exemption for immediate family members.

Ethics study

The bill amends sections 468.627(5) and (6), F.S., to require a minimum of 2 of the required 14 classroom hours be on ethics relating to professional standards of practice, duties, and responsibilities.

Construction contractors – financial responsibility

The bill amends section 489.115, F.S., to authorize the CILB to conduct a criminal records background check on applicants for licensure to determine moral character and to deny licensure for felons who have not had their civil rights restored.

The bill also provides that the CILB rules pertaining to financial stability may include requirements for net worth, cash, and bonding. The bill provides that fifty percent of the financial requirements may be met by completing a 14-hour financial responsibility course approved by the board.

Unlicensed activity/local civil citations against state certified contractors

The bill amends section 489.127, F.S., to provide that a state certified or registered contractor, or a locally licensed contractor, may not perform work for which he or she is not properly licensed, subcontract work to an unlicensed person when the work requires a license, or fail to obtain required local permits.

The bill also provides that local jurisdictions may issue civil citations against state certified contractors and the citations are not considered discipline.

C. SECTION DIRECTORY:

Section 1. Amends subsection (4) of section 468.385, F.S., relating to licenses required, qualifications, examination.

Section 2. Adds subsections (9), (10), and (11), to section 468.603, F.S., relating to definitions.

Section 3. Amends subsection (2) and paragraph (a) of subsection (5) of section 468.609, F.S, relating to administration, standards for certification, additional categories of certification.

Section 4. Adds subsection (4) to section 468.617, F.S., relating to joint building code inspection department, other arrangements.

Section 5. Adds subsection (10) to section 468.619, F.S., to restrict application of the building code enforcement officials' bill of rights.

Section 6. Amends subsection (1) of section 468.621, F.S., relating to disciplinary proceedings.

Section 7. Amends subsections (5) and (6) of section 468.627, F.S., relating to application, examination, renewal, fees.

Section 8. Adds subsections (20), (21), and (22) to section 489.105, F.S., relating to definitions.

Section 9. Adds subsection (6) and amends subsection (7) to section 489.115, F.S., relating to certification and registration, endorsement, reciprocity, renewals, continuing education *[renumbers subsections]*.

Section 10. Adds paragraph (d) to subsection (4) of section 489.127, F.S., and amends paragraph (o) of subsection (5) of section 489.127, F.S., relating to prohibitions, penalties.

Section 11. Provides that the bill takes effect on July 1, 2006.

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:

   Not anticipated to be significant.

2. Expenditures:

   Not anticipated to be significant.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Not anticipated to be significant.

D. FISCAL COMMENTS:

According to DBPR, the fiscal estimate states, "There is no significant fiscal impact on state government."

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill allows the rule authority of the CILB relating to financial stability to "<u>include minimum requirements for net worth, cash, and bonding</u>" for construction contractors.

According to DBPR, "The bill may necessitate amendments to the Florida Building Code Administrators and Inspectors Board's disciplinary guideline rules."

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

According to DBPR, the bill "amends section 489.127(4)(d), F.S., to prohibit certified and registered contractors from subcontracting to unlicensed persons work that requires a license. This may conflict with section 489.117(4)(e), F.S., which authorizes individuals who perform work that does not specifically require a state contractor's license to perform work under the supervision of a licensed residential, building or general contractor on a single-family residence without having to obtain a local license.

The bill also amends s. 489.127(5)(o), F.S., to provide that local jurisdictions may issue civil citations against certified contractors, and such citations are not considered discipline. The amendment conflicts with s. 489.113, F.S., which limits local jurisdictions to taking action against certified contractors' permit privileges."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Business Regulation Committee adopted one strike-all amendment on March 16, 2006. The amendment provides the following:

- Requires fingerprints to be submitted and processed for licensure of an auctioneer;
- Provides statutory definitions for willful, knowing, and reckless disregard;
- Provides for a fifth and sixth option to qualify to take the licensing examination to be a building code inspector or plans examiner and includes training in ethics and professional standards and requires ethics training as a part of the currently required continuing education courses;
- Allows for reciprocity by contract between small counties for staffing shortages of inspectors and examiners; and
- Authorizes the CILB to conduct a criminal records background check on applicants for licensure to determine moral character.

The bill, as amended, was reported favorably with committee substitute

CHAMBER ACTION

1 The Business Regulation Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to professional regulation by the
7 Department of Business and Professional Regulation;
8 amending s. 468.385, F.S.; providing for the submittal and
9 processing of fingerprints for background checks of
10 applicants for licensure as an auctioneer; requiring the
11 applicant to bear the cost of processing fingerprints and
12 conducting the background check; amending s. 468.603,
13 F.S.; providing definitions; amending s. 468.609, F.S.;
14 providing eligibility requirements for a person to take
15 the examination for certification as a building code
16 inspector or plans examiner; revising a reference to the
17 organization administering certain examinations; amending
18 s. 468.617, F.S.; authorizing certain limited
19 certificateholders to provide services to specified
20 jurisdictions; amending s. 468.619, F.S.; providing for
21 the application of the building code enforcement
22 officials' bill of rights to certain disciplinary
23 investigations and proceedings; amending s. 468.621, F.S.;

24 providing for disciplinary proceedings for violations
25 involving failure to follow building code, licensing, or
26 permit requirements, obstructing an investigation, and
27 accepting services at a noncompetitive rate from any
28 person whose work may be under the enforcement authority
29 of the official, under certain circumstances; amending s.
30 468.627, F.S.; providing requirements for continuing
31 education in ethics; removing provisions relating to an
32 option of taking an equivalency test in lieu of taking
33 core curriculum classes; amending s. 489.105, F.S.;
34 providing definitions; amending s. 489.115, F.S.;
35 requiring applicants for initial issuance of a certificate
36 or registration as a contractor to submit to criminal
37 history records checks; requiring certain applicants for a
38 certificate or registration to provide documentation
39 regarding the status of civil rights; authorizing the
40 board to deny licensure to certain applicants; specifying
41 that guidelines for determining financial stability may
42 include minimum requirements for net worth, cash, and
43 bonding; authorizing a portion of financial requirements
44 to be met by completing specified coursework; amending s.
45 489.127, F.S.; providing penalties when a licensed
46 contractor performs unlicensed activity, hires a
47 subcontractor to perform unlicensed activity, or fails to
48 obtain required permits; revising a provision that
49 prohibits local jurisdictions from exercising disciplinary
50 authority against certificateholders; providing an
51 effective date.

52
53 WHEREAS, the state licenses and regulates the construction
54 industry for the benefit of its citizens in order to protect
55 their health, safety, and welfare, and
56 WHEREAS, it is critical to the health, safety, and welfare
57 of the public that the laws enacted by the Legislature relating
58 to construction permitting enforcement of the Florida Building
59 Code and licensing of the industry be implemented and enforced,
60 and
61 WHEREAS, it is critical that the public be able to place
62 their trust in the public officials who are charged with
63 enforcement of those laws and codes, and
64 WHEREAS, in order for enforcement officials, licensing
65 investigators, local and state regulatory boards, and their
66 supporting legal staff to perform licensing and disciplinary
67 functions, they must have the enabling legislation and authority
68 to do so, NOW, THEREFORE,
69
70 Be It Enacted by the Legislature of the State of Florida:
71
72 Section 1. Subsection (4) of section 468.385, Florida
73 Statutes, is amended to read:
74 468.385 Licenses required; qualifications; examination.--
75 (4)(a) Any person seeking a license as an auctioneer must
76 pass a written examination approved by the board which tests his
77 or her general knowledge of the laws of this state relating to
78 provisions of the Uniform Commercial Code that are relevant to
79 auctions, the laws of agency, and the provisions of this act.

80 (b) Any person seeking a license as an auctioneer shall
81 file a complete set of fingerprints for a criminal history
82 record check. Fingerprints shall be taken in a manner approved
83 by the board and shall be submitted electronically to the
84 Department of Law Enforcement for state processing. The
85 Department of Law Enforcement shall forward the fingerprints to
86 the Federal Bureau of Investigation for national processing. The
87 results of the criminal history record check shall be returned
88 to the board for purposes of screening. The cost of processing
89 fingerprints and conducting a criminal history record check
90 shall be borne by the applicant for licensure.
91 Section 2. Subsections (9), (10), and (11) are added to
92 section 468.603, Florida Statutes, to read:
93 468.603 Definitions.--As used in this part:
94 (9) "Willful" means the mental state in which a person
95 commits an act knowing that, or showing reckless disregard for
96 whether, the act is prohibited under this part or does not
97 commit an act while knowing that, or showing reckless disregard
98 for whether, the act is required under this part. A person knows
99 that an act is prohibited or required if the person is aware of
100 the provision of this part that prohibits or requires the act,
101 understands the meaning of that provision, and performs the act
102 that is prohibited or fails to perform the act that is required.
103 "Willful" does not include specific intent to defraud.
104 (10) "Knowing" or "knowingly" means the mental state in
105 which a person, with respect to information, has actual
106 knowledge of the information, acts in deliberate ignorance of
107 the truth or falsity of the information, or acts in reckless

108 disregard of the information. "Knowing" or "knowingly" does not
109 include specific intent to defraud.
110 (11) "Reckless disregard" means the mental state in which
111 a person commits an act despite the act's being prohibited or
112 required under this part and wholly disregards the law without
113 making any reasonable effort to determine whether the act would
114 constitute a violation of this part. "Reckless disregard" does
115 not include specific intent to defraud.
116 Section 3. Subsection (2) and paragraph (a) of subsection
117 (5) of section 468.609, Florida Statutes, are amended to read:
118 468.609 Administration of this part; standards for
119 certification; additional categories of certification.--
120 (2) A person may take the examination for certification as
121 a building code inspector or plans examiner pursuant to this
122 part if the person:
123 (a) Is at least 18 years of age.
124 (b) Is of good moral character.
125 (c) Meets eligibility requirements according to one of the
126 following criteria:
127 1. Demonstrates 5 years' combined experience in the field
128 of construction or a related field, building code inspection, or
129 plans review corresponding to the certification category sought;
130 2. Demonstrates a combination of postsecondary education
131 in the field of construction or a related field and experience
132 which totals 4 years, with at least 1 year of such total being
133 experience in construction, building code inspection, or plans
134 review;
135 3. Demonstrates a combination of technical education in

136 the field of construction or a related field and experience
137 which totals 4 years, with at least 1 year of such total being
138 experience in construction, building code inspection, or plans
139 review; ~~or~~
140 4. Currently holds a standard certificate as issued by the
141 board and satisfactorily completes a building code inspector or
142 plans examiner training program of not less than 200 hours in
143 the certification category sought. The board shall establish by
144 rule criteria for the development and implementation of the
145 training programs; ~~.~~
146 5. Demonstrates a combination of technical education in
147 the field of building code inspection or plans review and
148 experience which totals 2 years, with at least 1 year of such
149 total being experience in construction, building code
150 inspection, or plans review. The technical education portion of
151 this requirement shall require proof of satisfactory completion
152 of a technical education program of not fewer than 400 hours in
153 the chosen category of building code inspection or plans review
154 in the certification category sought with not fewer than 20
155 hours of the technical education program covering ethics and
156 professional standards. The board shall coordinate with the
157 Building Officials Association of Florida, Inc., to establish by
158 rule the development and implementation of the technical
159 education programs; or
160 6. Has completed, at a minimum, an associate degree
161 program in Construction Management from an accredited
162 institution with a major in Building Code Administration.

163 ~~(d) After the Building Code Training Program is~~
164 ~~established under s. 553.841, demonstrates successful completion~~
165 ~~of the core curriculum approved by the Florida Building~~
166 ~~Commission, appropriate to the licensing category sought.~~
167 (5)(a) To obtain a standard certificate, an individual
168 must pass an examination approved by the board which
169 demonstrates that the applicant has fundamental knowledge of the
170 state laws and codes relating to the construction of buildings
171 for which the applicant has building code administration, plans
172 examination, or building code inspection responsibilities. It is
173 the intent of the Legislature that the examination approved for
174 certification pursuant to this part be substantially equivalent
175 to the examinations administered by the International Code
176 Council ~~Southern Building Code Congress International and the~~
177 ~~Council of American Building Officials~~.
178 Section 4. Subsection (4) is added to section 468.617,
179 Florida Statutes, to read:
180 468.617 Joint building code inspection department; other
181 arrangements.--
182 (4) Nothing in this part shall prohibit any building code
183 inspector, plans examiner, or building code administrator
184 holding a limited certificate who is employed by a jurisdiction
185 within a statutorily defined small county to provide building
186 code inspection, plans review, or building code administration
187 services to another jurisdiction within a statutorily defined
188 small county.
189 Section 5. Subsection (10) is added to section 468.619,
190 Florida Statutes, to read:

191 468.619 Building code enforcement officials' bill of
192 rights.--
193 (10) This bill of rights applies to disciplinary
194 investigations and proceedings against licenses issued under
195 this part and disciplinary investigations and proceedings
196 relating to the official duties of an enforcement official. This
197 bill of rights does not apply to disciplinary investigations and
198 proceedings against other licenses that the enforcement official
199 holds or disciplinary investigations and proceedings unrelated
200 to the enforcement official's official duties.
201 Section 6. Subsection (1) of section 468.621, Florida
202 Statutes, is amended to read:
203 468.621 Disciplinary proceedings.--
204 (1) The following acts constitute grounds for which the
205 disciplinary actions in subsection (2) may be taken:
206 (a) Violating or failing to comply with any provision of
207 this part, or a valid rule or lawful order of the board or
208 department pursuant thereto.
209 (b) Obtaining certification through fraud, deceit, or
210 perjury.
211 (c) Knowingly assisting any person practicing contrary to
212 the provisions of:
213 1. This part; or
214 2. The building code adopted by the enforcement authority
215 of that person.
216 (d) Having been convicted of a felony against this state
217 or the United States, or of a felony in another state that would
218 have been a felony had it been committed in this state.

219 (e) Having been convicted of a crime in any jurisdiction
220 which directly relates to the practice of building code
221 administration or inspection.
222 (f) Making or filing a report or record that ~~which~~ the
223 certificateholder knew ~~knows~~ to be false, or knowingly inducing
224 another to file a false report or record, or knowingly failing
225 to file a report or record required by state or local law, or
226 knowingly impeding or obstructing such filing, or knowingly
227 inducing another person to impede or obstruct such filing.
228 (g) Failing to properly enforce applicable building codes,
229 licensing, or permit requirements that the certificateholder
230 knew were applicable, or ~~by~~ committing willful misconduct, gross
231 negligence, gross misconduct, repeated negligence, or negligence
232 resulting in a significant danger to life or property,
233 regardless of whether the violation occurs within the employment
234 jurisdiction of the enforcement official or occurs in connection
235 with the employment of the enforcement official or outside the
236 scope of the employment of the enforcement official.
237 (h) Issuing a building permit to a contractor, or any
238 person representing himself or herself as a contractor, without
239 obtaining the contractor's certificate or registration number,
240 where ~~such~~ a certificate or registration is required.
241 (i) Failing to lawfully execute the duties and
242 responsibilities specified in this part and ss. 553.73, 553.781,
243 553.79, and 553.791.
244 (j) Performing building code inspection services under s.
245 553.791 without satisfying the insurance requirements of that
246 section.

247 (k) Obstructing an investigation or providing or inducing
248 another to provide forged documents, false forensic evidence, or
249 false testimony to a local or state board or member thereof or
250 to a licensing investigator.
251 (l) Accepting labor, services, or materials for free or at
252 a noncompetitive rate from any person who performs work that may
253 be under the enforcement authority of the enforcement official
254 who is not an immediate family member of the enforcement
255 official. "Immediate family member" includes a spouse, child,
256 parent, sibling, grandparent, aunt, uncle, or first cousin of
257 the person or the person's spouse, or any person who resides in
258 the home of the enforcement official.
259 Section 7. Subsections (5) and (6) of section 468.627,
260 Florida Statutes, are amended to read:
261 468.627 Application; examination; renewal; fees.--
262 (5) The certificateholder shall provide proof, in a form
263 established by board rule, that the certificateholder has
264 completed at least 14 classroom hours of at least 50 minutes
265 each of continuing education courses during each biennium since
266 the issuance or renewal of the certificate, including the
267 specialized or advanced coursework approved by the Florida
268 Building Commission, as part of the Building Code Training
269 Program established pursuant to s. 553.841, appropriate to the
270 licensing category sought. A minimum of 2 of the required 14
271 classroom hours shall be on ethics relating to professional
272 standards of practice, duties, and responsibilities of the
273 certificateholder. The board shall by rule establish criteria
274 for approval of continuing education courses and providers, and

275 may by rule establish criteria for accepting alternative
276 nonclassroom continuing education on an hour-for-hour basis.
277 (6) Each certificateholder shall provide to the board
278 proof of completion of the core curriculum courses~~, or passing~~
279 ~~the equivalency test~~ of the Building Code Training Program
280 established by s. 553.841~~,~~ within 2 years after commencement of
281 the program. Continuing education hours spent taking such core
282 curriculum courses shall count toward the number required for
283 license renewal. ~~A licensee who passes the equivalency test in~~
284 ~~lieu of taking the core curriculum courses shall receive full~~
285 ~~credit for core curriculum course hours.~~
286 Section 8. Subsections (20), (21), and (22) are added to
287 section 489.105, Florida Statutes, to read:
288 489.105 Definitions.--As used in this part:
289 (20) "Willful" means the mental state in which a person
290 commits an act knowing that, or showing reckless disregard for
291 whether, the act is prohibited under this part or does not
292 commit an act while knowing that, or showing reckless disregard
293 for whether, the act is required under this part. A person knows
294 that an act is prohibited or required if the person is aware of
295 the provision of this part that prohibits or requires the act,
296 understands the meaning of that provision, and performs the act
297 that is prohibited or fails to perform the act that is required.
298 "Willful" does not include specific intent to defraud.
299 (21) "Knowing" or "knowingly" means the mental state in
300 which a person, with respect to information, has actual
301 knowledge of the information, acts in deliberate ignorance of
302 the truth or falsity of the information, or acts in reckless

303 disregard of the information. "Knowing" or "knowingly" does not
304 include specific intent to defraud.
305 (22) "Reckless disregard" means the mental state in which
306 a person commits an act despite the act's being prohibited or
307 required under this part and wholly disregards the law without
308 making any reasonable effort to determine whether the act would
309 constitute a violation of this part. "Reckless disregard" does
310 not include specific intent to defraud.
311 Section 9. Subsection (6) of section 489.115, Florida
312 Statutes, is amended and renumbered as subsection (7), present
313 subsection (7) is renumbered as subsection (8), and a new
314 subsection (6) is added to that section, to read:
315 489.115 Certification and registration; endorsement;
316 reciprocity; renewals; continuing education.--
317 (6) An applicant for initial issuance of a certificate or
318 registration shall submit to a criminal history records check to
319 determine moral character. If the applicant has been convicted
320 of a felony, he or she shall provide documentation regarding the
321 status of his or her civil rights. The board may deny licensure
322 to an applicant who does not present proof of restoration of
323 civil rights after conviction of a felony.
324 (7) ~~(6)~~ An initial applicant shall, along with the
325 application, and a certificateholder or registrant shall, upon
326 requesting a change of status, submit to the board a credit
327 report from a nationally recognized credit agency that reflects
328 the financial responsibility of the applicant or
329 certificateholder or registrant. The credit report required for
330 the initial applicant shall be considered the minimum evidence

331 necessary to satisfy the board that he or she is financially
332 responsible to be certified, has the necessary credit and
333 business reputation to engage in contracting in the state, and
334 has the minimum financial stability necessary to avoid the
335 problem of financial mismanagement or misconduct. The board
336 shall, by rule, adopt guidelines for determination of financial
337 stability, which may include minimum requirements for net worth,
338 cash, and bonding for Division I certificateholders of no more
339 than $20,000 and for Division II certificateholders of no more
340 than $10,000. Fifty percent of the financial requirements may be
341 met by completing a 14-hour financial responsibility course
342 approved by the board.
343 Section 10. Present paragraph (d) of subsection (4) of
344 section 489.127, Florida Statutes, is redesignated as paragraph
345 (e), a new paragraph (d) is added to that subsection, and
346 paragraph (o) of subsection (5) of that section is amended, to
347 read:
348 489.127 Prohibitions; penalties.--
349 (4)
350 (d) A certified or registered contractor or a contractor
351 authorized by a local construction licensing board may not
352 perform work for which he or she is not properly licensed,
353 subcontract to unlicensed persons to perform work that requires
354 a license, or fail to obtain required permits.
355 (5) Each county or municipality may, at its option,
356 designate one or more of its code enforcement officers, as
357 defined in chapter 162, to enforce, as set out in this
358 subsection, the provisions of subsection (1) and s. 489.132(1)

359 against persons who engage in activity for which a county or
360 municipal certificate of competency or license or state
361 certification or registration is required.
362 (o) ~~Nothing in~~ This subsection does not ~~shall be construed~~
363 ~~to~~ authorize local jurisdictions to exercise disciplinary
364 authority, other than to issue civil citations, which are not
365 considered discipline, ~~or procedures established in this~~
366 ~~subsection~~ against an individual holding a proper valid
367 certificate issued under ~~pursuant to~~ this part.
368 Section 11. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 613 CS Police Pursuits of Fleeing Vehicles
SPONSOR(S): Antone
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	8 Y, 0 N, w/CS	Ferguson	Kramer
2) Local Government Council		DiVagno	Hamby
3) Criminal Justice Appropriations Committee			
4) Justice Council			
5)			

SUMMARY ANALYSIS

Florida Statutes makes it unlawful for anyone to flee or attempt to elude a law enforcement officer, but the conduct of law enforcement officers in the pursuit of fleeing vehicles is governed by local policies.

HB 613 requires each local law enforcement agency, by July 1, 2007, to adopt a written police pursuit policy governing the conduct of law enforcement officers who are pursuing a fleeing vehicle. This bill encourages local law enforcement to consider comments from the public when adopting a policy. This bill also requires each local law enforcement agency to certify every four years to the Criminal Justice Standards and Training Commission that written policies have been adopted.

This bill would take effect July 1, 2006.

This bill appears to have an indeterminate fiscal impact on state and local government. (Please see fiscal comments.)

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill requires each local law enforcement agency to adopt a written police pursuit policy governing the conduct of law enforcement officers who are pursuing a fleeing vehicle.

B. EFFECT OF PROPOSED CHANGES:

Section 316.1935, F.S., makes it unlawful for anyone to flee or attempt to elude a law enforcement officer. A person is deemed fleeing when the operator of a vehicle has knowledge that they have been ordered to stop their vehicle by an authorized law enforcement officer but willfully refuses and fails to stop. Fleeing from a law enforcement officer is a third degree felony.

Currently, Florida Statutes do not establish a policy regarding the conduct of law enforcement officers in the pursuit of fleeing vehicles. Rather, the conduct of law enforcement officers in the pursuit of fleeing vehicles is governed by local policies.

HB 613 requires each local law enforcement agency, by July 1, 2007, to adopt a written police pursuit policy governing the conduct of law enforcement officers who are pursuing a fleeing vehicle. This bill encourages local law enforcement to consider comments from the public when adopting a policy.

This bill also requires each local law enforcement agencies to certify every four years to the Criminal Justice Standards and Training Commission that written policies have been adopted.

C. SECTION DIRECTORY:

Section 1. This bill requires each local law enforcement agency to adopt a written police pursuit policy governing the conduct of law enforcement officers who are pursuing a fleeing vehicle.

Section 2. Provides an effective date of July 1, 2006.

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:

   See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

It is unknown at this time how many local law enforcement agencies currently have written police pursuit policies. It is also unknown at this time how much it will cost local law enforcement agencies who do not have written police pursuit policies to adopt one.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill requires local law enforcement agencies, which are funded by counties and municipalities, to adopt a written police pursuit policy and to certify said policies every four years with the Criminal Justice Standards and Training Commission. Adopting written policies may require the expenditure of funds. However, the bill may be exempt from the mandate requirements if the fiscal impact of the bill, on an aggregate basis for all local law enforcement agencies in the state, is less than $1.9 million over the long term. At this time, the fiscal impact of the bill is unknown.

If the bill is not exempt from the mandates requirements imposed by Art. VII, section 18 of the Florida Constitution, the Legislature must determine that the law fulfills an important state interest and the bill must be approved by two–thirds of the House and Senate membership.

2.Other:

Sovereign Immunity

HB 613 requires each local law enforcement agency to adopt a policy governing the pursuit of fleeing vehicles by law enforcement; this requirement may subject these agencies to tort liability.

Section13, Art. X of the Florida Constitution provides, "[p]rovision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating". The Florida Legislature exercised this authority when it enacted section 768.28, F.S., which waives sovereign immunity and imposes liability on the state or an agency or subdivision of the state for any tort claim in which a private individual would be liable under similar circumstances. An agency or subdivision of the state includes counties and municipalities.[1]

This first question is whether a duty is owed. "There can be no governmental [tort] liability unless a common law or statutory duty of care existed that would have been applicable to an individual under similar circumstances."[2] "Where a defendant's conduct creates a foreseeable zone of risk, the law generally will recognize a duty placed upon [the] defendant either to lessen the risk or see that sufficient precautions are taken to protect others from the harm that the risk poses[3]."

The next question is whether the state or an agency or subdivision of the state will be immune from liability notwithstanding the duty placed upon them. Sovereign immunity does not shield acts that are "operational" in nature but only those that are "discretionary[4]." An act is considered discretionary

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[1] *See* section 768.28(2), F.S.

[2] Kaisner v. Kolb, 543 So.2d 732, 734 (Fla. 1989); *see also* Trianon Park Condominium Ass'n Inc. v. City of Hialeah, 468 So.2d 912 (Fla. 1985).

[3] Kaisner, at 735.

[4] Id at 737.

if it involves fundamental questions of policy or planning.[5] Conversely, an act is considered operational if it reflects a secondary decision as to how policies or plans will be implemented.[6]

Pending Legislation

HB 199, sponsored by Representative Patterson, is pending legislation that addresses the sovereign immunity issue discussed above. HB 199 provides that an employing law enforcement agency is not liable for certain damages caused by a person fleeing from a law enforcement officer in a motor vehicle (hot pursuit) if:

- the pursuit is not conducted in a reckless manner;
- the officer reasonably believes that the person fleeing has committed a forcible felony; and
- the pursuit is conducted pursuant to a specified written policy governing high-speed pursuit, and the officer received instructional training on such policy.

HB 199 includes a severability clause in the event that any provision of the act is held invalid. The act applies to causes of action that accrue on or after the effective date of the act; the act takes effect upon becoming a law.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Criminal Justice Committee passed House Bill 613 with one strike all amendment. The original bill required the Criminal Justice Standards and Training Commission (Commission) to establish a model policy governing the pursuit of fleeing vehicles by law enforcement; in turn, state and local law enforcement agencies were required to adopt policies for vehicle pursuits and to certify annually to the Commission that written policies have been adopted that comply with the model policy.

The original bill also required the Commission to develop by July 1, 2007, training objectives for a seven-hour course covering emergency vehicle operations and the conduct of vehicle pursuits that persons seeking law enforcement certification after that date must complete. State and local agencies were directed to provide in-service training that complies with Commission-approved learning objectives; the training must be at least 8 hours. The Commission was authorized to impose licensing sanctions.

The strike all amendment requires each local law enforcement agency, by July 1, 2007, to adopt a written police pursuit policy governing the conduct of law enforcement officers who are pursuing a fleeing vehicle. The strike all amendment also requires each local law enforcement agency to certify every four years to the Commission that written policies have been adopted.

This analysis reflects HB 613 as amended.

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[5] Pinellas Park v. Brown, 604 So.2d 1222 (Fla. 1992).

[6] Id.

CHAMBER ACTION

The Criminal Justice Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to police pursuits of fleeing vehicles; requiring each local law enforcement agency to adopt a policy governing the conduct of law enforcement officers who are pursuing a vehicle that is fleeing from a law enforcement officer; requiring each local law enforcement agency to periodically certify to the Criminal Justice Standards and Training Commission that it has adopted a written policy; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. By July 1, 2007, each local law enforcement agency shall adopt a written police pursuit policy governing the conduct of law enforcement officers who are pursuing a vehicle that is fleeing from a law enforcement officer. The local law enforcement agency is encouraged to consider comments from the public when adopting the policy. Every 4 years, each local law enforcement agency shall certify to the Criminal Justice

24 Standards and Training Commission that it has adopted a written
25 policy.
26 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 737 CS Tax Benefits Related to Catastrophic Emergencies
SPONSOR(S): Grant
TIED BILLS: **IDEN./SIM. BILLS:** SB 1018

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Domestic Security Committee	6 Y, 0 N, w/CS	Wiggins	Newton
2) Local Government Council		Camechis	Hamby
3) Finance & Tax Committee			
4) State Administration Council			
5)			

SUMMARY ANALYSIS

The bill authorizes local governments to expend proceeds from the Local Government Infrastructure Surtax to fund improvements to certain private facilities that are used as public emergency shelters or staging areas for emergency response equipment during officially declared emergencies.

Improvements eligible for funding are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner of the private facility must enter into a written contract with the local government to make the improved private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum period of 10 years after completion of the improvement.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Maintain public security - The bill allows local governments to expend proceeds from the Local Government Infrastructure Surtax on improvements to certain private facilities that will be used for purposes of emergency public shelter needs and staging areas for emergency equipment during officially declared emergencies.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Local Government Infrastructure Surtax

Section 212.055(2), F.S., authorizes the governing authority in each county to levy a discretionary sales surtax of 0.5 percent or 1 percent, also known as the Local Government Infrastructure Surtax. The levy of the surtax must be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax must be placed on the ballot and takes effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of the surtax may be extended only by approval of a majority of the electors of the county voting in a referendum.

The proceeds of the surtax and any interest accrued thereto must be expended by the school district or within the county and municipalities within the county or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct *infrastructure* and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Neither the proceeds nor any interest accrued thereto may be used for operational expenses of any infrastructure, except that any county with a population of less than 75,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest

For purposes of expenditure of surtax proceeds under this section, "infrastructure" means:

- Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.
- A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.
- Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities as defined in s. 29.008.

The Department of Community Affairs Division of Emergency Management's 2005 Shelter Retrofit Report highlights the deficit of safe public emergency shelter space. While significant progress has reduced the deficit of spaces meeting the American Red Cross standard ARC 4496, the report projects a need of almost 1.3 million public shelter spaces in 2006. The department estimates Florida will have 816,778 spaces meeting the public standard by the 2006 hurricane season. [1] According to the report, under current shelter retrofit and building programs, Florida is projected to meet its estimated emergency public shelter needs by 2011.

Effect of Proposed Changes

This bill amends s. 212.055(2), F.S., to revise the definition of the term "infrastructure" in order to allow expenditure of Local Government Infrastructure Surtax (Surtax) proceeds on improvements to certain private facilities that undergo certain capital improvements and permit local governments to use the facilities as emergency public shelters or as staging areas for emergency response equipment.

Under the revised definition, local governments may expend proceeds from the Surtax to fund any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government.

Improvements eligible for funding are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner of the private facility must enter into a written contract with the local government to make the improved private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum period of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

C. SECTION DIRECTORY:

Section 1. Amends s. 255.055, F.S., to revise the definition of the term "infrastructure" as it relates to expenditure of Local Government Infrastructure Surtax proceeds.

Section 2. Provides an effective date of July 1, 2006.

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: Local governments are authorized to expend Local Government Infrastructure Surtax proceeds for improvements to certain private facilities used as emergency public shelters.

[1] Department of Community Affairs Shelter Retrofit Report, September 1, 2005.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of private facilities may wish to contract with a local government in order to obtain funds to make capital improvements to private property which will be used as temporary emergency public shelters. Local building owners may contract with local construction and engineering entities to perform these capitol improvements for a profit. In addition, privately owned and publicly owned entities may compete for the same pool of surtax proceeds needed for capital improvements. In other words, if a county decides that providing adequate emergency shelter space is a priority, the Surtax proceeds may be utilized for capital improvements to privately owned facilities rather than for other public infrastructure projects.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Domestic Security Committee adopted an amendment that removed the transient rentals tax exemption. The provision would have provided an exemption from the transient rentals tax for individuals displaced due to a hurricane or other catastrophic disaster who could present appropriate proof to the landlord. According to the Revenue Estimating Conference, this exemption would have created a $19 million local tax revenue deficit and an $18.2 million state tax revenue deficit for the state in 2006-2007.[2]

[2] Revenue Estimating Conference, March 9th, 2006, p.125

CHAMBER ACTION

The Domestic Security Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to tax benefits related to catastrophic emergencies; amending s. 212.055, F.S.; including as infrastructure any fixed capital expenditure or fixed capital outlay associated with the improvement of certain private facilities made available as public shelters or staging areas for emergency response equipment during emergencies declared by the state or local government; limiting improvements to those necessary to meet current standards for public emergency evacuation shelters; requiring the owner to enter into a written contract with the local government providing improvement funding; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read.

23 212.055 Discretionary sales surtaxes; legislative intent;
24 authorization and use of proceeds.--It is the legislative intent
25 that any authorization for imposition of a discretionary sales
26 surtax shall be published in the Florida Statutes as a
27 subsection of this section, irrespective of the duration of the
28 levy. Each enactment shall specify the types of counties
29 authorized to levy; the rate or rates which may be imposed; the
30 maximum length of time the surtax may be imposed, if any; the
31 procedure which must be followed to secure voter approval, if
32 required; the purpose for which the proceeds may be expended;
33 and such other requirements as the Legislature may provide.
34 Taxable transactions and administrative procedures shall be as
35 provided in s. 212.054.
36 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--
37 (d)1. The proceeds of the surtax authorized by this
38 subsection and any interest accrued thereto shall be expended by
39 the school district or within the county and municipalities
40 within the county, or, in the case of a negotiated joint county
41 agreement, within another county, to finance, plan, and
42 construct infrastructure and to acquire land for public
43 recreation or conservation or protection of natural resources
44 and to finance the closure of county-owned or municipally owned
45 solid waste landfills that are already closed or are required to
46 close by order of the Department of Environmental Protection.
47 Any use of such proceeds or interest for purposes of landfill
48 closure prior to July 1, 1993, is ratified. Neither the proceeds
49 nor any interest accrued thereto shall be used for operational
50 expenses of any infrastructure, except that any county with a

51 population of less than 75,000 that is required to close a
52 landfill by order of the Department of Environmental Protection
53 may use the proceeds or any interest accrued thereto for long-
54 term maintenance costs associated with landfill closure.
55 Counties, as defined in s. 125.011(1), and charter counties may,
56 in addition, use the proceeds and any interest accrued thereto
57 to retire or service indebtedness incurred for bonds issued
58 prior to July 1, 1987, for infrastructure purposes, and for
59 bonds subsequently issued to refund such bonds. Any use of such
60 proceeds or interest for purposes of retiring or servicing
61 indebtedness incurred for such refunding bonds prior to July 1,
62 1999, is ratified.
63 2. For the purposes of this paragraph, the term
64 "infrastructure" means:
65 a. Any fixed capital expenditure or fixed capital outlay
66 associated with the construction, reconstruction, or improvement
67 of public facilities that ~~which~~ have a life expectancy of 5 or
68 more years and any land acquisition, land improvement, design,
69 and engineering costs related thereto.
70 b. A fire department vehicle, an emergency medical service
71 vehicle, a sheriff's office vehicle, a police department
72 vehicle, or any other vehicle, and such equipment necessary to
73 outfit the vehicle for its official use or equipment that has a
74 life expectancy of at least 5 years.
75 c. Any expenditure for the construction, lease, or
76 maintenance of, or provision of utilities or security for,
77 facilities as defined in s. 29.008.

78 d. Any fixed capital expenditure or fixed capital outlay
79 associated with the improvement of private facilities that have
80 a life expectancy of 5 or more years and that the owner agrees
81 to make available for use on a temporary basis as needed by a
82 local government as a public emergency shelter or a staging area
83 for emergency response equipment during an emergency officially
84 declared by the state or by the local government under s.
85 252.38. Such improvements under this sub-subparagraph are
86 limited to those necessary to comply with current standards for
87 public emergency evacuation shelters. The owner shall enter into
88 a written contract with the local government providing the
89 improvement funding to make such private facility available to
90 the public for purposes of emergency shelter at no cost to the
91 local government for a minimum period of 10 years after
92 completion of the improvement, with the provision that such
93 obligation will transfer to any subsequent owner until the end
94 of the minimum period.
95 3. Notwithstanding any other provision of this subsection,
96 a discretionary sales surtax imposed or extended after the
97 effective date of this act may provide for an amount not to
98 exceed 15 percent of the local option sales surtax proceeds to
99 be allocated for deposit to a trust fund within the county's
100 accounts created for the purpose of funding economic development
101 projects of a general public purpose targeted to improve local
102 economies, including the funding of operational costs and
103 incentives related to such economic development. The ballot
104 statement must indicate the intention to make an allocation
105 under the authority of this subparagraph.

106 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 749 CS Sewage Treatment and Disposal Systems
SPONSOR(S): Bowen
TIED BILLS: **IDEN./SIM. BILLS:** SB 1874

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee	7 Y, 0 N, w/CS	Kliner	Kliner
2) Local Government Council		Camechis	Hamby
3) Agriculture & Environment Appropriations Committee			
4) State Resources Council			
5)			

SUMMARY ANALYSIS

Florida's Department of Health regulates the public health of public water systems and onsite sewage treatment systems. Current law provides for onsite sewage treatment permitting for the construction, installation, modification, abandonment, or repair of onsite sewage treatment and disposal systems in areas where publicly-owned or investor-owned sewerage systems are not available. When a central sewerage system is available, however, local governments may require connection of onsite systems to the central system within 365 days of the central system's availability.

This bill requires counties, municipalities, and sewer districts proposing to expand or build new central sewer facilities to prepare and publicize a detailed feasibility study to compare onsite systems and central system connections, provided the proposed sewerage system was not previously approved for construction or expansion or is not in a designated urban service area. The study must include:

- An evaluation of the age, condition, maintenance history of the onsite system being reviewed.
- A comparison of the costs to the owner of a typical lot or parcel of connecting to and using the proposed central sewerage system versus the cost of an onsite system that provides a comparable level of environmental and health protection as the central system.
- An evaluation to determine whether the density required to accommodate onsite sewerage treatment would meet the local government's comprehensive plan for density in the area and environmental protection of the local government's surface and groundwater.
- An evaluation of the local government's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs.

In addition, the bill allows local governments to meet growth management concurrency requirements for "sanitary sewers" for new development through the use of any onsite treatment and disposal systems approved by the Department of Health (DOH). Finally, the bill provides that an owner of a performance-based onsite sewage treatment and disposal system permitted by the DOH that provides for treatment meeting advanced secondary treatment standards is not required to connect to a publicly owned or investor-owned sewerage system as long as the onsite system is functioning properly and satisfying the conditions of the operating permit. However, this exemption is not applicable if the area is:

- Subject to existing bond requirements or other financial commitments.
- Subject to a state or federal requirement or court order requiring connection to a central system.
- Located in Monroe County, Florida.
- Located within a basin containing a water body listed under the federal clean water act.
- Designated in a local comprehensive plan as an urban service area.

This bill does not appear to have a fiscal impact on the state.

Please refer to p. 7 for discussion of the Local Mandates Analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Limited government: The bill is likely to increase workload of county, municipality, and sewer districts due to the required feasibility study.

Lower taxes: The impact on taxes is indeterminate as to scope, but the bill may affect ongoing bond commitments by local governments for the construction or expansion of sewerage systems if homeowners with onsite systems are permitted to opt out of an available central system.

Personal responsibility: The bill permits homeowners with onsite sewage systems to opt out of connecting to an available central system under certain circumstances.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Background – The Federal Clean Water Act and Wastewater Discharge
The federal Water Pollution Control Act of 1972, commonly referred to as the Clean Water Act (CWA)[1], established the basic framework for pollution control in the nation's water bodies. Its primary goal was to maintain clean and useful water bodies. By setting national standards and regulations for the discharge of pollution, the CWA was intended to restore and protect the health of the nation's water bodies.

The CWA established the foundation for wastewater discharge control in the United States. According to the Environmental Protection Agency (EPA), the CWA's primary objective is to "restore and maintain the chemical, physical and biological integrity of the nation's waters."[2] The CWA established a control program for ensuring that communities have clean water by regulating the release of contaminants into our country's waterways. Permits that limit the amount of pollutants discharged are required of all municipal and industrial wastewater dischargers under the National Pollutant Discharge Elimination System (NPDES) permit program. In addition, a construction grants program was set up to assist publicly owned wastewater treatment works build the improvements required to meet these new limits.

According to the EPA, over 75 percent of the nation's population is served by centralized wastewater collection and treatment systems. The remaining population uses septic or other onsite systems. Approximately 16,000 municipal wastewater treatment facilities are in operation nationwide. The CWA requires that municipal wastewater treatment plant discharges meet a minimum of 'secondary treatment'. Over 30 percent of the wastewater treatment facilities today produce cleaner discharges by providing even greater levels of treatment than secondary.

State Regulation for Sewage Systems
Statutory regulation of Florida county water and sewerage systems is found in ch. 153, F.S., which authorizes local governments to:

- Construct water supply systems and sewage disposal systems;
- Operate, manage, control, and make improvements to the systems;
- Issue bonds to pay for the costs associated with the construction of the systems; and
- Levy rates and fees to pay for the management of the systems.

[1] Public Law 92-500
[2] http://www.epa.gov/owm/primer.pdf

Chapter 180, F.S., authorizes municipalities to provide similar services. The construction and expansion of central sewerage systems are typically financed through bonds that are issued based on a guarantee of a given capacity over time. Knowing how many citizens may connect to a central system allows local governments to predict revenue which, in turn, assists local governments in securing funding from lending institutions for sewerage projects.

Part II of ch. 153, F.S., authorizes the creation of county water and sewer districts, which are special taxing districts created to reach and provide services to unincorporated areas in need of sewer and water services.

Chapter 381, F.S., authorizes the Florida Department of Health to regulate public water systems and onsite sewage treatment systems. Section 381.0065, F.S., regulates onsite sewage treatment and disposal systems, and requires a permit for the construction, installation, modification, abandonment, or repair of onsite sewage treatment and disposal systems in areas where publicly-owned or investor-owned sewerage systems are not available. Pursuant to s. 381.00655, F.S., if a publicly owned or investor-owned system is available, however, the owner of the central system may require connection of onsite systems to central sewerage systems within 365 days of the central system's availability.

To ensure that certain types of public facilities and services (e.g., sewer, water, and roads) needed to serve residents are constructed and made available contemporaneously with the impact of new development, lawmakers directed local governments to incorporate the concept of concurrency in the 1980s.[3]

Growth and Concurrency Obligations

A centerpiece of Florida's 1985 growth management legislation was concurrency.[4] At its core, concurrency is a requirement that development must not proceed unless infrastructure capacity and specific urban services are in place to service the new development. Concurrency was intended to address major infrastructure problems facing the state, especially increasing road congestion. As the state added approximately 300,000 residents each year during the 1970s and into the 1980s, a trend that has continued almost unabated for the last forty years, local and state road infrastructure became increasingly plagued by traffic congestion. In addition, other problems were apparent as well, including potable water availability, the need to treat wastewater to meet higher federal standards, and increasing problems relating to inadequate stormwater management.[5] Section 163.3180, F.S., mandates that sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools and transportation facilities, including mass transit, are subject to the concurrency requirement on a statewide basis.[6]

Central Wastewater Collection and Treatment[7]

The most common form of pollution control in the United States consists of a system of sewers and wastewater treatment plants. The sewers collect municipal wastewater from homes, businesses, and industries and deliver it to facilities for treatment before it is discharged to water bodies or land, or reused. Conventional wastewater collection systems transport sewage from homes or other sources by gravity flow through buried piping systems to a central treatment facility. These systems are usually reliable and consume no power. However, the slope requirements to maintain adequate flow by gravity may require deep excavations in hilly or flat terrain, as well as the addition of sewage pump stations, which can significantly increase the cost of conventional collection systems. Manholes and other sewer appurtenances also add substantial costs to conventional collection systems.

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[3] Back to Basics on School Concurrency, David M. Powell, © 1999 Florida State University Law Review

[4] Florida Growth Management Act (Florida Statutes Chapter 163, Part II, 1985)

[5] A Review of Local Government Concurrency Practices in Florida, Dr. Timothy S. Chapin, Department of Urban and Regional Planning, Florida State University, Working Paper prepared for the DeVoe L. Moore Center, August, 2005

[6] Chapter 9J-5.0055, Florida Administrative Code provides more specific guidance to local governments as the state concurrency mandate is translated into local policies and procedures.

[7] EPA primer on municipal systems at http://www.epa.gov/owm/primer.pdf

Cities began to install wastewater collection systems in the late nineteenth century because of an increasing awareness of waterborne disease and the popularity of indoor plumbing and flush toilets. In the year 2000, approximately 208 million people in the U.S. were served by centralized collection.

Central wastewater treatment facilities utilize multiple treatment processes in order to address the multifaceted difficulties associated with certain waste types, including:

- The effects of biochemical oxygen demand, or BOD;
- Removal of pathogens;
- Processing of nutrient matter; and
- Removal and treatment of detergents, household cleaning aids, heavy metals, pharmaceuticals, synthetic organic pesticides and herbicides, industrial chemicals, and the wastes from their manufacture.

Preliminary Treatment

Preliminary treatment typically involves use of a screen to remove large floating objects, such as rags, cans, bottles and sticks that may clog pumps, small pipes, and down stream processes. The screens vary from coarse to fine and are constructed with parallel steel or iron bars with openings of about half an inch, while others may be made from mesh screens with much smaller openings. Some plants use devices known as comminutors or barminutors, which combine the functions of a screen and a grinder. These devices catch and then cut or shred the heavy solid and floating material.

Secondary Treatment

After the wastewater has been through Primary Treatment processes, it flows into the next stage of treatment called secondary. Secondary treatment processes can remove up to 90 percent of the organic matter in wastewater by using biological treatment processes. The "attached growth" process includes using trickling filters units, biotowers, and rotating biological contactors. Attached growth processes are effective at removing biodegradable organic material from the wastewater. In "suspended growth" processes, the microbial growth is suspended in an aerated water mixture where the air is pumped in, or the water is agitated sufficiently to allow oxygen transfer. The use of lagoons and transfers to land are also utilized if appropriate to the system process.

On-site Systems

Generally, septic systems are used to treat and dispose of relatively small volumes of wastewater, usually from houses and businesses that are located relatively close together. Septic systems are also called onsite wastewater treatment systems, decentralized wastewater treatment systems, on-lot systems, individual sewage disposal systems, cluster systems, package plants, and private sewage systems. Systems are considered "decentralized" because they do not involve central wastewater collection and treatment.

According to the EPA, the typical septic treatment system includes a septic tank, which digests organic matter and separates matter that floats (e.g., oils and grease) and settling solids from the wastewater. Soil-based systems discharge the liquid (effluent) from the septic tank into a series of perforated pipes buried in a leach field, leaching chambers, or other special units designed to slowly release the effluent into the soil or surface water, sometimes referred to as a drainage field.

Alternative systems use pumps or gravity to help septic tank effluent trickle through sand, organic matter (e.g., peat, sawdust), constructed wetlands, or other media to remove or neutralize pollutants like disease-causing pathogens, nitrogen, phosphorus, and other contaminants. Some alternative systems are designed to evaporate wastewater or disinfect it before it is discharged to the soil or

surface waters.[8] The EPA developed guidelines to assist communities in establishing comprehensive management programs for onsite/decentralized wastewater systems to improve water quality and protect public health. The voluntary guidelines address the sensitivity of the environment in the community and the complexity of the system used. The five model management programs are:

- System inventory and awareness of maintenance needs.
- Management through maintenance contracts.
- Management through operating permits.
- Utility operation and maintenance.
- Utility ownership and management.[9]

According to the U.S. Census Bureau, approximately 26 million homes (one-fourth of all homes) in America are served by decentralized wastewater treatment systems. The Census Bureau reports that the distribution and density of septic systems vary widely by region and state, from a high of about 55 percent in Vermont to a low of around 10 percent in California. The New England states have the highest proportion of homes served by septic systems: New Hampshire and Maine both report that about one-half of all homes are served by individual systems. More than one-third of the homes in the southeastern states depend on these systems, including approximately 48 percent in North Carolina and about 40 percent in both Kentucky and South Carolina. More than 60 million people in the nation are served by septic systems. About one-third of all new development is served by septic or other decentralized treatment systems.[10] According to the Florida Department of Health, 31 percent of the Florida population is served by an estimated 2.3 million onsite sewage treatment and disposal systems (OSTDS). These systems discharge over 426 million gallons of treated effluent per day into the subsurface soil environment.[11]

In Florida, the effect of waste disposal, whether through an on-site system or a centralized system, will implicate laws relating to the Total Maximum Daily Load Program (TMDL), which describes the amount of each pollutant a water body can receive without violating state water quality standards.

TMDL Program

Section 305(b) of the CWA requires states to submit to Congress a biennial report on the water quality of their lakes, streams, and rivers. A partial list of water bodies that qualify as "impaired" (i.e., do not meet specific pollutant limits for their designated uses) must be submitted to the U.S. Environmental Protection Agency (EPA) under section 303(d) of the CWA. States are required to develop total maximum daily loads (TMDL) for each pollutant that exceeds the legal limits for that water body. Section 303(d) and the development of TMDLs were generally ignored by the states until numerous lawsuits were filed by environmental groups.[12]

Currently, DEP develops and implements TMDLs through a watershed-based management approach that addresses the state's 52 major hydrologic basins into five groups. Each basin group is subject to a five phase TMDL cycle on a rotating basis. Phase 1 is a preliminary evaluation of the quality of a water body, phase two is monitoring and assessing to verify water quality impairments, phase 3 is the development and adoption of TMDLs for waters verified as impaired, phase 4 is the development of basin management action plans to achieve the TMDL, and phase 5 is the implementation of the plan and monitoring of results.

In the 2005 Regular Session, the TMDL program was amended to authorize DEP to develop basin management action plans (BMAP) as part of the development and implementation of a TMDL for a water body. The law requires plans to integrate appropriate management strategies available to the

[8] http://cfpub2.epa.gov/owm/septic/home.cfm - Frequently Asked Questions
[9] http://www.epa.gov/owm/septic/pubs/septic_guidelines_factsheet.pdf
[10] http://cfpub2.epa.gov/owm/septic/faqs.cfm?program_id=70#358
[11] http://www.doh.state.fl.us/environment/ostds/intro.htm
[12] Florida implements the TMDL program in s. 403.067, F.S.

state through existing water quality protection programs to achieve the TMDL, restore designated uses of the water body, provide for phased implementation of strategies, establish a schedule for implementing strategies, establish a basis for evaluating the plan's effectiveness, identify feasible funding strategies, and equitably allocate pollutant reductions to basins as a whole or to each point or non-point source. The bill provides that plans may provide pollutant load reduction credits to pollution dischargers that have implemented strategies to reduce pollutant loads.[13]

The law creates incentives to participate in the BMAP process and establishes a more direct linkage between the actions specified in the BMAP and activities regulated by DEP. Consistent with the existing provisions in s. 403.067, F. S., non-point sources are still managed through a non-regulatory, incentive-based program. However, in order to promote the same predictable pollution reduction performance among non-regulated entities as exists for permitted entities, the law provides the following:

• Non-regulated activities are not eligible for the incentives associated with the presumption of compliance with state water quality standards and the waiver of liability for pollution if adopted best management practices are not properly and timely implemented.
• Non-regulated activities that choose not to implement adopted best management practices must demonstrate compliance with applicable water quality standards.
• DEP is authorized to take enforcement actions where a party fails to properly implement best management practices or provide data demonstrating compliance with water quality standards.

Effect of Proposed Changes

The bill requires counties, municipalities, and sewer districts that propose to expand or build new central sewer facilities to prepare and publicize a detailed feasibility study to compare onsite systems to central system connections, provided the proposed sewerage system was not one previously approved for construction or expansion or is not in a designated urban service area. The study must include:

- An evaluation of the age, condition, maintenance history of the onsite system being reviewed.
- A comparison of the costs to the owner of a typical lot or parcel of connecting to and using the proposed central sewerage system versus the cost of an onsite system that provides a comparable level of environmental and health protection as the central system.
- An evaluation to determine whether the density required to accommodate onsite sewerage treatment would meet the local government's comprehensive plan for density in the area and environmental protection of the local government's surface and groundwater.
- An evaluation of the local government's obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs.

In addition, the bill allows local governments to meet growth management concurrency requirements for "sanitary sewers" for new development through the use of any onsite treatment and disposal systems approved by the Department of Health (DOH). Finally, the bill provides that an owner of a performance-based onsite sewage treatment and disposal system permitted by the DOH that provides for treatment meeting advanced secondary treatment standards is not required to connect to a publicly owned or investor-owned sewerage system as long as the onsite system is functioning properly and satisfying the conditions of the operating permit. However, this exemption is not applicable if the area is:

- Subject to existing bond requirements or other financial commitments.
- Subject to a state or federal requirement or court order requiring connection to a central system.
- Located in Monroe County, Florida.
- Located within a basin containing a water body listed under the federal clean water act.

[13] House of Representatives State Resources Council Staff Analysis for CS/HB 1839, 2005 Regular Session

- Designated in a local comprehensive plan as an urban service area.

C. SECTION DIRECTORY:

Section 1. Amends s. 153.54, F.S., to require county feasibility studies.

Section 2. Amends s. 153.73, F.S., to require water and sewer district feasibility studies.

Section 3. Amends s. 163.3180, F.S., to allow local governments to meet growth management concurrency requirements for "sanitary sewers" for new development with any Department of Health-approved onsite systems.

Section 4. Amends s. 180.03, F.S., to require municipal feasibility studies.

Section 5. Amends s. 381.00655, F.S., to exempt owners of certain onsite sewerage systems from mandatory connection to a central sewerage system.

Section 6. Provides an effective date of July 1, 2006.

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: Indeterminate, but may result in a decrease in revenues due to loss of connections to central sewerage systems.

2. Expenditures: Indeterminate as to scope. The bill is likely to increase workload and costs of county, municipality, and sewer districts due to the required feasibility study.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: This bill may benefit certain private sector owners of onsite sewerage systems that do not wish to connect to central sewerage treatment systems.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: The mandates provision appears to apply because the bill requires counties and cities to conduct detailed feasibility studies prior to construction of a proposed sewerage system or the extension of an existing sewerage system that was not previously approved or not in a designated urban service area. Conducting feasibility studies will require the expenditure of funds. However, the bill may be exempt from the mandate requirements if the fiscal impact of the bill, on an aggregate basis for all cities and counties in the state, is less than $1.9 million over the long term. At this time, the fiscal impact of the bill is unknown.

If the bill is not exempt from the mandates requirements imposed by Art. VII, section 18 of the Florida Constitution, the Legislature must determine that the law fulfills an important state interest and the bill must be approved by two–thirds of the House and Senate membership.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, the Committee on Environmental Regulation approved one amendment offered by the bill's sponsor. First, the amendment revises the requirements for the feasibility study. Local governmental units are still required to perform a feasibility study so long as the proposed sewerage system was not one previously approved for construction or expansion or is not in a designated urban service area. The details of the study were clarified to include:

- The age, condition, maintenance history of the onsite system being reviewed.
- A fiscal evaluation comparing connection to the central system as opposed to installation and operation of an onsite system that provides a comparable level of environmental and health protection as the central system.
- An evaluation to determine whether the density required accommodating the onsite system would meet the local government's comprehensive plan for density in the area and environmental protection of the local government's surface groundwater.
- Consideration of the local government's obligations for water body cleanup and protection under state or federal programs.

The amendment limits the "opt out" provision to an owner of a performance-based onsite sewage treatment and disposal system that is permitted by the department and which provides for treatment meeting advanced secondary treatment standards. Such an owner shall not be required to connect to a publicly owned or investor-owned sewerage system as long as the onsite system is functioning properly and satisfying the conditions of the operating permit.

The amendment further limits the exemptions to the mandatory connection law in Florida by limiting the situations when a homeowner is not required to hook up to a central system, to wit:

- No exemption where area is subject to existing bond requirements or other financial commitments.
- No exemption when an area is subject to state or federal requirement or court order requiring hookup.
- No exemption in Monroe County or any municipality located therein.
- No exemption in an area located within a basin containing a water body listed pursuant to the federal clean water act.
- No exemption in an area that is designated in a local comprehensive plan as an urban service area.

CHAMBER ACTION

The Environmental Regulation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to sewage treatment and disposal systems; amending s. 153.54, F.S.; requiring county commissions to include certain studies for the construction of a new proposed sewerage system or the extension of an existing sewerage system in certain reports; amending s. 153.73, F.S.; requiring county water and sewer districts to conduct certain studies for the construction of a new proposed sewerage system or the extension of an existing sewerage system prior to the levying of certain assessments; amending s. 163.3180, F.S.; authorizing local governments to use certain onsite sewage treatment and disposal systems to meet certain concurrency requirements; amending s. 180.03, F.S.; requiring municipalities to conduct certain studies for the construction of a new proposed sewerage system or the extension of an existing sewerage system prior to the adoption of certain resolutions or ordinances; amending s. 381.00655, F.S.; exempting certain onsite sewage treatment and disposal

24 systems from connecting to a publicly owned or investor-
25 owned sewerage system under certain circumstances;
26 providing exceptions; providing an effective date.
27
28 Be It Enacted by the Legislature of the State of Florida:
29
30 Section 1. Subsection (5) is added to section 153.54,
31 Florida Statutes, to read:
32 153.54 Preliminary report by county commissioners with
33 respect to creation of proposed district.--Upon receipt of a
34 petition duly signed by not less than 25 qualified electors who
35 are also freeholders residing within an area proposed to be
36 incorporated into a water and sewer district pursuant to this
37 law and describing in general terms the proposed boundaries of
38 such proposed district, the board of county commissioners if it
39 shall deem it necessary and advisable to create and establish
40 such proposed district for the purpose of constructing,
41 establishing or acquiring a water system or a sewer system or
42 both in and for such district (herein called "improvements"),
43 shall first cause a preliminary report to be made which such
44 report together with any other relevant or pertinent matters,
45 shall include at least the following:
46 (5) For the construction of a new proposed sewerage system
47 or the extension of an existing sewerage system that was not
48 previously approved or not in a designated urban service area, a
49 detailed feasibility study that:

50 (a) Evaluates the present age, condition, and maintenance
51 history of onsite sewage treatment and disposal systems
52 currently in use in the area.
53 (b) Compares the projected costs to the owner of a typical
54 lot or parcel of connecting to and using the proposed sewerage
55 system versus installing, operating, and properly maintaining an
56 onsite sewage treatment system that is approved by the
57 Department of Health and provides for a level of environmental
58 and health protection comparable to that of the proposed central
59 sewerage system.
60 (c) Evaluates whether the density required to accommodate
61 onsite sewage treatment and disposal systems would meet the
62 local government's comprehensive plan requirements for density
63 for the area and environmental protection of the area's surface
64 and groundwater.
65 (d) Considers the local government's obligations or
66 reasonably anticipated obligations for water body cleanup and
67 protection under state or federal programs.
68
69 Such report shall be filed in the office of the clerk of the
70 circuit court and shall be open for the inspection of any
71 taxpayer, property owner, qualified elector or any other
72 interested or affected person.
73 Section 2. Paragraph (c) is added to subsection (2) of
74 section 153.73, Florida Statutes, to read:
75 153.73 Assessable improvements; levy and payment of
76 special assessments.--Any district may provide for the
77 construction or reconstruction of assessable improvements as

78 defined in s. 153.52, and for the levying of special assessments
79 upon benefited property for the payment thereof, under the
80 provisions of this section.
81 (2)
82 (c) For the construction of a new proposed sewerage system
83 or the extension of an existing sewerage system that was not
84 previously approved or not in a designated urban service area, a
85 report shall be prepared that includes a detailed feasibility
86 study that:
87 1. Evaluates the present age, condition, and maintenance
88 history of onsite sewage treatment and disposal systems
89 currently in use in the area.
90 2. Compares the projected costs to the owner of a typical
91 lot or parcel of connecting to and using the proposed sewerage
92 system versus installing, operating, and properly maintaining an
93 onsite sewage treatment system that is approved by the
94 Department of Health and provides for a level of environmental
95 and health protection comparable to that of the proposed central
96 sewerage system.
97 3. Evaluates whether the density required to accommodate
98 onsite sewage treatment and disposal systems would meet the
99 local government's comprehensive plan requirements for density
100 for the area and environmental protection of the area's surface
101 and groundwater.
102 4. Considers the local government's obligations or
103 reasonably anticipated obligations for water body cleanup and
104 protection under state or federal programs.

105 Section 3. Paragraph (a) of subsection (2) of section
106 163.3180, Florida Statutes, is amended to read:
107 163.3180 Concurrency.--
108 (2)(a) Consistent with public health and safety, sanitary
109 sewer, solid waste, drainage, adequate water supplies, and
110 potable water facilities shall be in place and available to
111 serve new development no later than the issuance by the local
112 government of a certificate of occupancy or its functional
113 equivalent. Prior to approval of a building permit or its
114 functional equivalent, the local government shall consult with
115 the applicable water supplier to determine whether adequate
116 water supplies to serve the new development will be available no
117 later than the anticipated date of issuance by the local
118 government of a certificate of occupancy or its functional
119 equivalent. A local government may meet the concurrency
120 requirement for sanitary sewer through the use of onsite sewage
121 treatment and disposal systems approved by the Department of
122 Health to serve new development.
123 Section 4. Subsection (3) is added to section 180.03,
124 Florida Statutes, to read:
125 180.03 Resolution or ordinance proposing construction or
126 extension of utility; objections to same.--
127 (3) For the construction of a new proposed sewerage system
128 or the extension of an existing sewerage system that was not
129 previously approved or not in a designated urban service area,
130 the municipality shall prepare a report that includes a detailed
131 feasibility study that:

132 (a) Evaluates the present age, condition, and maintenance
133 history of onsite sewage treatment and disposal systems
134 currently in use in the area.
135 (b) Compares the projected costs to the owner of a typical
136 lot or parcel of connecting to and using the proposed sewerage
137 system versus installing, operating, and properly maintaining an
138 onsite sewage treatment system that is approved by the
139 Department of Health and provides for a level of environmental
140 and health protection comparable to that of the proposed central
141 sewerage system.
142 (c) Evaluates whether the density required to accommodate
143 onsite sewage treatment and disposal systems would meet the
144 local government's comprehensive plan requirements for density
145 for the area and environmental protection of the area's surface
146 and groundwater.
147 (d) Considers the local government's obligations or
148 reasonably anticipated obligations for water body cleanup and
149 protection under state or federal programs.
150
151 The report shall be included in the resolution or ordinance
152 required in subsection (1).
153 Section 5. Paragraphs (c) and (d) are added to subsection
154 (2) of section 381.00655, Florida Statutes, to read:
155 381.00655 Connection of existing onsite sewage treatment
156 and disposal systems to central sewerage system; requirements.--
157 (2) The provisions of subsection (1) or any other
158 provision of law to the contrary notwithstanding:

159 (c) The owner of a performance-based onsite sewage
160 treatment and disposal system permitted by the department that
161 provides for treatment meeting advanced secondary treatment
162 standards shall not be required to connect to a publicly owned
163 or investor-owned sewerage system as long as the onsite system
164 is functioning properly and satisfying the conditions of the
165 operating permit.
166 (d) The requirements of paragraph (c) shall not apply if:
167 1. The area is clearly subject to an existing sewer
168 utility or authority bond covenant or other financial commitment
169 that expressly provides for and requires connection to the
170 central system and was in effect on July 1, 2006;
171 2. The area is clearly subject to a state or federal
172 requirement or court order requiring connection to a central
173 sewer system;
174 3. The area is located in Monroe County;
175 4. The area is located within a basin containing a water
176 body listed under s. 303(d) of the Clean Water Act, Pub. L. No.
177 99-500, 33 U.S.C. ss. 1251 et seq.; or
178 5. The area is designated in a local comprehensive plan as
179 an urban service area.
180 Section 6. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 949 Municipalities
SPONSOR(S): Arza
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) Growth Management Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

This bill limits the applicability of existing and future county charter provisions, countywide county ordinances, county land development regulations, and countywide special acts governing the use, development or redevelopment of land, or providing an exclusive method of municipal annexation.

Existing charter provisions, ordinances, land development regulations, and special acts governing the use, development or redevelopment of land, or providing an exclusive method of municipal annexation are no longer applicable to a municipality within a county unless approved by a majority vote of the electors within the municipality or the municipal governing board. Charter provisions, ordinances, land development regulations, and special acts governing the use, development or redevelopment of land, or providing an exclusive method of municipal annexation that are adopted after the effective date of this bill may not be applied to a municipality within the county unless first approved by a majority vote of the electors within the municipality or the municipal governing board.

This bill appears to be retroactive because it provides that existing county charter ordinances, county ordinances, county land development regulations, and countywide special acts are no longer applicable to municipalities within the county unless approved by the electors within the municipality or the municipal governing board.

This bill does not appear to have a fiscal impact on the state.

Local Mandate Analysis
The bill requires a county to amend or repeal a charter, ordinance, or land development regulation that preempts municipalities within the county with regard to land use, development or redevelopment of land, or that provides an exclusive method for annexation unless the preemption is approved by the municipality. Amendment or repeal of existing provisions will require counties to expend county funds. This expenditure may qualify as a mandate under Art. VII, s. 18 of the Florida Constitution; however, if the aggregate statewide fiscal impact on counties is less than $1.9 million, the bill is exempt from the mandates requirements. Although the fiscal impact has not been determined, this bill may require an expenditure of funds that exceeds $1.9 million. If the fiscal impact of the bill is greater than $1.9 million, the Legislature must find an important state interest and the bill must pass by a two-thirds vote of each house to effectively bind the counties.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: If a county contains multiple cities, and all those cities reject a countywide provision governing land use, development or redevelopment of land, or voluntary annexation, the result could be multiple ordinances governing the same subjects within the county. For example, Broward County contains 31 cities. Each of these cities may choose to enact independent ordinances governing land use in the area.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

County Government

Although the state's first counties were established in 1821, the Florida Constitution of 1861 gave counties constitutional status for the first time. Counties were recognized as legal subdivisions of the state and the Legislature was granted the power to create new counties and alter county boundaries. By 1925, county boundaries were fixed and have, with a few minor changes, remained unchanged. Today, there are 67 counties in Florida. Home rule charters have been adopted in 19 counties, and 75% of the state's population resides in a charter county.[1] Nine charter counties contain more than nine municipalities, while Broward and Palm Beach contain 30 or more.

Article VIII, section 1 of the State Constitution requires the state to be divided by law into political subdivisions called "counties". Counties may be created, abolished, or the boundaries modified by law. The State Constitution recognizes two types of county government in Florida: 1) counties that are not operating under a county charter (non-charter counties) and 2) counties that are operating under a county charter adopted by the electors of the county in a countywide special election called for that purpose.

Article VIII, sections 1(f) and (g) of the State Constitution, respectively address non-charter and charter county powers as follows:

> (f) Non-charter government. Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.
>
> (g) Charter government. Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. *The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.* [Emphasis added]

Perhaps the most significant difference between non-charter and charter county powers is that the constitution provides a direct constitutional grant of the power of self-government to a county operating

[1] The following counties have adopted charters: Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Miami-Dade (a consolidated city), Duval, Hillsborough, Lee, Leon, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, and Volusia.

under a charter approved by the electors of the county, whereas a non-charter county has only those powers the Legislature provides by general or special law.

Further, the Florida Supreme Court has concluded that section 1(g) "was intended to specifically give charter counties two powers unavailable to non-charter counties: the power to preempt conflicting municipal ordinances, and the power to avoid intervention of the legislature by special laws. The power to preempt is the power to exercise county power to the exclusion of municipal power. Preemption is a transfer of power, from exclusive municipal authority or concurrent authority, to exclusive county authority".[2]

Under this constitutional grant of power, a county's charter may authorize the county to regulate an activity on a countywide basis and provide that the county regulation prevails over any conflicting municipal ordinance.[3] The Florida Supreme Court has concluded that section 1(g) permits "regulatory preemption by counties" and that a charter county may preempt a municipal regulatory power in such areas when county-wide uniformity will best further the ends of government.[4] In addition to this grant of power, however, is the limitation imposed by the constitution, which grants charter counties all powers of self-government "not inconsistent with general law". The interrelationship between the grant of power to determine which ordinances prevails and the limitation of charter county authority by general law is unclear and has not been directly addressed by the Florida courts. Therefore, the constitutionality of a general law that limits a charter county's power to determine that county ordinances prevail over any conflicting municipal ordinances is uncertain.

Adoption of County Charters

A county that does not have a charter form of government may locally initiate and adopt a county home rule charter pursuant to the provisions of ss. 125.60-125.64, F.S. In addition to satisfying multiple statutory requirements, the charter must be adopted by a majority vote of the qualified electors of the county.

Upon petition by 15 percent of the qualified electors of a county or following adoption of a resolution by the board of county commissioners requesting that a charter commission be established, the charter commission must be appointed. The commission must conduct a comprehensive study of the operation of county government and of the ways it could be improved or reorganized. The commission must conduct three public hearings, vote upon a proposed charter at its last hearing, and forward the proposed charter to the board of county commissioners for the holding of a referendum election. Immediately after the commission submits a proposed charter, the board of county commissioners must call a special election within a specified time frame to determine whether the qualified electors of the county approve the proposed charter. If a majority of those voting disapprove the proposed charter, a new referendum may not be held for two years. Once adopted, the charter may be amended only by vote of the county electors.

Alternatively, the board of county commissioners may propose by ordinance a charter that is consistent with Part IV of ch. 125, F.S., the "Optional Charter County Law." Section 125.86, F.S., specifies the powers and duties of the charter county, which include all powers of local self-government "not inconsistent with general law as recognized by the Constitution and laws of the state and which have not been limited by the charter."

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[2] *Broward County v. City of Fort Lauderdale*, 480 So.2d 631 (Fla. 1985).
[3] *Broward County v. City of Fort Lauderdale*, 480 So.2d 631 (Fla. 1985); *City of New Smyrna Beach v. County of Volusia*, 518 So.2d 1379 (Fla. 1988).
[4] *City of New Smyrna Beach v. County of Volusia*, 518 So.2d 1379 (Fla. 1988), citing *Broward County v. City of Fort Lauderdale*, 480 So.2d 631 (Fla. 1985).

County Statutory Home Rule Powers

Section 125.01, F.S., grants broad home rule powers to non-charter and charter counties. These powers include the power to:

- Prepare and enforce comprehensive plans for the development of the county;
- Establish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public;
- Adopt, by reference or in full, and enforce housing and related technical codes and regulations; establish and administer programs of housing, slum clearance, community redevelopment, conservation, flood and beach erosion control, air pollution control, and navigation and drainage and cooperate with governmental agencies and private enterprises in the development and operation of such programs; and
- Provide and regulate waste and sewage collection and disposal, water and alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems, and conservation programs.

The section specifically provides that the legislative purpose is to be liberally construed to grant all counties broad home rule powers authorized in the State Constitution. Under this broad grant of general law powers, specific statutory authority to enact ordinances or to deliver services to residents of the counties is not required. All counties have home rule authority to enact ordinances for any county purpose absent a general law limitation.

Section 125.86(7), F.S., vests the powers of a charter county in the board of county commissioners. One power explicitly granted to the board of county commissioners of a charter county is the power to "[a]dopt, pursuant to the provisions of the charter, such ordinances of countywide force and effect as are necessary for the health, safety, and welfare of the residents. It is the specific legislative intent to recognize that a county charter may properly determine that certain governmental areas are more conducive to uniform countywide enforcement and may provide the county government powers in relation to those areas as recognized and as may be amended from time to time by the people of that county".

County Provisions Regarding Land Use[5]

In recent years, some charter counties have amended their charter to provide an exclusive method for annexation. Some counties have also enacted building height limitations that apply in municipal jurisdictions that are within the county. In addition, some counties exercise land use planning responsibility, in varying degrees, for municipalities located within the county and certain land use decisions within such municipalities may require county approval. These types of charter provisions or ordinances have the effect of preempting municipal authority with respect to land use planning.

For example, voters in Palm Beach and Seminole counties approved charter provisions relating to annexation in 2004. The Palm Beach county provision gave county commissioners the ability to set annexation guidelines by ordinance. Several municipalities challenged the charter amendment in circuit court.12 The circuit court held, in part, that the provisions allowing the county to define the exclusive method for voluntary annexation, by ordinance, violates the requirement in s. 171.044(4), F.S., that an exclusive method of annexation be contained in the charter itself.13 Seminole County voters approved a charter amendment that would give the county final authority over land-use changes and development densities in certain portions of east Seminole County. This provision is currently on appeal.

[5] *Senate Staff Analysis and Economic Impact Statement for SB 1608*, prepared by the Senate Community Affairs Committee, p. 4 (March 15, 2006).

Municipal Government
The municipal form of government has been recognized in Florida since 1821. Historically, counties have provided state services such as courts, tax collections, sheriff functions, health and welfare services uniformly throughout the county, while municipalities are created to perform additional functions and provide additional services for the particular benefit of the population within the municipality. Currently, there are 408 municipalities in Florida.

Article VIII, section 2 of the State Constitution provides that "[m]unicipalities may be established or abolished and their charters amended pursuant to general or special law." Municipal home rule powers are provided in that section as follows:

> 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 any power for municipal purposes except as otherwise provided by law. Each municipal legislative body shall be elective.

In general, a municipality may exercise any power for municipal purposes except as otherwise provided by general or special law. In 1972, the Legislature enacted ch. 166, F.S., granting municipalities broad governmental, corporate, and proprietary powers necessary to enable municipalities to independently function and provide services to residents.

Growth Management and Land Use Generally[6]
The Local Government Comprehensive Planning and Land Development Regulation Act of 1985 ("Act"), ss. 163.3161-163.3246, F.S., establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan that includes certain required elements, such as: a future land use plan; capital improvements element; and an intergovernmental coordination element. The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Under the Act, the Department of Community Affairs adopted by rule minimum criteria for the review and determination of compliance of the local government comprehensive plan elements with the requirements of the Act. Such minimum criteria require that the elements of the plan are consistent with each other and with the state comprehensive plan and the regional policy plan; that the elements include policies to guide future decisions and programs to ensure the plans would be implemented; that the elements include processes for intergovernmental coordination; and that the elements identify procedures for evaluating the implementation of the plan.

Annexation[7]
Section (2)(c), Art. VIII of the State Constitution, provides authority for the Legislature to establish annexation procedures for all counties except Miami-Dade. Annexation can occur using several methods: special act, charter, interlocal agreement, voluntary annexation, or involuntary annexation. Annexation through a special act must meet the notice and referendum requirements of section 10, Art. III of the State Constitution, which are applicable to all special acts.

The "Municipal Annexation or Contraction Act" in ch. 171, F.S., codifies the State's annexation procedures and was enacted in 1974 to ensure sound urban development, establish uniform methods for the adjustment of municipal boundaries, provide for efficient service delivery in areas that become urban, and limit annexation to areas where municipal services can be provided.[8] At the time ch. 171, F.S., was created, the prevailing policy focused on the strength of county governments and regional planning agencies. Consequently, Florida's annexation statutes concentrate on the expansion and contraction of municipal boundaries.[9]

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[6] *Id.* at p. 1.
[7] *Id.* at p. 2 (With modifications.)
[8] s. 171.021, F.S.
[9] See Lance deHaven-Smith, Ph.D., FCCMA Policy Statement on Annexation, Oct. 12, 2002, at 16-17, http://www.fccma.org/pdf/FCCMA_Paper_Final_Draft.pdf.

Current annexation policy in Florida has given rise to a number of issues: difficulty in planning to meet future service needs, confusion over logical service areas and maintenance of infrastructure, duplication of essential services, and zoning efforts thwarted by landowners shopping for the best development climate. While existing annexation procedures may adequately address the concerns of landowners within a proposed annex area, the residents of remaining unincorporated areas or residents of the municipality proposing the annexation may also be significantly affected by the potential loss of revenue or inefficiencies in service delivery.

An area proposed for annexation must be unincorporated, contiguous, and reasonably compact.[10] For a proposed annexation area to be contiguous under ch. 171, F.S., a substantial portion of the annexed area's boundary must be coterminus with the municipality's boundary.[11] "Compactness," for purposes of annexation, is defined as the concentration of property in a single area and does not allow for any action that results in an enclave, pocket, or fingers in serpentine patterns.[12]

A newly annexed area comes under the city's jurisdiction on the effective date of the annexation. Following annexation, a municipality must apply the county's land use plan and zoning regulations until a comprehensive plan amendment is adopted that includes the annexed area in the municipalities' Future Land Use Map. It is possible for the city to adopt the comprehensive plan amendment simultaneously with the approval of the annexation. However, there is no requirement that a city amend its comprehensive plan prior to annexation.[13] In the interim, a city must apply county regulations or wait to apply its own rules.

Cities may annex enclaves of 10 acres or less by interlocal agreement with the county under the provisions of s. 171.046, F.S. An enclave is defined in s. 171.031(13), F.S., as any unincorporated improved or developed area lying within a single municipality or surrounded by a single municipality and a manmade or natural obstacle that permits traffic to enter the unincorporated area only through the municipality. Enclaves of 10 acres or less can also be annexed by municipal ordinance when there are fewer than 25 registered voters living in the enclave and at least 60 percent of those voters approve the annexation in a referendum. In a similar process, s. 163.3171, F.S., allows for a joint planning agreement between a municipality and county to allow annexation of unincorporated areas adjacent to a municipality.

Section 171.044, F.S., provides the procedures for a voluntary annexation which occurs when 100 percent of the landowners in an area petition a municipality. In addition to the annexing municipality enacting an ordinance allowing for the annexation to occur, there are certain notice requirements that must be met. This section does not apply where a county charter provides the exclusive method for voluntary annexation.[14] Also, the voluntary annexation procedures in this section are considered supplemental to any other procedure contained in general or special law.[15]

EFFECT OF PROPOSED CHANGES

This bill creates s. 163.3172, F.S., to address the application to municipalities of countywide provisions regarding land use, development or redevelopment of land, and voluntary annexation. This new section provides legislative findings as follows:

- Municipalities are the units of local self-government closest to the people they serve and thereby are best situated to determine the unique needs of their communities;
- Municipalities provide their residents a true voice as to the character and values of their local communities;

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[10] ss. 171.0413-171.043, F.S.
[11] s. 171.031(11), F.S.
[12] s. 171.031(12), F.S.
[13] See *1000 Friends of Fla., Inc. v. Florida Dep't of Community Affairs*, 824 So. 2d 989 (Fla. 4th DCA 2002).
[14] s. 171.044(4), F.S.
[15] s. 171.044(4), F.S.

- There have been increasing and numerous preemptions of municipal democratic powers by other forms of local government;
- Municipalities must retain the authority to perform the functions that are of most immediate concern to their citizens.

Existing Charter Counties: An existing charter county *charter provision* governing the use, development, or redevelopment of land, or providing an exclusive method of annexation will not be applicable in or to a municipality within the county unless:

(1) the city commission approves its application within the city, or
(2) the voters of the city approve its application within the city.

An existing charter county *ordinance, land development regulation, or county wide special act* governing the use, development, or redevelopment of land, or providing an exclusive method of annexation will not be applicable in or to a municipality within the county unless:

(1) the city commission approves its application within the city, or
(2) the voters of the city approve its application within the city, and
(3) the voters of the county approve the provision.

Future Charter Counties: In charter counties in which the charter is adopted by the voters after the effective date of the bill, every countywide charter provision, ordinance, land development regulation, or county wide special act governing the use, development, or redevelopment of land, or providing an exclusive method of annexation will not apply in or to a city within the county unless:

(1) the city commission approves its application within the city, or
(2) the voters of the city approve its application within the city, and
(3) the voters of the county approve the provision.

Existing Non-Charter Counties: In non-charter counties, every ordinance, land development regulation, or county wide special act governing the use, development, or redevelopment of land does not apply in or to a city within the county unless:

(1) the city commission approves its application within the city, or
(2) the voters of the city approve its application within the city, and
(3) the voters of the county approve the provision.

Specifically, the new section provides that, notwithstanding ch. 163, F.S., ch. 125, F.S., and s. 171.044(4), F.S.:

- Any existing or future charter county charter provision, ordinance, land development regulation, or countywide special act that governs the use, development, or redevelopment of land is not effective within and does not apply to any municipality in the county;
- A charter county charter provision, ordinance, land development regulation, or countywide special act may not provide an exclusive method of municipal annexation unless the provision, ordinance, regulation, or special act is approved by a majority vote of the electors within the county and a majority vote of the electors within the municipality at a duly held municipal election or is approved by a majority vote of the municipality's governing board; and
- Existing charter county charter provisions and countywide special acts that have been approved by referendum prior to the effective date of the bill must be readopted in accordance with this section.

By "notwithstanding" chs. 163 and 125, and s. 171.044(4), F.S., the bill is, in effect, a "preemption" of those general laws previously enacted by the Legislature. Therefore, any provision in those statutes that authorize or provide for countywide application of county ordinances or regulations governing the

use, development, or redevelopment of land are no longer applicable. The full impact of "notwithstanding" these general laws is unknown due to the broad range of subjects potentially covered by these provisions. For example, ch. 163, F.S., broadly governs intergovernmental programs, including:

- Miscellaneous Programs, such as the Florida Interlocal Cooperation Act of 1969;
- Growth Policy and County and Municipal Planning;
- Land Development Regulation;
- Community Redevelopment;
- Neighborhood Improvement Districts; and
- Regional Transportation Authorities.

Chapter 125, F.S., sets forth the broad Legislative grant of home rule powers to charter and non-charter counties and generally relates to county governance, including provisions regarding:

- Powers and Duties of County Commissioners;
- Self-Government of Counties, which grants general and specific powers to non-charter and charter counties;
- County Administration; and
- Optional County Charters.

Chapter 171, F.S., is known as the "Municipal Annexation or Contraction Act." The purposes of the act are to provide procedures for adjusting the boundaries of municipalities through annexations or contractions of corporate limits and to set forth criteria for determining when annexations or contractions may take place. Section 171.044, F.S., establishes a method of "voluntary annexation" whereby "[t]he owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality." Section 171.044(4), F.S., provides that "[t]he method of annexation provided by this section shall be supplemental to any other procedure provided by general or special law, except that this section shall not apply to municipalities in counties *with charters which provide for an exclusive method of municipal annexation*." This bill essentially preempts subsection (4) so that any existing or future county charter provision that provides an exclusive method of voluntary annexation must be approved by the city commission or the qualified electors of a city prior to application of the provision to the city.

The bill explicitly exempts from its provisions any county as defined in s. 125.011, F.S., which only includes Miami-Dade County.[16]

C. SECTION DIRECTORY:

Section 1. Creates s. 163.3172, F.S., limiting application of countywide provisions governing land use, development and redevelopment of land, and voluntary annexation to cities with counties.

Section 2. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

[16] The term "county" is defined in s. 125.011, F.S., as "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county."

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: This bill does not have a direct impact on local government revenues.

2. Expenditures: Please see Mandates Analysis below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: All countywide provisions governing land use, redevelopment and development of land, are no longer applicable within boundaries of a municipality unless the city commission or the voters of the city approve. Cities may enact ordinances governing land use, regardless of a countywide ordinance, as long as the city complies with state land use requirements. This may result in less stringent permitting and land use regulations within some cities, benefiting private entities wishing to development land in these areas. On the other hand, cities would be authorized to enact more stringent ordinances than those that currently apply on a countywide basis.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: This bill would require a county to amend or repeal a charter, ordinance, or land development regulation that preempts municipalities within the county with regard to land use, development, or redevelopment, or that provides an exclusive method for annexation unless the preemption is approved by the municipality. This may be a Type A mandate because the provision requires counties to expend funds and is subject to analysis under Article VII, Section 18 of the Florida Constitution. There are several exemptions and exceptions in Article VII, Section 18.

One of the exemptions under Article VII, Section 18 covers a bill that has an insignificant fiscal impact. Although the fiscal impact has not been determined, this bill may require an expenditure of funds that exceeds $1.9 million. This bill does not appear to meet any other exemption or one of the exceptions. Therefore, the Legislature must find an important state interest and the bill must pass by a two-thirds vote of each house to effectively bind the counties.

2. Other: Article VIII, s. 1(g) of the State Constitution grants charter counties the power to determine, in the county charter, which ordinances prevail in the event of conflict between county and municipal ordinances.[17] This constitutional provision permits regulatory preemption by counties of municipal regulatory power if countywide uniformity will best further the ends of government.[18] However, in addition to granting charter counties the express power to provide, by charter, that county ordinances prevail in the event of a conflict with municipal ordinances, the constitution also provides that charter counties have all powers of self-government "not inconsistent with general law".[19] The question is this: Is the Legislature authorized to establish a process by general law to determine which ordinances prevail in the event of a conflict between charter county and municipal ordinances, or does the constitution grant that power exclusively to charter counties?

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[17] "The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances." Art. VIII, s. 1(g), Fla. Const.

[18] *Broward County v. City of Fort Lauderdale*, 480 So.2d 631 (Fla. 1985).

[19] "Counties operating under county charters shall have all powers of local self-government not inconsistent with general law...." Art. VIII, s. 1(g), Fla. Const.

The interrelationship between the express constitutional grant of power to charter counties to determine which ordinances prevail, and the Legislature's authority to limit the powers of charter counties by general law has not been directly addressed by the Florida courts. The fact that the Legislature is authorized to limit municipal and charter county home rule authority by general law is undisputed and well-settled in case law; however, the Florida courts have not addressed the question of whether the Legislature may limit a charter county's direct grant of constitutional authority to determine whether county ordinances prevail over municipal ordinances. Therefore, the constitutionality of a general law preemption of charter county authority to determine whether county ordinances prevail over municipal ordinances is uncertain until directly addressed by the courts.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: The provisions of this bill are retroactive. A county that has a charter, ordinance, or land development regulation that currently preempts municipalities within the county with regard to land use, development or redevelopment of land, or that provides an exclusive method for annexation, must be repealed or amended unless it is approved by a municipality as provided for in this bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

1 A bill to be entitled
2 An act relating to municipalities; creating s. 163.3172,
3 F.S.; providing legislative findings; prohibiting effect
4 or application of certain county provisions within
5 municipalities unless approved by county and municipal
6 electors or the municipal governing board; providing for
7 readoption of certain county provisions under certain
8 circumstances; providing for nonapplication to certain
9 counties; providing an effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. Section 163.3172, Florida Statutes, is created
14 to read:
15 163.3172 Municipalities; county authority limitations.--
16 (1) The Legislature finds that municipalities are the
17 units of local self-government closest to the people they serve
18 and thereby are best situated to determine the unique needs of
19 their communities. Municipalities provide their residents a true
20 voice as to the character and values of their local communities.
21 The Legislature recognizes there have been increasing and
22 numerous preemptions of municipal democratic powers by other
23 forms of local government and concludes that municipalities must
24 retain the authority to perform the functions that are of most
25 immediate concern to their citizens.
26 (2) Notwithstanding this chapter, chapter 125, and s.
27 171.044(4), any existing or future charter county charter
28 provision, ordinance, land development regulation, or countywide

29 special act that governs the use, development, or redevelopment
30 of land is not effective within and does not apply to any
31 municipality in the county and a charter county charter
32 provision, ordinance, land development regulation, or countywide
33 special act may not provide an exclusive method of municipal
34 annexation unless the provision, ordinance, regulation, or
35 special act is approved by a majority vote of the electors
36 within the county and a majority vote of the electors within the
37 municipality at a duly held municipal election or is approved by
38 a majority vote of the municipality's governing board. Existing
39 charter county charter provisions and countywide special acts
40 that have been approved by referendum prior to the effective
41 date of this act must be readopted in accordance with this
42 section. This section shall not apply to any county as defined
43 in s. 125.011.
44 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 993 City of Southport, Bay County
SPONSOR(S): Coley
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 993 creates a charter for the City of Southport in Bay County. The bill provides for:

- establishing the City of Southport;
- a commission-manager form of government, municipal powers and boundaries;
- a city commission and its composition and qualifications; terms of office; powers and duties; and compensation and expenses;
- a mayor and vice mayor; and their powers and duties;
- vacancies; forfeiture of office; and filling of vacancies;
- commission meetings;
- a city manager and city attorney; and their qualifications, powers and duties;
- elections;
- municipal services;
- charter amendment and review;
- standards of conduct;
- a transition schedule;
- state shared and gas tax revenues;
- a referendum; and
- an effective date.

According to the Economic Impact Statement, the estimated cost of administration, implementation and enforcement for this bill is $1,777,169 in FY 06-07, and $1,830,484 in FY 07-09.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

If incorporation of the proposed municipality is approved, it will create an additional local government entity.

B. EFFECT OF PROPOSED CHANGES:

Background/Municipal Incorporation

Constitutional Provisions

Section 2, Art. VII of the State Constitution provides that municipalities[1] may be established or abolished and their charters amended pursuant to general or special law. Municipalities are constitutionally granted all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The only specific constitutional requirement concerning municipal government is that its legislative body be elected.

Statutory Provisions

Florida law governing the formation and dissolution of municipal governments is found in ch. 165, F.S., the "Formation of Municipalities Act." The stated purpose of the Act is to provide standards, direction and procedures for the incorporation, merger and dissolution of municipalities so as to:

- allow orderly patterns of urban growth and land use;
- assure adequate quality and quantity of local public services;
- ensure financial integrity of municipalities;
- eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions; and
- promote equity in the financing of municipal services.

Under ch.165, F.S., there is only one way to establish a city government where no such government exists: the Legislature must pass a special act creating the city's charter, upon determination that the standards provided in that chapter have been met. [2]

Requirements and Standards for Municipal Incorporation

Submittal of a feasibility study and a local bill that proposes the local government charter is required for consideration of incorporation. In addition, the new municipality must meet the following conditions in the area proposed for incorporation pursuant to s. 165.061(1), F.S.:

1. It must be compact, contiguous and amenable to separate municipal government.

[1] A municipality is a local government entity, located within a county that is created to perform additional functions and provide additional services for the particular benefit of the population within the municipality. The term "municipality" can be used interchangeably with the terms "city," "town" and "village."

[2] An exception to this rule exists in Miami-Dade County where the county has been granted the exclusive power to create cities through the State Constitution and its home rule powers. See, s. 165.022, F.S., and s. 6(e), Art. VIII of the State Constitution. Adopted in 1957, the Miami-Dade Home Rule Charter provides for the creation of new municipalities at section 5.05.

2. It must have a total population, as determined in the latest official state census, special census or estimate of population, of at least 1,500 persons in counties with a population of less than 75,000, and of at least 5,000 persons in counties with a population of more than 75,000.
3. It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
4. It must be a minimum distance of at least two miles from the boundaries of an existing municipality within the county or have an extraordinary natural boundary that requires separate municipal government.
5. It must have a proposed municipal charter that clearly prescribes and defines the form of government and its functions and does not prohibit or restrict the levy of authorized tax.
6. In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation.

Feasibility Study

The feasibility study is a survey of the proposed area to be incorporated. The purpose of the study is to enable the Legislature to determine whether or not the area: 1) meets the statutory requirements for incorporation, and 2) is financially feasible. The feasibility study must be completed and submitted to the Legislature at least 90[3] days prior to the first day of the regular legislative session during which the municipal charter would be enacted.

In 1999, the Legislature revised s.165.041, F.S., by adding new, detailed requirements for the preparation of the required feasibility study for any area requesting incorporation. Specifically, the study must include:

1. The general location of territory subject to a boundary change and a map of the area that identifies the proposed change.
2. The major reasons for proposing the boundary change.
3. The following characteristics of the area:
   - a list of the current land use designations applied to the subject area in the county comprehensive plan;
   - a list of the current county zoning designations applied to the subject area;
   - a general statement of present land use characteristics of the area;
   - a description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
4. A list of all public agencies, such as local governments, school districts and special districts, whose current boundaries fall within the boundary of the territory proposed for the change or reorganization.
5. A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each service.
6. A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such services.
7. The names and addresses of three officers or persons submitting the proposal.
8. Evidence of fiscal capacity and an organizational plan that, at a minimum, includes:
   - existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate; and

[3] Section 165.041(1)(b), F.S.

- a five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance and budgets.

9. Data and analysis to support the conclusion that incorporation is necessary and financially feasible, including population projections and population density calculations and an explanation concerning methodologies used for such analysis.
10. Evaluation of the alternatives available to the area to address its policy concerns.
11. Evidence that the proposed municipality meets the standards for incorporation of s.165.061, F.S.

Section 165,081, F.S., provides that any special law enacted pursuant to ch. 165, F.S., is reviewable by certiori if the appeal is brought before the effective date of the incorporation.

Formation Activity In Florida

Municipal Incorporations and Mergers

From 1972 to the present, 25 municipalities have been incorporated, with 17 municipalities created by special act (Bonita Springs, DeBary, Deltona, Destin, Ft. Myers Beach, Islamorada, Jacob City, Lake Mary, Marathon, Marco Island, Midway, Palm Coast, Sanibel, Southwest Ranches, Wellington, West Park and Weston). During this time, one municipality was recreated by special act after previous incorporation under authority of general law in effect prior to 1974 (Seminole). The cities of Key Biscayne, Pinecrest, Aventura, Sunny Isles Beach, Miami Lakes, Palmetto Bay, Doral and Cutler Bay were created under the charter provisions of Miami-Dade County's Charter. The following table indicates recent municipal incorporations by year, county and enabling law.

YEAR	MUNICIPALITY	COUNTY	ENABLING LAW
1973	LAKE MARY	Seminole County	ch. 73-522, L.0.F.
1974	SANIBEL	Lee County	ch. 74-606, L.O.F.
1983	JACOB CITY	Jackson County	ch. 83-434, L.O.F. ch. 84-456, L.O.F.
1984	DESTIN	Okaloosa County	ch. 84-422, L.O.F. ch. 85-471, L.O.F.
1986	MIDWAY	Gadsden County	ch. 86-471, L.O.F.
1991	KEY BISCAYNE	Miami-Dade County	by authority of the Miami-Dade County Charter
1993	DEBARY	Volusia County	ch. 93-351, L.O.F. ch. 93-363, L.O.F.
1995	AVENTURA	Miami-Dade County	by authority of the Miami-Dade County Charter
1995	PINECREST	Miami-Dade County	by authority of the Miami-Dade County Charter
1995	FT. MYERS BEACH	Lee County	ch. 95-494, L.O.F.
1995	DELTONA	Volusia County	ch. 95-498, L.O.F.

1995	WELLINGTON	Palm Beach County	ch. 95-496, L.O.F.
1996	WESTON	Broward County	ch. 96-472, L.O.F.
1997	ISLAMORADA	Monroe County	ch. 97-348, L.O.F.
1997	MARCO ISLAND	Collier County	ch. 97-367, L.O.F.
1997	SUNNY ISLES BEACH	Miami-Dade County	by authority of the Miami-Dade County Charter
1999	BONITA SPRINGS	Lee County	ch. 99-428, L.O.F.
1999	MARATHON	Monroe County	ch. 99-427, L.O.F.
1999	PALM COAST	Flagler County	ch. 99-448, L.O.F.
2000	SOUTHWEST RANCHES	Broward County	ch. 2000-475, L.O.F.
2000	MIAMI LAKES	Miami-Dade County	by authority of the Miami-Dade County Charter
2002	PALMETTO BAY	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	DORAL	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	MIAMI GARDENS	Miami-Dade County	by authority of the Miami-Dade County Charter
2004	WEST PARK	Broward	ch. 2004-454, L.O.F.
2005	CUTLER BAY	Miami-Dade County	by authority of the Miami-Dade County Charter

Failed Attempts at Municipal Incorporation

Over the years, a number of incorporation attempts have failed. Since 1980, Floridians have rejected the formation of municipal governments by voting down the incorporation efforts of:

- A city in the Halifax area of Volusia County (1985)
  (ch. 85-504, L.O.F.)
- The City of Fort Myers Beach (1982/1986)
  (chs. 82-295 and 86-413, L.O.F.)
- The City of Spring Hill (1986)
  (ch. 86-463, L.O.F.)
- The City of Deltona Lakes (1987)
  (ch. 87-449, L.O.F.)
- The City of Deltona (1990)

(ch. 90-410, L.O.F.)

- The City of Marco Island (1980/1982/1986/1990/1993)
  (chs. 80-541, 82-330, 86-434, 90-457 and 93-384, L.0.F.)

- The City of Port LaBelle (1994)
  (ch. 94-480, L.O.F.)

- The City of Destin (1995)
  (by authority of the Miami-Dade County Charter)

- The City of Ponte Vedra (1998)
  (ch. 98-534, L.O.F.)

- The Village of Key Largo (1999)
  (ch. 99-430, L.O.F.)

- The City of Southport (1999)
  (ch. 99-444, L.O.F.)

- The Village of the Lower Keys (2000)
  (ch. 2000-383, L.O.F.)

- The Village of Paradise Islands (2000)
  (ch. 2000-382, L.O.F.)

Municipal Mergers

A few previously existing cities have been incorporated through mergers with other cities. Examples include:

- In Brevard County, the merger of Eau Gallie with Melbourne (chs. 67-1156, 69-879 and 70-807, L.O.F.) and the merger of the Town of Whispering Hills Golf Estates with the City of Titusville (chs. 59-1991 and 63-2001, L.O.F.).
- In Pinellas County, the merger of Pass-A-Grille Beach with the City of St. Petersburg Beach (ch. 57-1814, L.O.F.).
- In Bay County, the merger of Longbeach Resort and Edgewater Gulf Beach with the City of Panama City Beach (chs.67-2174 and 70-874, L.O.F.).

Municipal Dissolutions

During the last several decades, numerous cities have been dissolved:

- Bithlo in Orange County by authority of the Secretary of State in January 1977;
- Bayview in Bay County by ch. 77-501, L.O.F.;
- Munson Island in Monroe County by ch. 81-438, L.O.F.;
- Painters Hill in Flagler County by ch. 81-453, L.O.F.;
- Hacienda Village in Broward County by ch. 84-420, L.O.F.;
- Pennsuco in Miami-Dade County under authority of the Miami-Dade County Charter;
- Golfview in Palm Beach County by ch. 97-329, L.O.F.; and
- North Key Largo by ch. 2003-318, L.O.F.

<u>The City of Southport</u>

The unincorporated area known as Southport is located in the mid-section of Bay County in the Florida Panhandle. The latest official population estimate for Bay County placed its population at 161,721.[4] Southport is estimated to have a current population of approximately 6,500 persons.[5] The community is bordered to the north by unincorporated Bay County, to the east by Deer Point Lake, to the south by North Bay and the City of Lynn Haven, and to the west by a wildlife management area.

In June 1988, the City of Lynn Haven purchased a 640 acre parcel north of Southport in an effort to comply with state and federal requirements to remove effluent disposal from the newly classified Class II water of North Bay. The city was prohibited from utilizing the parcel for this purpose as a result of an administrative hearing and subsequent ruling. The complaint was brought by citizens concerned with a raw sewage line crossing the bay.

The land laid idle for six years, until 1994, when the City of Lynn Haven began to utilize part of the property as a borrow pit, as a construction-and-debris landfill, and for managed timber growth. Additionally, the city established a full service commerce park, which allowed light industrial, manufacturing, technology and research uses to operate on the parcel. The city wanted to annex this property, but the action would not comply with its comprehensive plan unless the unincorporated area known as Southport also was annexed. During the 1998 Legislative Session, the City of Lynn Haven proposed to annex, by special act, all of this property.

Residents within the community of Southport resisted the annexation efforts by the City of Lynn Haven, and worked with their legislative delegation to ensure that a straw ballot would be held during the 1998 general election. This straw ballot asked the voters in the area identified as Southport if they supported the incorporation of the City of Southport, in an effort to avoid annexation. The support for the incorporation of the City of Southport was overwhelming with nearly 79 percent voting in its favor. The 1999 Florida Legislature passed a bill creating the City of Southport, contingent upon a referendum.[6] This referendum failed.

The current effort to incorporate is spearheaded by the "Southport Incorporation Committee."

Effect of Proposed Changes

HB 993 provides a proposed charter for the City of Southport. A feasibility study on the creation of the city, as required by ch. 165, F.S., was submitted to the Florida House of Representatives on November 30, 2005. This study and the charter were reviewed by the: Legislative Committee on Intergovernmental Relations; Office of Economic & Demographic Research; Department of Revenue; and Department of Community Affairs. Selected and edited responses of these reviewers are noted in "Comments" in Section III C. of this analysis. In summary, the reviewers noted that the proposed incorporation effort could encounter certain challenges in that:

- the charter does not clearly define the responsibilities for legislative and executive functions in the city;
- the plan does not address the issue of existing solid-waste contracts;
- the feasibility study does not meet numerous statutory requirements;
- there appears to be no official understanding as to who will provide certain essential services within the incorporated area, and at what price;
- certain revenue sources may be overstated or need clarification in the study; and
- the estimated expenditures projected for Southport are approximately one-sixth of the "average" reported expenditures for 10 comparison municipalities.

Proposed Charter

The proposed charter for the City of Southport provides as follows:

Section 1: Charter; creation. Provides that the act will be known as the "City of Southport Charter," and creates the City of Southport.

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[4] Official 4/1/2005 estimate from the Bureau of Economic and Business Research, University of Florida).
[5] Office of Economic and Demographic Research, January 23, 2006.
[6] See, HB 1017 (ch. 99-444,L.O.F.), and Committee on Community Affairs' staff analysis.

Section 2: Legislative intent. Provides a finding that the Southport area of Bay County includes a compact and contiguous urban community amenable to separate municipal government, and that it is in the best interests of the public health, safety and welfare of the citizens of the community to form a separate municipality.

Section 3: Powers. Provides that the city shall have a commission-manager form of government; provides that the city shall be a body corporate and politic and have all the powers of a municipality under the State Constitution and laws, unless otherwise prohibited; provides that the city shall have all governmental, corporate and proprietary powers necessary to enable it to conduct municipal government, perform municipal functions, and render municipal services; provides that the powers of the city be liberally construed in its favor.

Section 4: Corporate limits. Provides a legal description of the city's boundaries.

Section 5: City commission.
(1) COMPOSITION; QUALIFICATIONS FOR OFFICE: Provides for a five-member city commission, consisting of a mayor and four commissioners, all elected at large; provides that each candidate for the office of city commissioner be a qualified elector of the city; provides that at the time of qualification, each candidate for a seat on the commission reside within the boundaries of the city and remain a resident for the length of his or her term; requires that candidates submit a petition or pay the qualifying fee required by the Florida Elections Code.
(2) TERMS OF OFFICE: Provides for four-year, staggered terms for commissioners.
(3) POWERS AND DUTIES OF COMMISSION: Provides that the legislative and police powers of the city shall be vested in the commission, except as otherwise provided by law.
(4) MAYOR: Provides for a mayor to be elected at large who has the same legislative powers and duties as the other commissioners, except as provided in the charter; provides that the mayor shall preside at the meetings of the commission, be recognized as the head of city government for ceremonial matters, and sign ordinances, contracts, deeds, bonds, and other instruments and documents; provides that the mayor shall have no administrative duties other than those necessary to accomplish these actions, or other actions as may be authorized by the city commission.
(5) VICE MAYOR: Provides for a vice mayor to be elected annually by the commission; provides that he or she shall serve as acting mayor during the absence of the mayor; provides for the election of an acting mayor in the absence of the mayor and vice mayor.
(6) COMPENSATION AND EXPENSES: Provides that the mayor and commissioners will serve without compensation for their first three months in office; provides that the commission may determine an annual salary for commissioners or the mayor, but that no ordinance increasing such salaries will become effective until the date of commencement of the terms of the commissioners elected at the next regular election; provides that the commission may provide for reimbursement of actual expenses incurred by members while performing their official duties.
(7) VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES: Provides when a vacancy in the office of a commissioner occurs; provides circumstances under which a commissioner shall forfeit his or her office; provides that if a vacancy occurs in the office of mayor, the vice mayor shall serve in that position until a new mayor is elected; provides for temporary filling of seats; provides for filling of seats bases on the remainder of unexpired terms; provides for the filling of extraordinary vacancies.

Section 6: City commission meetings. Provides that the commission meet regularly at least once a month in public meetings; provides that a majority of the commission shall constitute a quorum; provides that all actions of the city commission be by ordinance, resolution or motion; provides for special meetings and their notice.

Section 7: Designated charter officers.
(1) DESIGNATED CHARTER OFFICERS: Provides that the initial designated charter officer shall be the city manager; provides for appointment of other charter officers by majority vote of the commission; provides that charter officers serve at the pleasure of the commission, and may be removed from office by a majority vote; provides that the compensation of the charter officers be fixed by the city

commission; provides that the city commission shall begin the process to fill a vacancy in a charter office within 90 days after the vacancy occurs; provides for the appointment of an acting charter officer; provides that no charter officer may be a candidate for any elected office while holding his or her charter office position.
(2) CITY MANAGER: Provides that the city manager is the chief administrative officer of the city and serves at the direction and discretion of the city commission; provides for his or her qualifications; provides for his or her powers and duties.
(3) CITY ATTORNEY: Provides that the commission members may contract with a city attorney; provides that the city attorney or his or her designee be a member in good standing of the Florida Bar; provides for the duties of the city attorney.

Section 8: Elections.
(1) ELECTORS: Provides that any person who is a resident of the city, who has qualified as an elector of the state, and who registers in the manner prescribed by law, shall be an elector of the city.
(2) NONPARTISAN ELECTIONS: Provides that all elections for the office of mayor or other city commissioners be conducted on a nonpartisan basis.
(3) QUALIFICATIONS: Provides that candidates for the office of city commission member or mayor shall qualify for office by filing a written notice of candidacy.
(4) PROCEDURE FOR REGULAR ELECTIONS AND RUNOFF ELECTIONS: Provides for the regular election of city commission members and mayor and for runoff elections; provides for qualifying for office; provides for the Bay County Commission to appoint a canvassing board; provides that after the initial election, the city commissioners shall decide how results are certified by ordinance; provides that in the event of a tie vote for any seat, the names of the candidates who tied shall be placed in a box and one name shall be drawn by a member of the canvassing board.
(5) INDUCTION INTO OFFICE: Provides that those elected shall be inducted into office at a meeting held at the regular meeting place of the commission no more than 30 days after the final election requirements are determined to be in compliance; provides that initial elections will be held after the referendum for incorporation.
(6) RECALL OF CITY COMMISSIONERS: Provides that any member of the city commission may be removed from office by the electors of the city following the procedures of recall established in general law.
(7) DISTRICT BOUNDARIES: Provides that elections shall be held at large until such time as the commissioners pass an ordinance providing for voting districts; provides that in the event that the commissioners pass an ordinance providing for voting districts, such districts shall come up for review every five years, unless an earlier review is determined necessary.

Section 9: Southport area municipal services. Provides that after the first general election, the commissioners may authorize the city manager to enter into contracts for municipal services on behalf of the City of Southport; provides that before a city manager is hired, the mayor is authorized to enter into contracts for services on behalf of the city.

Section 10: General provisions.
(1) CHARTER AMENDMENT: Provides that the charter may be amended in accordance with the provisions of the ch. 166, F.S., or as may otherwise be provided by general law; provides that the form, content, and certification of any petition to amend the charter be established by ordinance.
(2) CHARTER REVIEW: Provides that the standards for charter review be established by ordinance.
(3) INITIATIVE AND REFERENDUM: Provides that at least 25 percent of the qualified electorate of the city shall have the power to petition to propose an ordinance or to require reconsideration of an adopted ordinance.
(4) STANDARDS OF CONDUCT: Provides that all elected officials and employees of the city be subject to the standards of conduct for public officials and employees set by general law; provides for establishment of a supplemental code of ethics by ordinance.

Section 11: Severability. Provides for severability of invalid provisions of the act.

Section 12: Transition schedule.

(1) REFERENDUM: Provides that the referendum election called for by the act be held no later than 90 days from the date of legislative approval of the act, unless a different municipal election date is established; provides that the issue of whether to incorporate the City of Southport be placed on the ballot; provides for an affirmative vote by a majority of electors voting in the referendum to incorporate and establish the City of Southport, and for the provisions of the charter to take effect.
(2) CREATION AND ESTABLISHMENT OF CITY: Provides that for the purpose of compliance with general law, relating to assessment and collection of ad valorem taxes, the City of Southport is created and established effective the date the charter becomes law.
(3) INITIAL ELECTION OF COMMISSIONERS; DATES, QUALIFYING PERIOD, CERTIFICATION OF ELECTION RESULTS; INDUCTION INTO OFFICE: Provides that, following the adoption of the charter, the county commission call a special election for the mayor and other four city commissioners to be held no more than 90 days after an affirmative vote to incorporate; provides that any necessary runoff election be held as soon as possible but no sooner than14 days and no more than 60 days after the special election; provides that after the initial election, the city commissioners shall decide how results are certified by ordinance.
(4) INDUCTION INTO OFFICE: Provides that those candidates who are elected be inducted into office at the initial city commission meeting, which shall be held no more than 30 days after the final election requirements are determined to be in compliance at the Southport Community Center, located at 7334 Franklin Street, Southport, Florida.
(5) TRANSITION SERVICES AND COMPENSATION: Provides that it is intended that Bay County provide and be compensated for the provision of services for the City of Southport as budgeted for in the fiscal year 2006-2007 Bay County Budget as far as the revenue will provide; requires that the level of services to be provided be consistent with the level upon which the fiscal year 2006-2007 expense budget was predicted and in accordance with adopted revenue; provides that it is the responsibility of the city to adopt appropriate ordinances, resolutions or agreements as required to ensure the continued collection of budgeted revenues with which to fund services beginning January 1, 2007; provides that any revenues adopted or received by the City of Southport upon which delivery of services was not predicted within the county's fiscal year 2006-2007 adopted budget shall accrue to the City of Southport; provides that services that the county shall provide under the terms of "this agreement" include all services provided to the Southport municipal district as adopted by the Bay County Commission prior to the City of Southport becoming operational.
(6) FIRST-YEAR EXPENSES: Provides that the commission has the power to borrow money necessary for the operation of city government until a budget is adopted and revenues are raised.
(7) TRANSITIONAL ORDINANCES AND RESOLUTIONS: Provides for the city commission to adopt ordinances and resolutions required to effect the transition; provides that ordinances adopted within 60 days after the first commission meeting shall be passed as emergency ordinances; provides that these transitional ordinances shall be effective for no longer than 90 days after adoption and thereafter may be readopted, renewed or otherwise continued only in the manner normally prescribed for ordinances.
(8) TRANSITIONAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATION: Provides that until the city adopts a comprehensive plan, the applicable provisions of the Comprehensive Plan of Bay County will remain in effect as the city's transitional comprehensive plan; provides that all planning functions, duties and authority will thereafter be vested in the City Commission of Southport, which shall be deemed the local planning agency until the commission establishes a separate local planning agency; provides that all powers and duties of the Bay County Planning and Land Development Regulations Commission, any boards of adjustment and appeals created pursuant to statutory trade codes, and the Bay County Commission, as set forth in traditional zoning and land use regulations, shall be vested in the City Commission of Southport until it delegates all or a portion hereof to another entity; provides that subsequent to the commencement of the city's corporate existence, no amendment of the city's land development regulations enacted by the county commission will be deemed as an amendment of the city's transitional comprehensive plan or land development regulations or shall otherwise take effect within the city's corporate limits unless approved by the city commission.
(9) STATE-SHARED REVENUES; CITY PARTICIPATION IN STATE-SHARED REVENUES PROGRAMS: Provides that the City of Southport shall be entitled to participate in the state-shared revenues programs effective immediately on the date of incorporation; provides that the provisions of s. 218.23, F.S., shall be waived for the purpose of eligibility to receive revenue sharing funds from the

date of incorporation through the state fiscal year 2006-2007; provides that initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research or, under certain circumstances, the Bay County Planning Department.
(10) GAS TAX REVENUES: Provides that the City of Southport be entitled to receive a local option gas tax revenue beginning January 1, 2007, notwithstanding s. 336.025, F.S.; provides that the gas tax distribution shall be made in accordance with s. 336.025(4)(b)2., F. S., and in accordance with the county's previous year's lane mile expenditures multiplied by the number of miles of roads within the boundaries of Southport.

Section 13. Provides that the act take effect upon its approval by a majority vote of qualified electors residing within the proposed corporate limits of the City of Southport voting in a referendum election to be called by the Bay County Commission; provides for this section to take effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Provides for charter and creation of City of Southport.

Section 2: Provides for legislative intent.

Section 3: Provides for a commission-manager form of government, and municipal powers.

Section 4: Provides a legal description of the city's boundaries.

Section 5: Provides for a city commission; its composition; member qualifications; terms of office; powers and duties; a mayor and vice mayor; compensation and expenses; vacancies; and forfeiture of office.

Section 6: Provides for city commission meetings.

Section 7: Provides for designated charter officers.

Section 8: Provides for elections.

Section 9: Provides for Southport area municipal services.

Section 10: Provides for charter amendments; charter review initiative; and referendum and standards of conduct.

Section 11: Provides for severability.

Section 12: Provides a transition schedule.

Section 13. Provides for effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? January 5, 2006

WHERE? *The News Herald*, a daily newspaper published in Bay County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [x] No []

IF YES, WHEN? No later than 90 days from the date of legislative approval of this act, unless a different municipal election date is established.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

According to the Economic Impact Statement, the estimated cost of administration, implementation and enforcement for this bill is $1,777,169 in FY 06-07, and $1,830,484 in FY 07-09. The anticipated sources of funding are noted as follows:

	FY 07-08	FY 08-09
State:	$1,005,282	$1,035,441
Local:	$771,886	$795,043

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Exemptions to General Law

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill may create exemptions to the following general laws:

1) Section 165.061(1)(c), F.S., which requires that a proposed municipality have a minimum density of 1.5 persons per acre, or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
2) Section 165.01(1)(d), F.S., which requires that the boundaries of a proposed municipality be a minimum distance of two miles from an existing municipality, or have an extraordinary natural boundary which requires separate municipal government.
3) Section 165.061(1)(e)1., F.S., which required that the proposed charter prescribe the form of government and clearly define the responsibilities for legislative and executive functions.
4) Section 165.061(1)(f), F.S., which requires that the plan for incorporation must honor existing solid-waste contracts in the affected geographic area for five years or the remainder of the contract term, whichever is less.
5) Section 165.041(b)3.a., F.S., which requires that the study include a list of current land use designations applied to the area as currently contained in the county comprehensive plan.
6) Section 165.041(b)3.b., F.S., which requires the study to include a list of current zoning designations.

7) Section 165.041(b)3.c., F.S., which requires that the study include a general statement of present land use characteristics of the area.
8) Section 165.041(b)4., F.S. which requires that the study identify all local public agencies with boundaries lying within the territory proposed for incorporation.
9) Section 165.041(1)(b)5., F.S, which requires that the study identify all current public service providers as identified by that provision, and cost estimates for each of those services.
10) Section165.041(1)(b)7, F.S., which requires the names and addresses of three officers or persons submitting the proposal.
11) Section165.041(1)(b)8., F.S., which requires evidence of fiscal capacity and a five year operational plan.
12) Section165.041(1)(b)9., F.S., which requires data and analysis to support the conclusions that incorporation is necessary and financially feasible.
13) Section165.041(1)(b)10., F.S., which requires evaluation of the alternatives available to the area to address its policy concerns.
14) Section165.041(1)(b)11., F.S., evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S.
15) Section 218.23(1), F.S., which provides eligibility requirements for revenue sharing, that s. 12 (9) of the bill seeks to waive.
16) Section 336.025(4)(b), F.S., which provides that newly incorporated municipalities will not receive fuel tax distributions until the beginning of the first full local fiscal year following incorporation. Section 12(10) of the Charter states that the beginning of distribution of gas tax shall be 1/1/07.

Feasibility Study Reviews

The Legislative Committee on Intergovernmental Relations (LCIR)

The following includes comments from the Legislative Committee on Intergovernmental Relations regarding the proposed incorporation of the City of Southport.

The LCIR indicated that its review determined that the proposed incorporation met state standards for municipal incorporations specified in s. 165.061, F.S., (see, "Requirements and Standards for Municipal Incorporation" on page 2 of this analysis) with the following exceptions:

The *Study* (page 1) reports the number of acres proposed for incorporation at 9,978 acres and the estimated population at 6,943. Based on these data, the density of the area proposed for incorporation is 0.7 persons per acre, less than one-half of the required minimum under s. 165.061(1)(c), F.S., of 1.5 persons per acre.

Alternatively, the statutes provide that the area have extraordinary conditions requiring the establishment of a municipal incorporation with less existing density. The *Study* (pages 1 and 2) suggests that the historical character of Southport and its standing as a readily identified community meet this statutory condition. However, it offers no additional information or materials to substantiate this claim. In addition, the *Study* notes that the resident population will soon increase as a result of numerous large developments proposed within Southport's boundaries. As such, it cannot be ascertained whether the unique characteristics of Southport serve as extraordinary conditions as required by law.

Information in the *Study* acknowledges that the area to be incorporated does not maintain a distance of at least two miles from a boundary of recently annexed property by the City of Lynn Haven. It notes, however, that Deer Point Lake and North Bay might serve as natural boundaries on two sides of Southport. Based on the information in the *Study*, it cannot be ascertained whether they constitute an extraordinary natural boundary that requires separate municipal government as required by s. 165.061(1)(d), F.S. In addition, the *Study* suggests that the aggressive annexation policies of Lynn Haven brought it within the two mile limit of Southport, and have contributed to its wish to incorporate as a means to protect the community from further expansion by this municipality.

Under s. 165.061(1)(e)1., F.S., the proposed charter must prescribe the form of government and clearly define the responsibilities for legislative and executive functions. The *Charter* prescribes the commission-manager form of government. Powers and duties of the mayor and city manager overlap, are vague, and require clarification. In addition, there is no provision prohibiting the commission from involvement in the administration functions. As such, it cannot be ascertained whether the *Charter* meets this criterion.

Under s. 165.061(1)(e)2., F.S., the proposed charter must not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Florida Constitution or general law. The *Charter* is mute on this issue. As noted in the below review of the *Charter*, provisions need to be included that ensure the legislative body of the municipality is not prohibited from exercising this power. As such, it cannot be ascertained whether the Charter meets this criterion.

Pursuant to s. 165.061(1)(f), F.S., the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation for five years or the remainder of the contract term, whichever is less. Neither the *Study* nor the *Charter* addresses this issue. Thus, the *Study* does not meet this criterion.

The LCIR additionally indicated that its review determined that the proposed incorporation met state standards for a municipal incorporation feasibility study pursuant to s. 165.041(1)(b), F.S., (see, "Feasibility Study" on pages 3 and 4 of this analysis) with the following exceptions:

- The *Study* does not meet the requirement that the study include a list of current land use designations applied to the area as currently contained in the county comprehensive plan. (s. 165.041(b)3.a., F.S.)

- The *Study* does not meet the requirement that it include a list of current zoning designations. (s. 165.041(b)3.b., F.S.)

- The *Study* does not meet the requirement that it include a general statement of present land use characteristics of the area. (s. 165.041(b)3.c., F.S.)

- The *Study* does not appear to identify all local public agencies with boundaries lying within the territory proposed for incorporation. (s. 165.041(b)4., F.S.)

- The *Study* does not appear to identify all current public service providers for the services identified in s. 165.041(1)(b)5., F.S, and cost estimates for each of those services. The *Study* appears to meet the requirement that it identify proposed services (pages 5, A5-A6, and Exhibit F). Based on information contained in the *Study*, we cannot ascertain whether it meets the requirement to identify estimated costs for the proposed services. The *Study* (pages A5-A6, and Exhibit F), notes that it will contract certain basic services including: police protection, fire protection, streets and roads maintenance and repair, stormwater, recreation, planning and zoning to include code enforcement, and certain general administration services from Bay County government. However, there are no memoranda of understanding or letters of agreement that indicate that Bay County government will provide the services identified in the *Study* and for the amount identified in the *Study*.

It should be noted that fire protection is currently funded through a municipal services taxing unit (MSTU) and could do so after incorporation. It also should be noted that the *Study* includes worksheets (Exhibits G-1 and G-2) identifying "costs per deputy" for 2005-06 and subsequent years. However, these worksheets include no endorsement from the Bay County Sheriff's office. In addition, although Bay County government staff assisted in preparing the *Study*, discussion with staff indicated that this assistance should not be interpreted as an endorsement of the proposed budget for Southport.

- The *Study* does not meet the s. 165.041(1)(b)(7), F.S., requirement that it include the name and address of three persons submitting the proposal.

- The *Study* appears to meet some but not all elements of the requirement that it provide evidence of the fiscal capacity for the area proposed for incorporation with the following caveats:

  1. The *Study* addresses the majority of tax bases and revenue sources available to a municipality and provides revenue estimates for them. The amount of revenues that can be generated by certain revenue sources appear overstated. These and other revenue sources included in the *Study* require some clarification.

  2. Southport proposes to levy a "utility tax" of 8.5 percent on the purchase of electricity, water, cable television and telephone. Pursuant to s. 166.231(1), F.S., municipalities are authorized to levy, by ordinance, a public service tax on the purchase of electricity, metered natural gas, liquefied petroleum gas, manufactured gas, and water service. The tax rate cannot exceed 10 percent of payments received by the seller of the taxable item.

     However, Southport cannot levy 8.5 percent on cable television and telephone. Pursuant to s. 202.19(1), F.S., (2005), a county or municipality may, by ordinance, levy a local communications services tax. The definition of communications services encompasses voice, data, audio, video, or any other information or signals, including cable services that are transmitted by any medium. For municipalities that have chosen to levy permit fees, the tax may be levied at a rate up to 4.98 percent; those municipalities without permit fees may levy the tax at a rate up to 5.1 percent. In accordance with s. 202.19(2)(c), F.S., municipalities may levy an additional rate of up to 0.12 percent if they elect not to require and collect permit fees for rightaway for utilities authorized pursuant to s. 337.401, F.S.

     It is unclear whether Southport intends to impose an impact fee to offset costs associated with new infrastructure that will be needed to service proposed new developments. If the tax was levied at its maximum rate, of 5.22 percent, Southport would realize a reduction of approximately $64,500. This shortfall could be addressed if Southport would increase the public service tax on water and electricity to its maximum rate of 10 percent. This would generate an estimated $69,130 in additional revenues.

  3. State shared revenues (SSR) are identified as revenue sources for Southport. In order to be eligible to participate in these programs, a municipality is required to meet certain criteria. These requirements include, among others, certain financial and audit reports and a minimum local taxing effort equal to the amount that would be generated by three mills of ad valorem property taxes. The *Study* presents the 2005 taxable value of property within Southport at $179,949,817. Based on this projected taxable value, the three-mill equivalency for Southport is equal to approximately $539,849. The *Study* requests that its estimated "utility tax" revenues be credited towards its three-mill equivalency requirement. The types of revenues that may be credited towards the three-mil equivalency are noted in s. 218.23(1)(c), F.S. Although utility tax is identified as an eligible revenue source, the term "utility tax" is not defined. As such, it is unclear whether revenues from local communication service taxes may be credited towards the three-mill equivalency requirement.

     Without the communication service tax revenues, estimated revenues generated by the tax on water and electricity purchases ($391,735.47) are insufficient to meet Southport's three-mill equivalency noted above. Crediting contributions for the fire MSTU serving the Southport area ($45,222) is insufficient to meet the three-mill equivalency requirement.

4. The *Study* (pages A2-A3) requests a waiver until FY 2006-07 in order to enact required organization and administrative steps need to participate in state shared revenue programs. The requirements regarding financial and audit reporting requirements have been temporarily waived in the past until such reports are available. However, the Legislature, in most instances, has required that a proposed incorporation show a minimum local taxing effort in order to qualify for SSR programs.

5. State revenue sharing estimates provided in the *Study* (page 7) are inconsistent with those estimates calculated by the Office of Research and Analysis, Florida Department of Revenue. The *Study* estimates Southport's Municipal Revenue Sharing revenues (reported as State Revenue Sharing) at $515,746 and One-Half Cent Sales Tax revenues at $489,536. The Office of Research and Analysis estimated Southport's 2005-06 Municipal Revenue Sharing and One-Half Cent Sales Tax distributions at $248,798 and $567,049, respectively. The Office of Research and Analysis estimated revenue from these two programs is approximately $190,000 less than that proposed in the *Study*.

6. The *Study* calculates estimates for several of its minor revenue sources (Mobile Home Licenses Tax, Alcoholic Beverage License Tax, court fines, and police education) at 80 percent of revenues reported by the City of Springfield, a municipality in Bay County with an estimated 2005 population of 9,039 residents. Using cities of similar size to estimate revenues and expenditures is a common practice. However, using a single city as a "model" to base its revenues may provide a skewed budget profile as a result of some unanticipated factors associated with the comparison city.

7. The *Study* (page 8 and Exhibit F) appears to calculate estimated expenditures for the majority of its basic public services (Fire-Administration, Roads and Streets, Stormwater, Recreation, and Planning and Zoning) based on a proportional share of county budgeted expenditures for these services. The rationale for calculating expenditure estimates in this fashion is unclear.

- The *Study* <u>does not include</u> a five-year operational plan and budget as required by s. 165.041(1)(b)8.b., F.S., although it does provide estimated revenues and expenses for a three-year time period (pages 7 and 8). The revenue totals include funds projected from sources for which the proposed municipality may not be eligible to receive and, as noted above, include provisions for other entities to continue providing services or provide under contract or through interlocal agreement without providing evidence that these entities are willing to provide all such services for the amount identified in the budget. In addition, the three-year estimated revenues and expenses allocate relatively little funding for administrative salaries, operational costs, and planning and zoning.

  Also, although the *Charter* includes numerous provisions for council member elections, referenda, and initiatives, neither the *Charter* nor the three-year budget specify how such elections will be administered or funded. Given this list of concerns, we <u>cannot ascertain</u> whether the requirement for the five-year operational plan and budget is adequately addressed.

- The *Study* appears to address portions of the requirement that it provide data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations. Concerns regarding methodology used in the analysis and estimated revenues and expenditures are addressed in Section 8 above. Given these concerns, we <u>cannot ascertain</u> whether the *Study* data and analysis meet this requirement.

- The *Study* <u>does not meet</u> the requirement for evaluating alternatives available to the area regarding the policy concerns.

- As noted above, the *Study* does not provide evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S. It does acknowledge, however, that certain criteria will need to be waived.

The LCIR additionally evaluated whether the proposed revenues and expenditures contained in the Study are consistent with revenues and expenditures of municipalities of similar size:

The *Study's* proposed budget includes revenue sources that a municipality is eligible to levy or receive. With the exception of state shared revenues (SSR) and other comments referenced above, the potential revenues identified in the *Study* appear consistent with statutory provisions.

The revenue and expenditure estimates for 10 "similarly sized" municipalities in Florida are compared with those for the proposed City of Southport in **Table 1**. Revenues estimates for Southport reflect altered tax rates on cable television and telephone and estimated SSR distributions calculated by the Office of Research and Analysis, Department of Revenue as noted above. Consequentially, Southport total expenditures are greater than total revenues. Differences between expenditures and revenues could be addressed through another tax source available to Southport such as ad valorem taxes.

As presented in **Table 1**, all comparison municipalities reported FY 2002-03 total expenditures greater than those projected for Southport. The estimated expenditures projected for Southport ($1,777,169) is approximately one-sixth of the "average" reported expenditures for the 10 comparison municipalities ($10,809,353).

Table 1

Comparison of Total Revenues and Expenditures for 10 Municipalities with Populations Similar to the Population Estimate for the Proposed Municipality of Southport[7]

Municipality	2003 Pop. Est.[8]	Revenues	Expenditures
Southport	6,943	$1,522,669	$1,777,169
Dade City	6,476	$7,630,247	$7,152,018
Clewiston	6,572	$19,962,974	$20,136,882
Alachua	6,721	$16,349,370	$15,034,201
Fort Myers Beach	6,792	$5,428,123	$5,387,670
Perry	6,824	$8,143,070	$8,456,423
Arcadia	6,860	$8,209,890	$9,012,421
Islamorada	6,970	$14,235,012	$13,693,180
Inverness	7,020	$7,406,563	$9,521,411
Neptune Beach	7,217	$7,663,681	$8,057,037
Brooksville	7,297	$9,713,576	$11,642,289
AVERAGE	**6,875**	**$10,474,251**	**$10,809,353**

[7] FY 2002-2003 reported revenues and expenditures by the 10 comparison municipalities and projected 2006 revenue and expenditure estimate for Southport contained within the Southport Incorporation Feasibility Study. Southport revenue estimates were adjusted in accordance with State Revenue Sharing estimates calculated by the Office of Research and Analysis, Department of Revenue, and communication services tax revenues authorized by law.

[8] 2003 population counts for comparison municipalities reported by the Bureau of Economic and Business Research, University of Florida. Population estimates for Southport for calendar year 2005 contained within the Southport Incorporation Feasibility Study.

Sources: Florida LCIR using fiscal data submitted by municipalities to the Department of Financial Services; Florida Estimates of Population 2003, Bureau of Economic and Business Research, University of Florida, 2004; information contained within the Southport Incorporation Feasibility Study.

Two additional issues should be noted in this comparison. First, the projected expenditures for Southport does not include expenditures associated with costs for services that Bay County may continue to provide to the residents of Southport under the current county tax structure. If included, such costs would increase the proposed expenditures and somewhat reduce the expenditure differential between Southport and the comparison municipalities.

The second issue regarding the proposed expenditures is that the fiscal data for the 10 comparison municipalities reflect total reported revenues and expenditures for FY 2002-03, while the fiscal estimates for Southport are those projected for FY 2006-07. It can be assumed that total expenditures and revenues for these 10 municipalities will have increased during this time period, and as a result, the gap has increased between their "average" reported expenditures and those projected for Southport.[9]

Lastly, the LCIR evaluated the distribution of State Shared Revenues (SSR) and impact the incorporation would have on existing local governments:

While the statutory requirements for a feasibility study do not include identifying fiscal impacts to neighboring units of local government, such information is useful for these local governments as they begin to plan for their next budget cycle. A newly created municipality will impact the amount of funds that existing municipalities receive in the two major SSR programs: Local Government Half-Cent Sales Tax and the Municipal Revenue Sharing (MRS). The county government within which the new municipality is formed will realize fiscal impacts in two SSR programs: Local Government Half-Cent Sales Tax and County Revenue Sharing.

The Office of Research and Analysis, Department of Revenue, prepared SSR estimates for the proposed City of Southport and estimates on the impact from such an incorporation to SSR distribution to other units of local government within Bay County. As noted, if Southport had incorporated in 2005, Bay County government would realize a reduction in 2005-06 SSR distributions totaling an estimated $495,297. The extent to which revenue reductions are offset by reductions in services is not known. Municipalities within the County would realize estimated SSR reductions ranging from a low of $8,413 (Parker) to a high of $64,996 (Panama City).[10]

Office of Economic and Demographic Research

The Office of Economic and Demographic Research reached the same conclusions as the LCIR with regard to its analysis, and so its comments have been omitted.[11]

Department of Revenue

The Department of Revenue provided the following comments:

The actual dates of events related to the incorporation of Southport are not dates certain, but may occur within stated time periods relative to other events that may also occur within stated time periods. This use of relative dates rather than dates certain makes it impossible to determine the date when certain key events will occur. It is recommended that dates certain be specified for the referendum, council elections, incorporation, and first council meeting and that the designated incorporation date be the first day of a month following the first council meeting.

Revenue Sharing

Section 12(9) of the proposed Charter provides that Southport shall be entitled to participate in all state shared revenue programs effective on the date of incorporation. Section 12(2) provides that the City of Southport is created and established effective the date the Charter becomes effective.

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[9] Detailed summaries of the FY 2002-02 revenue and expenditure data for the 10 municipalities are on file with the Local Government Council.
[10] Complete figures are on file with the Local Government Council.
[11] The review of the feasibility study conducted by the Office of Economic and Demographic Research is on file with the Local Government Council.

Section 218.21(3), F.S., requires that in order to be a "municipality" and thus be eligible for revenue sharing, a municipality "must have held an election for its legislative body pursuant to law and established such a legislative body, which meets pursuant to law. In this instance, s. 12(4) of the Charter provides that Southport's initial commission meeting shall be held no more than 30 days after the election of the commission is final. Thus, Southport will not be a municipality until that date uncertain and will not be entitled to revenue sharing until that date.

It is recommended that a date certain for the first council meeting be stated in the Charter and that the initial date for revenue sharing participation be the first day of a month occurring after the first meeting of the council.

Although the Charter does not specify when Southport will be incorporated, s. 12(9) of the Charter does waive s. 218.23, F.S., through the state fiscal year 2006-2007. It is possible that if the referendum is held in the summer of 2006 and the council is elected and takes office soon thereafter, then Southport's waiver could entitle it to revenue sharing beginning in the fall of 2006. However, if the incorporation occurs later and the council takes office after October 1, 2006, then Southport could not complete the full local fiscal year 2006-2007 and would not be entitled to participate in revenue sharing until the beginning of the 2008-2009 state fiscal year without a waiver of s. 218.23, F.S., through the end of state fiscal year 2007-2008.

It is recommended that a date certain for the first council meeting be stated in the Charter and that the initial date for revenue sharing participation be the first day of a month occurring after the first meeting of the council. Additionally, the waiver of s. 218.23, F.S., should be extended through the state fiscal year 2007-2008.

Gas Tax Revenues

Section 12(10) of the Charter states that the beginning of distribution of gas tax shall be 1/1/07, which is not a date allowed by general law. Section 336.025(4)(b), F.S., provides that newly incorporated municipalities will not receive fuel tax distributions until the beginning of the first full local fiscal year following incorporation, which could be as early as 10/1/06 if the referendum is prior to 10/1/06.

Section 336.025(4)(b), F.S., requires that gas tax distributions to newly incorporated municipalities are to be in accord with the default lane-mile formula unless provided otherwise by the local law providing for the incorporation. Section 336.025(3)(a)1, F.S., requires that interlocal agreements regarding local option gas tax distributions must be executed prior to June 1 of a year and s. 336.025(5)(a), F.S., requires that a certified copy of that interlocal agreement must be provided to the Department of Revenue by July 1 of that year, to become effective at the beginning of the next local fiscal year in October 1 of that year. Unless that interlocal agreement is entered into by Bay County and the other municipalities constituting a majority of the municipal population by 6/1/07, the distribution shall be in accordance with the default lane-mile formula specified in s. 336.025(4)(b), F.S. **If the intent is to determine Southport's share of the gas tax revenue in accord with an interlocal agreement rather than according to lane-mile formula, then language should be added to the charter stating that the interlocal shall be entered into prior to 6/1/07.**

Local Communications Services Tax

The draft charter does not specifically address communications services tax. Pursuant to s. 202.21 F.S., local communications services taxes imposed under s. 202.19, F.S., are effective with respect to taxable services dated on or after January 1 of a year. A municipality adopting, changing or repealing this tax must notify the Department of Revenue by September 1, prior to the January 1 effective date. It is unlikely that Southport could hold its referendum and elect and install its council quickly enough to be able to impose a communications services tax prior to the September 1, 2006 notification date in order to entitle Southport to participate in this revenue source on January 1, 2007.

Thus, the most likely notification date would be September 1, 2007, with the imposition beginning January 1, 2008.

The charter language could also be added to provide for a sharing of the CST currently imposed by Bay County within the boundaries of Southport, beginning with the date of incorporation through December 31, 2007. The proportion could be based on the population of Southport compared to unincorporated population of Bay County before the incorporation of Southport.

Discretionary Sales Surtax

Currently, Bay County imposes a .5 percent School Capital Outlay Surtax, which by statute cannot be shared with municipalities. In the future, if Bay County imposes a discretionary sales surtax that can be shared with the municipalities, that sharing will be determined by an interlocal entered into by municipalities with more than 50 percent of the incorporated population or if there is no interlocal, according to the formula provided in s. 218.62, F.S.

REVENUE ESTIMATES

The Department has prepared revenue sharing estimates for the 2005-2006 state fiscal year which are on file with the Local Government Council.

Department of Community Affairs

The Florida Department of Community Affairs had the following comments, and suggestions for amending the proposed charter:

Pursuant to s.163.3167(4), F.S., a new comprehensive plan must be adopted within three years of incorporation. The approximate cost of a new comprehensive plan for a City of this size is $100,000. Pursuant to s. 63.3202(1), F.S. within one year of an adopted comprehensive plan, a new municipality must adopt land development regulations. The approximate cost of new land development regulations for a City of this size is $200,000. In addition, new cities typically become responsible for providing and maintaining certain types of infrastructure and services.

Section 12: Pursuant to s.163.3167(4), F.S., a new comprehensive plan must be adopted within three years of incorporation.

Section 12, Section (8)(c): should be revised to state "Upon the City's incorporation, the City shall use Bay County's Comprehensive Plan and land development regulations. However, after the City's incorporation, any amendment to the County's comprehensive plan and land development regulations shall not apply to the City unless approved by the City Commission."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Florida Freedom Newspapers, Inc.

PUBLISHERS OF THE NEWS HERALD
Panama City, Bay County, Florida
Published Daily

State of Florida
County of Bay

Before the undersigned authority appeared _____

Glenda Sullivan, who on oath says that (s)he

is Classified Manager of The News Herald, a daily

newspaper published at Panama City, in Bay County, Florida; that the attached copy of

advertisement, being a Legal Advertisement - 1227

in the matter of Notice of Intent

Soutport Incorporation Committee

in the Bay County

Court, was published in said newspaper in the issue of _____

January 5, 2006

Affiant further says that The News Herald is a direct successor of the Panama City News and that this publication, together with its direct predecessor, has been continuously published in said Bay County, Florida, each day (except that the predecessor, Panama City News, was not published on Sundays), and that this publication together with its said predecessor, has been entered as periodicals matter at the post office in Panama City, in said Bay County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Glenda Sullivan

State of Florida
County of Bay
Sworn and subscribed before me this 5th day of January, A.D., 2006 by Glenda Sullivan, Classified Manager of The News Herald, who is personally known to me or has produced na as identification.

Marie Forrest

Marie Forrest
MY COMMISSION # DD209621 EXPIRES
May 5, 2007
BONDED THRU TROY FAIN INSURANCE, INC.

Notary Public, State of Florida at Large

1227
NOTICE OF INTENT TO SEEK LEGISLATION

The Southport Incorporation Committee hereby gives notice, pursuant to Florida Const. Art. III, 10 and Section 11.02, Florida Statutes, its intent to seek legislation before the 2006 Florida Legislature. This legislation will codify legislation and create an Act relating to the city of Southport. This Act shall be known as the "City of Southport Charter" and will create a municipality named Southport, Florida and provide an effective date.
January 5, 2006

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 993

SPONSOR(S): Representative Coley

RELATING TO: City of Southport, Bay County
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Bay County Legislative Delegation

CONTACT PERSON: Kris Money, Office of State Representative Marti Coley

PHONE # and E-Mail: 850-488-2873, kris.money@myfloridahouse.gov

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: January 5, 2006

Location: Panama City, City Hall

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [December 16, 2006 **]**

Where? Panama City News Herald **County** Bay County

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

3/21/06

Delegation Chair (*Original Signature*) **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: 993

SPONSOR(S): Coley

RELATING TO: SOUTHPORT INCORPORATION

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	FY 06-07	FY 07-08
Expenditures:	1,777,169	1,830,484

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	None	
State:	$1,005,282	$1,035,441
Local:	771,886	795,043

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:		

Some increase can be expected from an increase in residents. Grant money will be sought as well

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Southport citizens will be in control of their own dollars. The area will benefit from more revenue being spent at the local level. Business will be attracted to the areas as a result.

Disadvantages: Minor impact to other cities. They share in the state revenues, hence, will see some reduction in their portion. Monies from Bay County will be minimum as well since Southport plans to contract for some services with them.

V. ESTIMATED IMPACT UPON COMPLETION AND THE OPEN MARKET FOR EMPLOYMENT:

Competition has always been the backbone of the democratic process. Furthermore, enhancing the growth of Southport will add to the employment opportunities.

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

Data used in the forgoing comments are derived from Bay County. Bay County personnel constructed the feasibility study.

PREPARED BY [signature] 1-31-06
Date

TITLE: Chairman

REPRESENTING: SOUTHPORT INCORPORATION COMMITTEE

PHONE: 850 265-1904

E-Mail Address: fell1904@bellsouth.net

1 A bill to be entitled
2 An act relating to the City of Southport, Bay County;
3 creating the City of Southport; providing a charter;
4 providing legislative intent; providing for a commission-
5 manager form of government; providing municipal powers;
6 providing boundaries; providing for a city commission and
7 its composition and qualifications; providing terms of
8 office, powers, and duties of commissioners; providing for
9 a mayor and vice mayor and their powers and duties;
10 providing for compensation and expenses of the commission;
11 providing for vacancies, forfeiture of office, and filling
12 of vacancies; providing for commission meetings; providing
13 for a city manager and city attorney and their
14 qualifications, powers, and duties; providing for
15 elections; providing for elections to be held at large
16 until the commission creates voting districts; providing
17 for municipal services; providing for charter amendment
18 and review; providing for standards of conduct; providing
19 severability; providing a transition schedule, including
20 initial elections; providing for state shared revenue;
21 providing for gas tax revenues; requiring a referendum;
22 providing an effective date.
23
24 Be It Enacted by the Legislature of the State of Florida:
25
26 Section 1. Charter; creation.--This act shall be known and
27 may be cited as the "City of Southport Charter" ("charter"), and

28 the City of Southport ("city") is hereby created and
29 established.
30 Section 2. Legislative intent.--The Legislature hereby
31 finds and declares that:
32 (1) The Southport area of Bay County includes a compact
33 and contiguous urban community amenable to separate municipal
34 government.
35 (2) It is in the best interests of the public health,
36 safety, and welfare of the citizens of this community to form a
37 separate municipality for the Southport area with all powers and
38 authority necessary to provide efficient and adequate municipal
39 services to its residents.
40 Section 3. Powers.--
41 (1) CREATION.--The city shall have a commission-manager
42 form of government.
43 (2) MUNICIPAL POWERS.--The city shall be a body corporate
44 and politic and shall have all the powers of a municipality
45 under the State Constitution and laws of the state, as fully and
46 completely as though such powers were specifically enumerated in
47 this charter, unless otherwise prohibited by or contrary to the
48 provisions of this charter. The city shall have all
49 governmental, corporate, and proprietary powers necessary to
50 enable it to conduct municipal government, perform municipal
51 functions, and render municipal services and may exercise any
52 power for municipal purposes unless expressly prohibited by law.
53 The powers of this city shall be liberally construed in favor of
54 this city.

55 Section 4. Corporate limits.--The following areas shall
56 constitute the corporate limits of the City of Southport:
57
58 BEGIN AT THE INTERSECTION OF THE NORTH LINE OF SECTION
59 17, TOWNSHIP 2 SOUTH, RANGE 14 WEST, BAY COUNTY,
60 FLORIDA WITH THE WEST RIGHT OF WAY LINE OF STATE ROAD
61 NO. 77. THENCE EAST ALONG THE NORTH LINE OF SECTIONS
62 17, 16, AND 15 TO THE NORTHEAST CORNER OF SECTION 15,
63 TOWNSHIP 2 SOUTH, RANGE 14 WEST, THENCE NORTH ALONG
64 THE WEST LINE OF SECTION 11, TOWNSHIP 2 SOUTH, RANGE
65 14 WEST TO THE NORTHWEST CORNER OF SAID SECTION 11.
66 THENCE EAST ALONG THE NORTH LINE OF SECTIONS 11 AND
67 12, TOWNSHIP 2 SOUTH, RANGE 14 WEST AND THE NORTH LINE
68 OF SECTION 7, TOWNSHIP 2 SOUTH, RANGE 13 WEST TO THE
69 CENTER OF CEDAR CREEK. THENCE SOUTHERLY ALONG THE
70 CENTER OF CEDAR CREEK AND DEER POINT LAKE TO THE
71 MIDPOINT OF DEER POINT LAKE DAM, THENCE SOUTHWESTERLY
72 ALONG THE CENTER OF NORTH BAY TO THE SOUTHERLY
73 PROJECTION OF THE EAST LINE OF SECTION 4, TOWNSHIP 3
74 SOUTH, RANGE 14 WEST, THENCE NORTH ALONG SAID EAST
75 LINE TO THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 2
76 SOUTH, RANGE 14 WEST, THENCE WEST ALONG THE SOUTH LINE
77 OF SAID SECTION 33 TO THE SOUTHERLY PROJECTION OF A
78 LINE PARALLEL WITH AND 202.50 FEET EAST OF THE WEST
79 LINE OF LOT 97, ST. ANDREWS BAY PECAN & FIG GROVES
80 COMPANY'S SUBDIVISION, THENCE NORTH PARALLEL WITH SAID
81 WEST LINE OF LOT 97 TO A LINE PARALLEL WITH AND 175
82 FEET SOUTH OF THE NORTH LINE OF SAID LOT 97, THENCE

83 EAST PARALLEL WITH SAID NORTH LINE OF LOT 97 FOR 455
84 FEET, MORE OR LESS, TO THE EAST LINE OF SAID LOT 97,
85 THENCE NORTH 175 FEET TO THE NORTHEAST CORNER OF SAID
86 LOT 97, THENCE WEST 647.5 FEET, MORE OR LESS, TO THE
87 NORTHEAST CORNER OF LOT 98, SAID SUBDIVISION, THENCE
88 WEST ALONG THE NORTH LINE OF SAID LOT 98 AND THE
89 WESTERLY PROJECTION THEREOF TO THE NORTHEAST CORNER OF
90 LOT 99, SAID SUBDIVISION, THENCE NORTH ALONG THE EAST
91 LINE OF LOT 94, SAID SUBDIVISION TO THE NORTHEAST
92 CORNER OF SAID LOT 94, THENCE WEST ALONG THE NORTH
93 LINE OF SAID LOT 94 TO THE EAST LINE OF THE "LANGLEY"
94 TRACT, SAID PLAT OF ST. ANDREWS BAY PECAN & FIG GROVES
95 COMPANY'S SUBDIVISION, THENCE NORTH ALONG THE EAST
96 LINE OF THE "LANGLEY" TRACT FOR 3.8 FEET TO THE NORTH
97 LINE OF THE 15 FOOT STRIP DESCRIBED IN OFFICIAL
98 RECORDS BOOK 1104, PAGE 666 OF THE PUBLIC RECORDS OF
99 BAY COUNTY, FLORIDA, THENCE WEST FOR 15 FEET, THENCE
100 SOUTH FOR 90 FEET, THENCE WEST ALONG THE NORTH LINE OF
101 THE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1104,
102 PAGE 666 TO THE EDGE OF NORTH BAY, THENCE
103 SOUTHWESTERLY ALONG THE RIPARIAN RIGHTS LINE OF SAID
104 PARCEL TO THE CENTER OF NORTH BAY, THENCE WESTERLY
105 ALONG THE CENTER OF NORTH BAY TO THE SOUTHERLY
106 PROJECTION OF THE WEST LINE OF THE EAST HALF OF THE
107 EAST HALF OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 14
108 WEST, THENCE NORTH ALONG SAID WEST LINE OF THE EAST
109 HALF OF THE EAST HALF OF SAID SECTION 31 AND THE
110 SOUTHERLY PROJECTION THEREOF TO THE NORTH LINE OF SAID

111 SECTION 31, THENCE NORTH ALONG THE WEST LINE OF THE
112 EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 30,
113 TOWNSHIP 2 SOUTH, RANGE 14 WEST TO THE NORTHWEST
114 CORNER OF SAID EAST HALF OF THE SOUTHEAST QUARTER,
115 THENCE EAST ALONG THE NORTH LINE OF SAID EAST HALF OF
116 THE SOUTHEAST QUARTER TO THE WEST LINE OF SECTION 29,
117 TOWNSHIP 2 SOUTH, RANGE 14 WEST, THENCE SOUTH ALONG
118 SAID WEST LINE OF SECTION 29 TO THE NORTHWEST CORNER
119 OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID
120 SECTION 29, THENCE EAST ALONG THE NORTH LINE OF SAID
121 SOUTH HALF OF THE SOUTHWEST QUARTER TO THE NORTHEAST
122 CORNER OF SAID SOUTH HALF OF THE SOUTHWEST QUARTER,
123 THENCE NORTH ALONG THE WEST LINE OF THE EAST HALF OF
124 SAID SECTION 29 TO THE NORTHWEST CORNER OF THE
125 NORTHEAST QUARTER OF SAID SECTION 29, THENCE EAST
126 ALONG THE NORTH LINE OF SAID SECTION 29 TO THE
127 NORTHEAST CORNER OF SAID SECTION 29, THENCE NORTH
128 ALONG THE WEST LINE OF SECTION 21, TOWNSHIP 2 SOUTH,
129 RANGE 14 WEST TO THE NORTHWEST CORNER OF THE SOUTH
130 HALF OF THE SOUTH HALF OF SAID SECTION 21, THENCE EAST
131 ALONG THE NORTH LINE OF SAID SOUTH HALF OF THE SOUTH
132 HALF TO THE INTERSECTION OF THE WEST RIGHT OF WAY LINE
133 OF STATE ROAD NO. 77 WITH THE NORTH LINE OF SAID SOUTH
134 HALF OF THE SOUTH HALF OF SECTION 21, THENCE
135 NORTHWESTERLY ALONG SAID WEST RIGHT OF WAY LINE TO THE
136 POINT OF BEGINNING.
137
138 Section 5. City commission.--

139 (1) COMPOSITION; QUALIFICATIONS FOR OFFICE.--
140 (a) Composition.--There shall be a five-member city
141 commission, consisting of a mayor and four commissioners, all
142 elected from the Southport area at large. For purposes of proper
143 interpretation of this charter, unless the context otherwise
144 requires, the term "commissioner" shall include the mayor.
145 (b) Qualifications for office.--
146 1. Each candidate for the office of city commissioner
147 shall be a qualified elector of this city.
148 2. At the time of qualification, each candidate for a seat
149 on the commission shall reside within the boundaries of the city
150 of Southport and shall remain a resident of the city for the
151 length of his or her term.
152 3. For the initial election of commissioners and mayor and
153 for each election thereafter, each individual seeking to qualify
154 as a candidate for a seat on the commission shall submit a
155 petition or application supporting his or her candidacy to the
156 city manager (or, for the initial election, to the Supervisor of
157 Elections of Bay County) containing the signatures of 1 percent
158 of the electors residing within the boundaries of the City of
159 Southport at large or payment of the required fee according to
160 the Florida Election Code and declaring which seat he or she is
161 endeavoring to obtain.
162 (2) TERMS OF OFFICE.--The term of office for each
163 commissioner shall be 4 years. In order to provide for
164 staggering of terms, the initial terms of office for seats one
165 and three and the mayor's seat shall be for 2 years each.

166 (3) POWERS AND DUTIES OF COMMISSION.--Except as otherwise
167 prescribed herein or provided by law, legislative and police
168 powers of the city shall be vested in the commission.
169 (4) MAYOR.--
170 (a) Powers.--There shall be a mayor who shall be elected
171 at large and who shall have the same legislative powers and
172 duties as any of the other commissioners, except as herein
173 provided.
174 (b) Duties.--The mayor shall preside at the meetings of
175 the commission, be recognized as the head of city government for
176 ceremonial matters, and sign and execute ordinances, contracts,
177 deeds, bonds, and other instruments and documents. The mayor
178 shall have no administrative duties other than those necessary
179 to accomplish these actions, or such other actions as may be
180 authorized by city commission, consistent with general or
181 special law.
182 (5) VICE MAYOR.--
183 (a) Election.--There shall be a vice mayor elected
184 annually by the commission from among the commissioners. Such
185 election shall take place at the first meeting after each
186 regular city general election.
187 (b) Powers and duties.--The vice mayor shall have the same
188 legislative powers and duties as any other commissioner, except
189 that he or she shall serve as acting mayor during the absence or
190 disability of the mayor and, during such period, shall have the
191 same duties as provided for in paragraph (4)(b). In the absence
192 of the mayor and vice mayor, the remaining commissioners shall
193 elect a commissioner to serve as acting mayor.

194 (6) COMPENSATION AND EXPENSES.--
195 (a) Compensation.--The mayor and commissioners shall serve
196 without compensation for the first 3 months in office. The
197 commission may determine an annual salary for commissioners or
198 the mayor, but no ordinance increasing such salaries shall
199 become effective until the date of commencement of the terms of
200 the commissioners elected at the next regular election, except
201 for an increase voted after the initial election; said salary
202 increase during the initial term will become effective 91 days
203 after the commissioners take office unless a later date is
204 established.
205 (b) Expenses.--The commission may provide for
206 reimbursement of actual expenses incurred by members while
207 performing their official duties.
208 (7) VACANCIES; FORFEITURE OF OFFICE; FILLING OF
209 VACANCIES.--
210 (a) Vacancies.--A vacancy in the office of a commissioner
211 shall occur upon the incumbent's death, removal from office as
212 authorized by law, resignation, appointment to other public
213 office which creates dual officeholding, judicially determined
214 incompetence, or forfeiture of office as herein described.
215 (b) Forfeiture of office.--A commissioner shall forfeit
216 his or her office if he or she:
217 1. Is determined by the commission, acting as a body, to
218 lack at any time or fail to maintain during his or her term of
219 office any qualification for the office as prescribed by this
220 charter or otherwise required by law;

221 2. Is convicted of a felony or enters a plea of guilty or
222 nolo contendere to a crime punishable as a felony, even if
223 adjudication of guilt has been withheld;
224 3. Is found by the commission, acting as a body, to have
225 violated any standard of conduct or code of ethics established
226 by law for public officials and has been suspended from office
227 by the Governor, unless subsequently reinstated as provided by
228 law; or
229 4. Is absent from three consecutive regular commission
230 meetings without being excused by the commission.
231 (c) Filling of vacancies.--
232 1. If a vacancy occurs in the office of mayor, the vice
233 mayor shall serve as mayor until a new mayor is elected at the
234 next regularly scheduled city election and assumes the duties of
235 his or her office. The commission shall fill the commissioner's
236 seat temporarily vacated by the vice mayor by appointment as
237 herein provided.
238 2. If a vacancy occurs in the office of any commissioner
239 other than mayor and the remainder of the unexpired term is less
240 than 2 years, the remaining commissioners shall, within 30 days
241 following the occurrence of such vacancy, by majority vote,
242 appoint a person to fill the vacancy for the remainder of the
243 unexpired term. If the remainder of the unexpired term exceeds 2
244 years, the remaining commissioners shall, within 30 days
245 following the occurrence of such vacancy, by majority vote,
246 appoint a person to fill the vacancy until the next regularly
247 scheduled city election.

248 3. Any person appointed to fill a vacancy on the
249 commission is required to meet the qualifications of the seat to
250 which he or she is appointed, except the petition requirement.
251 (d) Extraordinary vacancies.--In the event that all
252 members of the council are removed by death, disability, law, or
253 forfeiture of office, the Governor shall appoint an interim
254 commission that shall call a special election to be held 60 to
255 90 days after the interim commission's appointment. Such
256 election shall be held in the same manner as the initial
257 election under this charter.
258 Section 6. City commission meetings.--The commission shall
259 meet regularly at least once a month at such times and places as
260 the commission may prescribe. Such meetings shall be public
261 meetings and shall be subject to notice and other requirements
262 of law applicable to public meetings.
263 (1) The first meeting following a general city election at
264 which elected or reelected commissioners are inducted into
265 office shall be held on the first Monday following such
266 election.
267 (2) A majority of the commission shall constitute a
268 quorum. No action of the commission shall be valid unless
269 adopted by an affirmative vote of a majority of the
270 commissioners in attendance, unless otherwise provided by law or
271 stated herein. All actions of the city commission shall be by
272 ordinance, resolution, or motion.
273 (3) Special meetings may be held at the call of the mayor
274 or, in his or her absence, the vice mayor. Special meetings may
275 also be called upon the request of a majority of the

276 commissioners. The city manager shall provide no less than 12
277 hours' notice of the meeting to the public, when practical.
278 Section 7. Designated charter officers.--
279 (1) DESIGNATED CHARTER OFFICERS.--The initial designated
280 charter officer shall be the city manager. Other charter
281 officers may be appointed by majority vote of the commission.
282 (a) Appointment.--The charter officers shall be appointed
283 by a majority vote of the full commission and shall serve at the
284 pleasure of the commission.
285 (b) Removal.--The charter officers shall be removed from
286 office by a majority vote of the full commission. If the vote is
287 not unanimous, the charter officer may, within 7 days after the
288 dismissal motion by the commission, submit to the mayor a
289 written request for reconsideration. Any action taken by the
290 commission at the reconsideration hearing shall be final.
291 (c) Compensation.--The compensation of the charter
292 officers shall be fixed by the city commission.
293 (d) Filling of vacancies.--The city commission shall begin
294 the process to fill a vacancy in the charter office of the city
295 manager or the city attorney within 90 days after the vacancy
296 occurs. An acting city manager or acting city attorney may be
297 appointed by the city commission during a vacancy in office.
298 (e) Candidate for city office.--No charter officer shall
299 be a candidate for any elected office while holding his or her
300 charter office position.
301 (2) CITY MANAGER.--The city manager shall be the chief
302 administrative officer of the city and shall serve at the
303 direction and discretion of the city commission.

304 (a) Qualifications.--The city manager shall be selected on
305 the basis of qualifications the commissioners deem appropriate,
306 including, but not limited to, experience, expertise, and
307 management ability as they pertain to running municipal
308 government.
309 (b) Powers and duties.--The city manager shall:
310 1. Attend all meetings of the city commission.
311 2. Be responsible to the commission for the administration
312 of all city affairs placed in his or her charge by majority vote
313 of the commission or under this charter.
314 (3) CITY ATTORNEY.--The commission members may contract
315 with a city attorney.
316 (a) Qualifications.--The city attorney shall be a member
317 in good standing of The Florida Bar.
318 (b) Powers and duties.--The city attorney or his or her
319 designee, who shall be a lawyer and a member in good standing of
320 The Florida Bar, shall:
321 1. Attend all city commission meetings unless excused by
322 the city commission.
323 2. Perform such professional duties as may be required by
324 law or by the commission in furtherance of the law.
325 3. Be the chief legal officer of the city and serve as
326 chief legal advisor to the commission, the city manager, and all
327 city departments, offices, city advisory boards, and agencies.
328 Section 8. Elections.--
329 (1) ELECTORS.--Any person who is a resident of the city,
330 who has qualified as an elector of the state, and who registers

331 in the manner prescribed by law shall be an elector of this
332 city.
333 (2) NONPARTISAN ELECTIONS.--All elections for the office
334 of mayor or other city commissioners shall be conducted on a
335 nonpartisan basis without any designation of political party
336 affiliation.
337 (3) QUALIFICATIONS.--Candidates for the office of city
338 commission member or mayor shall qualify for office by filing a
339 written notice of candidacy with the designated official at such
340 time and in such manner as may be prescribed by the Florida
341 Election Code and as otherwise provided in this charter.
342 (4) PROCEDURE FOR REGULAR ELECTIONS AND RUNOFF
343 ELECTIONS.--
344 (a) The regular election of the city commission members
345 and mayor shall be held on the third Tuesday after the third
346 Monday in April in each even-numbered year when the 4-year term
347 for each respective seat has expired, in the manner provided for
348 by this charter. Runoff elections, if necessary, shall be held
349 on the third Tuesday after the third Monday in May in the same
350 year.
351 (b) No later than noon Friday, 3 weeks before the election
352 for office, any individual who wishes to run for one of the five
353 initial seats on the commission shall qualify as a candidate
354 with the Bay County Supervisor of Elections in accordance with
355 the provisions of this charter and general law. Each candidate
356 must specify for which of the seats he or she desires to
357 campaign and serve.

358 (c)1. The Bay County Commission shall appoint a canvassing
359 board of three members who are not candidates, which shall
360 certify the results of the election. At least one citizen from
361 the area or municipality of Southport shall be appointed to
362 serve on the canvassing board.
363 2. After the initial election, the city commissioners
364 shall decide how results are certified by ordinance.
365 3. If two or more persons qualify for a seat and none
366 receive a majority of the votes cast for that seat, the two
367 candidates receiving the highest number of votes shall face each
368 other in a runoff election. The person receiving the highest
369 number of votes at said runoff election shall be elected. The
370 canvass of returns for said runoff election shall be the same as
371 for a general election.
372 (d) In the event of a tie vote for any seat, the names of
373 the candidates who tied shall be placed in a box and one name
374 shall be drawn by a member of the canvassing board. The
375 candidate whose name is drawn from the box shall be the winning
376 candidate.
377 (e) The result of the voting, when ascertained, shall be
378 certified by a return in duplicate, signed by two of the members
379 of the canvassing board. One copy shall be delivered to the city
380 attorney and the other copy shall be delivered to the city
381 manager. Both returns are to be delivered to the city commission
382 at a meeting to be held at noon on the day following
383 certification of the election results. At such meeting, the city
384 commission shall convey the return and announce the results of
385 the election on the official record.

386 (5) INDUCTION INTO OFFICE.--
387 (a) Those candidates who are elected shall be inducted
388 into office and take office at a meeting held at the regular
389 meeting place of the commission no more than 30 days after the
390 final election requirements are determined to be in compliance.
391 (b) Initial elections shall be held after the referendum
392 for incorporation as stated in section 12.
393 (6) RECALL OF CITY COMMISSIONERS.--Any member of the city
394 commission may be removed from office by the electors of the
395 city following the procedures of recall established in general
396 law.
397 (7) DISTRICT BOUNDARIES.--
398 (a) Elections shall be held at large until such time as
399 the commissioners pass an ordinance providing for voting
400 districts.
401 (b) In the event that the commissioners pass an ordinance
402 providing for voting districts, such districts shall come up for
403 review every 5 years after the first election they are in use,
404 unless an earlier review is determined necessary by the
405 supervisor of elections and the commission.
406 Section 9. Southport area municipal services.--After the
407 first general election, the city commissioners may authorize the
408 city manager to enter into contracts for municipal services on
409 behalf of the City of Southport. Before a city manager is hired,
410 the mayor is authorized to enter into contracts for services on
411 behalf of the city.
412 Section 10. General provisions.--

413 (1) CHARTER AMENDMENT.--This charter may be amended in
414 accordance with the provisions of the Municipal Home Rule Powers
415 Act, chapter 166, Florida Statutes, or as may otherwise be
416 provided by general law. The form, content, and certification of
417 any petition to amend the charter shall be established by
418 ordinance.
419 (2) CHARTER REVIEW.--The standards for charter review
420 shall be established by ordinance.
421 (3) INITIATIVE AND REFERENDUM.--At least 25 percent of the
422 qualified electorate of the city shall have the power to
423 petition to propose an ordinance or to require reconsideration
424 of an adopted ordinance, and if the commission fails to adopt
425 such ordinance so proposed or to repeal such adopted ordinance
426 without any change in substance, then the commission shall place
427 the proposed ordinance or the repeal of the adopted ordinance on
428 the ballot at the next general election.
429 (4) STANDARDS OF CONDUCT.--All elected officials and
430 employees of the city shall be subject to the standards of
431 conduct for public officials and employees set by general law.
432 In addition, the city commission may by ordinance establish a
433 code of ethics for officials and employees of the city which may
434 be supplemental to the general law, but in no case may such an
435 ordinance diminish the provisions of general law.
436 Section 11. Severability.--If any provision of this act or
437 the application thereof to any person or circumstance is held
438 invalid, the invalidity shall not affect other provisions or
439 applications of this act which can be given effect without the

440 invalid provision or application, and to this end the provisions
441 of this act are declared severable.
442 Section 12. Transition schedule.--
443 (1) REFERENDUM.--The referendum election called for the
444 purposes of this act shall be held no later than 90 days from
445 the date of legislative approval of this act, unless there is
446 established a different municipal election date, in which case
447 the election shall be on the date so established. At such time,
448 the issue of whether to incorporate the City of Southport shall
449 be placed upon the ballot. In the event the electorate votes
450 affirmatively by a majority of electors voting in the referendum
451 to incorporate and establish the City of Southport, the
452 provisions of this charter shall take effect as provided herein.
453 (2) CREATION AND ESTABLISHMENT OF CITY.--For the purpose
454 of compliance with general law, relating to assessment and
455 collection of ad valorem taxes, the City of Southport is hereby
456 created and established effective the date this charter becomes
457 law.
458 (3) INITIAL ELECTION OF COMMISSIONERS; DATES, QUALIFYING
459 PERIOD, CERTIFICATION OF ELECTION RESULTS; INDUCTION INTO
460 OFFICE.--
461 (a) Following the adoption of this charter in accordance
462 with section 13, the Bay County Commission shall call a special
463 election of a mayor and the other four city commissioners to be
464 held as soon as possible but no more than 90 days after an
465 affirmative vote to incorporate by referendum at the convenience
466 of the supervisor of elections. Any necessary runoff elections
467 shall be held as soon as possible but no sooner than 14 days and

468 no more than 60 days after the special election at the
469 convenience of the supervisor of elections.
470 (b) No later than noon Friday, 3 weeks before the election
471 of commissioners, any individual who wishes to run for one of
472 the five initial seats on the commission shall qualify as a
473 candidate with the Bay County Supervisor of Elections in
474 accordance with the provisions of this charter and general law.
475 Each candidate must specify for which of the seats he or she
476 desires to campaign and serve.
477 (c)1. The Bay County Commission shall appoint a canvassing
478 board of three members who are not candidates which shall
479 certify the results of the election. At least one citizen from
480 the area or municipality of Southport shall be appointed to
481 serve on the canvassing board.
482 2. After the initial election, the city commissioners
483 shall decide how results are certified by ordinance.
484 3. If two or more persons qualify for a seat and none
485 receives a majority of the votes cast for that seat, the two
486 candidates receiving the highest number of votes shall face each
487 other in a runoff election. The person receiving the highest
488 number of votes at said runoff election shall be elected. The
489 canvass of returns for said runoff election shall be the same as
490 for a general election.
491 4. In the event of a tie vote for any seat, the names of
492 the candidates who tied shall be placed in a box and one name
493 shall be drawn by a member of the canvassing board. The
494 candidate whose name is drawn from the box shall be the winning
495 candidate.

496 (4) INDUCTION INTO OFFICE.--Those candidates who are
497 elected shall be inducted into office and take office at the
498 initial city commission meeting, which shall be held no more
499 than 30 days after the final election requirements are
500 determined to be in compliance at the Southport Community
501 Center, located at 7334 Franklin Street, Southport, Florida.
502 (5) TRANSITION SERVICES AND COMPENSATION.--It is intended
503 that Bay County provide and be compensated for the provision of
504 services for the City of Southport as budgeted for in the fiscal
505 year 2006-2007 Bay County Budget as far as the revenue will
506 provide. The level of services to be provided will be consistent
507 with the level upon which the fiscal year 2006-2007 expense
508 budget was predicted and in accordance with adopted revenue. It
509 is the responsibility of the city to adopt appropriate
510 ordinances, resolutions, or agreements as required to ensure the
511 continued collection of budgeted revenues with which to fund
512 services beginning January 1, 2007. Any revenues adopted or
513 received by the City of Southport upon which delivery of
514 services was not predicted within the county's fiscal year 2006-
515 2007 adopted budget shall accrue to the City of Southport.
516 Services that the county shall provide under the terms of this
517 agreement include all services provided to the Southport
518 municipal district as adopted by the Bay County Commission prior
519 to the City of Southport becoming operational.
520 (6) FIRST-YEAR EXPENSES.--The commission, in order to
521 provide moneys for the expenses and support of this city, shall
522 have the power to borrow money necessary for the operation of
523 city government until such time as a budget is adopted and

524 revenues are raised in accordance with the provisions of this
525 charter.
526 (7) TRANSITIONAL ORDINANCES AND RESOLUTIONS.--The city
527 commission shall adopt ordinances and resolutions required to
528 effect the transition. Ordinances adopted within 60 days after
529 the first commission meeting shall be passed as emergency
530 ordinances. These transitional ordinances shall be effective for
531 no longer than 90 days after adoption and thereafter may be
532 readopted, renewed, or otherwise continued only in the manner
533 normally prescribed for ordinances.
534 (8) TRANSITIONAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT
535 REGULATION.--
536 (a) Until such time as the city adopts a comprehensive
537 plan, the applicable provisions of the Comprehensive Plan of Bay
538 County, as the same exists on the day the city commences
539 corporate existence, shall remain in effect as the city's
540 transitional comprehensive plan. However, all planning
541 functions, duties, and authority shall thereafter be vested in
542 the City Commission of Southport, which shall be deemed the
543 local planning agency until the commission establishes a
544 separate local planning agency.
545 (b) All powers and duties of the Bay County Planning and
546 Land Development Regulations Commission, any boards of
547 adjustment and appeals created pursuant to statutory trade
548 codes, and the Bay County Commission, as set forth in these
549 traditional zoning and land use regulations, shall be vested in
550 the City Commission of Southport until such time as the city
551 commission delegates all or a portion hereof to another entity.

552 (c) Subsequent to the commencement of the city's corporate
553 existence, no amendment of the city's land development
554 regulations enacted by the Bay County Commission shall be deemed
555 as an amendment of the city's transitional comprehensive plan or
556 land development regulations or shall otherwise take effect
557 within the city's corporate limits unless approved by the city
558 commission.
559 (9) STATE-SHARED REVENUES; CITY PARTICIPATION IN STATE-
560 SHARED REVENUES PROGRAMS.--The City of Southport shall be
561 entitled to participate in the state-shared revenues programs
562 effective immediately on the date of incorporation. The
563 provisions of section 218.23, Florida Statutes, shall be waived
564 for the purpose of eligibility to receive revenue sharing funds
565 from the date of incorporation through the state fiscal year
566 2006-2007. Initial population estimates for calculating
567 eligibility for shared revenues shall be determined by the
568 University of Florida Bureau of Economic and Business Research.
569 Should the bureau be unable to provide an appropriate population
570 estimate, the Bay County Planning Department shall provide an
571 appropriate estimate.
572 (10) GAS TAX REVENUES.--
573 (a) Notwithstanding the requirements of section 336.025,
574 Florida Statutes, to the contrary, the City of Southport shall
575 be entitled to receive a local option gas tax revenue beginning
576 January 1, 2007.
577 (b) The gas tax distribution shall be made in accordance
578 with section 336.025(4)(b)2., Florida Statutes, and in
579 accordance with Bay County's previous year's lane mile

580 expenditures multiplied by the number of miles of roads within
581 the boundaries of Southport.
582 Section 13. This act shall take effect only upon its
583 approval by a majority vote of those qualified electors residing
584 within the proposed corporate limits of the proposed City of
585 Southport voting in a referendum election to be called by the
586 Bay County Commission and to be held in accordance with the
587 provisions of law currently in force, except that this section
588 shall take effect upon becoming a law.

HB 1091

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1091 Insurer Insolvency
SPONSOR(S): Ambler and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2130

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee	14 Y, 0 N	Tinney	Cooper
2) Local Government Council		Camechis	Hamby
3) State Administration Appropriations Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

When an insurer faces financial difficulties or insolvency, the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS) intervenes to protect the affected insurer's policyholders. The bill amends the law to eliminate the need for an affected policyholder to file a "proof of claim" form before receiving a refund of unearned premium or a claim settlement from the Florida Insurance Guaranty Association (FIGA). Instead, the Department of Financial Services (DFS) is authorized to certify and remit policyholder information for refunds or claims directly to FIGA

In addition to the consumer protections afforded by the Division of Rehabilitation and Liquidation, Florida operates several insurance guaranty funds to ensure that policyholders are protected with respect to insurance premiums paid and settlement of outstanding claims, up to limits provided by law. The Florida Insurance Guaranty Association (FIGA) is responsible for many lines of insurance, including residential and commercial property, automobile insurance, and liability insurance, among others.

Funds available to FIGA are the result of an annual assessment of up to 2 percent of each specified insurer's net direct written premiums for the previous year. In 2005, a 2 percent assessment on each insurer's 2004 net direct written premiums would have yielded approximately $200 million had the maximum amount been assessed, however, there was no assessment to FIGA members either in 2003, 2004, or 2005.

On August 24, 1992, Hurricane Andrew devastated much of Dade County. By December 1992, six insurers were declared insolvent due to their inability to settle claims received following Hurricane Andrew. The Legislature met in special session in December 1992 to consider remedies for affected homeowners whose insurers were unable to pay valid claims.

Chapter 92-345, Laws of Florida (LOF) resulted from the December 1992 special legislative session. Under the law, the city of Homestead was authorized to issue municipal revenue bonds to fund FIGA obligations resulting from the multiple insolvencies that resulted from Hurricane Andrew claims. The revenue bonds issued by the city of Homestead did not pledge any assets or taxing authority of Homestead. Rather, the Legislature authorized FIGA to charge its members a special 2 percent assessment in addition to the regular assessment of up to 2 percent. The additional assessment served as the revenue stream pledged to retire the bonds issued by Homestead.

Under the bill, FIGA is authorized to contract with a city or county, or a combination thereof to issue tax-exempt revenue bonds for hurricane recovery. The provisions of the bill closely follow the law enacted by the 1992 Legislature to enable FIGA to pay the hurricane-related claims of insurers who became insolvent following Hurricane Andrew. As in 1993, FIGA will guarantee the tax-exempt bonds through the imposition of an emergency assessment of up to 2 percent in addition to the regular FIGA assessment. The guaranty association is authorized to charge the emergency assessment for the life of the bonds.

There does not appear to be an immediate fiscal impact to the state resulting from the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families and Maintain Public Security—The bill ensures that FIGA will have funds sufficient to settle the claims and refund unearned premium to a policyholder whose insurer becomes insolvent following hurricane damage in the state. Following the damage caused by the hurricanes that struck Florida in 2004 and 2005, it has become clear that Florida citizens and their communities are well-served by quick and efficient claim settlement by insurers.

B. EFFECT OF PROPOSED CHANGES:

Background

In Florida, regulation of the insurance industry is shared by the Department of Financial Services (DFS) and the Office of Insurance Regulation (OIR). The state's Chief Financial Officer (CFO) heads DFS while the head of OIR is the Governor and Cabinet members sitting as the Financial Services Commission. Generally, OIR is responsible for granting a certificate of authority or license to an insurer; a domestic insurer, i.e., an insurer based in Florida, must possess a certificate of authority in order to conduct business in Florida. The regulation and licensure of insurance agents and agencies is the purview of DFS. Staff of DFS also provides consumer information and assistance through the Division of Consumer Services. When an insurer faces financial difficulties or insolvency, the Division of Rehabilitation and Liquidation of DFS intervenes to protect the affected insurer's policyholders.

Chapter 631, F.S., relates to insurer insolvency and guaranty payments and governs the receivership process for insurance companies in Florida. Federal law specifies that insurance companies cannot file for bankruptcy. Instead, they are either "rehabilitated" or "liquidated" by the Division of Rehabilitation and Liquidation (the Division) of DFS.

By law, a delinquency proceeding is initiated by the Division against any insurer believed to be insolvent or experiencing an impairment of its capital reserves or surplus. A delinquency proceeding may include liquidation, rehabilitation, reorganization, or conservancy. Staff of the Division indicates that rehabilitation and liquidation are the two most common delinquency proceedings. By law, the Division of Rehabilitation and Liquidation files all delinquency proceedings in the Circuit Court in Leon County.

Insurance Guaranty Funds: General Information

In addition to the consumer protections afforded by the Division of Rehabilitation and Liquidation, Florida operates several insurance guaranty funds to ensure that policyholders are protected with respect to insurance premiums paid and settlement of outstanding claims, up to limits provided by law. A guaranty association generally is a not-for-profit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance carrier. A guaranty association accomplishes its mission by assuming responsibility for settling claims and refunding unearned premiums to policyholders. The term "unearned premium" refers to that portion of a premium that is paid in advance, typically for 6 months or 1 year, and which is still owed on the unexpired portion of the policy.

Florida's guaranty associations are comprised of insurer representatives. Insurers are required by law to participate in guaranty associations as a condition for transacting business in the state. Monies available through a guaranty association for claims settlement and premium refunds are paid by insurers as a percentage of their total collected premiums. The percentage of premiums payable to a guaranty association is determined by law, although nationally it typically ranges from 1-3 percent. In

many cases, a guaranty association also is authorized by law to assess an additional amount if an emergency arises and the association lacks sufficient funds to pay outstanding claims and to refund unearned premiums. This means, in essence, that insurers licensed to transact insurance in a state assess or tax their respective premium income streams to pay the outstanding claims and unearned premiums of an insolvent insurer.

Most states, including Florida, have more than one insurance guaranty association. Each association is assigned by law to pay outstanding claims and unearned premium, up to limits specified by law, for specific lines of insurance. In Florida, there are four guaranty associations created in chapter 631, F.S. The Florida Life and Health Insurance Guaranty Association generally is responsible for claims settlement and premium refunds for health and life insurers who are insolvent. The Florida Health Maintenance Organization Consumer Assistance Plan offers assistance to members of an insolvent HMO and the Florida Workers' Compensation Insurance Guaranty Association is directed by law to protect policyholders of workers' compensation insurance. The fourth guaranty association is the Florida Insurance Guaranty Association (FIGA); it is responsible for most remaining lines of insurance, including residential and commercial property, automobile insurance, and liability insurance, among others.

The Florida Insurance Guaranty Association (FIGA)

Provisions relating to FIGA, which was created in 1970, are contained in part II of chapter 631, F.S. The board of directors for FIGA is directed by law to be comprised of at least five, and no more than nine members; members serve on the FIGA board for a 4-year term. According to the FIGA website www.figafacts.com, the current FIGA board includes eight members, including one representative each of Nationwide, Allstate, State Farm, and The Hartford, among others.

The law directs FIGA to pay any eligible claim of more than $100 and less than $300,000, less any applicable deductible, with a few specified exceptions (s. 631.57, F.S.) Funds available to FIGA are the result of an annual assessment of up to 2 percent of each specified insurer's net direct written premiums for the previous year. In 2004, a 2 percent assessment on each insurer's 2003 net direct written premiums would have yielded approximately $188 million had the maximum amount been assessed; however, there was no assessment to FIGA members either in 2003 or 2004. Other monies that accrue to FIGA include receivership payments from DFS and from the agencies that liquidate the estates of insolvent insurers in other states.

The law creates three accounts under FIGA:

- auto liability account;
- auto physical damage account; and
- an account for all other included insurance lines (the all-other account).

The last FIGA assessments occurred in 2002. According to documents provided by FIGA, in December 2002, member insurers writing policies covered by the auto liability account were assessed 1.125 percent of their net direct premiums collected in 2001. Similarly, FIGA made an assessment for the auto physical damage account in 2002, as well, although that assessment was for .75 percent. There was no assessment in 2002 for the all-other account. According to FIGA, it has assessed the maximum of 2 percent only once in the past 11 years. The maximum assessment was levied in 1993, only for the all-other account, after more than six insurers were declared insolvent in the first several months following Hurricane Andrew. The law, at s. 631.56(2)(d), F.S., prohibits the use of any state funds by FIGA to settle claims and return unearned premiums.

The law authorizes insurers to include the cost of their annual FIGA assessment in their rate schedule. This means an insurer may recoup its assessment through increasing its policy rates, subject to OIR approval. Generally, however, a guaranty association assessment is one of many factors an insurer considers in setting its rates.

Changes Proposed by the Bill: Guaranty Associations

Under current law in s. 631.181, F.S., a policyholder whose insurer becomes insolvent must file a "proof of claim" form with the Division of Rehabilitation and Liquidation before refund of unearned premiums may be returned to the policyholder or before an outstanding claim may be settled. According to the division, the records and files of many insolvent insurers are complete and the division is able to determine what amounts are owed to policyholders. In many cases, policyholder information may be complete in electronic format; this means the division could certify the names and amounts due to policyholders by electronic data transfer, if such certification were permissible by law.

The bill will allow the Division of Rehabilitation and Liquidation to certify to FIGA, based upon complete records of the insurer, the names of policyholders and the amount of unearned premium due to each. The division and FIGA may determine the best format for transfer of information relating to an insolvent insurer.

Local Government Revenue Bonds

Article VII of the Florida Constitution governs finance and taxation by the state and its political subdivisions. In that article, the state and its political subdivisions, including municipalities and counties, are authorized to issue bonds. In most cases, bonds issued either by a city or a county are tax exempt; the tax-exempt status generally makes bonds issued by governmental entities an attractive investment instrument.

FIGA as Bond Guarantor after Hurricane Andrew

On August 24, 1992, Hurricane Andrew devastated much of Dade County. By December 1992, six insurers were declared insolvent due to their inability to settle claims received following Hurricane Andrew. The Legislature met in special session in December 1992 to consider remedies for affected homeowners whose insurers were unable to pay valid claims.

Chapter 92-345, Laws of Florida (LOF) resulted from the December 1992 special legislative session. Under the law, the city of Homestead was authorized to issue municipal revenue bonds to fund FIGA obligations resulting from the multiple insolvencies that resulted from Hurricane Andrew claims. The revenue bonds issued by the city of Homestead did not pledge any assets or taxing authority of Homestead. Rather, the Legislature authorized FIGA to charge its members a special 2 percent assessment in addition to the regular assessment of up to 2 percent. The additional assessment served as the revenue stream pledged to retire the bonds issued by Homestead. Beginning in 1993, FIGA members were assessed the full 2 percent regular assessment. That same year, and for the following 3 years—through 1996—the full 2 percent special assessment also was collected from FIGA members. Only in 1993 did FIGA impose both 2 percent assessments. By 2000, FIGA had sufficient funds to defease (i.e. "pay off") the Homestead bonds, although those funds were reserved to make the regular annual payments until the bonds expired in 2003.

The 2004 and 2005 Florida Hurricane Seasons

The 2004 hurricane season was particularly destructive for Florida, with four hurricanes causing extensive damage throughout the state. All four hurricanes occurred within a 45-day period beginning August 13. 2004 when Hurricane Charley made landfall as a category 4 hurricane with wind speeds of 145 miles per hour; followed on September 4 by Hurricane Frances, a Category 2 hurricane with wind speeds of 105 miles per hour. Next, Hurricane Ivan struck on September 16 followed by Hurricane Jeanne on September 26, which were both Category 3 hurricanes with respective winds speeds of 130 and 120 miles per hour at landfall. The paths of the hurricanes indicated virtually no part of Florida is immune from hurricane risk. Allegedly, the 2004 hurricanes caused damage to an estimated one in every five homes in Florida. Every county in Florida but Liberty County reported losses as a result of the 2004 hurricane season.

The four hurricanes in 2004 are responsible for 1.66 million insurance claims and $20.9 billion dollars of insured losses in the Florida market. The primary insurers incurred $11.3 billion in losses (of this amount, Citizens incurred $1.8 billion), the reinsurers incurred $5.75 billion, and the Florida Hurricane Catastrophe Fund (FHCF) incurred $3.85 billion.

For the most part, the insurance and reinsurance industry recapitalized after the 2004 hurricane season. That is, the capital lost by primary insurers and reinsurers was replenished. Additionally, the FHCF was able to pay its share of the losses out of cash reserves and maintain a cash balance to use to pay claims to start the 2005 hurricane season.

However, as the state was still recovering, recapitalizing, and rebuilding from the 2004 hurricanes, the 2005 season began. The 2005 hurricane season was also destructive for Florida, with four hurricanes hitting Florida for the second year in a row.

Hurricane Dennis hit Florida in the early part of hurricane season, making landfall on July 10, 2005 on Santa Rosa Island with maximum sustained winds of 121 miles per hour, making it a category 3 hurricane. Its center moved across the western Florida panhandle into southwest Alabama. The estimated gross property loss in Florida caused by Hurricane Dennis is close to $1.4 billion. Over 57,000 insurance claims resulted from this hurricane.

Hurricane Katrina hit Florida on August 25, 2005 and moved west across the southern portion of the state and into the Gulf of Mexico. At landfall, Hurricane Katrina was a category 1 storm with maximum sustained winds of 81 miles per hour. Although Florida did not sustain as severe damage as New Orleans, Louisiana, Biloxi, Mississippi and surrounding areas, Hurricane Katrina caused an estimated gross property loss in Florida of approximately $1.8 billion due to almost 162,000 insurance claims.

The next hurricane to hit Florida in 2005 was Hurricane Rita which made landfall on September 20, 2005. Like Hurricane Katrina, Hurricane Rita moved west across the southern part of the state with maximum sustained winds of 105 miles per hour, making it a category 2 hurricane. It is estimated Hurricane Rita caused an estimated gross property loss in Florida of $157 million due to an estimated 4,000 insurance claims.

Hurricane Wilma moved across the southern portion of Florida taking the opposite path of Hurricanes Katrina and Rita. It moved eastward across Florida from the Gulf of Mexico to the Atlantic Ocean. It made landfall on October 24, 2005 near Cape Romano, Florida with wind speeds of 121 miles per hour, a category 3 hurricane. Insured losses from Hurricane Wilma are estimated at $10.4 billion, making it the costliest hurricane for Florida in 2005. Almost 800,000 insurance claims resulted from Hurricane Wilma.

Claim and loss statistics and the loss distribution among primary insurers, reinsurance, and the Florida Hurricane Catastrophe Fund are still in development and being reported, but the four 2005 storms are estimated to have generated a combined 1 million claims and an estimated $14 billion in insured losses in Florida. As of February 28, 2006 insurers have already paid over $4 billion in insurance proceeds for claims from the 2005 hurricane season.

Insurers' losses from the 2004 and 2005 hurricanes as well as meteorological expectations that the increase in hurricane activity will continue for the foreseeable future have caused both insurers and reinsurers to reevaluate their tolerance for risk as well as the related amount of additional capital they are willing to commit to Florida. Some insurers have added new underwriting restrictions to reflect changes in their exposure tolerance. Others have nonrenewed or cancelled policies. Still others have raised rates. In fact, since 2004 the top five insurers by market share have raised rates by an average of 28.6 percent with an average per year increase of 11.8 percent.

Since the 2005 hurricanes, the reinsurance market has partly recapitalized, but not yet fully replenished their investment capital. According to reports from the insurance industry, the reinsurance market is showing some signs that reinsurers are reconsidering the risk/return relationships available when

compared with other investment opportunities. Reinsurance rates for wind reinsurance along the Gulf states are increasing for reinsurance purchased in 2006. In addition, reinsurers are increasing the retention levels for reinsurance.

Changes Proposed by the Bill

Under the bill, FIGA is authorized to contract with a city or county, or a combination of cities, counties, or cities and counties to issue tax-exempt revenue bonds for hurricane recovery. The provisions of the bill closely follow the law enacted by the 1992 Legislature to enable FIGA to pay the hurricane-related claims of insurers who became insolvent following Hurricane Andrew. As in 1993, FIGA will guarantee the tax-exempt bonds through the imposition of an emergency assessment of up to 2 percent in addition to the regular FIGA assessment of up to 2 percent. The guaranty association is authorized to charge the emergency assessment for the life of the bonds.

Definitions used in the laws that govern FIGA are amended at s. 631.54, F.S. The definition for the term "covered claim" is amended to specify that for an entity other than a person, i.e., a business or other legal entity, the residence of the entity is in the state where the entity's principal place of business is located. Under current law, for an entity other than a person, the state where the entity is incorporated is considered its state of residence. This means that an entity whose primary business location is in Florida, but that is incorporated in a state other than Florida, must seek reimbursement for unearned premiums or unpaid claims from the appropriate guaranty association of the state where the business entity is incorporated.

The powers and duties of FIGA are outlined in s. 631.57, F.S. The bill amends that law to authorize FIGA to enter into a contract with a municipality or a county, or a combination of the two, for the issuance of tax-exempt revenue bonds. Bond proceeds will be used by the city or county for hurricane recovery, although the proceeds are not required to be used exclusively within the boundaries of the issuing city or county. This means that the bond proceeds may be used by FIGA to settle unpaid claims or to refund unearned premiums to citizens of the state affected by the hurricane, even if the claimant's residence is not in the city or county that issues the bonds. Bonds may be issued by any local government substantially affected by a category 1 or stronger hurricane.

The bill authorizes FIGA to impose an emergency assessment of up to 2 percent for bond payments; the emergency assessment is in addition to the regular FIGA assessment of up to 2 percent. As with the FIGA regular assessment, the emergency assessment will be based upon an insurer's direct written premiums in the previous year, after the insurer makes any refunds. The bill specifically applies the emergency assessment only for bond payments and costs associated with their issuance. The FIGA board of directors may require the emergency assessment to be paid in a single payment or in 12 monthly installments.

Insurers are required by the bill to report their emergency assessments as part of the reports they file with OIR related to setting rates. This reporting is intended to ensure that each insurer charges premiums sufficient to satisfy its reserve requirements and to meet the other liquidity requirements in law.

The bill creates s. 631.695, F.S., relating to the issuance of revenue bonds through counties and municipalities. These provisions include several pages of legislative findings relating to the potential damage to the state if hurricane damage is not addressed and repaired quickly, especially if insurers become insolvent due to hurricane claims. The findings acknowledge the personal hardship to persons and families who suffer losses during a hurricane and the need for claims to be settled expeditiously. Otherwise, the findings realize that great damage can occur to the economy and the citizens of the state. The findings also recognize the success of the FIGA bonds issued in 1993 and their potential for future use. The legislative findings likely will be used as part of the supporting documents that accompany any future bond issue for hurricane recovery.

The bill authorizes several uses for bonds issued for hurricane recovery. Among the authorized uses is the payment of covered claims of an insolvent insurer; to refinance or replace previous borrowings; to fund reserves for the bonds; to pay expenses incident to bond issuance; and other similar enumerated purposes. The state promises not to take any action that could endanger the availability of funds to repay the bonds. A severability clause is included in the bill.

The bill requires FIGA to file a report annually with the Senate President, the Speaker of the House, and the Chief Financial Officer. The report must specify the amount of bond proceeds used each year, the number of claims settled, and analyze the amount of emergency assessment needed to retire the bonds as promised. The bill specifies that the emergency assessment is not a premium and thus, is not subject to the premium tax, the payment of commissions, or other fees.

C. SECTION DIRECTORY:

Section 1 amends s. 631.181, F.S., regarding the responsibility of a policyholder to file a "proof of claim" form.

Section 2 amends s. 631.54, F.S., to modify the definition of a "covered claim".

Section 3 amends s. 631.57, F.S., relating to the powers and duties of the Florida Insurance Guaranty Association.

Section 4 creates s. 631.695, F.S., relating to a local government issuing revenue bonds.

Section 5 states that no provision in ss. 631.57 or 631.695, F.S., may be repealed until all bonds issued under the laws are paid in full.

Section 6 provides a severability clause.

Section 7 states that the act takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The authority for FIGA to serve as guarantor for local government revenue bonds following hurricane damage to the state ensures that, even if insurers become insolvent due to large numbers of claims, funds will be available to pay the valid claims of the insolvent insurer and to refund any unearned premiums to its policyholders. Under current law, FIGA deducts a fee of $100 for each claim of an insolvent insurer that is settled by FIGA.

2. Expenditures:

   The costs to FIGA for implementing the bill should be minimal. Any costs incurred for preparing and offering the revenue bonds authorized by the bill will be paid from the bond proceeds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Cities and counties are authorized by the bill to issue tax-exempt revenue bonds for hurricane recovery. The bonds will be repaid by FIGA using an emergency assessment of up to 2 percent on the total premiums of insurers who are members of FIGA.

Bond proceeds may be used by a city or county substantially affected by a category 1 or stronger hurricane for rebuilding and repair of damaged structures. The proceeds will be available to a citizen whose insurer becomes insolvent following a hurricane; bond monies will settle the valid claims of insolvent insurers and refund unearned premiums to affected policyholders.

2. Expenditures:

A city or county that issues revenue bonds under the bill is not required to repay the bonds from its own revenues. Rather, FIGA is authorized to charge its members an emergency assessment of up to 2 percent annually, for the life of the bonds. Expenses associated with issuing the bonds will be paid from bond proceeds. This means the costs to a city or county that issues the bonds should be negligible.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill ensures that FIGA will have funds sufficient to pay the valid claims and unearned premium of any insurer who becomes insolvent following a hurricane that hits Florida. This assurance should enable the economies of communities affected by a category 1 or stronger hurricane to recover quickly and efficiently.

Insurers who are members of FIGA will be required to pay an emergency assessment of up to 2 percent of their respective premiums for the previous year to repay the bonds. Based upon the outstanding insurance policies in Florida for 2004, a 2 percent assessment on FIGA members would cost insurers an estimated $200 million.

D. FISCAL COMMENTS:

The authority for FIGA to serve as guarantor for revenue bonds issued by a local government for hurricane recovery mirrors authority granted to FIGA by the Legislature in 1992 following the destruction to south Florida caused by Hurricane Andrew. Although there is currently no need for such bonds to be issued, granting FIGA the authority to do so should expedite hurricane recovery if the state suffers damage from one or more hurricanes in the future. The need for such bonding authority is likely to be strongest if a hurricane makes landfall in a major urban area of the state. State law prohibits FIGA from using any state monies to settle claims against an insolvent insurer.

The revenue bonds issued in 1993 by the city of Homestead enabled FIGA to settle the claims of more than six insurers who became insolvent following Hurricane Andrew. It is likely that the ability to issue such bonds again also will facilitate recovery of the state's economy should insurers suffer losses large enough to become insolvent following a hurricane.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On lines 183 and192, the bill refers to the Department (of Financial Services) relating to the levy of an emergency assessment of 2 percent against FIGA members in order to retire outstanding revenue bonds for hurricane recovery. The law designates OIR as the administrative entity to levy assessments. A similar reference to the department on line 210 also should be changed to the Office of Insurance Regulation.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to insurer insolvency; amending s.
3 631.181, F.S.; providing an exception to certain
4 requirements for a signed statement for certain claims;
5 providing requirements; amending s. 631.54, F.S.; revising
6 the definition of "covered claim"; amending s. 631.57,
7 F.S.; revising requirements and limitations for
8 obligations of the Florida Insurance Guaranty Association,
9 Inc., for covered claims; authorizing the association to
10 contract with counties and municipalities to issue revenue
11 bonds for certain purposes; authorizing the Department of
12 Financial Services to levy assessments and emergency
13 assessments on insurers under certain circumstances for
14 certain bond repayment purposes; providing requirements
15 for and limitations on such assessments; providing for
16 payment, collection, and distribution of such assessments;
17 requiring insurers to include an analysis of revenues from
18 such assessments in a required report; providing rate
19 filing requirements for insurers relating to such
20 assessments; providing for continuing annual assessments
21 under certain circumstances; specifying emergency
22 assessments as not premium and not subject to certain
23 taxes, fees, or commissions; specifying insurer liability
24 for emergency assessments; providing an exception;
25 creating s. 631.695, F.S.; providing legislative findings
26 and purposes; providing for issuance of revenue bonds
27 through counties and municipalities to fund assistance
28 programs for paying covered claims for hurricane damage;

29 providing procedures, requirements, and limitations for
30 counties, municipalities, and the Florida Insurance
31 Guaranty Association, Inc., relating to issuance and
32 validation of such bonds; prohibiting pledging the funds,
33 credit, property, and taxing power of the state, counties,
34 and municipalities for payment of bonds; specifying
35 authorized uses of bond proceeds; limiting the term of
36 bonds; specifying a state covenant to protect bondholders
37 from adverse actions relating to such bonds; specifying
38 exemptions for bonds, notes, and other obligations of
39 counties and municipalities from certain taxes or
40 assessments on property and revenues; authorizing counties
41 and municipalities to create a legal entity to exercise
42 certain powers; requiring the association to issue an
43 annual report on the status of certain uses of bond
44 proceeds; providing report requirements; requiring the
45 association to provide a copy of the report to the
46 Legislature and Chief Financial Officer; prohibiting
47 repeal of certain provisions relating to certain bonds
48 under certain circumstances; providing severability;
49 providing an effective date.
50
51 Be It Enacted by the Legislature of the State of Florida:
52
53 Section 1. Paragraph (f) is added to subsection (2) of
54 section 631.181, Florida Statutes, to read:
55 631.181 Filing and proof of claim.--
56 (2)

57 (f) The signed statement required by this section shall
58 not be required on claims for which adequate claims file
59 documentation exists within the records of the insolvent
60 insurer. Claims for payment of unearned premium shall not be
61 required to use the signed statement required by this section if
62 the receiver certifies to the guaranty fund that the records of
63 the insolvent insurer are sufficient to determine the amount of
64 unearned premium owed to each policyholder of the insurer and
65 such information is remitted to the guaranty fund by the
66 receiver in electronic or other mutually agreed-upon format.
67 Section 2. Subsection (3) of section 631.54, Florida
68 Statutes, is amended to read:
69 631.54 Definitions.--As used in this part:
70 (3) "Covered claim" means an unpaid claim, including one
71 of unearned premiums, which arises out of, and is within the
72 coverage, and not in excess of, the applicable limits of an
73 insurance policy to which this part applies, issued by an
74 insurer, if such insurer becomes an insolvent insurer and the
75 claimant or insured is a resident of this state at the time of
76 the insured event or the property from which the claim arises is
77 permanently located in this state. For entities other than
78 individuals, the residence of a claimant, insured, or
79 policyholder is the state in which the entity's principal place
80 of business is located at the time of the insured event.
81 "Covered claim" shall not include:
82 (a) Any amount due any reinsurer, insurer, insurance pool,
83 or underwriting association, sought directly or indirectly

84 through a third party, as subrogation, contribution,
85 indemnification, or otherwise; or
86 (b) Any claim that would otherwise be a covered claim
87 under this part that has been rejected by any other state
88 guaranty fund on the grounds that an insured's net worth is
89 greater than that allowed under that state's guaranty law.
90 Member insurers shall have no right of subrogation,
91 contribution, indemnification, or otherwise, sought directly or
92 indirectly through a third party, against the insured of any
93 insolvent member.
94 Section 3. Paragraph (a) of subsection (1), paragraph (d)
95 of subsection (2), and paragraph (a) of subsection (3) of
96 section 631.57, Florida Statutes, are amended, and paragraph (e)
97 is added to subsection (3) of that section, to read:
98 631.57 Powers and duties of the association.--
99 (1) The association shall:
100 (a)1. Be obligated to the extent of the covered claims
101 existing:
102 a. Prior to adjudication of insolvency and arising within
103 30 days after the determination of insolvency;
104 b. Before the policy expiration date if less than 30 days
105 after the determination; or
106 c. Before the insured replaces the policy or causes its
107 cancellation, if she or he does so within 30 days of the
108 determination.
109 2.a. The obligation under subparagraph 1. shall include
110 only that amount of each covered claim which is in excess of
111 $100 and is less than $300,000, except with respect to policies

112 covering condominium associations or homeowners' associations,
113 which associations have a responsibility to provide insurance
114 coverage on residential units within the association, the
115 obligation shall include that amount of each covered property
116 insurance claim which is less than $100,000 multiplied by the
117 number of condominium units or other residential units; however,
118 as to homeowners' associations, this sub-subparagraph
119 ~~subparagraph~~ applies only to claims for damage or loss to
120 residential units and structures attached to residential units.
121 b. Notwithstanding sub-subparagraph a., the association
122 has no obligation to pay covered claims that are to be paid from
123 the proceeds of bonds issued under s. 631.695. However, the
124 association shall assign and pledge the first available moneys
125 from all or part of the assessments to be made under paragraph
126 (3)(a) to or on behalf of the issuer of such bonds for the
127 benefit of the holders of such bonds. The association shall
128 administer any such covered claims and present valid covered
129 claims for payment in accordance with the provisions of the
130 assistance program in connection with which such bonds have been
131 issued.
132 3. In no event shall the association be obligated to a
133 policyholder or claimant in an amount in excess of the
134 obligation of the insolvent insurer under the policy from which
135 the claim arises.
136 (2) The association may:
137 (d) Negotiate and become a party to such contracts as are
138 necessary to carry out the purpose of this part. Additionally,
139 the association may enter into such contracts with a

140 municipality, a county, or a legal entity created pursuant to s.
141 163.01(7)(g) as are necessary in order for the municipality,
142 county, or legal entity to issue bonds under s. 631.695. In
143 connection with the issuance of any such bonds and the entering
144 into of any such necessary contracts, the association may agree
145 to such terms and conditions as the association deems necessary
146 and proper.
147 (3)(a) To the extent necessary to secure the funds for the
148 respective accounts for the payment of covered claims, ~~and also~~
149 to pay the reasonable costs to administer the same, and to
150 secure the funds for the account specified in s. 631.55(2)(c),
151 or to retire indebtedness, including, without limitation, the
152 principal, redemption premium, if any, and interest on, and
153 related costs of issuance of, bonds issued under s. 631.695, and
154 the funding of any reserves and other payments required under
155 the bond resolution or trust indenture pursuant to which such
156 bonds have been issued, the office, upon certification of the
157 board of directors, shall levy assessments in the proportion
158 that each insurer's net direct written premiums in this state in
159 the classes protected by the account bears to the total of said
160 net direct written premiums received in this state by all such
161 insurers for the preceding calendar year for the kinds of
162 insurance included within such account. Assessments shall be
163 remitted to and administered by the board of directors in the
164 manner specified by the approved plan. Each insurer so assessed
165 shall have at least 30 days' written notice as to the date the
166 assessment is due and payable. Every assessment shall be made as
167 a uniform percentage applicable to the net direct written

168 premiums of each insurer in the kinds of insurance included
169 within the account in which the assessment is made. The
170 assessments levied against any insurer shall not exceed in any
171 one year more than 2 percent of that insurer's net direct
172 written premiums in this state for the kinds of insurance
173 included within such account during the calendar year next
174 preceding the date of such assessments.
175 (e)1.a. In addition to assessments otherwise authorized in
176 paragraph (a) and to the extent necessary to secure the funds
177 for the account specified in s. 631.55(2)(c), or to retire
178 indebtedness, including, without limitation, the principal,
179 redemption premium, if any, and interest on, and related costs
180 of issuance of, bonds issued under s. 631.695, and the funding
181 of any reserves and other payments required under the bond
182 resolution or trust indenture pursuant to which such bonds have
183 been issued, the department, upon certification of the board of
184 directors, shall levy emergency assessments as provided in this
185 paragraph upon insurers holding a certificate of authority. The
186 emergency assessments payable under this paragraph by any
187 insurer shall not exceed in any single year more than 2 percent
188 of that insurer's direct written premiums, net of refunds, in
189 this state during the preceding calendar year for the kinds of
190 insurance within the account specified in s. 631.55(2)(c).
191 b. Any emergency assessments authorized under this
192 paragraph shall be levied by the department upon insurers
193 holding a certificate of authority, upon certification as to the
194 need for such assessments by the board of directors, in each
195 year that bonds issued under s. 631.695 and secured by such

196 emergency assessments are outstanding, in such amounts up to
197 such 2-percent limit as required in order to provide for the
198 full and timely payment of the principal of, redemption premium,
199 if any, and interest on, and related costs of issuance of, such
200 bonds. The emergency assessments provided for in this paragraph
201 are assigned and pledged to the municipality, county, or legal
202 entity issuing bonds under s. 631.695, for the benefit of the
203 holders of such bonds, in order to enable such municipality,
204 county, or legal entity to provide for the payment of the
205 principal of, redemption premium, if any, and interest on such
206 bonds, the cost of issuance of such bonds, and the funding of
207 any reserves and other payments required under the bond
208 resolution or trust indenture pursuant to which such bonds have
209 been issued, without the necessity of any further action by the
210 association, the department, or any other party. To the extent
211 that bonds are issued under s. 631.695 and the association
212 determines to secure such bonds by a pledge of revenues received
213 from the emergency assessments, such bonds, upon such pledge of
214 revenues, shall be secured by and payable from the proceeds of
215 such emergency assessments, and the proceeds of emergency
216 assessments levied under this paragraph shall be remitted
217 directly to and administered by the trustee or custodian
218 appointed for such bonds.
219 c. Emergency assessments under this paragraph may be
220 payable in a single payment or, at the option of the
221 association, may be payable in 12 monthly installments with the
222 first installment being due and payable at the end of the month
223 after an emergency assessment is levied and subsequent

224 installments being due not later than the end of each succeeding
225 month.
226 d. If emergency assessments are imposed, the report
227 required by s. 631.695(7) shall include an analysis of the
228 revenues generated from the emergency assessments imposed under
229 this paragraph.
230 2. In order to ensure that insurers paying emergency
231 assessments levied under this paragraph continue to charge rates
232 that are neither inadequate nor excessive, within 90 days after
233 being notified of such assessments, each insurer that is to be
234 assessed pursuant to this paragraph shall submit a rate filing
235 for coverage included within the account specified in s.
236 631.55(2)(c) and for which rates are required to be filed under
237 s. 627.062. If the filing reflects a rate change that, as a
238 percentage, is equal to the difference between the rate of such
239 assessment and the rate of the previous year's assessment under
240 this paragraph, the filing shall consist of a certification so
241 stating and shall be deemed approved when made. Any rate change
242 of a different percentage shall be subject to the standards and
243 procedures of s. 627.062.
244 3. An annual assessment under this paragraph shall
245 continue while the bonds issued with respect to which the
246 assessment was imposed are outstanding, including any bonds the
247 proceeds of which were used to refund bonds issued pursuant to
248 s. 631.695, unless adequate provision has been made for the
249 payment of the bonds in the documents authorizing the issuance
250 of such bonds.
251 4. Emergency assessments under this paragraph are not

252 premium and are not subject to the premium tax, to any fees, or
253 to any commissions. An insurer is liable for all emergency
254 assessments that the insurer collects and shall treat the
255 failure of an insured to pay an emergency assessment as a
256 failure to pay the premium. An insurer is not liable for
257 uncollectible emergency assessments.
258 Section 4. Section 631.695, Florida Statutes, is created
259 to read:
260 631.695 Revenue bond issuance through counties or
261 municipalities.--
262 (1) The Legislature finds:
263 (a) The potential for widespread and massive damage to
264 persons and property caused by hurricanes making landfall in
265 this state can generate insurance claims of such a number as to
266 render numerous insurers operating within this state insolvent
267 and therefore unable to satisfy covered claims.
268 (b) The inability of insureds within this state to receive
269 payment of covered claims or to timely receive such payment
270 creates financial and other hardships for such insureds and
271 places undue burdens on the state, the affected units of local
272 government, and the community at large.
273 (c) In addition, the failure of insurers to pay covered
274 claims or to timely pay such claims due to the insolvency of
275 such insurers can undermine the public's confidence in insurers
276 operating within this state, thereby adversely affecting the
277 stability of the insurance industry in this state.
278 (d) The state has previously taken action to address these
279 problems by adopting the Florida Insurance Guaranty Association

280 Act, which, among other things, provides a mechanism for the
281 payment of covered claims under certain insurance policies to
282 avoid excessive delay in payment and to avoid financial loss to
283 claimants or policyholders because of the insolvency of an
284 insurer.
285 (e) In the wake of the unprecedented destruction caused by
286 various hurricanes that have made landfall in this state, the
287 resultant covered claims, and the number of insurers rendered
288 insolvent thereby, it is evident that alternative programs must
289 be developed to allow the Florida Insurance Guaranty
290 Association, Inc., to more expeditiously and effectively provide
291 for the payment of covered claims.
292 (f) It is therefore determined to be in the best interests
293 of, and necessary for, the protection of the public health,
294 safety, and general welfare of the residents of this state, and
295 for the protection and preservation of the economic stability of
296 insurers operating in this state, and it is declared to be an
297 essential public purpose, to permit certain municipalities and
298 counties to take such actions as will provide relief to
299 claimants and policyholders having covered claims against
300 insolvent insurers operating in this state by expediting the
301 handling and payment of covered claims.
302 (g) To achieve the foregoing purposes, it is proper to
303 authorize municipalities and counties of this state
304 substantially affected by the landfall of a category 1 or
305 greater hurricane to issue bonds to assist the Florida Insurance
306 Guaranty Association, Inc., in expediting the handling and
307 payment of covered claims of insolvent insurers.

308 (h) In order to avoid the needless and indiscriminate
309 proliferation, duplication, and fragmentation of such assistance
310 programs, it is in the best interests of the residents of this
311 state to authorize municipalities and counties severely affected
312 by a category 1 or greater hurricane to provide for the payment
313 of covered claims beyond their territorial limits in the
314 implementation of such programs.
315 (i) It is a paramount public purpose for municipalities
316 and counties substantially affected by the landfall of a
317 category 1 or greater hurricane to be able to issue bonds for
318 the purposes described in this section. Such issuance shall
319 provide assistance to residents of those municipalities and
320 counties as well as to other residents of this state.
321 (2) The governing body of any municipality or county the
322 residents of which have been substantially affected by a
323 category 1 or greater hurricane may issue bonds to fund an
324 assistance program in conjunction with, and with the consent of,
325 the Florida Insurance Guaranty Association, Inc., for the
326 purpose of paying claimants' or policyholders' covered claims as
327 defined in s. 631.54 arising through the insolvency of an
328 insurer, which insolvency is determined by the Florida Insurance
329 Guaranty Association, Inc., to have been a result of a category
330 1 or greater hurricane, regardless of whether such claimants or
331 policyholders are residents of such municipality or county or
332 the property to which such claim relates is located within or
333 outside the territorial jurisdiction of such municipality or
334 county. The power of a municipality or county to issue bonds as
335 described in this section is in addition to any powers granted

336 by law and may not be abrogated or restricted by any provisions
337 in such municipality's or county's charter. A municipality or
338 county issuing bonds for this purpose shall enter into such
339 contracts with the Florida Insurance Guaranty Association, Inc.,
340 or any entity acting on behalf of the Florida Insurance Guaranty
341 Association, Inc., as are necessary to implement the assistance
342 program. Any bonds issued by a municipality or county or
343 combination thereof under this subsection shall be payable from
344 and secured by moneys received by or on behalf of the
345 municipality or county from assessments levied under s.
346 631.57(3)(a) and assigned and pledged to or on behalf of the
347 municipality or county for the benefit of the holders of such
348 bonds in connection with such assistance program. The funds,
349 credit, property, and taxing power of the state or any
350 municipality or county shall not be pledged for the payment of
351 such bonds.
352 (3) Bonds may be validated by such municipality or county
353 pursuant to chapter 75. The proceeds of such bonds may be used
354 to pay covered claims of insolvent insurers; to refinance or
355 replace previously existing borrowings or financial
356 arrangements; to pay interest on bonds; to fund reserves for the
357 bonds; to pay expenses incident to the issuance or sale of any
358 bond issued under this section, including costs of validating,
359 printing, and delivering the bonds, costs of printing the
360 official statement, costs of publishing notices of sale of the
361 bonds, costs of obtaining credit enhancement or liquidity
362 support, and related administrative expenses; or for such other
363 purposes related to the financial obligations of the fund as the

364 association may determine. The term of the bonds may not exceed
365 30 years.
366 (4) The state covenants with holders of bonds of the
367 assistance program that the state will not take any action that
368 will have a material adverse effect on such holders and will not
369 repeal or abrogate the power of the board of directors of the
370 association to direct the Office of Insurance Regulation to levy
371 the assessments and to collect the proceeds of the revenues
372 pledged to the payment of such bonds as long as any such bonds
373 remain outstanding unless adequate provision has been made for
374 the payment of such bonds in the documents authorizing the
375 issuance of such bonds.
376 (5) The accomplishment of the authorized purposes of such
377 municipality or county under this section is in all respects for
378 the benefit of the people of the state, for the increase of
379 their commerce and prosperity, and for the improvement of their
380 health and living conditions. Such municipality or county, in
381 performing essential governmental functions in accomplishing its
382 purposes, is not required to pay any taxes or assessments of any
383 kind whatsoever upon any property acquired or used by the county
384 or municipality for such purposes or upon any revenues at any
385 time received by the county or municipality. The bonds, notes,
386 and other obligations of such municipality or county, and the
387 transfer of and income from such bonds, notes, and other
388 obligations, including any profits made on the sale of such
389 bonds, notes, and other obligations, are exempt from taxation of
390 any kind by the state or by any political subdivision or other
391 agency or instrumentality of the state. The exemption granted in

392 this subsection is not applicable to any tax imposed by chapter
393 220 on interest, income, or profits on debt obligations owned by
394 corporations.
395 (6) Two or more municipalities or counties the residents
396 of which have been substantially affected by a category 1 or
397 greater hurricane may create a legal entity pursuant to s.
398 163.01(7)(g) to exercise the powers described in this section as
399 well as those powers granted in s. 163.01(7)(g). Reference in
400 this section to a municipality or county includes such legal
401 entity.
402 (7) The association shall issue an annual report on the
403 status of the use of bond proceeds as related to insolvencies
404 caused by hurricanes. The report must contain the number and
405 amount of claims paid. The association shall also include an
406 analysis of the revenue generated from the assessment levied
407 under s. 631.57(3)(a) to pay such bonds. The association shall
408 submit a copy of the report to the President of the Senate, the
409 Speaker of the House of Representatives, and the Chief Financial
410 Officer within 90 days after the end of each calendar year in
411 which bonds were outstanding.
412 Section 5. No provision of s. 631.57 or s. 631.695,
413 Florida Statutes, shall be repealed until such time as the
414 principal, redemption premium, if any, and interest on all bonds
415 issued under s. 631.695, Florida Statutes, payable and secured
416 from assessments levied under s. 631.57(3)(a), Florida Statutes,
417 have been paid in full or adequate provision for such payment
418 has been made in accordance with the bond resolution or trust
419 indenture pursuant to which such bonds were issued.

420 Section 6. If any provision of this act or the application
421 thereof to any person or circumstance is held invalid, the
422 invalidity shall not affect other provisions or applications of
423 the act which can be given effect without the invalid provision
424 or application, and to this end the provisions of this act are
425 declared severable.
426 Section 7. This act shall take effect upon becoming a law.

HB 1355

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1355 City of Lauderhill, Broward County
SPONSOR(S): Sobel
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson	Hamby
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 1355 extends the corporate limits of the City of Lauderhill in Broward County to include:

- a portion of Sunrise Boulevard;
- a portion of N.W. 31st Avenue;
- the portion of the Florida Turnpike (Sunshine State Parkway) that runs through the City of Lauderhill; and
- a small commercial property abutting Sunrise Boulevard to avoid the creation of an enclave.

The bill provides for the transfer of public roads and rights-of-way; provides for powers and services over the annexed area; provides for continuation of contracts in effect prior to annexation; and provides an effective date of upon becoming law.

According to the Economic Impact Statement, the bill will result in revenues of $5,181.33 for the City of Lauderhill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

This bill will transfer certain responsibilities relating to the annexed property from Broward County to the City of Lauderhill.

Ensure Lower Taxes

The Economic Impact Statement indicates that the City of Lauderhill will receive an addition $5,181.33 in revenues as a result of the bill.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Constitutional/Statutory Provisions Relating to Annexation[1]

Section 2 (c), Art. VIII of the State Constitution provides that "[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law." This provision authorizes the Legislature to annex unincorporated property into a municipality by special act. It also authorizes the Legislature to establish procedures in general law for the annexation of property.

The Legislature established local annexation procedures by general law in 1974, with the enactment of ch. 171, F. S., the "Municipal Annexation or Contraction Act." This act describes the way in which property may be annexed or de-annexed by cities without legislative action. The purpose of the act is to set forth procedures for adjusting the boundaries of municipalities through annexations or contractions of corporate limits, and criteria for determining when annexations or contractions may take place so as to:

- ensure sound urban development and accommodation to growth;
- establish uniform legislative standards throughout the state for the adjustment of municipal boundaries;
- ensure the efficient provision of urban services to areas that become urban in character; and
- ensure that areas are not annexed unless municipal services can be provided to those areas.

Statutory Requirements for Annexation

Before local annexation procedures may begin, pursuant to s. 171.042, F.S., the governing body of the municipality must prepare a report containing plans for providing urban services to any area to be annexed. A copy of the report must be filed with the board of county commissioners where the municipality is located. This report must include appropriate maps, plans for extending municipal services, timetables and financing methodologies. It must certify that the area proposed to be annexed

[1] The term "annexation" is defined in the Florida Statutes to mean "the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality." See, s. 171.031(1), F.S. For an annexation to be valid under ch. 171, F. S., the annexation must take place within the boundaries of a single county. See, s. 171.045, F.S.

is appropriate for annexation because it meets the following standards and requirements described by s. 171.043, F.S.:

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality.[2]
- The area to be annexed must be reasonably compact.[3]
- No part of the area to be annexed may fall within the boundary of another incorporated municipality.
- Part or all of the land to be annexed must be developed for urban purposes.[4]
- Alternatively, if the proposed area is not developed for urban purposes, it can either border at least 60 percent of a developed area, or provide a necessary bridge between two urban areas for the extension of municipal services.

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place after the municipal governing body levies such tax for that year. In the case of municipal contractions, the city and county must reach agreement on the transfer of indebtedness or property—the amount to be assumed, its fair value and the manner of transfer and financing.[5]

Types of Annexations

Voluntary Annexation

If the property owners of a reasonably compact, unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. Section 171.044 (4), F. S., provides that the procedures for voluntary annexation are "supplemental to any other procedure provided by general law or special law." The following process governs voluntary annexations in every county, except for those counties with charters providing an exclusive method for municipal annexation:

- submission of a petition—signed by all property owners in the area proposed to be annexed—to the municipal governing body; and
- adoption of an ordinance by the governing body of the municipality to annex the property after publication of a notice—which sets forth the proposed ordinance in full—at least once a week for two consecutive weeks.

The governing body of the municipality also must provide a copy of the notice to the board of county commissioners of the county where the municipality is located.

In addition, the annexation must not create enclaves. An enclave is: (a) any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.[6]

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[2] This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. There are specified exceptions for cases in which an area is separated from the city's boundary by a publicly owned county park, right-of-way or body of water.

[3] Section 171.031(12), F.S., defines "compactness" as concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Any annexation proceeding in any county in the state is required to be designed in such a manner as to ensure that the area will be reasonably compact.

[4] An area developed for urban purposes is defined as an area which meets any one of the following standards: (a) a total resident population equal to at least two persons per acre; (b) a total resident population equal to at least one person per acre, with at least 60 percent of subdivided lots one acre or less; or (c) at least 60 percent of the total lots used for urban purposes, with at least 60 percent of the total urban residential acreage divided into lots of five acres or less.

[5] See, s. 171.061, F.S.

[6] Section 171.031(13), F.S.

Involuntary Annexation

A municipality may annex property where the property owners have not petitioned for annexation pursuant to s. 171.0413, F. S. This process is referred to as "involuntary" annexation. In general, the requirements for an involuntary annexation are:

- the adoption of an annexation ordinance by the annexing municipality's governing body;
- at least two advertised public hearings held by the governing body of the municipality prior to the adoption of the ordinance, with the first hearing on a weekday at least seven days after the first advertisement and the second hearing held on a weekday at least five days after the first advertisement; [7] and
- submission of the ordinance to a vote of the registered electors of the area proposed for annexation once the governing body has adopted the ordinance.[8]

Any parcel of land which is owned by one individual, corporation or legal entity, or owned collectively by one or more individuals, corporations or legal entities, proposed to be annexed can not be severed, separated, divided or partitioned by the provisions of the ordinance, unless the owner of such property waives this requirement.

If there is a majority vote in favor of annexation in the area proposed to be annexed, the area becomes part of the city. If there is no majority vote, the area cannot be made the subject of another annexation proposal for two years from the date of the referendum.

If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations or legal entities which are not registered electors of such area, the area can not be annexed unless the owners of more than 50 percent of the land in such area consent to the annexation. This consent must be obtained by the parties proposing the annexation prior to the referendum.

If the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. The area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the governing body does not choose to hold a referendum of the annexing municipality, then the property owner consents must be obtained by the parties proposing the annexation prior to the final adoption of the ordinance.

Effect of Annexation on an Area

Upon the effective date of an annexation, the area becomes subject to all laws, ordinances and regulations in force in the annexing municipality. An exception occurs pursuant to s. 171.062(2), F.S., in that if the area annexed was subject to a county land use plan and county zoning or subdivision regulations, these regulations remain in effect until the municipality adopts a comprehensive plan amendment that includes the annexed area. In contractions, excluded territory is immediately subject to county laws, ordinances and regulations.

Any changes in municipal boundaries require revision of the boundary section of the municipality's charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.[9]

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[7] This new requirement was passed by the 1999 Legislature.

[8] In 1999, the Florida Legislature removed the requirement of a dual referendum in specific circumstances. Previously, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality or cumulatively exceeded more than five percent of the municipal population. The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality.

[9] Section 171.091, F.S.

Appeal of Annexation or Contraction

Affected persons who believe they will suffer material injury because of the failure of a city to comply with annexation or contraction laws as applied to their property can appeal the annexation ordinance. They may file a petition within 30 days following the passage of the ordinance with the circuit court for the county in which the municipality is located seeking the court's review by certiorari. If an appeal is won, the petitioner is entitled to reasonable costs and attorney's fees.[10]

Broward County Annexations

Broward County is located on Florida's South Atlantic coast and consists of nearly 1,200 square miles and a population of approximately 1.3 million residents. Broward County currently contains 31 municipalities, the majority of which achieved their current corporate boundaries through a multitude of annexations.

In 1996, in cooperation with the Broward County Commission, the Broward County Legislative Delegation created the Ad Hoc Committee on Annexation Policy. The delegation charged this committee with the responsibility of developing and recommending policy to the Broward Legislative Delegation regarding the terms under which it would consider future annexations. The committee recommended that the annexation of all the remaining unincorporated areas of Broward County should be encouraged by the year 2010, and that unincorporated areas remaining after 2010 would be subject to annexation by the Florida Legislature. In 2001, this goal was changed to year 2005.

The Florida Legislature adopted a special act (ch. 96-542, L.O.F, as amended by ch. 99-447, L.O.F.), which requires that any annexation of unincorporated property within Broward County proposed to be accomplished pursuant to general law first must be considered at a public hearing conducted by the Broward County Legislative Delegation, pursuant to its adopted rules. The annexation is not effective until the 15th day of September following adjournment sine die of the next regular legislative session following the completion of all necessary procedures for annexation.

Annexations may also occur by special act of the Legislature. The Broward County Legislative Delegation sponsors several local annexation bills each year.

<u>2001 Broward County Legislative Delegation's Ad Hoc Committee on Annexation</u>

During the 2001 Legislative Session, House Bill 907 died in the House Committee on State Administration, and Senate Bill 2338 died in the Senate Committee on Rules and Calendar. These bills required the City of Pembroke Park, located in Broward County with a population of approximately 5,000 people, to annex unincorporated areas in South Central Broward County, including the areas of Carver Ranches, Miami Gardens, Utopia and Lake Forest. These areas have a population of approximately 15,000 people and, if added to Pembroke Park, would have quadrupled the city's population.

As a result of the opposition of the City of Pembroke Park to these annexation bills and the eventual disposition of the bills, the Broward County Legislative Delegation initiated a review of the remaining Broward annexations by establishing the 2001 Ad Hoc Committee on Annexation. Their stated mission was "...to facilitate the fair and comprehensive continuation of the 1995 Annexation Policy of Broward County with special consideration being given to each neighborhood and the responsibilities assumed by the annexing municipality with the cooperation of Broward County."

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[10] Section 171.081, F.S.

The Committee met six times during the summer of 2001, and agreed to the following 18 guidelines:

1. The annexation of all unincorporated areas in Broward County should take place by October 1, 2005. Any areas left unincorporated after that date would be subject to required annexation by the Florida Legislature.
2. All Broward county annexation bills should be combined into one comprehensive or omnibus bill in order to streamline the process.
3. An official unincorporated partnership committee would be established to identify community projects or issues of interest that could be collaboratively achieved. These projects or issues would become part of any interlocal agreement prior to annexation. This committee would be responsible for communications between the annexing city and the unincorporated area.
4. The geographic integrity, character and unique lifestyle of the different neighborhoods should be preserved.
5. Residents of areas being proposed for annexation should be informed of any new taxes or fees which would be imposed by the annexing municipality.
6. Cities should be creative in providing incentives to unincorporated areas to encourage annexation.
7. Unincorporated area residents should be given the right whenever possible and reasonable to choose which municipality to join, and the right to vote on annexation by referendum.
8. The practice of dual referenda should be discontinued.
9. Existing regional county facilities should remain unincorporated, unless the county and municipality in question agree to annexation.
10. A transition plan would be established to assist those county employees displaced by reason of annexation.
11. Infrastructure projects should be completed by the county as scheduled in the county's "Five Year Capital Improvement Program."
12. The county and prospecting annexing municipalities would execute interlocal agreements in regards to incomplete county infrastructure projects.
13. The practice of "cherry-picking" would end.[11]
14. Commercial properties should not be stripped from neighborhoods from which they logically or geographically belong.
15. Nothing should preclude the use of deannexation, consolidation or incorporation as a means to ameliorate past actions.
16. All future legislative bills could include phase-in dates for infrastructure improvements and the communities to be annexed.
17. Whenever possible, annexation should achieve revenue neutrality for the annexing municipality.
18. With respect to municipal protocol, all correspondence regarding annexation would be directed to the mayor, elected officials and city managers.

The Broward County Legislative Delegation approved these recommendations/guidelines at their final public hearing held on August 23, 2001. As a result, the delegation came to the 2002 Legislature with a request to consider either an omnibus bill (HB 1027) or individual "stand-alone" bills addressing each individual annexation separately. The omnibus bill died in committee.

Effect of Proposed Changes

HB 1355 extends the corporate limits of the City of Lauderhill in Broward County to include:

- a portion of Sunrise Boulevard;
- a portion of N.W. 31st Avenue;
- the portion of the Florida Turnpike (Sunshine State Parkway) that runs through the City of Lauderhill; and
- a small commercial property abutting Sunrise Boulevard to avoid the creation of an enclave.

[11] A city engages in cherry-picking when it seeks to annex only areas that will produce a positive tax cash flow.

According to Broward Legislative Delegation staff, the annexation of the Sunrise Boulevard and N.W. 31st Avenue parcels will correct a legal description which omitted these roads that was used to annex certain properties in a ch. 171, F.S., process last year. The extension of the corporate boundary of the city to include a portion of the Florida Turnpike is in keeping with county annexation policy, and is not opposed by the Florida Department of Transportation. Additionally, the annexation of the small commercial property is to avoid the creation of an enclave. The owner of the parcel has agreed to become part of the City of Lauderhill.[12]

The bill provides that all public roads and associated public rights-of-way are transferred from Broward County jurisdiction to that of the City of Lauderhill. On the effective date of this act, the City of Lauderhill will be responsible for and embodied with all municipal powers granted in ch, 166, F.S., including, but not limited to, police powers and fire and emergency services, over the annexed territory.

Additionally, the bill provides that nothing in the act may be construed to affect or abrogate the rights of parties to any contracts, or between nongovernmental entities, which are in effect prior to the effective date of the annexation.

The bill provides an effective date of upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Provides for extending the corporate limits of the City of Lauderhill.

Section 2: Provides for extending the corporate limits of the City of Lauderhill.

Section 3: Provides for extending the corporate limits of the City of Lauderhill.

Section 4: Provides for extending the corporate limits of the City of Lauderhill.

Section 5: Provides for the transfer of public roads and rights-of-way.

Section 6: Provides for municipal powers.

Section 7: Provides for continuation of contracts in effect prior to the effective date of the annexation.

Section 8: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? December 31, 2005.

WHERE? The *Sun-Sentinel*, a daily newspaper published in Broward County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

[12] A memorandum dated 10/20/06 attesting to this is on file with the Local Government Council.

According to the Economic Impact Statement, this bill will result in revenues of $5,181.33 for the City of Lauderhill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

SUN-SENTINEL
PUBLISHED DAILY
FORT LAUDERDALE, BROWARD COUNTY, FLORIDA
BOCA RATON, PALM BEACH COUNTY, FLORIDA
MIAMI, MIAMI DADE COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF BROWARD/PALM BEACH/MIAMI DADE
BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED

_____ WHO, ON OATH, SAYS THAT HE/SHE IS A DULY AUTHORIZED REPRESENTATIVE OF THE CLASSIFIED DEPARTMENT OF THE SUN-SENTINEL, DAILY NEWSPAPER PUBLISHED IN BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA, AND THAT THE ATTACHED COPY OF ADVERTISEMENT, BEING A:

NOTICE OF LEGISLATION

IN THE MATTER OF:

City of Lauderhill

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN THE ISSUES OF:

12/31 12653827

AFFIANT FURTHER SAYS THAT THE SAID SUN-SENTINEL IS A NEWSPAPER PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS HERETOFORE BEEN CONTINUOUSLY PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MATTER AT THE POST OFFICE IN FORT LAUDERDALE, IN SAID BROWARD COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF ATTACHED COPY OF ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT HE/SHE HAS NEITHER PAID, NOR PROMISED, ANY PERSON, FIRM, OR CORPORATION, ANY DISCOUNT, REBATE, COMMISSION, OR REFUND, FOR THE PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN SAID NEWSPAPER.

_____
(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
ON: **31-December-2005** , A.D.

_____
(SIGNATURE OF NOTARY PUBLIC)

NOTARY PUBLIC STATE OF FLORIDA
Idella M. Johnson
Commission # DD326508
Expires June 6, 2008
Bonded Troy Fain - Insurance, Inc. 800-385-7019

_____
(NAME OF NOTARY, TYPED, PRINTED, OR STAMPED)

PERSONALLY KNOWN ____✓____ OR

PRODUCED IDENTIFICATION _____

NOTICE OF LEGISLATION
Notice is hereby given that the following bill will be presented to the 2006 Legislative Session of the Florida Legislature for consideration and enactment.
A bill to be entitled
An act relating to the City of Lauderhill, Broward County, Florida, extending and enlarging the corporate limits of the City of Lauderhill to include specific unincorporated lands within said corporate limits; providing for an effective date.
BROWARD COUNTY LEGISLATIVE DELEGATION
REPRESENTATIVE ELEANOR SOBEL, CHAIR
CONTACT: Sandy Harris (954-357-6555)
December 31, 2005

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1355

SPONSOR(S): Rep. Eleanor Sobel

RELATING TO: City of Lauderhill, Broward County

[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Broward County Legislative Delegation

CONTACT PERSON: Sandy Harris

PHONE # and E-Mail: 922-9833 saharris@broward.org

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: 12/15/05

Location: Broward County Governmental Center

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [12-31-05 **]**

Where? Sun Sentinel **County** Broward County

Referendum in lieu of publication: YES [ ] NO [X]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Eleanor Sobel 03/07/06

Delegation Chair *(Original Signature)* **Date**

House Committee on Local Government

2005 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House Community Affairs Committee that no bill will be considered by the Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this for must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the House Community Affairs Committee as soon as possible after the bill is filed.

BILL #: HB 1355

SPONSOR (S): Representative Matthew "Matt" Meadows, District 94

RELATING TO: Extending and enlarging the corporate limits of the City of Lauderhill to add a portion of Sunrise Boulevard, a portion of N.W. 31st Avenue, and a portion of the Florida Turnpike that runs through the City of Lauderhill including the corresponding rights of way, and including a small vacant commercial parcel on Sunrise Boulevard which has voluntarily agreed to annex into the City of Lauderhill, to avoid the creation of an enclave and to enable the City of Lauderhill to provide police, fire and municipal services to the area.

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures:	FY 05-06	FY 06-07
	NONE	NONE

ANTICIPATED SOURCES (S) OF FUNDING:

	FY 05-06	FY 06-07
Federal	N/A	N/A
State	N/A	N/A
Local	N/A	N/A

III ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 05-06	FY 06-07
Revenues	N/A	$5,181.33

IV ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Clarify jurisdictional boundaries for the provision of police, fire and municipal services within the City of Lauderhill and avoid the creation of an enclave on Sunrise Boulevard.

Disadvantages: None anticipated.

V ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT: NONE

VI DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDING SOURCES OF DATA): City of Lauderhill Staff

Prepared by: _____
CHARLES FARANDA

TITLE: CITY MANAGER
REPRESENTING: CITY OF LAUDERHILL
PHONE: (954) 730-3000

1 A bill to be entitled
2 An act relating to the City of Lauderhill, Broward County;
3 extending and enlarging the corporate limits of the City
4 of Lauderhill to include specific unincorporated lands
5 within said corporate limits; providing for transfer of
6 public roads and rights-of-way; providing for powers and
7 services over annexed area; providing for continuation of
8 contracts in effect prior to annexation; providing an
9 effective date.
10
11 Be It Enacted by the Legislature of the State of Florida:
12
13 Section 1. The present corporate limits of the City of
14 Lauderhill, Broward County, are hereby extended and enlarged so
15 as to include, in addition to the territory presently within its
16 corporate limits, the area consisting of a portion of Sunrise
17 Boulevard, particularly described as follows:
18
19 That portion of Sunrise Boulevard in Section 31,
20 Township 49 South, Range 42 East, Broward County,
21 Florida, described as follows:
22
23 BEGINNING at the South One-Quarter (S 1/4) corner of
24 said Section 31, said point being on the municipal
25 boundary of the City of Lauderhill, as established by
26 Ordinance No. 040-10-219;
27

28 THENCE Westerly along said municipal boundary and the
29 South line of said Section 31 to a point of
30 intersection with the East line of the Southwest One-
31 Quarter (SW 1/4) of the Southeast One-Quarter (SE 1/4)
32 of the Southwest One-Quarter (SW 1/4) of said Section
33 31, said point being on the municipal boundary of the
34 City of Lauderhill, as established by Ordinance No.
35 80;
36
37 THENCE Northerly along said East line and said
38 municipal boundary to a point of intersection with the
39 centerline of Sunrise Boulevard, as shown on the plats
40 of THUNDERBIRD SWAP SHOP I and THUNDERBIRD SWAP SHOP
41 II, as respectively recorded in Plat Book 139, Page 2
42 and Plat Book 143, Page 47, of the Public Records of
43 Broward County, Florida;
44
45 THENCE Easterly along said centerline to a point of
46 intersection with the Southerly prolongation of the
47 East line of COSTOYA PLAT, according to the plat
48 thereof, as recorded in Plat Book 142, Page 20, of the
49 Public Records of Broward County, Florida, said point
50 being on the municipal boundary of the City of
51 Lauderhill, as established by Ordinance No. 04-10-217;
52
53 THENCE continuing Easterly along said centerline and
54 said municipal boundary to a point of intersection
55 with the Northerly prolongation of the West line of

56 THUNDERBIRD SWAP SHOP III, according to the plat
57 thereof, as recorded in Plat Book 142, Page 20, of the
58 Public Records of Broward County, Florida;
59
60 THENCE Southerly along said Northerly prolongation and
61 said municipal boundary to a point on the South line
62 of said Section 31, said point being on the municipal
63 boundary of the City of Lauderhill, as established by
64 Ordinance No. 040-10-219;
65
66 THENCE Westerly along said South line and said
67 municipal boundary to the POINT OF BEGINNING.
68
69 Section 2. The present corporate limits of the City of
70 Lauderhill, Broward County, are hereby extended and enlarged so
71 as to also include, in addition to the territory presently
72 within its corporate limits and the area described in section 1,
73 the area consisting of a portion of N.W. 31st Avenue,
74 particularly described as follows:
75
76 That portion of Section 5, Township 50 South, Range 42
77 East, Broward County, Florida, described as follows:
78
79 BEGINNING at the point of intersection of the West
80 line of said Section 5 with the North line of the
81 Southwest One-Quarter (SW 1/4), of the Southwest One-
82 Quarter (SW 1/4), of the Northwest One-Quarter (NW
83 1/4) of said Section 5, said point being on the

84 municipal boundary of the City of Lauderhill, as
85 established by Ordinance No. 040-10-219;
86
87 THENCE Northerly along said West line and said
88 municipal boundary to a point on the municipal
89 boundary of the City of Lauderhill, as established by
90 Ordinance No. 04-10-217;
91
92 THENCE Easterly along said municipal boundary to a
93 point on the centerline of NW 31 Avenue as shown on
94 State of Florida Project No. 86502-3615 and as shown
95 on ALL SERVICE PLAT NO. ONE, according to the plat
96 thereof, as recorded in Plat Book 163, Page 43 of the
97 Public Records of Broward County, Florida;
98
99 THENCE Southerly along said centerline to a point on
100 the North line of the Southwest One-Quarter (SW 1/4),
101 of the Southwest One-Quarter (SW 1/4), of the
102 Northwest One-Quarter (NW 1/4) of said Section 5;
103
104 THENCE Westerly along said North line to the POINT OF
105 BEGINNING.
106
107 Section 3. The present corporate limits of the City of
108 Lauderhill, Broward County, are hereby extended and enlarged so
109 as to also include, in addition to the territory presently
110 within its corporate limits and the areas described in sections
111 1 and 2, the portion of the Florida Turnpike (Sunshine State

112 Parkway) that runs through the City of Lauderhill, particularly
113 described as follows:
114
115 Portions of Sections 23, 24 and 26, of Township 49
116 South, Range 41 East, being more particularly
117 described as follows:
118
119 BEGINNING at the intersection of the North line of
120 said Section 23 with the Northerly projection of the
121 West Right-of-Way line of Florida Turnpike (Sunshine
122 State Parkway), said point being on the Corporate City
123 limits of the City of Lauderhill established by
124 Chapter 61-2387 (Senate Bill No. 953) of the laws of
125 Florida and the Corporate City limits of the City of
126 Tamarac according to Ordinance 72-21;
127
128 Thence on said municipal boundary of the City of
129 Tamarac according to Ordinance 72-21, East on the
130 North line of said Section 23 to the Northeast corner
131 of said Section 23;
132
133 Thence continue East on said municipal line and on the
134 North line of said Section 24 to the intersection with
135 the East right of way line of the Florida Turnpike
136 (Sunshine State Parkway), said point being on the
137 Westerly Corporate limits of the City of Lauderdale
138 Lakes according to Ordinance 104;
139

140 Thence Southerly on said Westerly Corporate limits of
141 the City of Lauderdale Lakes and the East right of way
142 line of the Florida Turnpike (Sunshine State Parkway)
143 to the intersection with the North line of the North
144 one-half (N 1/2) of the Southwest one-quarter (SW 1/4)
145 of said Section 24;
146
147 Thence Southerly on the said East right of way line of
148 the Florida Turnpike (Sunshine State Parkway), said
149 line also being on the West line of the North one-half
150 (N 1/2) of the Southwest one-quarter (SW 1/4), to the
151 intersection with the South line of the North one-half
152 (N 1/2) of the Southwest one-quarter (SW 1/4) of said
153 Section 24;
154
155 Thence Southerly on said East right of way line of the
156 Florida Turnpike, said line also being on the West
157 line of the Southwest one-quarter (SW 1/4) of the
158 Southwest one-quarter (SW 1/4) of said Section 24, and
159 the Westerly Corporate limits of the City of
160 Lauderdale Lakes as established by Ordinance 178 to
161 the intersection with the North line of the Northwest
162 quarter (NW 1/4) of Section 25 of Township 49 South,
163 Range 41 East;
164
165 Thence Southerly on said East right of way line of the
166 Florida Turnpike and on the municipal boundary of the
167 City of Lauderdale Lakes as established by Charter 65-

168 1809 (House Bill 2243) to the intersection with the
169 North line of the South three quarters (S 3/4) of the
170 Southeast quarter (SE 1/4) of said Section 26;
171
172 Thence on the municipal boundary of the City of
173 Lauderhill as established by Ordinance 195, West on
174 said North line of the South three quarters (S 3/4) of
175 the Southeast quarter (SE 1/4) of said Section 26 to
176 the intersection with the West right of way line of
177 the Florida Turnpike (Sunshine State Parkway), said
178 point being on the Corporate City limits of the City
179 of Lauderhill as established by Chapter 59-1487 (House
180 Bill No. 2317) of the laws of Florida;
181
182 Thence on said municipal boundary of the City of
183 Lauderhill as established by Chapter 61-2387 (Senate
184 Bill No. 953) and Chapter 59-1487 (House Bill No.
185 2317) of the laws of Florida, North on the West right
186 of way line of the Florida Turnpike (Sunshine State
187 Parkway) to the intersection with the North line of
188 said Section 23, said point also being the POINT OF
189 BEGINNING.
190
191 Section 4. The present corporate limits of the City of
192 Lauderhill, Broward County, are hereby extended and enlarged so
193 as to also include, in addition to the territory presently
194 within its corporate limits and the areas described in sections
195 1 through 3, a small commercial property abutting Sunrise

196 Boulevard to avoid the creation of an enclave, particularly
197 described as follows:
198
199 That portion of Section 31, Township 49 South, Range
200 42 East, Broward County, Florida, described as
201 follows:
202
203 BEGINNING at the Northwest corner of COSTOYA PLAT,
204 according to the plat thereof, as recorded in Plat
205 Book 143, Page 50, of the Public Records of Broward
206 County, Florida, said point being on the municipal
207 boundary of the City of Lauderhill, as established by
208 Ordinance No. 04-10-217;
209
210 THENCE Easterly along the North line of said plat and
211 along said municipal boundary to the Northeast corner
212 of said plat;
213
214 THENCE Southerly along the East line of said plat and
215 along said municipal boundary to the centerline of
216 Sunrise Boulevard, as shown on THUNDERBIRD SWAP SHOP
217 II, according to the plat thereof, as recorded in Plat
218 Book 143, Page 47, of the Public Records of Broward
219 County, Florida;
220
221 THENCE Westerly along said centerline to a point of
222 intersection with the Southerly prolongation of the
223 West line of said COSTOYA PLAT, said point being on

224 the municipal boundary of the City of Lauderhill, as
225 established by Ordinance No. 80;
226
227 THENCE Northerly along said prolongation and said West
228 line and along said municipal boundary to the POINT OF
229 BEGINNING.
230
231 Section 5. All public roads and the public rights-of-way
232 associated therewith, on the Broward County road system, lying
233 within the limits of the lands subject to annexation herein, are
234 transferred from Broward County jurisdiction to the jurisdiction
235 of the annexing municipality.
236 Section 6. On the effective date of this act, the City of
237 Lauderhill shall be responsible for and embodied with all
238 municipal powers granted in chapter 166, Florida Statutes,
239 including, but not limited to, police powers and fire and
240 emergency services, over territory hereby annexed.
241 Section 7. Nothing in this act shall be construed to
242 affect or abrogate the rights of parties to any contracts, or
243 between nongovernmental entities, which contracts are in effect
244 prior to the effective date of the annexation.
245 Section 8. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1363 CS Affordable Housing
SPONSOR(S): Davis and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Growth Management Committee	9 Y, 0 N, w/CS	Grayson	Grayson
2) Local Government Council		Grayson	Hamby
3) Fiscal Council			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 1363 addresses the issue of affordable housing in Florida by creating the Community Workforce Housing Innovation Program (CWHIP); and by creating law and amending existing law to provide financial and regulatory incentives for the provision of affordable housing. The CWHIP will provide grants and incentives to affordable rental and home ownership projects that target: High Cost Counties where area median purchase price is higher than 50% of the state wide area median purchase price calculated on an annual basis and counties designated as areas of critical state concern; High Growth Counties where school populations are outpacing school districts ability to hire and retain teachers; public-private partnerships that demonstrate a strong public or private sector contribution of land, dollars, or in-kind value of at least 15% of the value of the project; essential services personnel, such as teachers, educators, fire, police, hospital workers, construction trades and others as defined and documented by the local community in their annual State Housing Initiatives Partnership (SHIP) Program plan with incomes up to 150% of the area median income; and innovative design, public and private sector support, and the ability to maintain long-term affordability for rental and ownership units.

The bill authorizes the Florida Housing Finance Corporation to implement CWHIP in cooperation with the local SHIP programs. The Corporation may approve and fund one CWHIP project per county. Each project shall be eligible for a series of workforce housing incentives as follows: expedited permitting and approvals of development orders; impact fee reductions or alternative fee payment methods; increased density levels of 16 units per acre or higher; reduction of open space and setback requirements; modification of street requirements and concurrency requirements; and allows the Corporation to review and develop strategies for the expanding affordable home ownership across the state The bill also provides support for the following: Extremely Low Income - Provides a new definition of "extremely low income", residents with incomes below 30% of area median income and a series of changes to existing state and local housing programs to incentivize the development of very low income housing. Provides $32 million for this program; Down Payment Assistance - Includes down payment assistance for essential services personnel such as teachers, nurses, construction trades workers and others defined by local housing officials. Provides $20 million for this effort; Community Contribution Tax Credit for Low Income Home Ownership- A tax credit used primarily by Habitat for Humanity is expanded and available to others affordable housing providers; Surplus Lands - Requires local governments, specified independent special districts and the state to inventory and make available surplus lands for affordable housing; School Boards and Specified Special Districts Authorization - The bill authorizes school boards to provide housing and housing assistance to its teachers and other instructional personnel. Specified independent special districts are authorized to provide housing and housing assistance for their employed personnel as are special fire control districts; Property Assessment – "The Manny Diaz Property Tax Relief Initiative" directs property appraisers to appraise affordable housing properties based upon rental income; Elderly Housing – Makes development of elderly housing more affordable; Disabled Veterans – Provides relief from paying certain license and permit fees on housing; Development of Regional Impacts (DRI) – Provides threshold bonuses for the provision of workforce housing for both the guidelines that determine when an activity constitutes a DRI and when changes constitute a substantial deviation requiring additional review; Scraps the Cap - Eliminates the cap of $243 million on documentary stamps allocated into the Housing Trust funds which was to take effect in 2007 and allows the State Housing Trust Fund to benefit from the statutory documentary stamp revenues provided in existing law.

The bill provides an effective date of July 1, 2006, under otherwise provided.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates new programs; provides additional rulemaking authority for the Florida Housing Finance Corporation; and increases work for other governmental organizations.

Ensure lower taxes - The bill will provide increased tax incentives for persons who donate to eligible sponsors for projects that provide homeownership opportunities for low-income and very-low-income households and for donations made to eligible sponsors for all other projects that qualify under the Community Contribution Tax Credit Program. The bill provides 100 % service-connected permanently and totally disabled veterans confined to wheelchairs an exemption on any license or permit fee to make improvement on their residence.

Safeguard individual liberty – The bill increases the options of individuals and certain private organizations in the conduct of their own affairs. The bill reduces the costs associated with making wheelchair accessibility improvements to a permanently and totally disabled veteran's home.

Promote Personal Responsibility and Empower Families - This bill reduces the match required by the Elderly Housing Community Loan Program (EHCL) from 15 % to 5 %of the loan amount received. Because the maximum loan amount was significantly increased during the last legislative session, the match required of the sponsoring agencies was also significantly increased. Reduction of the required match rate may allow more sponsors to take advantage of the higher loan amounts now available, thereby increasing and improving the stock of housing available for the low-income elderly.

Empower families – The bill increases the opportunities of local governments, governmental entities, and private organizations to support, assist, and encourage families in circumstances occasioning need; and increases family stability and management.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

The state has committed significant resources over the last decade to addressing the severe housing problems facing very low and low income residents of this state. The Corporation's programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. These "affordable housing" programs have traditionally targeted families making 60% or less in the rental programs, and those making 80% or less of area median income (AMI) in the home ownership programs.

Multifamily rental projects are funded by the Corporation through the SAIL gap loan program; the Multifamily Mortgage Revenue Bond (MMRB) program, which provides funding by issuing revenue bonds; and through allocation of federal Low Income Housing Tax Credits (LIHTC), which provides an equity infusion to multifamily affordable housing projects. The multifamily rental programs typically target those making 60% or less of the AMI. Home ownership programs consist of down payment assistance, funded by doc stamp funds and federal funds, along with mortgage loans funded by federal funds and the Single Family Mortgage Revenue Bond (SFMRB) program. Also, the Corporation allocates documentary stamp funds to local governments through the SHIP. The large majority of SHIP funds are directed by statute toward home ownership activities, generally serving those with incomes up to 120% AMI.

Federal housing programs, especially those administered by HUD, typically serve those with the lowest incomes. In recent years, budgets for many of these programs have been cut, putting increasing

pressure on state and local governments to provide for persons at the lowest income levels. In the current market, the need for affordable housing has outstripped the production capacity of the existing federal, state, and local affordable housing programs.

Due to dramatic increases in housing costs coupled with modest rises in incomes, many low income and moderate income Florida families can no longer afford safe, decent and affordable rental and single family housing.

In addition to the needs of the very low and low income families noted above, recent steep increases in real estate prices have also effectively priced moderate income families out of the market. Florida is experiencing a critical shortage of housing for individuals who are employed in essential service occupations, such as teachers, police, hospital workers, and others who do not qualify for existing affordable housing programs. As a result, many communities are finding it increasingly difficult to recruit, employ, and retain personnel necessary to provide essential public services to Florida's communities.

The need for "workforce housing" to meet existing and future housing needs for working families whose incomes, from 80% to 150% AMI, typically make them ineligible for existing housing programs, has recently become increasingly evident.

According to the bill sponsor, the bill is designed to stimulate the construction of home ownership and rental housing in high cost and high growth counties to meet the needs of extremely-low, very low, low and moderate income families along this continuum and in particular, essential services personnel who are facing tremendous difficulties living in the communities in which they work.

FLORIDA HOUSING FINANCE CORPORATION (CORPORATION) PROGRAMS

The Corporation administers a number of multifamily, single family and special programs that help low-income Floridians obtain safe, decent affordable housing that might otherwise be unavailable to them. The rental housing programs include the Multifamily Mortgage Revenue Bond, Low Income Housing Tax Credits, State Apartment Incentive Loan, the Elderly Housing Community Loan, Florida Affordable Housing Guarantee and Home Investment Partnerships programs.

Homeownership programs include the First Time Homebuyer Program, the Homeownership Loan Program and down payment assistance programs such as the Homeownership Assistance Program, HOME Down Payment Assistance, Homeownership Assistance for Moderate Income, and Three Percent Cash Assistance. In addition, the Corporation offers the Mortgage Credit Certificate program; and several Special Programs including the Predevelopment Loan Program, State Housing Initiatives Partnership, Demonstration Loans and the Affordable Housing Catalyst Program. The programs further addressed below are implicated in HB 1363.

State Assistance Initiative Loan Program (SAIL): The State Apartment Incentive Loan Program (SAIL)[1], created in 1992, provides mortgage loans or loan guarantees to sponsors providing affordable housing to very-low income individuals. SAIL is funded by the State Housing Trust Fund and administered by the Corporation.

Florida Housing Finance Corporation has the authority to underwrite and make state apartment incentive loans or loan guarantees to sponsors that:

- Use tax-exempt financing for the first mortgage and at least 20% of the units in the project are set aside for persons or families who have incomes which meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937;

[1] s. 420.5087, F.S.

- Use taxable financing for the first mortgage and at least 20% of the units in the project are set aside for persons or families who have incomes below 50% of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size;
- Use the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986; or
- Locate a project in a county that includes, or has included within the previous 5 years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing, and 100% of the units in the project are set aside for person or families who have income below 120% of the state or local median income, whichever is higher.

Very-Low Income Fund Reservation: Section 420.5087(3), F.S., requires that during the first 6 months a percentage of SAIL funds be reserved for each of the following groups: commercial fishing workers and farmworkers; families; persons who are homeless; and elderly persons. The percentage of SAIL funds reserved for each group is determined by using the most recent statewide very-low income rental housing market study available at the time of publication of each notice of fund availability, but the reservation of funds to commercial fishing workers and farmworkers, families, and the elderly may not be less than 10% of the funds available at that time. Currently, 24% of the total SAIL funds are reserved for the elderly.

Elderly Housing Community Loan Program (EHCL): Section 420.5087(3)(d), F.S., requires that 10% of the amount reserved for the elderly be reserved to provide loans to sponsors of housing for the elderly to provide for building preservation, health, or sanitation repairs or improvements which are required by federal, state, or local regulation or code, or lifesafety or security-related repairs or improvements to such housing. This part of the program is referred to as the Elderly Housing Community Loan Program (EHCL). Under the EHCL Program, sponsors are required to match the loan amount received at a rate of 15%. Funds received from matching are used to supplement the loan amount received to pay the cost of repair or improvement for which these funds are available

According to the Florida Housing Finance Corporation, the match requirement is used to leverage state funds and make more fiscally prudent investments. Prior to the increase in the available loan amount, sponsors were awarded additional points during the loan application process for exceeding the minimum match requirement by a certain percentage. With the current increased loan amount and match rate, this process is no longer being used. However, under general operating policy, sponsors are still encouraged to match at the highest percentage possible, which can exceed the minimum percentage amount set in statute.

Prior to 2005, loans under the EHCL Program were capped at $200,000 with the requirement of a minimum match of 15% from the sponsor. During the 2005 legislative session, the Legislature increased the maximum loan amount from $200,000 to $750,000. The increase in the maximum loan amount had the practical effect of increasing the potential match requirement from $30,000 to $112,500. Reducing the matching requirement to 5%, as provided in this bill, would result in a maximum required match amount of $37,500.

Florida Housing Ownership Assistance Program (HAP): The HAP Construction Loan provides a five-year, zero percent interest construction loan to eligible developers for the lesser of 33% of the total development cost or $1,000,000. Eligible developers include nonprofit developers and nonprofit sponsors, established pursuant to ch. 617, F.S., and local governments and public housing authorities, with preference given to Corporation certified community based organizations, and to developments that have received funding from Florida Housing's Predevelopment Loan Program.

A minimum of 30% of the homes must be sold to eligible homebuyers who have an adjusted income that does not exceed 50% of the AMI, and a minimum of another 30% of the homes must be sold to eligible homebuyers who have an adjusted income that does not exceed 80% AMI. Any remaining homes must be sold to persons or households that have an adjusted income that does not exceed 150% AMI.

The HAP Permanent Loan Program provides a zero percent interest nonamortized second mortgage loan to eligible homebuyers purchasing a home built by a participating developer. In order to be eligible, a person's or household's adjusted income cannot exceed 80% AMI. This loan is available in an aggregate amount not to exceed the lesser of $30,000, 25% of the purchase price of the home, or the amount necessary to meet credit underwriting criteria, based on the monthly mortgage payment to income underwriting ratio. The term of the loan is the lesser of 30 years or the term of the first mortgage, and is due upon maturity, sale, refinancing or rental of the property.

State Housing Initiatives Partnership Program (SHIP): The Corporation administers the State Housing Initiatives Partnership program (SHIP), which provides funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very low, low and moderate income families.

SHIP funds are distributed on an entitlement basis to all 67 counties and 48 Community Development Block Grant entitlement cities in Florida. The minimum allocation is $350,000 and the maximum allocation is over $9 million. In order to participate, local governments must establish a local housing assistance program by ordinance; develop a local housing assistance plan and housing incentive strategy; amend land development regulations or establish local policies to implement the incentive strategies; form partnerships and combine resources in order to reduce housing costs; and ensure that rent or mortgage payments within the targeted areas do not exceed 30% of the AMI limits, unless authorized by the mortgage lender.

A minimum of 65% of the funds must be spent on eligible homeownership activities; a minimum of 75% of funds must be spent on eligible construction activities; at least 30% of the funds must be reserved for very-low income households (up to 50% of the AMI); an additional 30% may be reserved for low income households (up to 80% of AMI); and the remaining funds may be reserved for moderate-income households (up to 120% of AMI.). It is important to note that no more than 5% of SHIP funds may be used for administrative expenses. However, if a local government makes a finding of need by resolution, a local government may use up to 10% for administrative expenses. Funding for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. Funds are allocated to local governments each month on a population-based formula. These funds are derived from the collection of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund. Total actual disbursements are dependent upon these documentary stamp collections.

COMMUNITY CONTRIBUTION TAX CREDITS

In 1980, the Florida Legislature established the Community Contribution Tax Credit Program to encourage private sector participation in revitalization and housing projects. The program offers a tax incentive (a corporate income tax credit, insurance premium tax credit or a sales tax refund) equal to 50% of the amount donated up to $200,000 annually to sponsors who have been approved to participate in the program. Eligible project sponsors under the program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards. Eligible projects include the construction, improvement or rehabilitation of housing, commercial, industrial or public facilities, and projects that promote entrepreneurial or job development opportunities for low-income persons.

The Office of Tourism, Trade and Economic Development (OTTED) is responsible for administering the program by reviewing sponsor project proposals and tax credit applications. To date, 167 sponsors/projects have been approved to participate in the program. After the taxpayer receives approval for community contribution tax credits, it must claim the credit from the Department of Revenue (DOR). Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years. Unused credits against sales taxes may be carried forward for three years.

The Florida Legislature has amended the dollar cap and the expiration date of the program on numerous occasions. The program began with a $3 million dollar per year cap that currently is designated at $12 million. The expiration of the program has been extended from 2005 to June 30, 2015. According to the OTTED, Habitat for Humanity is the primary recipient of donations for housing projects under the Community Contribution Tax Credit Program.

EFFECT OF PROPOSED CHANGES

HB 1363 addresses the issue of affordable housing in Florida by creating the Community Workforce Housing Innovation Program; and by creating law and amending existing law to provide financial and regulatory incentives for the provision of affordable housing. The bill addresses various aspects of the income spectrum from extremely-low-income persons, defined as a person or family whose total annual household income does not exceed 30% of the median annual adjusted gross income for households within the state, to those persons earning less than 150% of AMI. The effects of this bill are described in greater detail below under the headings Community Workforce Housing Innovation Program; and Other Financial and Regulatory Incentives; and Miscellaneous.

COMMUNITY WORKFORCE HOUSING INNOVATION PROGRAM

The bill creates the Community Workforce House Innovation Program (CWHIP) which incents public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities, in high-cost counties, to persons with medium incomes.

Florida Housing Finance Corporation (Corporation): The bill establishes the Corporation as the entity responsible for the implementation of this program. The Corporation is directed to implement this program by providing financial and regulatory incentives to both the public and private sectors for the purpose of developing and financing innovative rental and home-ownership housing solutions for eligible persons. The bill also directs the Corporation to develop selection criteria for selecting housing innovation projects in certain areas and to provide incentives for the use of State Housing Initiative Partnership Program (SHIP) funds.

Definitions: The bill directly or indirectly defines several terms as follows:

- "Counties in high-cost areas of the state" is directly defined as "those counties in which the average median purchase price of a single-family home is above the state median purchase price of a single-family home.
- "Areas of critical state concern" is indirectly defined as those areas designated under s. 380.05, F.S., for which the Legislature has declared its intent to provide affordable housing.[2] One of the five designated ACSC areas appears to comply with this indirect definition: Florida Keys ACSC (s. 380.0552, F.S.).
- "Project partnerships" is indirectly defined to include substantial involvement of public sector entities (examples given are: local municipalities, counties, school districts, special districts, and other units of local government) and private sectors entities, "that donate land or other tangible value worth at least 15% of the project value."

[2] Established in Chapter 380.05, Florida Statutes, the Area of Critical State Concern (ACSC) program protects resources and public facilities of major statewide significance. Designated Areas of Critical State Concern are: City of Apalachicola; City of Key West; Green Swamp; Florida Keys (Monroe County); and the Big Cypress Swamp (Miami-Dade, Monroe and Collier counties). In ACSCs, Department of Community Affairs (DCA) staff review all local development projects and may appeal to the Administration Commission any local development orders that are inconsistent with state guidelines. The DCA is also responsible for reviewing and approving amendments to comprehensive plans and land development regulations proposed by local governments within the designated areas.

- "Essential services personnel" is indirectly defined to include teachers and educators, police and fire personnel, health care personnel, and other job categories in which the personnel are defined as essential services personnel within the annual local SHIP program.
- "Innovative projects" is indirectly defined to include "new construction or rehabilitation of existing housing, mixed-income housing, or commercial and housing mixed-use elements."

Targets: The bill mandates that the Corporation target the following:

- Counties in high cost areas of the state and areas of critical state concern.
- Project partnerships, as defined in the bill.
- Persons in households with income levels up to 150% of the AMI in prioritized areas, or persons with a higher AMI in areas of critical state concern.
- Essential services personnel in need of affordable housing; Innovative projects, as defined in the bill.

Supplemental Program: The bill provides that the CWHIP shall supplement and not supplant existing affordable housing programs funded under ch. 420, F.S., relating to housing.

Annual Review and Report: The bill requires the Corporation to conduct an annual review of the success of the CWHIP. Additionally, the bill requires the Corporation to annually review ways to improve public and private sector incentives and barriers to affordable and community workforce housing. The Corporation is required to submit any recommendations for strengthening the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1 each year. The bill authorizes the Corporation to request assistance in these matters from the Department of Community Affairs (DCA) or the Affordable Housing Study Commission[3]. The review will include:

- Determination of how the program supports traditional affordable housing programs defined in ch. 420, F.S.
- Determination of whether the program is meeting housing needs of high-cost counties.

Approved Applicant Benefits: Approved applicants are eligible for the following to ensure the financial viability, successful development, and ongoing maintenance of the housing developments:

- Expedited approval of development orders and development permits.
- Reduction of impact fees by 50%, waiver of impact fees, or alternative method of fee payment.
- Increased density up to 16 units per acre or higher, except in coastal high hazard areas.
- Reserved infrastructure capacity in the local comprehensive plan.
- Allowance of additional housing units in residential zoning districts.
- Reduction of open space and set back requirements.
- Allowance of zero-lot-line configurations.
- Reduction of traffic concurrency requirements by up to 25%.
- Priority eligibility for local transportation infrastructure funding by metropolitan planning organizations.

Local government acceptance of these incentives is conditioned upon:

- The applicant's receipt of a letter of support from the local government; or

[3] The Affordable Housing Study Commission was created in 1986 pursuant to the provisions of s. 420.609, F.S. Each year the Commission makes public policy recommendations to the Governor and Legislature to stimulate community development and revitalization to promote the production, preservation, and maintenance of safe, decent affordable housing for all Floridians.

- Failure of a local government vote to object to the applicant's plan within 60 days after local government's receipt of applicant's plan.

If the local government votes not to accept the project in the county, then the Corporation shall remove the application from its approved funding list.

Grant Eligibility: The bill provides that the Corporation, subject to appropriations, has the authority to provide grants for construction or rehabilitation of rental or single-family community workforce housing, providing that the applicant meet at least one of the following criteria:

- Sets aside at least 80% of the units for eligible persons with a household income not exceeding 150% of AMI.
- Sets aside up to 60% of the units prioritized for essential public service personnel which projects identify sales and leasing strategies to accomplish this set aside and to sell or lease units to other qualified individuals if essential service personnel are not immediately available of qualified.
- Limits rentals to no more than 30% of the maximum household income adjusted to unit size.
- Limits the sales price of a house to the price for which an eligible applicant at 150% of AMI may qualify.

Requests for Proposal (RFP): The bill requires the Corporation to issue a RFP to solicit applications and to develop a funding distribution process. Grants are to be based upon financial need. The priority of grants shall be for high-cost counties with the highest real estate cost burdens for housing, including ACSCs, and counties with the highest average median price of a single-family home. The Corporation is authorized to approve a project that does not require funding.

Application Criteria: Eligible applications shall:

- Demonstrate a public-private partnership of at least one local government or special district and one private partner.
- Demonstrate how the regulatory incentives will be used, and include any letters of support from a local government partner regarding the regulatory incentives.
- Demonstrate that the applicant possesses title to, or "firm control" of, land; and availability of required infrastructure.
- Provides supporting research or facts of rental or home ownership workforce housing demand and need.
- Have at least 15%, evidenced by a letter of commitment, of the total development cost provided by grants, donations of land, or contributions from other sources.
- Demonstrate accessibility to employment opportunities or a plan to provide transportation access to such opportunities.
- Demonstrate a marketing and sales plan to ensure residents fit the income requirements and program workforce demands.
- Provide a viable pro forma financial statement for the development.

Review Committee: The bill requires the Corporation to establish a staff review committee and scoring system.

Evaluation and Ranking Criteria: The bill requires the Corporation to develop evaluation and ranking criteria that utilize the application criteria listed above and emphasize the following:

- Innovative planning concepts.
- Innovative building design.
- Local government participation.
- Public-private partnerships.
- Ability to proceed with construction.

- The feasibility and economic viability of the project
- The applicant's affordable housing development and management experience.
- The ability to meet essential service personnel needs.
- A management plan to attract, serve, and keep eligible workforce tenants and ensure the long-term affordability of the rental or ownership units.
- The quality of project design.[4]

Grant Award and Accountability: The bill requires the Corporation to develop rules and procedures for awarding of, and accounting for, grants.[5]

Default: If a grantee defaults on the grant, the Corporation may foreclose or take necessary legal action to protect its interests and to recover the amount of the grant principal, accrued interest and fees. Additionally, the Corporation may acquire real or personal property or interest therein, when necessary to protect the grant; or to sell, transfer, and convey such property to a buyer without regard to ch. 253 or ch. 270, F.S. (both relating to state lands).[6]

Down Payment Assistance Program: The bill requires the Corporation to develop and implement a down payment assistance program to meet the needs of eligible individuals to purchase workforce housing. Additionally, the Corporation is directed to encourage local governments to meet the same needs through their State Housing Initiatives Partnership plans (s. 420.9075, F.S.).

Conversion of Existing Multifamily Rental to Ownership: The bill requires the Corporation to develop rules and guidelines for the conversion of existing affordable multifamily rental apartments to affordable home ownership units within the target areas. Project eligibility requirements are:

- Being in operation and compliance with the Corporation's rules for at least 5 years.
- Demonstrating the guarantee of a term of affordability for home ownership in the deed restrictions or financing restrictions equal to the term of affordability provided under the rental agreement.
- Demonstrating an affordable home ownership purchase price, approved by the Corporation, based on the average median purchase price of a home in the county for persons whose incomes do not exceed 150% of the county AMI.
- Providing current apartment renters the first opportunity to purchase converted units.

The Corporation may approve only 15% of available affordable rental projects as eligible for conversion in any high-cost county in any single year. Priority in the Corporation's annual funding cycle must be given to replacing rental unit stock converted to ownership.

Local Public Input: The Corporation shall require, and develop criteria for obtaining and documenting, public input.

OTHER FINANCIAL AND REGULATORY INCENTIVES

Appropriations: The bill contains two appropriations for FY 2006-2007 to the Corporation as follows:

- $20 million from the State Housing Trust Fund to provide funds to teachers eligible for affordable housing pursuant to ss. 420.5088 or 420.5089, F.S., and to assist in teacher retention and recruitment as a response to the states teacher shortage.
- $32 million from the Local Government Housing Trust Fund to assist in production of housing units for extremely low income persons.

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[4] See bill s. 1(5).
[5] See bill s. 1(6).
[6] See bill s. 1(7).

Assessment of Affordable Housing Property: The bill creates "The Manny Diaz Affordable Housing Property Tax Relief Initiative" for the purpose of assessing just valuation of certain affordable housing properties serving persons with incomes defined as low, moderate, and very low. The bill requires property appraisers, for assessment purposes, to recognize the actual rent income from rent-restricted units in such properties and to utilize an income approach for the assessment of the rents from such units. The bill specifies three types of properties to which this approach applies.

Affordable Housing Property Exemption for Nonprofit Entity Ownership: The bill provides a property exemption for affordable housing property ownership entirely by a nonprofit entity. This is accomplished by defining the phrase "ownership by a nonprofit entity" in the bill as either:

- A corporation not for profit; or
- A Florida limited partnership the sole general partner of which is either a corporation not for profit or a Florida limited liability company the sole member of which is a corporation not for sale.

Community Contribution Tax Credits: The bill increases the total amount of community contribution tax credits which may be granted all programs approved under ss. 212.08, 220.183 and 624.5105, F.S., by $1 million. It amends ss. 212.08, 220.183 and 624.5105, F.S., respectively, in a substantially identical fashion, to provide new allocations of the available $13 million in tax credits: (1) an annual allocation of $10 million of tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19)[7] and (28),[8] F.S., and (2) a $3 million annual allocation for all other projects.

The bill also eliminates the requirement that the Office of Tourism, Trade, and Economic Development reserve specific percentages of certain annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain households and for other projects. These sections of the bill also eliminate provisions that allow tax credits that are unused for home ownership or all other projects to be used for any approved project after the first six months of the state fiscal year.

Elderly Housing Community Loan Program: The State Apartment Incentive Loan Program (SAIL) is administered by the Corporation. The Elderly Housing Community Loan Program (EHCL) is a loan program within State Apartment Incentives Loan Program (SAIL) in which a portion of SAIL funds are reserved to loan to sponsors of housing for the elderly to provide for specific repairs and improvements.

The bill reduces the minimum match requirement to which a sponsor must commit in order to receive a loan under the EHCL Program from 15% to 5% of the loan amount. In the 2005 legislative session, the Legislature raised the maximum loan amount available under the EHCL Program from $200,000 to $750,000, which increased the potential match amount from $30,000 to $112,500. Reducing the minimum match rate to 5% would result in a maximum required match amount of $37,500.

State Housing Trust Fund: The bill removes the cap on the distribution of documentary stamp tax revenues to the State Housing Trust Fund, which cap is set to take effect on July 1, 2006.

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[7] Section 420.9071(19), F.S., defines "low-income person" or "low-income household" to mean one or more natural persons or a family that has a total annual gross household income that does not exceed 80% of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever amount is greatest. With respect to rental units, the low-income household's annual income at the time of initial occupancy may not exceed 80% of the area's median income adjusted for family size. While occupying the rental unit, a low-income household's annual income may increase to an amount not to exceed 140% of 80% of the area's median income adjusted for family size.

[8] Section 420.9071(28), F.S., defines "Very-low-income person" or "very-low-income household" to mean one or more natural persons or a family that has a total annual gross household income that does not exceed 50% of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever is greatest. With respect to rental units, the very-low-income household's annual income at the time of initial occupancy may not exceed 50% of the area's median income adjusted for family size. While occupying the rental unit, a very-low-income household's annual income may increase to an amount not to exceed 140% of 50% of the area's median income adjusted for family size.

State Apartment Incentive Loans: The bill changes two of the three population category parameters applicable to required allocation of funds to counties with a population of 825,000 or more, and counties with populations of greater than 100,000 but less than 825,000. The bill provides that where the Corporation's lien is subordinate to another mortgagee, then the term of the loan may be made coterminous with longest term of the superior lien. The bill extends the SAIL program to projects which reserve units for extremely low income families. The bill deletes an obsolete provision relating to rent certificates or vouchers. And, the bill authorizes the Corporation to waive certain requirements for projects which reserve units for very low income families

Surplus Public Property for Affordable Housing:

County Property: The bill requires each county to prepare an inventory list of all real property held in fee simple by the county within its jurisdiction. The list is to be prepared by January 1, 2007, and each 3 years thereafter. Criteria for the list are provided. The bill requires county planning staff to review the list and to identify each property that is appropriate for use as affordable housing. A 6-month period is provided for this review. Properties identified as appropriate for affordable housing may be offered for sale with the proceeds used to purchase land for the development of affordable housing. Alternatively:

- The proceeds may be donated to the Local Government Housing Trust Fund;
- The proceeds may be donated to a nonprofit housing organization for the construction of permanent affordable housing; or
- The land may be sold with a restriction requiring development on the property to include a specified percentage of permanent affordable housing.

The bill prescribes a public hearing process and provides restrictions on the potential pool of purchasers. Further, the bill provides for certain deed restrictions to prevent the sale of the unit at a price that exceeds the affordable housing threshold for low or moderate-income persons. The bill provides for definitions consistent with those found at s. 420.0004, F.S.

Municipal Property: The bill provides similar requirements for municipalities to prepare the real property inventory; and to offer for sale properties appropriate for use as affordable housing.

State Property: The bill amends existing law related to the surplus state lands. The bill provides that a local government may request that state lands be specifically declared surplus lands for the purpose of providing affordable housing. Additionally, the bill authorizes affordable housing as a permitted use for surplus state lands; and provides that when such lands are conveyed to local governments, they shall be disposed of consistent with the provisions outlined above.

Authority to Provide Employee Housing Assistance:

Independent Special Districts: The bill provides authority for independent special districts, created for the purpose of providing urban infrastructure or services, to provide housing and housing assistance for its employees. The bill also provides authority for fire control special districts to provide housing or housing assistance for their employed personnel.

School Boards: The bill authorizes school boards to provide affordable housing for teachers and other instructional personnel.

Small Scale Amendments to Local Comprehensive Plan: Existing law provides that certain small scale development activities requiring a comprehensive plan amendment may be approved through a summary process known as a small scale amendment. The bill revises one of the categories of activities for development of affordable housing on property of less than 10 acres by including workforce housing that meets the definition of affordable housing under s. 420.0004(3), F.S., without requiring the development to be financed with tax exempt bonds. Many of the workforce housing initiatives could be affordable housing developments that do not utilize tax exempt bond financing and

this revision would also allow affordable housing developed with 9% Housing Credits to comply with this small scale comprehensive plan amendment provision.

Disabled Veterans License and Permit Fee Exemption: Section 295.16, F.S., allows veterans to be exempt from paying building license or permit fees to any county or municipality for wheelchair accessibility improvements made upon a mobile home, when certain criteria are met. The bill increases the type of residences eligible for the permit fee exemption in s. 295.16, F.S to include any dwelling they own.

The provisions of this bill will enable a larger population of eligible, disabled veterans to take advantage of the existing fee exemption, reducing the costs that they are obligated to pay in order to make their homes wheelchair accessible. This bill does not place any restrictions on the number of wheelchair accessibility improvements allowed nor does it appear to place any restrictions on the number of times improvements may be made to the dwelling.

Developments of Regional Impact:

Substantial Deviations: A development of regional impact (DRI) is defined in existing law to mean "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." As DRIs often are developed over a series of years, the law provides a certain threshold below which the project may be modified without triggering additional DRI review. Activities which exceed the threshold are considered to be a substantial deviation of the development order authorizing the development. The bill provides a bonus in the substantial deviation threshold when at least 20% of the increase in the number of dwelling units is dedicated to the construction of workforce housing. "Workforce housing" is defined to mean housing that is affordable to a person who earns less than 120% of the AMI.

Statewide Guidelines and Standards: Existing law contains a set of statewide guidelines and standards that guide the analysis of particular activities to determine whether they constitute a development of regional impact. The bill amends those guidelines and standards to provide a similar bonus for the provision of workforce housing.

C. SECTION DIRECTORY:

Section 1 – Creates s. 125.379, F.S., relating to the disposition of county property for affordable housing.

Section 2 – Amends s. 163.31771, F.S., conforming a citation.

Section 3 – Amends s. 163.3187(1) (c), F.S., removing an exception from the comprehensive plan small scale amendment provisions.

Section 4 – Creates s. 166.0451, F.S., relating to the disposition of municipal property for affordable housing.

Section 5 – Creates s. 189.4155 (6), F.S., authorizing specified independent special districts to provide housing and housing assistance for its employed personnel.

Section 6 – Creates s. 191.006 (19), F.S., amending independent special fire control district general powers to allow provision of housing and housing assistance for employed personnel.

Section 7 – Creates s. 193.017 (5). F.S., relating to cap rates used to assess property value.

Section 8 – Amends s. 196.1978, F.S., providing an affordable housing property exemption for certain affordable housing nonprofit entity owners.

Section 9 – Creates s. 196.1980, F.S., creating "The Manny Diaz Affordable Housing Property Tax Relief Initiative"; requiring the use of an actual rental income basis for the purpose of assessing certain affordable housing properties.

Section 10 – Amends ss. 201.15 (9) and 201.15 (10), F.S., removing the caps related to distribution of certain tax revenues for the State Housing Trust Fund.

Section 11 – Amends s. 212.08(5)(q), F.S., increasing the amount of available tax credits, providing separate annual limitations for sales tax credits, eliminating the reservation of available tax credits, and renumber sub-paragraphs.

Section 12 – Amends ss. 220.183(1) (c) and 220.183 (2) (b), F.S., increasing the amount of available tax credits, providing separate annual limitations for corporate tax credits, and eliminating the reservation of available tax credits.

Section 13 – Amends s. 253.034 (6) (f), F.S., relating to the uses of state-owned lands as surplus lands for affordable housing.

Section 14 – Amends s. 295.16, F.S., relating to license or permit fee exemptions for disabled veterans; changing language from "mobile home" to "dwelling."

Section 15 – Amends s. 380.06 (19) (b), F.S., relating to development of regional impact substantial deviations and dwelling units used for "workforce housing."

Section 16 – Amends s. 380.0651 (3) (k), F.S., relating to development of regional impact statewide guidelines and standard, and to workforce housing; increasing the applicable guidelines for residential development.

Section 17 – Amends s. 420.0004 (8) – (14), F.S., providing a definition of "extremely low income person" and authorizing Florida Housing Finance Corporation to adjust low income guidelines.

Section 18 – Repeals s. 420.37, F.S., relating to additional powers of the Florida Housing Finance Corporation.

Section 19 – Amends s. 420.503 (18), F.S., amending the definition of "farmworker."

Section 20 – Amends s. 420.5061, F.S., conforming a citation.

Section 21 – Amends s. 420.507 (22) (23) (40), F.S.; relating to interest rates, eligibility and authorizing interest rates to apply to units on a pro rata basis, the availability of subordinated loans to nonprofit sponsors or the availability for financing of housing to eligible borrowers, changing language from "corporations" to "business entities"; and creates s. 420.507 (44) – (46), F.S., relating to the adoption of rules for program goals, establishment of rule requirements for the reporting of data, and administration of funds appropriated for disaster recovery and reconstruction.

Section 22 – Amends ss. 420.5087 (1) (3) (5) (6), F.S., relating to state apartment incentive loans; changing population category parameters applicable to required allocation of funds; providing that where the Corporation's lien is subordinate to another mortgagee, then the term of the loan may be made coterminous with longest term of the superior lien; authorizing the Corporation to waive certain requirements for projects which reserve units for very low income families;.

Section 23 – Amends s. 420.5088 (1) – (4), F.S., relating to Florida Homeownership Assistance Program.

Section 24 – Creates s. 420.5095, F.S., creating the Community Workforce Housing Innovation Program.

Section 25 – Amends s. 420.9072(2), F.S., correcting a cross-reference.

Section 26 – Amends ss. 420.9075 (4)(a), and (5) – (12), F.S., relating to the distribution of State Housing Initiatives Partnership funds in local housing assistance plans; creating content requirements for the local housing assistance plans.

Section 27 – Amends s. 420.9076 (6), F.S., changing the maximum amount that the Florida Housing Finance Corporation may seek annually from the Local Government Housing Trust Fund for the purpose of compliance monitoring.

Section 28 – Amends 420.9079 (2), F.S., relating to the Local Government Housing Trust Fund, revising the amount of money a corporation may request in order to implement the provisions of s. 420.9075 (8), F.S.

Section 29 – Amends s. 624.5105 (1) (c) and (2) (e), F.S., increasing availability of community contribution tax credits, providing separate annual limitations for insurance premium tax credits, and eliminating the reservation of available tax credits.

Section 30 – Amends s. 1001.42 (9) (b), F.S., authorizing school boards to provide affordable housing for teachers and other instructional personnel.

Section 31 – Authorizing the Florida Housing Finance Corporation to adopt rules to implement the provisions of the bill.

Section 32 – Appropriating $20 million from the State Housing Trust Fund to the Florida Housing Finance Corporation; provides funds to teachers eligible for affordable housing.

Section 33 – Appropriating $32 million from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation for the production of housing units for very low income persons.

Section 34 – Providing an effective date of July 1, 2006, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Community Contribution Tax Credits: The Revenue Estimating Conference has determined that increasing the amount of community contribution tax credits annually from $12 million to $13 million will result in a loss of $.9 million in state revenues during FY 2006-2007 and FY 2007-2006.

	FY 2006-07	FY 2007-2008
General Revenue		
Corporate	(.1)	(.1)
Sales	(.8)	(.8)
State Trust	(Indeterminate)	(Indeterminate)
Total State Impact	(.9)	(.9)

2. Expenditures:

Appropriations:

FY 2006-2007

State Housing Trust Fund	($20 million)
Local Government Housing Trust Fund	($32 million)
Florida Housing Finance Corporation	$52 million

Community Contribution Tax Credits: It is anticipated that administration of the increase in tax credits by OTTED will be implemented within existing appropriations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Community Contribution Tax Credits: The Revenue Estimating Conference has determined that increasing the amount of community contribution tax credits annually from $12 million to $13 million will result in a loss of $ .1 million in local revenues during FY 2006-2007 and FY 2007-2006.

Disabled Veterans License and Permit Fee Exemption: The fiscal impact on local government revenues is expected to be negative and insignificant. The Revenue Estimating Conference has not met on this issue.

2. Expenditures:

Indeterminate. The bill provides encouragement and opportunity for local government to support the affordable housing efforts advanced by this bill, but does not require any particular level of financial commitment.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Community Contribution Tax Credits: The bill increases the amount of tax credits available to persons for homeownership projects from $9.4 million to $10 million, and for non-housing projects from $2.6 million to $3 million. This may have a positive but indeterminate impact on the number of low-income homes that are built each year and the projects sponsored in enterprise zones and Front Porch Florida Communities as they are likely to receive more contributions.

Elderly Housing Community Loan Program: This bill may have an economic impact on a private sector apartment owner that qualifies under the EHCL Program by reducing the match amount required to qualify for a loan under the program, allowing them to take advantage of higher loan amounts.

The bill may have a beneficial impact on the private sector in the following manner:

- Provides incentives for the private sector development and provision of affordable housing.
- Provides housing opportunities for certain types of employees, thus supporting some private and public employers by authorizing means by which they may assist employees to secure affordable housing.

D. FISCAL COMMENTS:

Community Contribution Tax Credits: The table below shows the tax credits granted for housing projects and for other community development projects during the past 10 years. There were significant tax credits unused for the first two years after the cap was increased to $10 million. Subsequently, the entire allocation has been used.

COMMUNITY CONTRIBUTION TAX CREDIT PROGRAM
TAX CREDIT SUMMARY FY 1995/96 – FY 2005/06

FISCAL YEAR	APPROVED apps.	HOUSING TAX CREDITS	COMMUNITY DEVELOPMENT TAX CREDITS	TOTAL CREDITS APPROVED	CREDITS REMAINING	ANNUAL ALLOCATION
1995/96	75	$465,542	$1,472,255	$1,937,797	$62,203	$2,000,000
1996/97	69	$1,043,256	$1,018,947	$2,062,203	$-62,203	$2,000,000
1997/98	81	$1,348,500	$651,500	$2,000,000	$0	$2,000,000
1998/99	75	$2,720,441	$2,279,559	$5,000,000	$0	$5,000,000
1999/00	198	$3,764,283	$1,302,178	$5,066,461	$4,933,539	$10,000,000
2000/01	223	$5,320,890	$744,365	$6,065,255	$3,934,745	$10,000,000
2001/02	322	$9,484,489	$515,464	$9,999,953	$47	$10,000,000
2002/03	359	$8,914,456	$1,085,544	$10,000,000	$0	$10,000,000
2003/04	285	$8,622,769	$1,377,231	$10,000,000	$0	$10,000,000
2004/05	251	$8,051,618	$1,948,382	$10,000,000	$0	$10,000,000
2005/06	285	$9,558,883	$2,441,117	$12,000,000	$0	$12,000,000
10 YEAR TOTALS	**2,223**	**$59,295,127**	**$14,836,542**	**$74,131,669**	**$8,868,331**	**$83,000,000**

Source: Created from data provided by OTTED.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Community Contribution Tax Credits: This bill may reduce the authority of municipalities and counties to raise revenues: the estimated reduction in Local Option Sales tax is $.1 million in FY 2006–2007 and $. million in FY 2007–2008. However, this impact is considered to be insignificant, and the bill is therefore exempt from the provisions of s. 18(b) of Art. VII of the State Constitution.

Disabled Veterans License and Permit Fee Exemption: The mandates provision appears to apply because this bill reduces revenue raising authority; however, an exemption applies. The number of applicable veterans likely to utilize the license and permit fee exemptions is expected to be minimal. Therefore, the fiscal impact is expected to be insignificant and the bill is exempt from the mandates provision.

Surplus Property Inventory: The mandates provision appears to apply because this bill requires counties and municipalities to conduct a surplus real property inventory and to determine what of that real property is appropriate for affordable housing purposes. Conducting such surveys and

determining what real property is appropriate for affordable housing purposes will require the expenditure of funds. However, the bill may be exempt from the mandate requirements if the fiscal impact of the bill, on an aggregate basis for all cities and counties in the state, is less than $1.9 million over the long term. At this time, the fiscal impact of the bill is unknown.

If the bill is not exempt from the mandates requirements imposed by Art. VII, section 18 of the Florida Constitution, the Legislature must determine that the law fulfills an important state interest and the bill must be approved by two–thirds of the House and Senate membership.

2. Other:

Not applicable.

B. RULE-MAKING AUTHORITY:

The bill contains general rulemaking for the Florida Housing Finance Corporation necessary to implement the provisions of this bill (s. 31); and specific rulemaking authority as follows:

- Whereby the Corporation may intervene, negotiate terms, or undertake other actions to further program goals or avoid default of a program loan.
- To establish requirements for periodic reporting of data.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 24(3) of the bill - Requires the Corporation to develop certain selection criteria either by rule or by requests for proposals. The bill does not make clear how such criteria would be developed through an RFP process; and may benefit from some further clarification. Perhaps the language should read: "The corporation shall develop selection criteria by rule for requests for proposal to..."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Growth Management Committee adopted a strike all amendment with two amendments. The strike all amendment substantially amended the originally filed bill to include the following:

- Authorizes the disposition of county property for affordable housing.
- Provides a density bonus in both the development of regional impact substantial deviation and statewide guidelines and standards provisions.
- Authorizes the disposition of municipal property for affordable housing.
- Authorizes independent special districts to provide housing and housing assistance for its employed personnel.
- Includes authority to provide housing and housing assistance for employed personnel to the general powers of independent special districts.
- Requires the use of a particular cap rates when a cap rate is used to assess the just valuation of affordable housing property.
- Defines classifications for the ownership of nonprofit entities.
- Creates "The Manny Diaz Affordable Housing Property Tax Relief Initiative."
- Removes the cap on the distribution of certain revenues into the State Housing Trust Fund.
- Increases the availability of community contribution tax credits; provides separate annual limitations for insurance premium tax credits, and eliminates the reservation of available tax credits.
- Authorizes the use of state-owned surplus lands for affordable housing.
- Creates a disabled veterans exemption from certain license and permits fees
- Creates an incentive to provide workforce housing within developments of regional impact.
- Increases the applicable statewide development of regional impact guidelines for residential development that include workforce housing.
- Section 16 – Amends s. 420.0004 (8) – (14), F.S., authorizing Florida Housing Finance Corporation to adjust low income guidelines; provides definitions.

- Repeals s. 420.37, F.S.
- Expands the definition of "farmworker" in s. 420.503 (18), F.S., to comply with an applicable Federal definition.
- Amends the powers of the Florida Housing Finance Corporation.
- Increases the applicable population criteria for funding eligibility; lowers the sponsor match related to funding for certain repairs or improvements; and allows for coterminous loan terms under certain circumstances; all related to the State Apartment Incentive Loan Program.
- Amends provisions relating to the Florida Homeownership Assistance Program.
- Section 22 – Creates the Community Workforce Housing Innovation Program.
- Amends provisions of the State Housing Initiatives Partnership Program including creating rulemaking authority.
- Changes the maximum amount that the Florida Housing Finance Corporation may seek annually from the Local Government Housing Trust Fund for the purpose of compliance monitoring.
- Amends provisions relating to the community contribution tax credit.
- Authorizes school boards to provide affordable housing for teachers and other instructional personnel.
- Creates and appropriation of $20 million from the State Housing Trust Fund to the Florida Housing Finance Corporation to provide funding to teachers eligible for affordable housing.
- Authorizes the Florida Housing Finance Corporation to adopt rules to implement the provisions of the bill.

The Growth Management Committee took up and acted upon the following amendments:

- Amendment 1 – Withdrawn.
- Amendment 2 – Created s. 196.1980, F.S., "The Manny Diaz Affordable Housing Property Relief Initiative."
- Amendment 3 – Created paragraph (i) of subsection (11) of s. 420.5095, F.S., the Community Workforce Housing Innovation Program.

CHAMBER ACTION

1 The Growth Management Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to affordable housing; creating s.
7 125.379, F.S.; providing for disposition of county
8 property for affordable housing; amending s. 163.31771,
9 F.S.; conforming cross-references; amending s. 163.3187,
10 F.S.; revising a limitation relating to small scale
11 comprehensive plan amendments involving the construction
12 of affordable housing units; creating s. 166.0451, F.S.;
13 providing for disposition of municipal property for
14 affordable housing; amending s. 189.4155, F.S.;
15 authorizing independent special districts to provide for
16 employee housing assistance; amending s. 191.006, F.S.;
17 authorizing an independent special fire control district
18 to provide housing or housing assistance for its employed
19 personnel; amending s. 193.017, F.S.; authorizing the
20 Florida Housing Finance Corporation and the Department of
21 Revenue to annually set the cap rate used for assessing
22 just valuation of affordable housing properties; amending
23 s. 196.1978, F.S.; specifying what constitutes a nonprofit

24 entity for purposes of affordable housing property tax
25 exemption; conforming cross-references; creating s.
26 196.1980, F.S.; creating the Manny Diaz Affordable Housing
27 Property Tax Relief Initiative; providing criteria for
28 assessing just valuation of affordable housing properties
29 serving persons of low, moderate, and very low incomes;
30 amending s. 201.15, F.S.; removing a cap on certain funds
31 distributed to the State Housing Trust Fund; amending ss.
32 212.08, 220.183, and 624.5105, F.S.; increasing the amount
33 of available tax credits against the sales tax, corporate
34 income tax, and insurance premium tax, respectively, for
35 projects under the community contribution tax credit
36 program and providing separate annual limitations for
37 certain projects; revising requirements and procedures for
38 the Office of Tourism, Trade, and Economic Development in
39 granting tax credits under the program; conforming cross-
40 references; amending s. 253.034, F.S.; providing for the
41 disposition of state lands for affordable housing;
42 amending s. 295.16, F.S.; expanding the disabled veteran
43 exemption from certain license and permit fees; amending
44 s. 380.06, F.S.; providing a greater substantial deviation
45 threshold for the provision of affordable housing in a
46 development of regional impact; conforming cross-
47 references; amending s. 380.0651, F.S.; providing a
48 statewide guidelines and standards bonus for the provision
49 of affordable housing; amending s. 420.0004, F.S.;
50 defining the term "extremely low income persons";
51 conforming cross-references; repealing s. 420.37, F.S.,

52 relating to additional powers of the Florida Housing
53 Finance Corporation; amending s. 420.503, F.S.; revising
54 the definition of the term "farmworker" under the Florida
55 Housing Finance Corporation Act; providing rulemaking
56 authority; amending s. 420.5061, F.S.; conforming a cross-
57 reference; amending s. 420.507, F.S.; revising and
58 expanding the powers of the Florida Housing Finance
59 Corporation; providing certain emergency rulemaking
60 authority; amending s. 420.5087, F.S.; increasing the
61 population criteria for the State Apartment Incentive Loan
62 Program; revising criteria for loans; conforming cross-
63 references; amending s. 420.5088, F.S.; expanding the
64 scope of the Florida Homeownership Assistance Program;
65 revising loan requirements; deleting a provision reserving
66 program funds for certain borrowers; creating s. 420.5095,
67 F.S.; creating the Community Workforce Housing Innovation
68 Program; providing the Florida Housing Finance Corporation
69 with certain powers and responsibilities relating to the
70 program; requiring the program to target certain entities;
71 requiring the program to supplement existing affordable
72 housing programs; providing incentives for program
73 applicants; amending s. 420.9072, F.S.; conforming cross-
74 references; amending s. 420.9075, F.S.; providing a
75 percentage of funds for homeownership for very-low-income
76 individuals; providing components to be included in the
77 local housing assistance plan; amending s. 420.9076, F.S.;
78 revising a cross-reference; amending s. 420.9079, F.S.;
79 revising the maximum appropriation the Florida Housing

80 Finance Corporation may request each state fiscal year;
81 conforming a cross-reference; amending s. 1001.42, F.S.;
82 authorizing district school boards to provide affordable
83 housing for certain teachers and other instructional
84 personnel; authorizing the Florida Housing Finance
85 Corporation to adopt certain rules; providing
86 appropriations; providing effective dates.
87
88 Be It Enacted by the Legislature of the State of Florida:
89
90 Section 1. Section 125.379, Florida Statutes, is created
91 to read:
92 125.379 Disposition of county property for affordable
93 housing.--
94 (1) By January 1, 2007, and every 3 years thereafter, each
95 county shall prepare an inventory list of all real property
96 within its jurisdiction to which the county holds fee simple
97 title. The inventory list must include the address and legal
98 description of each real property and specify whether the
99 property is vacant or improved. County planning staff shall
100 review the inventory list and identify each property that is
101 appropriate for use as affordable housing. The time for
102 preparing the inventory list and its review by county planning
103 staff may not exceed 6 months. The properties identified as
104 appropriate for use as affordable housing may be offered for
105 sale and the proceeds used to purchase land for the development
106 of affordable housing or donated to the Local Government Housing
107 Trust Fund, sold with a restriction that requires any

108 development on the property to include a specified percentage of
109 permanent affordable housing, or donated to a nonprofit housing
110 organization for the construction of permanent affordable
111 housing.
112 (2) After completing an inventory list, the board of
113 county commissioners shall hold at least two public hearings to
114 discuss the inventory list and staff's recommendation concerning
115 which properties are appropriate for use as affordable housing.
116 The board shall comply with the provisions of s. 125.66(4)(b)1.
117 regarding the advertisement of the public hearings and shall
118 hold the first hearing no later than 30 days after completing
119 the inventory list. The board shall approve the inventory list
120 through the adoption of a resolution at the second hearing no
121 later than 6 months after completing the inventory list.
122 (3) After the inventory list has been approved by
123 resolution, the board of county commissioners shall immediately
124 make available any real property that has been identified in the
125 inventory list as appropriate for use as affordable housing. The
126 county shall make the surplus real property available to:
127 (a) A private developer if the purchase price paid by the
128 developer is not less than the appraised value of the property
129 based on its highest and best use and the real property is sold
130 with deed restrictions that require a specified percentage of
131 any project developed on the real property to provide affordable
132 housing for low-income and moderate-income persons, with a
133 minimum of 10 percent of the units in the project available for
134 low-income persons and another 10 percent of the units available
135 for moderate-income persons for a total minimum of 20 percent,

136 or, if providing rental housing or a combination of rental
137 housing and homeownership, an additional 5 percent of the units
138 available for very-low-income persons for a total minimum of 25
139 percent;
140 (b) A private developer without any requirement that a
141 percentage of the units built on the real property be affordable
142 if the purchase price paid by the developer is not less than the
143 appraised value of the property based on its highest and best
144 use, in which case the county must use the funds received from
145 the developer to acquire real property on which affordable
146 housing will be built or donate the funds to the Local
147 Government Housing Trust Fund for the purpose of implementing
148 the programs described in ss. 420.907-420.9079; or
149 (c) A nonprofit housing organization, such as a community
150 land trust, housing authority, or community redevelopment agency
151 to be used for the production and preservation of permanent
152 affordable housing.
153 (4) The deed restrictions required under paragraph (3)(a)
154 for an affordable housing unit must also prohibit the sale of
155 the unit at a price that exceeds the threshold for housing that
156 is affordable for low-income or moderate-income persons or to a
157 buyer who is not eligible due to his or her income under chapter
158 420. The deed restrictions may allow the affordable housing
159 units created under paragraph (3)(a) to be rented to very-low-
160 income, low-income, or moderate-income persons.
161 (5) For purposes of this section, the terms "affordable,"
162 "low-income persons," "moderate-income persons," and "very-low-
163 income persons" have the same meaning as in s. 420.0004.

164 Section 2. Paragraphs (d), (e), and (f) of subsection (2)
165 of section 163.31771, Florida Statutes, are amended to read:
166 163.31771 Accessory dwelling units.--
167 (2) As used in this section, the term:
168 (d) "Low-income persons" has the same meaning as in s.
169 420.0004(10) ~~(9)~~.
170 (e) "Moderate-income persons" has the same meaning as in
171 s. 420.0004(11) ~~(10)~~.
172 (f) "Very-low-income persons" has the same meaning as in
173 s. 420.0004(15) ~~(14)~~.
174 Section 3. Paragraph (c) of subsection (1) of section
175 163.3187, Florida Statutes, is amended to read:
176 163.3187 Amendment of adopted comprehensive plan.--
177 (1) Amendments to comprehensive plans adopted pursuant to
178 this part may be made not more than two times during any
179 calendar year, except:
180 (c) Any local government comprehensive plan amendments
181 directly related to proposed small scale development activities
182 may be approved without regard to statutory limits on the
183 frequency of consideration of amendments to the local
184 comprehensive plan. A small scale development amendment may be
185 adopted only under the following conditions:
186 1. The proposed amendment involves a use of 10 acres or
187 fewer and:
188 a. The cumulative annual effect of the acreage for all
189 small scale development amendments adopted by the local
190 government shall not exceed:

191 (I) A maximum of 120 acres in a local government that
192 contains areas specifically designated in the local
193 comprehensive plan for urban infill, urban redevelopment, or
194 downtown revitalization as defined in s. 163.3164, urban infill
195 and redevelopment areas designated under s. 163.2517,
196 transportation concurrency exception areas approved pursuant to
197 s. 163.3180(5), or regional activity centers and urban central
198 business districts approved pursuant to s. 380.06(2)(e);
199 however, amendments under this paragraph may be applied to no
200 more than 60 acres annually of property outside the designated
201 areas listed in this sub-sub-subparagraph. Amendments adopted
202 pursuant to paragraph (k) shall not be counted toward the
203 acreage limitations for small scale amendments under this
204 paragraph.
205 (II) A maximum of 80 acres in a local government that does
206 not contain any of the designated areas set forth in sub-sub-
207 subparagraph (I).
208 (III) A maximum of 120 acres in a county established
209 pursuant to s. 9, Art. VIII of the State Constitution.
210 b. The proposed amendment does not involve the same
211 property granted a change within the prior 12 months.
212 c. The proposed amendment does not involve the same
213 owner's property within 200 feet of property granted a change
214 within the prior 12 months.
215 d. The proposed amendment does not involve a text change
216 to the goals, policies, and objectives of the local government's
217 comprehensive plan, but only proposes a land use change to the

218 future land use map for a site-specific small scale development
219 activity.
220 e. The property that is the subject of the proposed
221 amendment is not located within an area of critical state
222 concern, unless the project subject to the proposed amendment
223 involves the construction of affordable housing units meeting
224 the criteria of s. 420.0004(3), and is located within an area of
225 critical state concern designated by s. 380.0552 or by the
226 Administration Commission pursuant to s. 380.05(1). Such
227 amendment is not subject to the density limitations of sub-
228 subparagraph f., and shall be reviewed by the state land
229 planning agency for consistency with the principles for guiding
230 development applicable to the area of critical state concern
231 where the amendment is located and shall not become effective
232 until a final order is issued under s. 380.05(6).
233 f. If the proposed amendment involves a residential land
234 use, the residential land use has a density of 10 units or less
235 per acre or the proposed future land use category allows a
236 maximum residential density of the same or less than the maximum
237 residential density allowable under the existing future land use
238 category, except that this limitation does not apply to small
239 scale amendments involving the construction of affordable
240 housing units meeting the criteria of s. 420.0004(3) on property
241 which will be the subject of a land use restriction agreement ~~or~~
242 ~~extended use agreement recorded in conjunction with the issuance~~
243 ~~of tax exempt bond financing or an allocation of federal tax~~
244 ~~credits issued through the Florida Housing Finance Corporation~~
245 ~~or a local housing finance authority authorized by the Division~~

246 ~~of Bond Finance of the State Board of Administration~~, or small
247 scale amendments described in sub-sub-subparagraph a.(I) that
248 are designated in the local comprehensive plan for urban infill,
249 urban redevelopment, or downtown revitalization as defined in s.
250 163.3164, urban infill and redevelopment areas designated under
251 s. 163.2517, transportation concurrency exception areas approved
252 pursuant to s. 163.3180(5), or regional activity centers and
253 urban central business districts approved pursuant to s.
254 380.06(2)(e).
255 2.a. A local government that proposes to consider a plan
256 amendment pursuant to this paragraph is not required to comply
257 with the procedures and public notice requirements of s.
258 163.3184(15)(c) for such plan amendments if the local government
259 complies with the provisions in s. 125.66(4)(a) for a county or
260 in s. 166.041(3)(c) for a municipality. If a request for a plan
261 amendment under this paragraph is initiated by other than the
262 local government, public notice is required.
263 b. The local government shall send copies of the notice
264 and amendment to the state land planning agency, the regional
265 planning council, and any other person or entity requesting a
266 copy. This information shall also include a statement
267 identifying any property subject to the amendment that is
268 located within a coastal high-hazard area as identified in the
269 local comprehensive plan.
270 3. Small scale development amendments adopted pursuant to
271 this paragraph require only one public hearing before the
272 governing board, which shall be an adoption hearing as described
273 in s. 163.3184(7), and are not subject to the requirements of s.

274 163.3184(3)-(6) unless the local government elects to have them
275 subject to those requirements.
276 4. If the small scale development amendment involves a
277 site within an area that is designated by the Governor as a
278 rural area of critical economic concern under s. 288.0656(7) for
279 the duration of such designation, the 10-acre limit listed in
280 subparagraph 1. shall be increased by 100 percent to 20 acres.
281 The local government approving the small scale plan amendment
282 shall certify to the Office of Tourism, Trade, and Economic
283 Development that the plan amendment furthers the economic
284 objectives set forth in the executive order issued under s.
285 288.0656(7), and the property subject to the plan amendment
286 shall undergo public review to ensure that all concurrency
287 requirements and federal, state, and local environmental permit
288 requirements are met.
289 Section 4. Section 166.0451, Florida Statutes, is created
290 to read:
291 166.0451 Disposition of municipal property for affordable
292 housing.--
293 (1) By January 1, 2007, and every 3 years thereafter, each
294 municipality shall prepare an inventory list of all real
295 property within its jurisdiction to which the municipality holds
296 fee simple title. The inventory list must include the address
297 and legal description of each property and specify whether the
298 property is vacant or improved. Municipal planning staff shall
299 review the inventory list and identify each real property that
300 is appropriate for use as affordable housing. The time for
301 preparing the inventory list and its review by municipal

302 planning staff may not exceed 6 months. The properties
303 identified as appropriate for use as affordable housing may be
304 offered for sale and the proceeds used to purchase land for the
305 development of affordable housing or donated to the Local
306 Government Housing Trust Fund, sold with a restriction that
307 requires any development on the property to include a specified
308 percentage of permanent affordable housing, or donated to a
309 nonprofit housing organization for the construction of permanent
310 affordable housing.
311 (2) Upon completing an inventory list in compliance with
312 this section, the governing body of the municipality shall hold
313 at least two public hearings to discuss the inventory list and
314 the recommendation of the staff concerning which properties are
315 appropriate for use as affordable housing. The governing body
316 shall comply with s. 166.041(3)(c)2.a. regarding the
317 advertisement of the public hearings and shall hold the first
318 hearing no later than 30 days after completing the inventory
319 list. The governing body shall approve the inventory list
320 through the adoption of a resolution at the second hearing no
321 later than 6 months after completing the inventory list.
322 (3) After the inventory list has been approved by
323 resolution, the governing body of the municipality shall
324 immediately make available any real property that has been
325 identified in the inventory list as appropriate for use as
326 affordable housing. The municipality shall make the surplus real
327 property available to:
328 (a) A private developer if the purchase price paid by the
329 developer is not less than the appraised value of the property

330 based on its highest and best use and the real property is sold
331 with deed restrictions that require a specified percentage of
332 any project developed on the real property to provide affordable
333 housing for low-income and moderate-income persons, with a
334 minimum of 10 percent of the units in the project available for
335 low-income persons and another 10 percent of the units available
336 for moderate-income persons for a total minimum of 20 percent,
337 or, if providing rental housing or a combination of rental
338 housing and homeownership, an additional 5 percent of the units
339 available for very-low-income persons for a total minimum of 25
340 percent;
341 (b) A private developer without any requirement that a
342 percentage of the units built on the real property be affordable
343 if the purchase price paid by the developer is not less than the
344 appraised value of the property based on its highest and best
345 use, in which case the municipality must use the funds received
346 from the developer to acquire real property on which affordable
347 housing will be built or donate the funds to the Local
348 Government Housing Trust Fund for the purpose of implementing
349 the programs described in ss. 420.907-420.9079; or
350 (c) A nonprofit housing organization, such as a community
351 land trust, housing authority, or community land trust, housing
352 authority, or community redevelopment agency to be used for the
353 production and preservation of permanently affordable housing.
354 (4) The deed restrictions required under paragraph (3)(a)
355 for an affordable housing unit must also prohibit the sale of
356 the unit at a price that exceeds the threshold for housing that
357 is affordable for low-income or moderate-income persons or to a

358 buyer who is not eligible due to his or her income under chapter
359 420. The deed restrictions may allow the affordable housing
360 units created under paragraph (3)(a) to be rented to very-low-
361 income, low-income, or moderate-income persons.
362 (5) For purposes of this section, the terms "affordable,"
363 "low-income persons," "moderate-income persons," and "very-low-
364 income persons" have the same meaning as in s. 420.0004.
365 Section 5. Subsection (6) is added to section 189.4155,
366 Florida Statutes, to read:
367 189.4155 Activities of special districts; local government
368 comprehensive planning.--
369 (6) Any independent special district created pursuant to
370 special act or general law, including, but not limited to, this
371 chapter and chapters 190, 191, and 298, for the purpose of
372 providing urban infrastructure of services, is authorized to
373 provide housing and housing assistance for its employed
374 personnel.
375 Section 6. Subsection (19) is added to section 191.006,
376 Florida Statutes, to read:
377 191.006 General powers.--The district shall have, and the
378 board may exercise by majority vote, the following powers:
379 (19) To provide housing or housing assistance for its
380 employed personnel.
381 Section 7. Subsection (5) is added to section 193.017,
382 Florida Statutes, to read:
383 193.017 Low-income housing tax credit.--Property used for
384 affordable housing which has received a low-income housing tax
385 credit from the Florida Housing Finance Corporation, as

386 authorized by s. 420.5099, shall be assessed under s. 193.011
387 and, consistent with s. 420.5099(5) and (6), pursuant to this
388 section.
389 (5) If a cap rate is used to assess just valuation for the
390 property, the appraiser shall use a cap rate calculated annually
391 for affordable housing properties authorized by the Florida
392 Housing Finance Corporation and approved by the Department of
393 Revenue.
394 Section 8. Section 196.1978, Florida Statutes, is amended
395 to read:
396 196.1978 Affordable housing property exemption.--
397 (1) Property used to provide affordable housing serving
398 eligible persons as defined by s. 159.603(7) and persons meeting
399 income limits specified in s. 420.0004(10) ~~(9)~~, (11) ~~(10)~~, and
400 (15) ~~(14)~~, which property is owned entirely by a nonprofit entity
401 which is qualified as charitable under s. 501(c)(3) of the
402 Internal Revenue Code and which complies with Rev. Proc. 96-32,
403 1996-1 C.B. 717, shall be considered property owned by an exempt
404 entity and used for a charitable purpose, and those portions of
405 the affordable housing property which provide housing to
406 individuals with incomes as defined in s. 420.0004(10) ~~(9)~~ and
407 (15) ~~(14)~~ shall be exempt from ad valorem taxation to the extent
408 authorized in s. 196.196.
409 (2) For the purposes of this section, ownership entirely
410 by a nonprofit entity is classified as ownership by either:
411 (a) A corporation not for profit; or
412 (b) A Florida limited partnership the sole general partner
413 of which is either a corporation not for profit or a Florida

414 limited liability company the sole member of which is a
415 corporation not for profit.
416 (3) All property identified in this section shall comply
417 with the criteria for determination of exempt status to be
418 applied by property appraisers on an annual basis as defined in
419 s. 196.195. The Legislature intends that any property owned by a
420 limited liability company which is disregarded as an entity for
421 federal income tax purposes pursuant to Treasury Regulation
422 301.7701-3(b)(1)(ii) shall be treated as owned by its sole
423 member.
424 Section 9. Section 196.1980, Florida Statutes, is created
425 to read:
426 196.1980 The Manny Diaz Affordable Housing Property Tax
427 Relief Initiative.--For the purpose of assessing just valuation
428 of affordable housing properties serving persons with income
429 limits defined as low, moderate, and very low, as specified in
430 s. 420.0004(10), (11), and (15), the actual rental income from
431 rent-restricted units in such a property shall be recognized by
432 the property appraiser for assessment purposes, and an income
433 approach shall be used for assessment of the rents for the
434 following properties:
435 (1) Property that is funded by the United States
436 Department of Housing and Urban Development under s. 8 of the
437 United States Housing Act of 1937 that is used to provide
438 affordable housing serving eligible persons as defined by s.
439 159.603(7) and elderly and very-low-income persons as defined by
440 s. 420.0004(8) and (15) and that has undergone financial
441 restructuring as provided in s. 501, Title V, Subtitle A of the

442 Multifamily Assisted Housing Reform and Affordability Act of
443 1997;
444 (2) Multifamily, farmworker, or elderly rental properties
445 that are funded by the Florida Housing Finance Corporation under
446 ss. 420.5087 and 420.5089 and the State Housing Initiatives
447 Partnership Program under ss. 420.9072 and 420.9075, s. 42 of
448 the Internal Revenue Code; the HOME Investment Partnership
449 Program under the Cranston-Gonzalez National Affordable Housing
450 Act, 42 U.S.C. s. 12741 et seq.; or the Federal Home Loan Banks
451 Affordable Housing Program established pursuant to the Financial
452 Institutions Reform, Recovery and Enforcement Act of 1989, Pub.
453 L. No. 101-73; or
454 (3) Multifamily residential rental properties of 10 or
455 more units that are certified by the local housing agency as
456 having at least 95 percent of its units providing affordable
457 housing to low, moderate, and very-low-income persons as defined
458 by s. 420.0004(10), (11), and (15).
459 Section 10. Effective July 1, 2007, subsections (9) and
460 (10) of section 201.15, Florida Statutes, as amended by section
461 1 of chapter 2005-92, Laws of Florida, are amended to read:
462 201.15 Distribution of taxes collected.--All taxes
463 collected under this chapter shall be distributed as follows and
464 shall be subject to the service charge imposed in s. 215.20(1),
465 except that such service charge shall not be levied against any
466 portion of taxes pledged to debt service on bonds to the extent
467 that the amount of the service charge is required to pay any
468 amounts relating to the bonds:

469 (9) ~~The lesser of~~ Seven and fifty-three hundredths percent
470 of the remaining taxes collected under this chapter ~~or $107~~
471 ~~million~~ in each fiscal year shall be paid into the State
472 Treasury to the credit of the State Housing Trust Fund and shall
473 be used as follows:
474 (a) Half of that amount shall be used for the purposes for
475 which the State Housing Trust Fund was created and exists by
476 law.
477 (b) Half of that amount shall be paid into the State
478 Treasury to the credit of the Local Government Housing Trust
479 Fund and shall be used for the purposes for which the Local
480 Government Housing Trust Fund was created and exists by law.
481 (10) ~~The lesser of~~ Eight and sixty-six hundredths percent
482 of the remaining taxes collected under this chapter ~~or $136~~
483 ~~million~~ in each fiscal year shall be paid into the State
484 Treasury to the credit of the State Housing Trust Fund and shall
485 be used as follows:
486 (a) Twelve and one-half percent of that amount shall be
487 deposited into the State Housing Trust Fund and be expended by
488 the Department of Community Affairs and by the Florida Housing
489 Finance Corporation for the purposes for which the State Housing
490 Trust Fund was created and exists by law.
491 (b) Eighty-seven and one-half percent of that amount shall
492 be distributed to the Local Government Housing Trust Fund and
493 shall be used for the purposes for which the Local Government
494 Housing Trust Fund was created and exists by law. Funds from
495 this category may also be used to provide for state and local
496 services to assist the homeless.

497 Section 11. Paragraphs (o) and (q) of subsection (5) of
498 section 212.08, Florida Statutes, are amended to read:
499 212.08 Sales, rental, use, consumption, distribution, and
500 storage tax; specified exemptions.--The sale at retail, the
501 rental, the use, the consumption, the distribution, and the
502 storage to be used or consumed in this state of the following
503 are hereby specifically exempt from the tax imposed by this
504 chapter.
505 (5) EXEMPTIONS; ACCOUNT OF USE.--
506 (o) Building materials in redevelopment projects.--
507 1. As used in this paragraph, the term:
508 a. "Building materials" means tangible personal property
509 that becomes a component part of a housing project or a mixed-
510 use project.
511 b. "Housing project" means the conversion of an existing
512 manufacturing or industrial building to housing units in an
513 urban high-crime area, enterprise zone, empowerment zone, Front
514 Porch Community, designated brownfield area, or urban infill
515 area and in which the developer agrees to set aside at least 20
516 percent of the housing units in the project for low-income and
517 moderate-income persons or the construction in a designated
518 brownfield area of affordable housing for persons described in
519 s. 420.0004(10)~~(9)~~, (11)~~(10)~~, or (15)~~(14)~~, or in s. 159.603(7).
520 c. "Mixed-use project" means the conversion of an existing
521 manufacturing or industrial building to mixed-use units that
522 include artists' studios, art and entertainment services, or
523 other compatible uses. A mixed-use project must be located in an
524 urban high-crime area, enterprise zone, empowerment zone, Front

525 Porch Community, designated brownfield area, or urban infill
526 area, and the developer must agree to set aside at least 20
527 percent of the square footage of the project for low-income and
528 moderate-income housing.
529 d. "Substantially completed" has the same meaning as
530 provided in s. 192.042(1).
531 2. Building materials used in the construction of a
532 housing project or mixed-use project are exempt from the tax
533 imposed by this chapter upon an affirmative showing to the
534 satisfaction of the department that the requirements of this
535 paragraph have been met. This exemption inures to the owner
536 through a refund of previously paid taxes. To receive this
537 refund, the owner must file an application under oath with the
538 department which includes:
539 a. The name and address of the owner.
540 b. The address and assessment roll parcel number of the
541 project for which a refund is sought.
542 c. A copy of the building permit issued for the project.
543 d. A certification by the local building code inspector
544 that the project is substantially completed.
545 e. A sworn statement, under penalty of perjury, from the
546 general contractor licensed in this state with whom the owner
547 contracted to construct the project, which statement lists the
548 building materials used in the construction of the project and
549 the actual cost thereof, and the amount of sales tax paid on
550 these materials. If a general contractor was not used, the owner
551 shall provide this information in a sworn statement, under

552 penalty of perjury. Copies of invoices evidencing payment of
553 sales tax must be attached to the sworn statement.
554 3. An application for a refund under this paragraph must
555 be submitted to the department within 6 months after the date
556 the project is deemed to be substantially completed by the local
557 building code inspector. Within 30 working days after receipt of
558 the application, the department shall determine if it meets the
559 requirements of this paragraph. A refund approved pursuant to
560 this paragraph shall be made within 30 days after formal
561 approval of the application by the department. The provisions of
562 s. 212.095 do not apply to any refund application made under
563 this paragraph.
564 4. The department shall establish by rule an application
565 form and criteria for establishing eligibility for exemption
566 under this paragraph.
567 5. The exemption shall apply to purchases of materials on
568 or after July 1, 2000.
569 (q) Community contribution tax credit for donations.--
570 1. Authorization.--~~Beginning July 1, 2001,~~ Persons who are
571 registered with the department under s. 212.18 to collect or
572 remit sales or use tax and who make donations to eligible
573 sponsors are eligible for tax credits against their state sales
574 and use tax liabilities as provided in this paragraph:
575 a. The credit shall be computed as 50 percent of the
576 person's approved annual community contribution.~~;~~
577 b. The credit shall be granted as a refund against state
578 sales and use taxes reported on returns and remitted in the 12
579 months preceding the date of application to the department for

580 the credit as required in sub-subparagraph 3.c. If the annual
581 credit is not fully used through such refund because of
582 insufficient tax payments during the applicable 12-month period,
583 the unused amount may be included in an application for a refund
584 made pursuant to sub-subparagraph 3.c. in subsequent years
585 against the total tax payments made for such year. Carryover
586 credits may be applied for a 3-year period without regard to any
587 time limitation that would otherwise apply under s. 215.26.~~;~~
588 c. A person may not receive more than $200,000 in annual
589 tax credits for all approved community contributions made in any
590 one year.~~;~~
591 d. All proposals for the granting of the tax credit
592 require the prior approval of the Office of Tourism, Trade, and
593 Economic Development.~~;~~
594 e. The total amount of tax credits which may be granted
595 for all programs approved under this paragraph, s. 220.183, and
596 s. 624.5105 is $10 ~~$12~~ million annually for projects that
597 provide homeownership opportunities for low-income or very-low-
598 income households as defined in s. 420.9071(19) and (28) and $3
599 million annually for all other projects.~~; and~~
600 f. A person who is eligible to receive the credit provided
601 for in this paragraph, s. 220.183, or s. 624.5105 may receive
602 the credit only under the one section of the person's choice.
603 2. Eligibility requirements.--
604 a. A community contribution by a person must be in the
605 following form:
606 (I) Cash or other liquid assets;
607 (II) Real property;

608 (III) Goods or inventory; or
609 (IV) Other physical resources as identified by the Office
610 of Tourism, Trade, and Economic Development.
611 b. All community contributions must be reserved
612 exclusively for use in a project. As used in this sub-
613 subparagraph, the term "project" means any activity undertaken
614 by an eligible sponsor which is designed to construct, improve,
615 or substantially rehabilitate housing that is affordable to low-
616 income or very-low-income households as defined in s.
617 420.9071(19) and (28); designed to provide commercial,
618 industrial, or public resources and facilities; or designed to
619 improve entrepreneurial and job-development opportunities for
620 low-income persons. A project may be the investment necessary to
621 increase access to high-speed broadband capability in rural
622 communities with enterprise zones, including projects that
623 result in improvements to communications assets that are owned
624 by a business. A project may include the provision of museum
625 educational programs and materials that are directly related to
626 any project approved between January 1, 1996, and December 31,
627 1999, and located in an enterprise zone designated pursuant to
628 s. 290.0065. This paragraph does not preclude projects that
629 propose to construct or rehabilitate housing for low-income or
630 very-low-income households on scattered sites. With respect to
631 housing, contributions may be used to pay the following eligible
632 low-income and very-low-income housing-related activities:
633 (I) Project development impact and management fees for
634 low-income or very-low-income housing projects;

635 (II) Down payment and closing costs for eligible persons,
636 as defined in s. 420.9071(19) and (28);
637 (III) Administrative costs, including housing counseling
638 and marketing fees, not to exceed 10 percent of the community
639 contribution, directly related to low-income or very-low-income
640 projects; and
641 (IV) Removal of liens recorded against residential
642 property by municipal, county, or special district local
643 governments when satisfaction of the lien is a necessary
644 precedent to the transfer of the property to an eligible person,
645 as defined in s. 420.9071(19) and (28), for the purpose of
646 promoting home ownership. Contributions for lien removal must be
647 received from a nonrelated third party.
648 c. The project must be undertaken by an "eligible
649 sponsor," which includes:
650 (I) A community action program;
651 (II) A nonprofit community-based development organization
652 whose mission is the provision of housing for low-income or
653 very-low-income households or increasing entrepreneurial and
654 job-development opportunities for low-income persons;
655 (III) A neighborhood housing services corporation;
656 (IV) A local housing authority created under chapter 421;
657 (V) A community redevelopment agency created under s.
658 163.356;
659 (VI) The Florida Industrial Development Corporation;
660 (VII) A historic preservation district agency or
661 organization;
662 (VIII) A regional workforce board;

663 (IX) A direct-support organization as provided in s.
664 1009.983;
665 (X) An enterprise zone development agency created under s.
666 290.0056;
667 (XI) A community-based organization incorporated under
668 chapter 617 which is recognized as educational, charitable, or
669 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
670 and whose bylaws and articles of incorporation include
671 affordable housing, economic development~~,~~ or community
672 development as the primary mission of the corporation;
673 (XII) Units of local government;
674 (XIII) Units of state government; or
675 (XIV) Any other agency that the Office of Tourism, Trade,
676 and Economic Development designates by rule.
677
678 In no event may a contributing person have a financial interest
679 in the eligible sponsor.
680 d. The project must be located in an area designated an
681 enterprise zone or a Front Porch Florida Community pursuant to
682 s. 20.18(6), unless the project increases access to high-speed
683 broadband capability for rural communities with enterprise zones
684 but is physically located outside the designated rural zone
685 boundaries. Any project designed to construct or rehabilitate
686 housing for low-income or very-low-income households as defined
687 in s. 420.0971(19) and (28) is exempt from the area requirement
688 of this sub-subparagraph.
689 e.~~(I) For the first 6 months of the fiscal year, the~~
690 ~~Office of Tourism, Trade, and Economic Development shall reserve~~

691 ~~80 percent of the first $10 million in available annual tax~~
692 ~~credits and 70 percent of any available annual tax credits in~~
693 ~~excess of $10 million for donations made to eligible sponsors~~
694 ~~for projects that provide homeownership opportunities for low-~~
695 ~~income or very-low-income households as defined in s.~~
696 ~~420.9071(19) and (28). If any such reserved annual tax credits~~
697 ~~remain after the first 6 months of the fiscal year, the office~~
698 ~~may approve the balance of these available credits for donations~~
699 ~~made to eligible sponsors for projects other than those that~~
700 ~~provide homeownership opportunities for low-income or very-low-~~
701 ~~income households.~~
702 ~~(II) For the first 6 months of the fiscal year, the office~~
703 ~~shall reserve 20 percent of the first $10 million in available~~
704 ~~annual tax credits and 30 percent of any available annual tax~~
705 ~~credits in excess of $10 million for donations made to eligible~~
706 ~~sponsors for projects other than those that provide~~
707 ~~homeownership opportunities for low-income or very-low-income~~
708 ~~households as defined in s. 420.9071(19) and (28). If any~~
709 ~~reserved annual tax credits remain after the first 6 months of~~
710 ~~the fiscal year, the office may approve the balance of these~~
711 ~~available credits for donations made to eligible sponsors for~~
712 ~~projects that provide homeownership opportunities for low-income~~
713 ~~or very-low-income households.~~
714 (I) ~~(III)~~ If, during the first 10 business days of the
715 state fiscal year, eligible tax credit applications for projects
716 that provide homeownership opportunities for low-income or very-
717 low-income households as defined in s. 420.9071(19) and (28) are
718 received for less than the ~~available~~ annual tax credits

719 available for those projects ~~reserved under sub-sub-subparagraph~~
720 ~~(I)~~, the office shall grant tax credits for those applications
721 and shall grant remaining tax credits on a first-come, first-
722 served basis for any subsequent eligible applications received
723 before the end of the ~~first 6 months of the~~ state fiscal year.
724 If, during the first 10 business days of the state fiscal year,
725 eligible tax credit applications for projects that provide
726 homeownership opportunities for low-income or very-low-income
727 households as defined in s. 420.9071(19) and (28) are received
728 for more than the ~~available~~ annual tax credits available for
729 those projects ~~reserved under sub-sub-subparagraph (I)~~, the
730 office shall grant the tax credits for those ~~the~~ applications as
731 follows:
732 (A) If tax credit applications submitted for approved
733 projects of an eligible sponsor do not exceed $200,000 in total,
734 the credits shall be granted in full if the tax credit
735 applications are approved~~, subject to sub-sub-subparagraph (I)~~.
736 (B) If tax credit applications submitted for approved
737 projects of an eligible sponsor exceed $200,000 in total, the
738 amount of tax credits granted pursuant to sub-sub-sub-
739 subparagraph (A) shall be subtracted from the amount of
740 available tax credits ~~under sub-sub-subparagraph (I)~~, and the
741 remaining credits shall be granted to each approved tax credit
742 application on a pro rata basis.
743 ~~(C) If, after the first 6 months of the fiscal year,~~
744 ~~additional credits become available under sub-sub-subparagraph~~
745 ~~(II), the office shall grant the tax credits by first granting~~
746 ~~to those who received a pro rata reduction up to the full amount~~

747 ~~of their request and, if there are remaining credits, granting~~
748 ~~credits to those who applied on or after the 11th business day~~
749 ~~of the state fiscal year on a first-come, first-served basis.~~
750 (II) ~~(IV)~~ If, during the first 10 business days of the
751 state fiscal year, eligible tax credit applications for projects
752 other than those that provide homeownership opportunities for
753 low-income or very-low-income households as defined in s.
754 420.9071(19) and (28) are received for less than the ~~available~~
755 annual tax credits available for those projects ~~reserved under~~
756 ~~sub-sub-subparagraph (II)~~, the office shall grant tax credits
757 for those applications and shall grant remaining tax credits on
758 a first-come, first-served basis for any subsequent eligible
759 applications received before the end of ~~the first 6 months of~~
760 the state fiscal year. If, during the first 10 business days of
761 the state fiscal year, eligible tax credit applications for
762 projects other than those that provide homeownership
763 opportunities for low-income or very-low-income households as
764 defined in s. 420.9071(19) and (28) are received for more than
765 the ~~available~~ annual tax credits available for those projects
766 ~~reserved under sub-sub-subparagraph (II)~~, the office shall grant
767 the tax credits for those ~~the~~ applications on a pro rata basis.
768 ~~If, after the first 6 months of the fiscal year, additional~~
769 ~~credits become available under sub-sub-subparagraph (I), the~~
770 ~~office shall grant the tax credits by first granting to those~~
771 ~~who received a pro rata reduction up to the full amount of their~~
772 ~~request and, if there are remaining credits, granting credits to~~
773 ~~those who applied on or after the 11th business day of the state~~
774 ~~fiscal year on a first-come, first-served basis.~~

775 3. Application requirements.--
776 a. Any eligible sponsor seeking to participate in this
777 program must submit a proposal to the Office of Tourism, Trade,
778 and Economic Development which sets forth the name of the
779 sponsor, a description of the project, and the area in which the
780 project is located, together with such supporting information as
781 is prescribed by rule. The proposal must also contain a
782 resolution from the local governmental unit in which the project
783 is located certifying that the project is consistent with local
784 plans and regulations.
785 b. Any person seeking to participate in this program must
786 submit an application for tax credit to the office ~~of Tourism,~~
787 ~~Trade, and Economic Development~~ which sets forth the name of the
788 sponsor, a description of the project, and the type, value, and
789 purpose of the contribution. The sponsor shall verify the terms
790 of the application and indicate its receipt of the contribution,
791 which verification must be in writing and accompany the
792 application for tax credit. The person must submit a separate
793 tax credit application to the office for each individual
794 contribution that it makes to each individual project.
795 c. Any person who has received notification from the
796 office ~~of Tourism, Trade, and Economic Development~~ that a tax
797 credit has been approved must apply to the department to receive
798 the refund. Application must be made on the form prescribed for
799 claiming refunds of sales and use taxes and be accompanied by a
800 copy of the notification. A person may submit only one
801 application for refund to the department within any 12-month
802 period.

803 4. Administration.--
804 a. The Office of Tourism, Trade, and Economic Development
805 may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary
806 to administer this paragraph, including rules for the approval
807 or disapproval of proposals by a person.
808 b. The decision of the office ~~of Tourism, Trade, and~~
809 ~~Economic Development~~ must be in writing, and, if approved, the
810 notification shall state the maximum credit allowable to the
811 person. Upon approval, the office shall transmit a copy of the
812 decision to the Department of Revenue.
813 c. The office ~~of Tourism, Trade, and Economic Development~~
814 shall periodically monitor all projects in a manner consistent
815 with available resources to ensure that resources are used in
816 accordance with this paragraph; however, each project must be
817 reviewed at least once every 2 years.
818 d. The office ~~of Tourism, Trade, and Economic Development~~
819 shall, in consultation with the Department of Community Affairs~~,~~
820 ~~the Florida Housing Finance Corporation,~~ and the statewide and
821 regional housing and financial intermediaries, market the
822 availability of the community contribution tax credit program to
823 community-based organizations.
824 5. Expiration.--This paragraph expires June 30, 2015;
825 however, any accrued credit carryover that is unused on that
826 date may be used until the expiration of the 3-year carryover
827 period for such credit.
828 Section 12. Paragraph (c) of subsection (1) and paragraph
829 (b) of subsection (2) of section 220.183, Florida Statutes, are
830 amended to read:

831 220.183 Community contribution tax credit.--
832 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
833 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
834 SPENDING.--
835 (c) The total amount of tax credit which may be granted
836 for all programs approved under this section, s. 212.08(5)(q),
837 and s. 624.5105 is $10 ~~$12~~ million annually for projects that
838 provide homeownership opportunities for low-income or very-low-
839 income households as defined in s. 420.9071(19) and (28) and $3
840 million annually for all other projects.
841 (2) ELIGIBILITY REQUIREMENTS.--
842 (b)1. All community contributions must be reserved
843 exclusively for use in projects as defined in s. 220.03(1)(t).
844 ~~2. For the first 6 months of the fiscal year, the Office~~
845 ~~of Tourism, Trade, and Economic Development shall reserve 80~~
846 ~~percent of the first $10 million in available annual tax~~
847 ~~credits, and 70 percent of any available annual tax credits in~~
848 ~~excess of $10 million, for donations made to eligible sponsors~~
849 ~~for projects that provide homeownership opportunities for low-~~
850 ~~income or very-low-income households as defined in s.~~
851 ~~420.9071(19) and (28). If any reserved annual tax credits remain~~
852 ~~after the first 6 months of the fiscal year, the office may~~
853 ~~approve the balance of these available credits for donations~~
854 ~~made to eligible sponsors for projects other than those that~~
855 ~~provide homeownership opportunities for low-income or very-low-~~
856 ~~income households.~~
857 ~~3. For the first 6 months of the fiscal year, the office~~
858 ~~shall reserve 20 percent of the first $10 million in available~~

859 ~~annual tax credits, and 30 percent of any available annual tax~~
860 ~~credits in excess of $10 million, for donations made to eligible~~
861 ~~sponsors for projects other than those that provide~~
862 ~~homeownership opportunities for low-income or very-low-income~~
863 ~~households as defined in s. 420.9071(19) and (28). If any~~
864 ~~reserved annual tax credits remain after the first 6 months of~~
865 ~~the fiscal year, the office may approve the balance of these~~
866 ~~available credits for donations made to eligible sponsors for~~
867 ~~projects that provide homeownership opportunities for low-income~~
868 ~~or very-low-income households.~~
869 2.~~4.~~ If, during the first 10 business days of the state
870 fiscal year, eligible tax credit applications for projects that
871 provide homeownership opportunities for low-income or very-low-
872 income households as defined in s. 420.9071(19) and (28) are
873 received for less than the ~~available~~ annual tax credits
874 available for those projects ~~reserved under subparagraph 2.~~, the
875 office shall grant tax credits for those applications and shall
876 grant remaining tax credits on a first-come, first-served basis
877 for any subsequent eligible applications received before the end
878 of the ~~first 6 months of the~~ state fiscal year. If, during the
879 first 10 business days of the state fiscal year, eligible tax
880 credit applications for projects that provide homeownership
881 opportunities for low-income or very-low-income households as
882 defined in s. 420.9071(19) and (28) are received for more than
883 the ~~available~~ annual tax credits available for those projects
884 ~~reserved under subparagraph 2.~~, the office shall grant the tax
885 credits for those ~~such~~ applications as follows:

886 a. If tax credit applications submitted for approved
887 projects of an eligible sponsor do not exceed $200,000 in total,
888 the credit shall be granted in full if the tax credit
889 applications are approved~~, subject to the provisions of~~
890 ~~subparagraph 2~~.
891 b. If tax credit applications submitted for approved
892 projects of an eligible sponsor exceed $200,000 in total, the
893 amount of tax credits granted under sub-subparagraph a. shall be
894 subtracted from the amount of available tax credits ~~under~~
895 ~~subparagraph 2.~~, and the remaining credits shall be granted to
896 each approved tax credit application on a pro rata basis.
897 ~~c. If, after the first 6 months of the fiscal year,~~
898 ~~additional credits become available pursuant to subparagraph 3.,~~
899 ~~the office shall grant the tax credits by first granting to~~
900 ~~those who received a pro rata reduction up to the full amount of~~
901 ~~their request and, if there are remaining credits, granting~~
902 ~~credits to those who applied on or after the 11th business day~~
903 ~~of the state fiscal year on a first-come, first-served basis.~~
904 3.~~5.~~ If, during the first 10 business days of the state
905 fiscal year, eligible tax credit applications for projects other
906 than those that provide homeownership opportunities for low-
907 income or very-low-income households as defined in s.
908 420.9071(19) and (28) are received for less than the ~~available~~
909 annual tax credits available for those projects ~~reserved under~~
910 ~~subparagraph 3.~~, the office shall grant tax credits for those
911 applications and shall grant remaining tax credits on a first-
912 come, first-served basis for any subsequent eligible
913 applications received before the end of the ~~first 6 months of~~

914 ~~the~~ state fiscal year. If, during the first 10 business days of
915 the state fiscal year, eligible tax credit applications for
916 projects other than those that provide homeownership
917 opportunities for low-income or very-low-income households as
918 defined in s. 420.9071(19) and (28) are received for more than
919 the ~~available~~ annual tax credits available for those projects
920 ~~reserved under subparagraph 3.~~, the office shall grant the tax
921 credits for those ~~such~~ applications on a pro rata basis. ~~If,~~
922 ~~after the first 6 months of the fiscal year, additional credits~~
923 ~~become available under subparagraph 2., the office shall grant~~
924 ~~the tax credits by first granting to those who received a pro~~
925 ~~rata reduction up to the full amount of their request and, if~~
926 ~~there are remaining credits, granting credits to those who~~
927 ~~applied on or after the 11th business day of the state fiscal~~
928 ~~year on a first-come, first-served basis.~~
929 Section 13. Paragraph (f) of subsection (6) of section
930 253.034, Florida Statutes, is amended to read:
931 253.034 State-owned lands; uses.--
932 (6) The Board of Trustees of the Internal Improvement
933 Trust Fund shall determine which lands, the title to which is
934 vested in the board, may be surplused. For conservation lands,
935 the board shall make a determination that the lands are no
936 longer needed for conservation purposes and may dispose of them
937 by an affirmative vote of at least three members. In the case of
938 a land exchange involving the disposition of conservation lands,
939 the board must determine by an affirmative vote of at least
940 three members that the exchange will result in a net positive
941 conservation benefit. For all other lands, the board shall make

942 a determination that the lands are no longer needed and may
943 dispose of them by an affirmative vote of at least three
944 members.
945 (f)1. In reviewing lands owned by the board, the council
946 shall consider whether such lands would be more appropriately
947 owned or managed by the county or other unit of local government
948 in which the land is located. A local government may request
949 that state lands be specifically declared surplus lands for the
950 purpose of providing affordable housing. The council shall
951 recommend to the board whether a sale, lease, or other
952 conveyance to a local government would be in the best interests
953 of the state and local government. The provisions of this
954 paragraph in no way limit the provisions of ss. 253.111 and
955 253.115. Such lands shall be offered to the state, county, or
956 local government for a period of 30 days. Permittable uses for
957 such surplus lands may include public schools; public libraries;
958 fire or law enforcement substations; ~~and~~ governmental, judicial,
959 or recreational centers; and affordable housing. County or local
960 government requests for surplus lands shall be expedited
961 throughout the surplusing process. Surplus lands that are
962 conveyed to a local government for affordable housing shall be
963 disposed of under the provisions of s. 125.379 or s. 166.0451.
964 If the county or local government does not elect to purchase
965 such lands in accordance with s. 253.111, then any surplusing
966 determination involving other governmental agencies shall be
967 made upon the board deciding the best public use of the lands.
968 Surplus properties in which governmental agencies have expressed

969 no interest shall then be available for sale on the private
970 market.
971 2. Notwithstanding subparagraph 1., any surplus lands that
972 were acquired by the state prior to 1958 by a gift or other
973 conveyance for no consideration from a municipality, and which
974 the department has filed by July 1, 2006, a notice of its intent
975 to surplus, shall be first offered for reconveyance to such
976 municipality at no cost, but for the fair market value of any
977 building or other improvements to the land, unless otherwise
978 provided in a deed restriction of record. This subparagraph
979 expires July 1, 2006.
980 Section 14. Section 295.16, Florida Statutes, is amended
981 to read:
982 295.16 Disabled veterans exempt from certain license or
983 permit fee.--No totally and permanently disabled veteran who is
984 a resident of Florida and honorably discharged from the Armed
985 Forces, who has been issued a valid identification card by the
986 Department of Veterans' Affairs in accordance with s. 295.17 or
987 has been determined by the United States Department of Veterans
988 Affairs or its predecessor to have a service-connected 100-
989 percent disability rating for compensation, or who has been
990 determined to have a service-connected disability rating of 100
991 percent and is in receipt of disability retirement pay from any
992 branch of the uniformed armed services, shall be required to pay
993 any license or permit fee, by whatever name known, to any county
994 or municipality in order to make improvements upon a <u>dwelling</u>
995 ~~mobile home~~ owned by the veteran which is used as the veteran's
996 residence, provided such improvements are limited to ramps,

997 widening of doors, and similar improvements for the purpose of
998 making the dwelling ~~mobile home~~ habitable for veterans confined
999 to wheelchairs.
1000 Section 15. Paragraphs (b) and (e) of subsection (19) of
1001 section 380.06, Florida Statutes, are amended to read:
1002 380.06 Developments of regional impact.--
1003 (19) SUBSTANTIAL DEVIATIONS.--
1004 (b) Any proposed change to a previously approved
1005 development of regional impact or development order condition
1006 which, either individually or cumulatively with other changes,
1007 exceeds any of the following criteria shall constitute a
1008 substantial deviation and shall cause the development to be
1009 subject to further development-of-regional-impact review without
1010 the necessity for a finding of same by the local government:
1011 1. An increase in the number of parking spaces at an
1012 attraction or recreational facility by 5 percent or 300 spaces,
1013 whichever is greater, or an increase in the number of spectators
1014 that may be accommodated at such a facility by 5 percent or
1015 1,000 spectators, whichever is greater.
1016 2. A new runway, a new terminal facility, a 25-percent
1017 lengthening of an existing runway, or a 25-percent increase in
1018 the number of gates of an existing terminal, but only if the
1019 increase adds at least three additional gates.
1020 3. An increase in the number of hospital beds by 5 percent
1021 or 60 beds, whichever is greater.
1022 4. An increase in industrial development area by 5 percent
1023 or 32 acres, whichever is greater.

1024 5. An increase in the average annual acreage mined by 5
1025 percent or 10 acres, whichever is greater, or an increase in the
1026 average daily water consumption by a mining operation by 5
1027 percent or 300,000 gallons, whichever is greater. An increase in
1028 the size of the mine by 5 percent or 750 acres, whichever is
1029 less. An increase in the size of a heavy mineral mine as defined
1030 in s. 378.403(7) will only constitute a substantial deviation if
1031 the average annual acreage mined is more than 500 acres and
1032 consumes more than 3 million gallons of water per day.
1033 6. An increase in land area for office development by 5
1034 percent or an increase of gross floor area of office development
1035 by 5 percent or 60,000 gross square feet, whichever is greater.
1036 7. An increase in the storage capacity for chemical or
1037 petroleum storage facilities by 5 percent, 20,000 barrels, or 7
1038 million pounds, whichever is greater.
1039 8. An increase of development at a waterport of wet
1040 storage for 20 watercraft, dry storage for 30 watercraft, or
1041 wet/dry storage for 60 watercraft in an area identified in the
1042 state marina siting plan as an appropriate site for additional
1043 waterport development or a 5-percent increase in watercraft
1044 storage capacity, whichever is greater.
1045 9. An increase in the number of dwelling units by 5
1046 percent or 50 dwelling units, whichever is greater.
1047 10. An increase in the number of dwelling units by 15
1048 percent or 100 units, whichever is greater, provided that 20
1049 percent of the increase in the number of dwelling units is
1050 dedicated to the construction of workforce housing. For purposes
1051 of this subparagraph, the term "workforce housing" means housing

1052 that is affordable to a person who earns less than 120 percent
1053 of the area median income.
1054 11.~~10.~~ An increase in commercial development by 50,000
1055 square feet of gross floor area or of parking spaces provided
1056 for customers for 300 cars or a 5-percent increase of either of
1057 these, whichever is greater.
1058 12.~~11.~~ An increase in hotel or motel facility units by 5
1059 percent or 75 units, whichever is greater.
1060 13.~~12.~~ An increase in a recreational vehicle park area by
1061 5 percent or 100 vehicle spaces, whichever is less.
1062 14.~~13.~~ A decrease in the area set aside for open space of
1063 5 percent or 20 acres, whichever is less.
1064 15.~~14.~~ A proposed increase to an approved multiuse
1065 development of regional impact where the sum of the increases of
1066 each land use as a percentage of the applicable substantial
1067 deviation criteria is equal to or exceeds 100 percent. The
1068 percentage of any decrease in the amount of open space shall be
1069 treated as an increase for purposes of determining when 100
1070 percent has been reached or exceeded.
1071 16.~~15.~~ A 15-percent increase in the number of external
1072 vehicle trips generated by the development above that which was
1073 projected during the original development-of-regional-impact
1074 review.
1075 17.~~16.~~ Any change which would result in development of any
1076 area which was specifically set aside in the application for
1077 development approval or in the development order for
1078 preservation or special protection of endangered or threatened
1079 plants or animals designated as endangered, threatened, or

1080 species of special concern and their habitat, primary dunes, or
1081 archaeological and historical sites designated as significant by
1082 the Division of Historical Resources of the Department of State.
1083 The further refinement of such areas by survey shall be
1084 considered under sub-subparagraph (e)5.b.
1085
1086 The substantial deviation numerical standards in subparagraphs
1087 4., 6., 10., 11., and 15. ~~14.~~, excluding residential uses, and
1088 15., are increased by 100 percent for a project certified under
1089 s. 403.973 which creates jobs and meets criteria established by
1090 the Office of Tourism, Trade, and Economic Development as to its
1091 impact on an area's economy, employment, and prevailing wage and
1092 skill levels. The substantial deviation numerical standards in
1093 subparagraphs 4., 6., 9., 10., 11., 12., and 15. ~~14.~~ are
1094 increased by 50 percent for a project located wholly within an
1095 urban infill and redevelopment area designated on the applicable
1096 adopted local comprehensive plan future land use map and not
1097 located within the coastal high hazard area.
1098 (e)1. Except for a development order rendered pursuant to
1099 subsection (22) or subsection (25), a proposed change to a
1100 development order that individually or cumulatively with any
1101 previous change is less than any numerical criterion contained
1102 in subparagraphs (b)1.-16. ~~(b)1.-15.~~ and does not exceed any
1103 other criterion, or that involves an extension of the buildout
1104 date of a development, or any phase thereof, of less than 5
1105 years is not subject to the public hearing requirements of
1106 subparagraph (f)3., and is not subject to a determination
1107 pursuant to subparagraph (f)5. Notice of the proposed change

1108 shall be made to the regional planning council and the state
1109 land planning agency. Such notice shall include a description of
1110 previous individual changes made to the development, including
1111 changes previously approved by the local government, and shall
1112 include appropriate amendments to the development order.
1113 2. The following changes, individually or cumulatively
1114 with any previous changes, are not substantial deviations:
1115 a. Changes in the name of the project, developer, owner,
1116 or monitoring official.
1117 b. Changes to a setback that do not affect noise buffers,
1118 environmental protection or mitigation areas, or archaeological
1119 or historical resources.
1120 c. Changes to minimum lot sizes.
1121 d. Changes in the configuration of internal roads that do
1122 not affect external access points.
1123 e. Changes to the building design or orientation that stay
1124 approximately within the approved area designated for such
1125 building and parking lot, and which do not affect historical
1126 buildings designated as significant by the Division of
1127 Historical Resources of the Department of State.
1128 f. Changes to increase the acreage in the development,
1129 provided that no development is proposed on the acreage to be
1130 added.
1131 g. Changes to eliminate an approved land use, provided
1132 that there are no additional regional impacts.
1133 h. Changes required to conform to permits approved by any
1134 federal, state, or regional permitting agency, provided that
1135 these changes do not create additional regional impacts.

1136 i. Any renovation or redevelopment of development within a
1137 previously approved development of regional impact which does
1138 not change land use or increase density or intensity of use.
1139 j. Any other change which the state land planning agency
1140 agrees in writing is similar in nature, impact, or character to
1141 the changes enumerated in sub-subparagraphs a.-i. and which does
1142 not create the likelihood of any additional regional impact.
1143
1144 This subsection does not require a development order amendment
1145 for any change listed in sub-subparagraphs a.-j. unless such
1146 issue is addressed either in the existing development order or
1147 in the application for development approval, but, in the case of
1148 the application, only if, and in the manner in which, the
1149 application is incorporated in the development order.
1150 3. Except for the change authorized by sub-subparagraph
1151 2.f., any addition of land not previously reviewed or any change
1152 not specified in paragraph (b) or paragraph (c) shall be
1153 presumed to create a substantial deviation. This presumption may
1154 be rebutted by clear and convincing evidence.
1155 4. Any submittal of a proposed change to a previously
1156 approved development shall include a description of individual
1157 changes previously made to the development, including changes
1158 previously approved by the local government. The local
1159 government shall consider the previous and current proposed
1160 changes in deciding whether such changes cumulatively constitute
1161 a substantial deviation requiring further development-of-
1162 regional-impact review.

1163 5. The following changes to an approved development of
1164 regional impact shall be presumed to create a substantial
1165 deviation. Such presumption may be rebutted by clear and
1166 convincing evidence.
1167 a. A change proposed for 15 percent or more of the acreage
1168 to a land use not previously approved in the development order.
1169 Changes of less than 15 percent shall be presumed not to create
1170 a substantial deviation.
1171 b. Except for the types of uses listed in subparagraph
1172 (b)17. ~~(b)16.~~, any change which would result in the development
1173 of any area which was specifically set aside in the application
1174 for development approval or in the development order for
1175 preservation, buffers, or special protection, including habitat
1176 for plant and animal species, archaeological and historical
1177 sites, dunes, and other special areas.
1178 c. Notwithstanding any provision of paragraph (b) to the
1179 contrary, a proposed change consisting of simultaneous increases
1180 and decreases of at least two of the uses within an authorized
1181 multiuse development of regional impact which was originally
1182 approved with three or more uses specified in s. 380.0651(3)(c),
1183 (d), (f), and (g) and residential use.
1184 Section 16. Paragraph (k) of subsection (3) of section
1185 380.0651, Florida Statutes, is redesignated as paragraph (l),
1186 and a new paragraph (k) is added to that subsection to read:
1187 380.0651 Statewide guidelines and standards.--
1188 (3) The following statewide guidelines and standards shall
1189 be applied in the manner described in s. 380.06(2) to determine

1190 whether the following developments shall be required to undergo
1191 development-of-regional-impact review:
1192 (k) Workforce housing.--The applicable guidelines for
1193 residential development and the residential component for
1194 multiuse development shall be increased by 20 percent where the
1195 developer demonstrates that at least 15 percent of the
1196 residential dwelling units will be dedicated to workforce
1197 housing. For purposes of this subparagraph, the term "workforce
1198 housing" means housing that is affordable to a person who earns
1199 less than 120 percent of the area median income.
1200 Section 17. Section 420.0004, Florida Statutes, is amended
1201 to read:
1202 420.0004 Definitions.--As used in this part, unless the
1203 context otherwise indicates:
1204 (1) "Adjusted for family size" means adjusted in a manner
1205 which results in an income eligibility level which is lower for
1206 households with fewer than four people, or higher for households
1207 with more than four people, than the base income eligibility
1208 determined as provided in subsection (10) ~~(9)~~, subsection (11)
1209 ~~(10)~~, or subsection (15) ~~(14)~~, based upon a formula as
1210 established by the United States Department of Housing and Urban
1211 Development.
1212 (2) "Adjusted gross income" means all wages, assets,
1213 regular cash or noncash contributions or gifts from persons
1214 outside the household, and such other resources and benefits as
1215 may be determined to be income by the United States Department
1216 of Housing and Urban Development, adjusted for family size, less
1217 deductions allowable under s. 62 of the Internal Revenue Code.

1218 (3) "Affordable" means that monthly rents or monthly
1219 mortgage payments including taxes, insurance, and utilities do
1220 not exceed 30 percent of that amount which represents the
1221 percentage of the median adjusted gross annual income for the
1222 households as indicated in subsection (10) ~~(9)~~, subsection (11)
1223 ~~(10)~~, or subsection (15) ~~(14)~~.
1224 (4) "Corporation" means the Florida Housing Finance
1225 Corporation.
1226 (5) "Community-based organization" or "nonprofit
1227 organization" means a private corporation organized under
1228 chapter 617 to assist in the provision of housing and related
1229 services on a not-for-profit basis and which is acceptable to
1230 federal and state agencies and financial institutions as a
1231 sponsor of low-income housing.
1232 (6) "Department" means the Department of Community
1233 Affairs.
1234 (7) "Elderly" describes persons 62 years of age or older.
1235 (8) "Extremely low income persons" means one or more
1236 natural persons or a family whose total annual household income
1237 does not exceed 30 percent of the median annual adjusted gross
1238 income for households within the state. The Florida Housing
1239 Finance Corporation may adjust this amount annually by rule to
1240 provide that in lower income counties extremely low income may
1241 exceed 30 percent of area median income and that in higher
1242 income counties extremely low income may be less than 30 percent
1243 of area median income.
1244 (9) ~~(8)~~ "Local public body" means any county, municipality,
1245 or other political subdivision, or any housing authority as

1246 provided by chapter 421, which is eligible to sponsor or develop
1247 housing for farmworkers and very-low-income and low-income
1248 persons within its jurisdiction.
1249 (10) ~~(9)~~ "Low-income persons" means one or more natural
1250 persons or a family, the total annual adjusted gross household
1251 income of which does not exceed 80 percent of the median annual
1252 adjusted gross income for households within the state, or 80
1253 percent of the median annual adjusted gross income for
1254 households within the metropolitan statistical area (MSA) or, if
1255 not within an MSA, within the county in which the person or
1256 family resides, whichever is greater.
1257 (11) ~~(10)~~ "Moderate-income persons" means one or more
1258 natural persons or a family, the total annual adjusted gross
1259 household income of which is less than 120 percent of the median
1260 annual adjusted gross income for households within the state, or
1261 120 percent of the median annual adjusted gross income for
1262 households within the metropolitan statistical area (MSA) or, if
1263 not within an MSA, within the county in which the person or
1264 family resides, whichever is greater.
1265 (12) ~~(11)~~ "Student" means any person not living with his or
1266 her parent or guardian who is eligible to be claimed by his or
1267 her parent or guardian as a dependent under the federal income
1268 tax code and who is enrolled on at least a half-time basis in a
1269 secondary school, career center, community college, college, or
1270 university.
1271 (13) ~~(12)~~ "Substandard" means:
1272 (a) Any unit lacking complete plumbing or sanitary
1273 facilities for the exclusive use of the occupants;

1274 (b) A unit which is in violation of one or more major
1275 sections of an applicable housing code and where such violation
1276 poses a serious threat to the health of the occupant; or
1277 (c) A unit that has been declared unfit for human
1278 habitation but that could be rehabilitated for less than 50
1279 percent of the property value.
1280 (14) ~~(13)~~ "Substantial rehabilitation" means repair or
1281 restoration of a dwelling unit where the value of such repair or
1282 restoration exceeds 40 percent of the value of the dwelling.
1283 (15) ~~(14)~~ "Very-low-income persons" means one or more
1284 natural persons or a family, not including students, the total
1285 annual adjusted gross household income of which does not exceed
1286 50 percent of the median annual adjusted gross income for
1287 households within the state, or 50 percent of the median annual
1288 adjusted gross income for households within the metropolitan
1289 statistical area (MSA) or, if not within an MSA, within the
1290 county in which the person or family resides, whichever is
1291 greater.
1292 Section 18. Section 420.37, Florida Statutes, is repealed.
1293 Section 19. Subsection (18) of section 420.503, Florida
1294 Statutes, is amended to read:
1295 420.503 Definitions.--As used in this part, the term:
1296 (18)(a) "Farmworker" means a laborer who is employed on a
1297 seasonal, temporary, or permanent basis in the planting,
1298 cultivating, harvesting, or processing of agricultural or
1299 aquacultural products and who derived at least 50 percent of her
1300 or his income in the immediately preceding 12 months from such
1301 employment.

1302 (b) "Farmworker" ~~also~~ includes a person who has retired as
1303 a laborer due to age, disability, or illness. In order to be
1304 considered retired as a farmworker due to age under this part, a
1305 person must be 50 years of age or older and must have been
1306 employed for a minimum of 5 years as a farmworker before
1307 retirement. In order to be considered retired as a farmworker
1308 due to disability or illness, a person must:
1309 1. ~~(a)~~ Establish medically that she or he is unable to be
1310 employed as a farmworker due to that disability or illness.
1311 2. ~~(b)~~ Establish that she or he was previously employed as
1312 a farmworker.
1313 (c) Notwithstanding paragraphs (a) and (b), when
1314 corporation-administered funds are used in conjunction with
1315 United States Department of Agriculture Rural Development funds,
1316 the term "farmworker" may mean a laborer who meets, at a
1317 minimum, the definition of "domestic farm laborer" as found in 7
1318 C.F.R. s. 3560.11, as amended. The corporation may establish
1319 additional criteria by rule.
1320 Section 20. Section 420.5061, Florida Statutes, is amended
1321 to read:
1322 420.5061 Transfer of agency assets and
1323 liabilities.--Effective January 1, 1998, all assets and
1324 liabilities and rights and obligations, including any
1325 outstanding contractual obligations, of the agency shall be
1326 transferred to the corporation as legal successor in all
1327 respects to the agency. The corporation shall thereupon become
1328 obligated to the same extent as the agency under any existing
1329 agreements and be entitled to any rights and remedies previously

1330 afforded the agency by law or contract, including specifically
1331 the rights of the agency under chapter 201 and part VI of
1332 chapter 159. The corporation is a state agency for purposes of
1333 s. 159.807(4)(a). Effective January 1, 1998, all references
1334 under Florida law to the agency are deemed to mean the
1335 corporation. The corporation shall transfer to the General
1336 Revenue Fund an amount which otherwise would have been deducted
1337 as a service charge pursuant to s. 215.20(1) if the Florida
1338 Housing Finance Corporation Fund established by s. 420.508(5),
1339 the State Apartment Incentive Loan Fund established by s.
1340 420.5087(7), the Florida Homeownership Assistance Fund
1341 established by s. 420.5088(4) ~~(5)~~, the HOME Investment
1342 Partnership Fund established by s. 420.5089(1), and the Housing
1343 Predevelopment Loan Fund established by s. 420.525(1) were each
1344 trust funds. For purposes of s. 112.313, the corporation is
1345 deemed to be a continuation of the agency, and the provisions
1346 thereof are deemed to apply as if the same entity remained in
1347 place. Any employees of the agency and agency board members
1348 covered by s. 112.313(9)(a)6. shall continue to be entitled to
1349 the exemption in that subparagraph, notwithstanding being hired
1350 by the corporation or appointed as board members of the
1351 corporation. Effective January 1, 1998, all state property in
1352 use by the agency shall be transferred to and become the
1353 property of the corporation.
1354 Section 21. Subsections (22), (23), and (40) of section
1355 420.507, Florida Statutes, are amended, and subsections (44),
1356 (45), and (46) are added to that section, to read:

1357 420.507 Powers of the corporation.--The corporation shall
1358 have all the powers necessary or convenient to carry out and
1359 effectuate the purposes and provisions of this part, including
1360 the following powers which are in addition to all other powers
1361 granted by other provisions of this part:
1362 (22) To develop and administer the State Apartment
1363 Incentive Loan Program. In developing and administering that
1364 program, the corporation may:
1365 (a) Make first, second, and other subordinated mortgage
1366 loans including variable or fixed rate loans subject to
1367 contingent interest for all State Apartment Incentive Loans
1368 provided for in this chapter based upon available cash flow of
1369 the projects. The corporation shall make loans exceeding 25
1370 percent of project cost available only to nonprofit
1371 organizations and public bodies which are able to secure grants,
1372 donations of land, or contributions from other sources and to
1373 projects meeting the criteria of subparagraph 1. Mortgage loans
1374 shall be made available at the following rates of interest:
1375 1. Zero to 3 percent interest for sponsors of projects
1376 that set aside at least ~~maintain an~~ 80 percent ~~occupancy~~ of
1377 their total units for residents qualifying as farmworkers as
1378 defined in this part ~~s. 420.503(18)~~, or commercial fishing
1379 workers as defined in this part ~~s. 420.503(5)~~, or the homeless
1380 as defined in s. 420.621(4) over the life of the loan.
1381 2. The board may set the interest rate based on the pro
1382 rata share of units set aside for homeless residents if the
1383 total of such units is less than 80 percent of the units in the
1384 borrower's project.

1385 3. One ~~Three~~ to 9 percent interest for sponsors of
1386 projects targeted at populations other than farmworkers,
1387 commercial fishing workers, and the homeless.
1388 (b) The corporation may make loans exceeding 25 percent of
1389 project cost when the project serves extremely low income
1390 families.
1391 (c) The corporation may forgive indebtedness for a pro
1392 rata share of the loan based on the number of units in a project
1393 reserved for extremely low income families.
1394 (d) ~~(b)~~ Geographically and demographically target the
1395 utilization of loans.
1396 (e) ~~(c)~~ Underwrite credit, and reject projects which do not
1397 meet the established standards of the corporation.
1398 (f) ~~(d)~~ Negotiate with governing bodies within the state
1399 after a loan has been awarded to obtain local government
1400 contributions.
1401 (g) ~~(e)~~ Inspect any records of a sponsor at any time during
1402 the life of the loan or the agreed period for maintaining the
1403 provisions of s. 420.5087.
1404 (h) ~~(f)~~ Establish, by rule, the procedure for evaluating,
1405 scoring, and competitively ranking all applications based on the
1406 criteria set forth in s. 420.5087(6)(c); determining actual loan
1407 amounts; making and servicing loans; and exercising the powers
1408 authorized in this subsection.
1409 (i) ~~(g)~~ Establish a loan loss insurance reserve to be used
1410 to protect the outstanding program investment in case of a
1411 default, deed in lieu of foreclosure, or foreclosure of a
1412 program loan.

1413 (23) To develop and administer the Florida Homeownership
1414 Assistance Program. In developing and administering the program,
1415 the corporation may:
1416 (a)1. Make subordinated loans to eligible borrowers for
1417 down payments or closing costs related to the purchase of the
1418 borrower's primary residence.
1419 2. Make permanent loans to eligible borrowers related to
1420 the purchase of the borrower's primary residence.
1421 3. Make subordinated loans to nonprofit sponsors or
1422 developers of housing for purchase of property, for
1423 construction, or for financing of housing to be offered for sale
1424 to eligible borrowers as a primary residence at an affordable
1425 price.
1426 (b) Establish a loan loss insurance reserve to supplement
1427 existing sources of mortgage insurance with appropriated funds.
1428 (c) Geographically and demographically target the
1429 utilization of loans.
1430 (d) Defer repayment of loans for the term of the first
1431 mortgage.
1432 (e) Establish flexible terms for loans with an interest
1433 rate not to exceed 3 percent per annum and which are
1434 nonamortizing for the term of the first mortgage.
1435 (f) Require repayment of loans upon sale, transfer,
1436 refinancing, or rental of secured property.
1437 (g) Accelerate a loan for monetary default, for failure to
1438 provide the benefits of the loans to eligible borrowers, or for
1439 violation of any other restriction placed upon the loan.

1440 (h) Adopt rules for the program and exercise the powers
1441 authorized in this subsection.
1442 (40) To establish subsidiary business entities
1443 ~~corporations~~ for the purpose of taking title to and managing and
1444 disposing of property acquired by the corporation. Such
1445 subsidiary business entities ~~corporations~~ shall be public
1446 business entities ~~corporations~~ wholly owned by the corporation;
1447 shall be entitled to own, mortgage, and sell property on the
1448 same basis as the corporation; and shall be deemed business
1449 entities ~~corporations~~ primarily acting as an agent ~~agents~~ of the
1450 state, within the meaning of s. 768.28, on the same basis as the
1451 corporation. Any subsidiary business entity created by the
1452 corporation shall be subject to chapters 119, 120, and 286 to
1453 the same extent as the corporation. The subsidiary business
1454 entities shall have authority to make rules necessary to conduct
1455 business and to carry out the purposes of this subsection.
1456 (44) To adopt rules whereby the corporation may intervene,
1457 negotiate terms, or undertake other actions which the
1458 corporation deems necessary to further program goals or avoid
1459 default of a program loan. Such rules must consider fiscal
1460 program goals and the preservation or advancement of affordable
1461 housing for the state.
1462 (45) To establish by rule requirements for periodic
1463 reporting of data, including, but not limited to, financial
1464 data, housing market data, detailed economic and physical
1465 occupancy on multifamily projects, and demographic data on all
1466 housing financed through corporation programs.

1467 (46) In order to administer funds appropriated for
1468 disaster recovery and reconstruction following a declaration of
1469 emergency pursuant to s. 252.36, to create programs to repair,
1470 rehabilitate, and construct multifamily and single family
1471 dwellings. To administer this subsection, the corporation may
1472 adopt emergency rules pursuant to s. 120.54. The Legislature
1473 finds that emergency rules adopted pursuant to this subsection
1474 meet the health, safety, and welfare requirement of s.
1475 120.54(4). The Legislature finds that such emergency rulemaking
1476 power is necessary for the preservation of the rights and
1477 welfare of the people in order to provide additional funds to
1478 assist those areas of the state that sustain housing damage due
1479 to the occurrence of a disaster, as defined in s. 252.34(1).
1480 Emergency rules adopted under this subsection are exempt from s.
1481 120.54(4)(a) and (c).
1482 Section 22. Subsections (1), (3), (5), and (6) of section
1483 420.5087, Florida Statutes, are amended to read:
1484 420.5087 State Apartment Incentive Loan Program.--There is
1485 hereby created the State Apartment Incentive Loan Program for
1486 the purpose of providing first, second, or other subordinated
1487 mortgage loans or loan guarantees to sponsors, including for-
1488 profit, nonprofit, and public entities, to provide housing
1489 affordable to very-low-income persons.
1490 (1) Program funds shall be distributed over successive 3-
1491 year periods in a manner that meets the need and demand for
1492 very-low-income housing throughout the state. That need and
1493 demand must be determined by using the most recent statewide
1494 low-income rental housing market studies available at the

1495 beginning of each 3-year period. However, at least 10 percent of
1496 the program funds distributed during a 3-year period must be
1497 allocated to each of the following categories of counties, as
1498 determined by using the population statistics published in the
1499 most recent edition of the Florida Statistical Abstract:
1500 (a) Counties that have a population of 825,000 or more.
1501 ~~more than 500,000 people;~~
1502 (b) Counties that have a population of more than ~~between~~
1503 100,000 but less than 825,000. ~~and 500,000 people; and~~
1504 (c) Counties that have a population of 100,000 or less.
1505
1506 Any increase in funding required to reach the 10-percent minimum
1507 shall be taken from the county category that has the largest
1508 allocation. The corporation shall adopt rules which establish an
1509 equitable process for distributing any portion of the 10 percent
1510 of program funds allocated to the county categories specified in
1511 this subsection which remains unallocated at the end of a 3-year
1512 period. Counties that have a population of 100,000 or less shall
1513 be given preference under these rules.
1514 (3) During the first 6 months of loan or loan guarantee
1515 availability, program funds shall be reserved for use by
1516 sponsors who provide the housing set-aside required in
1517 subsection (2) for the tenant groups designated in this
1518 subsection. The reservation of funds to each of these groups
1519 shall be determined using the most recent statewide very-low-
1520 income rental housing market study available at the time of
1521 publication of each notice of fund availability required by
1522 paragraph (6)(b). The reservation of funds within each notice of

1523 fund availability to the tenant groups in paragraphs (a), (b),
1524 and (d) may not be less than 10 percent of the funds available
1525 at that time. Any increase in funding required to reach the 10-
1526 percent minimum shall be taken from the tenant group that has
1527 the largest reservation. The reservation of funds within each
1528 notice of fund availability to the tenant group in paragraph (c)
1529 may not be less than 5 percent of the funds available at that
1530 time. The tenant groups are:
1531 (a) Commercial fishing workers and farmworkers;
1532 (b) Families;
1533 (c) Persons who are homeless; and
1534 (d) Elderly persons. Ten percent of the amount reserved
1535 for the elderly shall be reserved to provide loans to sponsors
1536 of housing for the elderly for the purpose of making building
1537 preservation, health, or sanitation repairs or improvements
1538 which are required by federal, state, or local regulation or
1539 code, or lifesafety or security-related repairs or improvements
1540 to such housing. Such a loan may not exceed $750,000 per housing
1541 community for the elderly. In order to receive the loan, the
1542 sponsor of the housing community must make a commitment to match
1543 at least 5 ~~15~~ percent of the loan amount to pay the cost of such
1544 repair or improvement. The corporation shall establish the rate
1545 of interest on the loan, which may not exceed 3 percent, and the
1546 term of the loan, which may not exceed 15 years; however, if the
1547 lien of the corporation's encumbrance is subordinate to the lien
1548 of another mortgagee, then the term may be made coterminous with
1549 the longest term of the superior lien. The term of the loan
1550 shall be established on the basis of a credit analysis of the

1551 applicant. The corporation shall establish, by rule, the
1552 procedure and criteria for receiving, evaluating, and
1553 competitively ranking all applications for loans under this
1554 paragraph. A loan application must include evidence of the first
1555 mortgagee's having reviewed and approved the sponsor's intent to
1556 apply for a loan. A nonprofit organization or sponsor may not
1557 use the proceeds of the loan to pay for administrative costs,
1558 routine maintenance, or new construction.
1559 (5) The amount of the mortgage provided under this program
1560 combined with any other mortgage in a superior position shall be
1561 less than the value of the project without the housing set-aside
1562 required by subsection (2). However, the corporation may waive
1563 this requirement for projects in rural areas or urban infill
1564 areas which have market rate rents that are less than the
1565 allowable rents pursuant to applicable state and federal
1566 guidelines, and for projects which reserve units for extremely
1567 low income families. In no event shall the mortgage provided
1568 under this program combined with any other mortgage in a
1569 superior position exceed total project cost.
1570 (6) On all state apartment incentive loans, except loans
1571 made to housing communities for the elderly to provide for
1572 lifesafety, building preservation, health, sanitation, or
1573 security-related repairs or improvements, the following
1574 provisions shall apply:
1575 (a) The corporation shall establish two interest rates in
1576 accordance with s. 420.507(22)(a)1. and 3. ~~2.~~
1577 (b) The corporation shall publish a notice of fund
1578 availability in a publication of general circulation throughout

1579 the state. Such notice shall be published at least 60 days prior
1580 to the application deadline and shall provide notice of the
1581 temporary reservations of funds established in subsection (3).
1582 (c) The corporation shall provide by rule for the
1583 establishment of a review committee composed of the department
1584 and corporation staff and shall establish by rule a scoring
1585 system for evaluation and competitive ranking of applications
1586 submitted in this program, including, but not limited to, the
1587 following criteria:
1588 1. Tenant income and demographic targeting objectives of
1589 the corporation.
1590 2. Targeting objectives of the corporation which will
1591 ensure an equitable distribution of loans between rural and
1592 urban areas.
1593 3. Sponsor's agreement to reserve the units for persons or
1594 families who have incomes below 50 percent of the state or local
1595 median income, whichever is higher, for a time period to exceed
1596 the minimum required by federal law or the provisions of this
1597 part.
1598 4. Sponsor's agreement to reserve more than:
1599 a. Twenty percent of the units in the project for persons
1600 or families who have incomes that do not exceed 50 percent of
1601 the state or local median income, whichever is higher; or
1602 b. Forty percent of the units in the project for persons
1603 or families who have incomes that do not exceed 60 percent of
1604 the state or local median income, whichever is higher, without
1605 requiring a greater amount of the loans as provided in this
1606 section.

1607 5. Provision for tenant counseling.
1608 ~~6. Sponsor's agreement to accept rental assistance~~
1609 ~~certificates or vouchers as payment for rent; however, when~~
1610 ~~certificates or vouchers are accepted as payment for rent on~~
1611 ~~units set aside pursuant to subsection (2), the benefit must be~~
1612 ~~divided between the corporation and the sponsor, as provided by~~
1613 ~~corporation rule.~~
1614 6.~~7.~~ Projects requiring the least amount of a state
1615 apartment incentive loan compared to overall project cost except
1616 that the share of the loan attributable to the extremely low
1617 income units shall be excluded from this requirement.
1618 7.~~8.~~ Local government contributions and local government
1619 comprehensive planning and activities that promote affordable
1620 housing.
1621 8.~~9.~~ Project feasibility.
1622 9.~~10.~~ Economic viability of the project.
1623 10.~~11.~~ Commitment of first mortgage financing.
1624 11.~~12.~~ Sponsor's prior experience.
1625 12.~~13.~~ Sponsor's ability to proceed with construction.
1626 13.~~14.~~ Projects that directly implement or assist welfare-
1627 to-work transitioning.
1628 14. Projects that reserve units for extremely low income
1629 families.
1630 (d) The corporation may reject any and all applications.
1631 (e) The corporation may approve and reject applications
1632 for the purpose of achieving geographic targeting.
1633 (f) The review committee established by corporation rule
1634 pursuant to this subsection shall make recommendations to the

1635 board of directors of the corporation regarding program
1636 participation under the State Apartment Incentive Loan Program.
1637 The corporation board shall make the final ranking and the
1638 decisions regarding which applicants shall become program
1639 participants based on the scores received in the competitive
1640 ranking, further review of applications, and the recommendations
1641 of the review committee. The corporation board shall approve or
1642 reject applications for loans and shall determine the tentative
1643 loan amount available to each applicant selected for
1644 participation in the program. The actual loan amount shall be
1645 determined pursuant to rule adopted pursuant to s.
1646 420.507(22)(h)~~(f)~~.
1647 (g) The loan term shall be for a period of not more than
1648 15 years; however, if both a program loan and federal low-income
1649 housing tax credits are to be used to assist a project, the
1650 corporation may set the loan term for a period commensurate with
1651 the investment requirements associated with the tax credit
1652 syndication. The term of the loan may also exceed 15 years if
1653 necessary to conform to requirements of the Federal National
1654 Mortgage Association. The corporation may renegotiate and extend
1655 the loan in order to extend the availability of housing for the
1656 targeted population. The term of a loan may not extend beyond
1657 the period for which the sponsor agrees to provide the housing
1658 set-aside required by subsection (2).
1659 (h) The loan shall be subject to sale, transfer, or
1660 refinancing. The sale, transfer, or refinancing of the loan
1661 shall be consistent with fiscal program goals and the
1662 preservation or advancement of affordable housing for the state.

1663 ~~However, all requirements and conditions of the loan shall~~
1664 ~~remain following sale, transfer, or refinancing.~~
1665 (i) The discrimination provisions of s. 420.516 shall
1666 apply to all loans.
1667 (j) The corporation may require units dedicated for the
1668 elderly.
1669 (k) Rent controls shall not be allowed on any project
1670 except as required in conjunction with the issuance of tax-
1671 exempt bonds or federal low-income housing tax credits.
1672 (l) The proceeds of all loans shall be used for new
1673 construction or substantial rehabilitation which creates
1674 affordable, safe, and sanitary housing units.
1675 (m) Sponsors shall annually certify the adjusted gross
1676 income of all persons or families qualified under subsection (2)
1677 at the time of initial occupancy, who are residing in a project
1678 funded by this program. All persons or families qualified under
1679 subsection (2) may continue to qualify under subsection (2) in a
1680 project funded by this program if the adjusted gross income of
1681 those persons or families at the time of annual recertification
1682 meets the requirements established in s. 142(d)(3)(B) of the
1683 Internal Revenue Code of 1986, as amended. If the annual
1684 recertification of persons or families qualifying under
1685 subsection (2) results in noncompliance with income occupancy
1686 requirements, the next available unit must be rented to a person
1687 or family qualifying under subsection (2) in order to ensure
1688 continuing compliance of the project. The corporation may waive
1689 the annual recertification if 100 percent of the units are set
1690 aside as affordable.

1691 (n) Upon submission and approval of a marketing plan which
1692 demonstrates a good faith effort of a sponsor to rent a unit or
1693 units to persons or families reserved under subsection (3) and
1694 qualified under subsection (2), the sponsor may rent such unit
1695 or units to any person or family qualified under subsection (2)
1696 notwithstanding the reservation.
1697 (o) Sponsors may participate in federal mortgage insurance
1698 programs and must abide by the requirements of those programs.
1699 If a conflict occurs between the requirements of federal
1700 mortgage insurance programs and the requirements of this
1701 section, the requirements of federal mortgage insurance programs
1702 shall take precedence.
1703 Section 23. Section 420.5088, Florida Statutes, is amended
1704 to read:
1705 420.5088 Florida Homeownership Assistance Program.--There
1706 is created the Florida Homeownership Assistance Program for the
1707 purpose of assisting low-income and moderate-income persons in
1708 purchasing a home as their primary residence by reducing the
1709 cost of the home with below-market construction financing, by
1710 reducing the amount of down payment and closing costs paid by
1711 the borrower to a maximum of 5 percent of the purchase price, or
1712 by reducing the monthly payment to an affordable amount for the
1713 purchaser. Loans shall be made available at an interest rate
1714 that does not exceed 3 percent. The balance of any loan is due
1715 at closing if the property is sold, refinanced, or transferred,
1716 unless otherwise approved by the corporation.
1717 (1) For loans made available pursuant to s.
1718 420.507(23)(a)1. or 2.:

1719 (a) The corporation may underwrite and make those mortgage
1720 loans through the program to persons or families who have
1721 incomes that do not exceed 120 ~~80~~ percent of the state or local
1722 median income, whichever is greater, adjusted for family size.
1723 (b) Loans shall be made available for the term of the
1724 first mortgage.
1725 (c) Loans may not exceed ~~are limited to~~ the lesser of 35
1726 ~~25~~ percent of the purchase price of the home or the amount
1727 necessary to enable the purchaser to meet credit underwriting
1728 criteria.
1729 (2) For loans made pursuant to s. 420.507(23)(a)3.:
1730 (a) Availability is limited to nonprofit sponsors or
1731 developers who are selected for program participation pursuant
1732 to this subsection.
1733 (b) Preference must be given ~~to community development~~
1734 ~~corporations as defined in s. 290.033 and~~ to community-based
1735 organizations as defined in s. 420.503.
1736 (c) Priority must be given to projects that have received
1737 state assistance in funding project predevelopment costs.
1738 (d) The benefits of making such loans shall be
1739 contractually provided to the persons or families purchasing
1740 homes financed under this subsection.
1741 (e) At least 30 percent of the units in a project financed
1742 pursuant to this subsection must be sold to persons or families
1743 who have incomes that do not exceed 80 percent of the state or
1744 local median income, whichever amount is greater, adjusted for
1745 family size; and at least another 30 percent of the units in a
1746 project financed pursuant to this subsection must be sold to

1747 persons or families who have incomes that do not exceed 65 ~~50~~
1748 percent of the state or local median income, whichever amount is
1749 greater, adjusted for family size.
1750 (f) The maximum loan amount may not exceed 33 percent of
1751 the total project cost.
1752 (g) A person who purchases a home in a project financed
1753 under this subsection is eligible for a loan authorized by s.
1754 420.507(23)(a)1. or 2. in an aggregate amount not exceeding the
1755 construction loan made pursuant to this subsection. The home
1756 purchaser must meet all the requirements for loan recipients
1757 established pursuant to the applicable loan program.
1758 (h) The corporation shall provide, by rule, for the
1759 establishment of a review committee composed of corporation
1760 staff and shall establish, by rule, a scoring system for
1761 evaluating and ranking applications submitted for construction
1762 loans under this subsection, including, but not limited to, the
1763 following criteria:
1764 1. The affordability of the housing proposed to be built.
1765 2. The direct benefits of the assistance to the persons
1766 who will reside in the proposed housing.
1767 3. The demonstrated capacity of the applicant to carry out
1768 the proposal, including the experience of the development team.
1769 4. The economic feasibility of the proposal.
1770 5. The extent to which the applicant demonstrates
1771 potential cost savings by combining the benefits of different
1772 governmental programs and private initiatives, including the
1773 local government contributions and local government

1774 comprehensive planning and activities that promote affordable
1775 housing.
1776 6. The use of the least amount of program loan funds
1777 compared to overall project cost.
1778 7. The provision of homeownership counseling.
1779 8. The applicant's agreement to exceed the requirements of
1780 paragraph (e).
1781 9. The commitment of first mortgage financing for the
1782 balance of the construction loan and for the permanent loans to
1783 the purchasers of the housing.
1784 10. The applicant's ability to proceed with construction.
1785 11. The targeting objectives of the corporation which will
1786 ensure an equitable distribution of loans between rural and
1787 urban areas.
1788 12. The extent to which the proposal will further the
1789 purposes of this program.
1790 (i) The corporation may reject any and all applications.
1791 (j) The review committee established by corporation rule
1792 pursuant to this subsection shall make recommendations to the
1793 corporation board regarding program participation under this
1794 subsection. The corporation board shall make the final ranking
1795 for participation based on the scores received in the ranking,
1796 further review of the applications, and the recommendations of
1797 the review committee. The corporation board shall approve or
1798 reject applicants for loans and shall determine the tentative
1799 loan amount available to each program participant. The final
1800 loan amount shall be determined pursuant to rule adopted under
1801 s. 420.507(23)(h).

1802 (3) The corporation shall publish a notice of fund
1803 availability in a publication of general circulation throughout
1804 the state at least 60 days prior to the anticipated availability
1805 of funds.
1806 ~~(4) During the first 9 months of fund availability:~~
1807 ~~(a) Sixty percent of the program funds shall be reserved~~
1808 ~~for use by borrowers pursuant to s. 420.507(23)(a)1.;~~
1809 ~~(b) Twenty percent of the program funds shall be reserved~~
1810 ~~for use by borrowers pursuant to s. 420.507(23)(a)2.; and~~
1811 ~~(c) Twenty percent of the program funds shall be reserved~~
1812 ~~for use by borrowers pursuant to s. 420.507(23)(a)3.~~
1813
1814 ~~If the application of these percentages would cause the~~
1815 ~~reservation of program funds under paragraph (a) to be less than~~
1816 ~~$1 million, the reservation for paragraph (a) shall be increased~~
1817 ~~to $1 million or all available funds, whichever amount is less,~~
1818 ~~with the increase to be accomplished by reducing the reservation~~
1819 ~~for paragraph (b) and, if necessary, paragraph (c).~~
1820 (4) ~~(5)~~ There is authorized to be established by the
1821 corporation with a qualified public depository meeting the
1822 requirements of chapter 280 the Florida Homeownership Assistance
1823 Fund to be administered by the corporation according to the
1824 provisions of this program. Any amounts held in the Florida
1825 Homeownership Assistance Trust Fund for such purposes as of
1826 January 1, 1998, must be transferred to the corporation for
1827 deposit in the Florida Homeownership Assistance Fund, whereupon
1828 the Florida Homeownership Assistance Trust Fund must be closed.
1829 There shall be deposited in the fund moneys from the State

1830 Housing Trust Fund created by s. 420.0005, or moneys received
1831 from any other source, for the purpose of this program and all
1832 proceeds derived from the use of such moneys. In addition, all
1833 unencumbered funds, loan repayments, proceeds from the sale of
1834 any property, and any other proceeds that would otherwise accrue
1835 pursuant to the activities of the programs described in this
1836 section shall be transferred to this fund. In addition, all loan
1837 repayments, proceeds from the sale of any property, and any
1838 other proceeds that would otherwise accrue pursuant to the
1839 activities conducted under the provisions of the Florida
1840 Homeownership Assistance Program shall be deposited in the fund
1841 and shall not revert to the General Revenue Fund. Expenditures
1842 from the Florida Homeownership Assistance Fund shall not be
1843 required to be included in the corporation's budget request or
1844 be subject to appropriation by the Legislature.
1845 (5) ~~(6)~~ No more than one-fifth of the funds available in
1846 the Florida Homeownership Assistance Fund may be made available
1847 to provide loan loss insurance reserve funds to facilitate
1848 homeownership for eligible persons.
1849 Section 24. Section 420.5095, Florida Statutes, is created
1850 to read:
1851 420.5095 Community Workforce Housing Innovation Program.--
1852 (1) The Community Workforce Housing Innovation Program is
1853 created for the purpose of providing regulatory incentives and
1854 state and local funds to promote local public-private
1855 partnerships and leverage government and private resources to
1856 provide affordable rental and single-family community workforce

1857 housing for essential services personnel with medium incomes in
1858 high-cost and high-growth counties in this state.
1859 (2) The Florida Housing Finance Corporation shall be
1860 responsible for implementing and creating an incentive program
1861 for the Community Workforce Housing Innovation Program by
1862 providing financial and regulatory incentives to the public and
1863 private sectors to develop and finance innovative rental and
1864 home-ownership housing solutions to meet the needs of eligible
1865 Floridians. The corporation shall utilize the State Housing
1866 Initiatives Partnership Program governed by ss. 420.907-420.9079
1867 for assistance with administration of this program.
1868 (3) The corporation shall develop selection criteria by
1869 rule for requests for proposal to provide funding for
1870 multifamily rental or single-family community workforce housing
1871 innovation projects in targeted high-cost and high-growth
1872 counties or areas of critical state concern. The corporation
1873 shall provide incentives for local governments in these counties
1874 to use local affordable housing State Housing Initiatives
1875 Partnership Program funds under s. 420.9072 for meeting the
1876 affordable housing needs of persons eligible under this program.
1877 (4) The Community Workforce Housing Innovation Program
1878 projects shall target:
1879 (a) High-cost counties, those counties in which the median
1880 purchase price of a single-family home is above the state median
1881 purchase price of a single-family home, and areas of critical
1882 state concern designated under s. 380.05 for which the
1883 Legislature has declared its intent to provide affordable

1884 housing. The Florida Housing Finance Corporation shall develop
1885 the list of high-cost counties on an annual basis.
1886 (b) High-growth counties, those counties that demonstrate
1887 significantly high rates of growth in K-12 public school
1888 students and a substantial number of open teaching positions
1889 currently and projected for the next school year. To qualify
1890 under these criteria of high growth and need to fill public
1891 school teaching positions, a county's school district must have
1892 been in the top 10 school districts in the state for the fastest
1893 student population growth as a percentage rate of increase for
1894 the previous 5 years, as defined by the Department of Education.
1895 Counties with school districts having the greatest number of
1896 teaching position vacancies shall be prioritized.
1897 (c) Project partnerships that include substantial
1898 involvement of public sector entities, such as local
1899 municipalities, counties, school districts, special districts,
1900 and other units of local government, and private sector entities
1901 that donate land or other tangible value worth at least 15
1902 percent of the project value.
1903 (d) Persons in households with income levels of up to 150
1904 percent of the area median income, adjusted for household size,
1905 in prioritized areas included in this subsection or a higher
1906 adjusted median income percentage in areas of critical state
1907 concern.
1908 (e) Persons in need of affordable housing who are employed
1909 in areas in which they are considered essential services
1910 personnel, such as teachers and educators, police and fire
1911 personnel, and health care personnel, and in other job

1912 categories in which the personnel are defined as essential
1913 services personnel within the annual local State Housing
1914 Initiatives Partnership Program under s. 420.9072.
1915 (f) Innovative projects that include new construction or
1916 rehabilitation of existing housing, mixed-income housing, or
1917 commercial and housing mixed-use elements.
1918 (5) The Community Workforce Housing Innovation Program
1919 shall supplement and not supplant the existing affordable
1920 housing programs funded under chapter 420.
1921 (6) On an annual basis, the corporation shall review the
1922 success of the Community Workforce Housing Innovation Program to
1923 determine how the program supports traditional affordable
1924 housing programs as defined in chapter 420 and to ascertain
1925 whether the program is meeting the housing needs of high-cost
1926 and high-growth counties. The corporation shall submit any
1927 recommendations for strengthening the program to the Governor,
1928 the Speaker of the House of Representatives, and the President
1929 of the Senate by January 1 of each year.
1930 (7) On an annual basis, the corporation shall review ways
1931 to improve public and private sector incentives and barriers to
1932 affordable and community workforce housing and make any
1933 recommendations necessary to improve these incentives in a
1934 report to the Governor, the Speaker of the House of
1935 Representatives, and the President of the Senate by January 1 of
1936 each year. The corporation may request the assistance of the
1937 Department of Community Affairs or the Affordable Housing Study
1938 Commission in these efforts.

1939 (8)(a) Applicants whose projects are approved or funded by
1940 the Community Workforce Housing Innovation Program as Community
1941 Workforce Housing Innovation Program projects shall be eligible
1942 for the following workforce housing incentives to ensure the
1943 financial viability, successful development, and ongoing
1944 maintenance of these housing developments:
1945 1. The processing of approvals of development orders or
1946 development permits, as defined in s. 163.3164(7) and (8), for
1947 affordable housing projects shall be expedited to a greater
1948 degree than other projects.
1949 2. Impact fees shall be reduced by 50 percent or may be
1950 waived entirely by the local governments, or applicants shall be
1951 provided with an alternative method of fee payment.
1952 3. Increased density levels of up to 16 units or higher
1953 density per acre shall be allowed, except in coastal high-hazard
1954 areas, if approved by the local government, for community
1955 workforce housing.
1956 4. The infrastructure capacity in the local comprehensive
1957 plan for affordable housing shall be reserved for these
1958 communities.
1959 5. Additional affordable residential units in residential
1960 zoning districts shall be allowed.
1961 6. Open space and setback requirements for affordable
1962 housing shall be reduced by 50 percent.
1963 7. Zero-lot-line configurations shall be allowed.
1964 8. Traffic concurrency requirements shall be modified or
1965 reduced by up to 25 percent.

1966 9. Local transportation infrastructure funding shall have
1967 priority eligibility from metropolitan planning organizations.
1968 (b) The regulatory incentives for approved Community
1969 Workforce Housing Innovation Program projects shall be
1970 considered acceptable by the respective local government
1971 maintaining jurisdiction over the site of the project, if:
1972 1. The applicant receives a letter of support from the
1973 local government for the project application submitted to the
1974 corporation; or
1975 2. Within 60 days after receipt of the applicant's plan by
1976 the local government, no formal vote is taken by that body to
1977 object to the project.
1978
1979 However, if that local government entity votes not to accept the
1980 Community Workforce Housing Innovation Program project in its
1981 county, the corporation shall remove the application from the
1982 project approval list.
1983 (9) Subject to the availability of funds appropriated by
1984 the Legislature to fund the Community Workforce Housing
1985 Innovation Program, the Florida Housing Finance Corporation
1986 shall have the authority to provide Community Workforce Housing
1987 Innovation Program grants to an applicant for construction or
1988 rehabilitation of rental or single-family community workforce
1989 housing, provided the sponsor of such appropriation:
1990 (a) Sets aside at least 80 percent of the units for
1991 eligible persons whose household income does not exceed 150
1992 percent of the adjusted local median income;

1993 (b) Sets aside at least 50 percent of the units as
1994 prioritized for households whose family members are employed in
1995 areas deemed essential public service, such as education, health
1996 care, and other areas defined by the local community in its
1997 State Housing Initiatives Partnership Program plan. Such
1998 projects shall identify sales and leasing strategies to
1999 accomplish this set-aside priority for essential services
2000 personnel as well as alternative strategies to sell or lease
2001 units to other qualified individuals if essential services
2002 personnel are not immediately available or qualified for the
2003 units;
2004 (c) For rental projects, limits rents to no more than 40
2005 percent of the maximum household income adjusted to unit size;
2006 or
2007 (d) For home ownership, limits the sales price to the
2008 price for which an eligible applicant at 150 percent of the
2009 median income may qualify.
2010 (10) The corporation shall issue a request for proposals
2011 to solicit applications for program approval and grants offered
2012 under this section and shall establish a funding process to
2013 distribute annually appropriated funds under this section. The
2014 corporation may approve a project under this program that does
2015 not require grant funding as long as the project proves its
2016 financial viability. Grant funding shall be based on
2017 demonstrated financial need of the project. The corporation
2018 shall prioritize projects in those high-cost counties with the
2019 highest real estate cost burdens for housing, including those
2020 counties with designated areas of critical state concern and

2021 those counties with the highest median price of single-family
2022 homes. The corporation shall also approve and fund projects in
2023 one high-growth county. As an annual goal, the corporation shall
2024 seek to achieve a 70-percent high-cost, 30-percent high-growth
2025 ratio in its approval and funding of projects.
2026 (11)(a) All eligible applications shall:
2027 1. Demonstrate that the program applicant consists of a
2028 public-private partnership of at least one local government or
2029 special district public entity and one private not-for-profit or
2030 for-profit development partner.
2031 2. Demonstrate how the applicant will use the regulatory
2032 incentives outlined in subsection (8) and include, if available,
2033 any letters of support from the local government partner for the
2034 incentives.
2035 3. Demonstrate that the applicant possesses title to or
2036 firm site control of land and evidences availability of required
2037 infrastructure.
2038 4. Provide any research or facts available supporting the
2039 demand and need for rental or home ownership workforce housing
2040 for qualified workforce residents in the county in which the
2041 project is proposed.
2042 5. Have grants, donations of land, or contributions from
2043 other sources collectively totaling at least 15 percent of the
2044 total development cost. Such grants, donations of land, or
2045 contributions must only be evidenced by a letter of commitment
2046 at the time of application.
2047 6. Demonstrate accessibility to commercial businesses,
2048 services, and employment opportunities needed to serve the needs

2049 of the residents or include a viable plan to provide
2050 transportation access to those commercial businesses, services,
2051 and jobs.
2052 7. Demonstrate a marketing and sales plan to ensure that
2053 residents fit the income requirements and workforce employment
2054 demand for essential services.
2055 8. Provide a viable pro forma financial statement for the
2056 development costs and revenues for the project.
2057 (b) When ownership of the land or property utilized for
2058 development in conjunction with the Community Workforce Housing
2059 Innovation Program grant is to be held by any public sector
2060 entity, as described in this section, the applicant may choose
2061 to use a nonprofit or public entity to manage the resulting
2062 housing program. The applicant must demonstrate that the
2063 management entity:
2064 1. Has experience and proficiency in the management of
2065 affordable housing programs.
2066 2. Has regularly conducted independent audits.
2067 3. Has a publicly appointed oversight board of directors
2068 or commissioners.
2069 4. Has experience in the provision of resident programs
2070 and services, such as child care, transportation, and job
2071 training.
2072 (12) The corporation shall establish a review committee
2073 composed of staff of the corporation and shall establish a
2074 scoring system for evaluation and competitive ranking of
2075 applications submitted to the program.

2076 (13) The corporation shall develop evaluation and ranking
2077 criteria that use the eligibility criteria of subsection (3) and
2078 emphasize the following: innovative planning concepts,
2079 innovative building design, local government participation,
2080 public-private partnerships, the ability to proceed with
2081 construction, the feasibility and economic viability of the
2082 project, the applicant's affordable housing development and
2083 management experience, the ability to meet essential service
2084 personnel needs, a management plan to attract, serve, and keep
2085 eligible workforce tenants and ensure the long-term
2086 affordability of the rental or ownership units, and the quality
2087 of project design.
2088 (14) The corporation shall develop rules and procedures
2089 for the awarding and accountability of Community Workforce
2090 Housing Innovation Program grants and approvals to selected
2091 applicants. Grants may be used with other corporation and
2092 private-sector resources. The proceeds of all grants shall be
2093 used for new construction or substantial rehabilitation that
2094 creates affordable, safe, and sanitary rental or ownership
2095 workforce housing units. The corporation shall expedite the
2096 review, evaluation, and awarding of program grants.
2097 (15) If a default on a grant occurs, the corporation may
2098 foreclose on any mortgage or security interest or commence any
2099 legal action to protect the interest of the corporation and
2100 recover the amount of the grant principal, accrued interest, and
2101 fees. The corporation may acquire real or personal property or
2102 any interest in such property when that acquisition is necessary
2103 or appropriate to protect any grant or sell, transfer, and

2104 convey any such property to a buyer without regard to the
2105 provisions of chapters 253 and 270.
2106 (16) The corporation shall develop and implement a
2107 Community Workforce Housing Innovation Program down payment
2108 assistance program with available funds consistent with all the
2109 requisite financial guidelines to meet the needs of eligible
2110 individuals to purchase workforce housing. The corporation shall
2111 encourage local governments to accomplish the same goals through
2112 their housing assistance plans provided in s. 420.9075.
2113 (17) The corporation shall develop recommendations for
2114 increasing the development of innovative affordable home
2115 ownership projects serving very-low-income, low-income, and
2116 moderate-income residents in Florida, which may include
2117 expansion of support for nonprofit home builders, such as
2118 Habitat for Humanity and other charitable housing organizations,
2119 public housing authorities, and for-profit housing developers.
2120 Recommendations shall assess the value of public-private
2121 partnerships, increased local and state funding for nonprofit
2122 housing organizations, and the possible conversion of existing
2123 affordable multifamily rental apartments to affordable home
2124 ownership units for projects in high-cost counties and counties
2125 with areas designated as areas of critical state concern.
2126 Recommendations shall examine how to guarantee long-term
2127 affordability for home ownership and an affordable home
2128 ownership purchase price
2129 (18) The corporation shall require all program applicants
2130 to obtain and document local public input on the proposed

2131 project. The corporation shall establish criteria for what local
2132 public input the applicants shall be required to obtain.
2133 Section 25. Subsection (2) of section 420.9072, Florida
2134 Statutes, is amended to read:
2135 420.9072 State Housing Initiatives Partnership Program.--
2136 The State Housing Initiatives Partnership Program is created for
2137 the purpose of providing funds to counties and eligible
2138 municipalities as an incentive for the creation of local housing
2139 partnerships, to expand production of and preserve affordable
2140 housing, to further the housing element of the local government
2141 comprehensive plan specific to affordable housing, and to
2142 increase housing-related employment.
2143 (2)(a) To be eligible to receive funds under the program,
2144 a county or eligible municipality must:
2145 1. Submit to the corporation its local housing assistance
2146 plan describing the local housing assistance strategies
2147 established pursuant to s. 420.9075;
2148 2. Within 12 months after adopting the local housing
2149 assistance plan, amend the plan to incorporate the local housing
2150 incentive strategies defined in s. 420.9071(16) and described in
2151 s. 420.9076; and
2152 3. Within 24 months after adopting the amended local
2153 housing assistance plan to incorporate the local housing
2154 incentive strategies, amend its land development regulations or
2155 establish local policies and procedures, as necessary, to
2156 implement the local housing incentive strategies adopted by the
2157 local governing body. A county or an eligible municipality that
2158 has adopted a housing incentive strategy pursuant to s. 420.9076

2159 before the effective date of this act shall review the status of
2160 implementation of the plan according to its adopted schedule for
2161 implementation and report its findings in the annual report
2162 required by s. 420.9075(10) ~~(9)~~. If as a result of the review, a
2163 county or an eligible municipality determines that the
2164 implementation is complete and in accordance with its schedule,
2165 no further action is necessary. If a county or an eligible
2166 municipality determines that implementation according to its
2167 schedule is not complete, it must amend its land development
2168 regulations or establish local policies and procedures, as
2169 necessary, to implement the housing incentive plan within 12
2170 months after the effective date of this act, or if extenuating
2171 circumstances prevent implementation within 12 months, pursuant
2172 to s. 420.9075(13) ~~(12)~~, enter into an extension agreement with
2173 the corporation.
2174 (b) A county or an eligible municipality seeking approval
2175 to receive its share of the local housing distribution must
2176 adopt an ordinance containing the following provisions:
2177 1. Creation of a local housing assistance trust fund as
2178 described in s. 420.9075(6) ~~(5)~~.
2179 2. Adoption by resolution of a local housing assistance
2180 plan as defined in s. 420.9071(14) to be implemented through a
2181 local housing partnership as defined in s. 420.9071(18).
2182 3. Designation of the responsibility for the
2183 administration of the local housing assistance plan. Such
2184 ordinance may also provide for the contracting of all or part of
2185 the administrative or other functions of the program to a third
2186 person or entity.

2187 4. Creation of the affordable housing advisory committee
2188 as provided in s. 420.9076.
2189
2190 The ordinance must not take effect until at least 30 days after
2191 the date of formal adoption. Ordinances in effect prior to the
2192 effective date of amendments to this section shall be amended as
2193 needed to conform to new provisions.
2194 Section 26. Paragraph (a) of subsection (4) of section
2195 420.9075, Florida Statutes, is amended, subsections (5) through
2196 (12) are renumbered as subsections (6) through (13),
2197 respectively, and a new subsection (5) is added to that section,
2198 to read:
2199 420.9075 Local housing assistance plans; partnerships.--
2200 (4) The following criteria apply to awards made to
2201 eligible sponsors or eligible persons for the purpose of
2202 providing eligible housing:
2203 (a) At least 65 percent of the funds made available in
2204 each county and eligible municipality from the local housing
2205 distribution must be reserved for home ownership for eligible
2206 persons, with at least one-third of those funds going to home
2207 ownership for very-low-income persons.
2208
2209 If both an award under the local housing assistance plan and
2210 federal low-income housing tax credits are used to assist a
2211 project and there is a conflict between the criteria prescribed
2212 in this subsection and the requirements of s. 42 of the Internal
2213 Revenue Code of 1986, as amended, the county or eligible
2214 municipality may resolve the conflict by giving precedence to

2215 the requirements of s. 42 of the Internal Revenue Code of 1986,
2216 as amended, in lieu of following the criteria prescribed in this
2217 subsection with the exception of paragraphs (a) and (d) of this
2218 subsection.
2219 (5) In order to assist in the recruitment and retention of
2220 essential service personnel, such as teachers and educators,
2221 police and fire personnel, health care personnel, skilled
2222 building trades personnel, and other job categories in which the
2223 personnel are defined as essential services personnel within the
2224 annual local State Housing Initiatives Partnership Program under
2225 s. 420.9072, as set forth in s. 420.5095(4)(e), the following
2226 shall be included in the local housing assistance plan:
2227 (a) Down payment assistance shall be provided to an
2228 eligible person who meets the following criteria, in addition to
2229 other requirements of the plan. The person:
2230 1. Shall be employed full time in an essential service
2231 occupation or skilled building trade.
2232 2. Shall declare his or her homestead and maintain
2233 residency at his or her homestead.
2234 3. Shall demonstrate a 5-year minimum commitment to
2235 continued employment in an essential service occupation or
2236 skilled building trade within the county of current employment.
2237 (b) Compliance with the eligibility criteria established
2238 under this subsection shall be verified during the life of the
2239 loan by the county or eligible municipality.
2240 (c) The program shall provide down payment assistance in
2241 an amount to be determined by rule, not to exceed 25 percent of
2242 purchase price, if the county or eligible municipality within

2243 which an eligible recipient is employed provides funding through
2244 the State Housing Initiatives Partnership Program to the
2245 eligible recipient under ss. 420.907-420.9079, whether solely or
2246 in conjunction with a local housing finance agency or a private
2247 sector partner.
2248 (d) Any lien on the recipient's property securing the
2249 assistance provided under this subsection shall be released if
2250 the recipient fulfills the 5-year commitment specified in
2251 subparagraph (a)3.
2252 (e) Each county and each eligible municipality is
2253 encouraged to develop an element within its local housing
2254 assistance plan that emphasizes the recruitment and retention of
2255 essential service personnel and persons skilled in the building
2256 trades.
2257 (f) Notwithstanding the distribution formula in s.
2258 420.9073, the corporation is authorized to allocate funds to
2259 implement this subsection and may allocate funds to projects
2260 that are regional or statewide in scope.
2261 (g) The corporation is authorized to make rules to
2262 implement this subsection, including, but not limited to, the
2263 allocation of funds and selection of projects for funding under
2264 this subsection.
2265 Section 27. Subsection (6) of section 420.9076, Florida
2266 Statutes, is amended to read:
2267 420.9076 Adoption of affordable housing incentive
2268 strategies; committees.--
2269 (6) Within 90 days after the date of receipt of the local
2270 housing incentive strategies recommendations from the advisory

2271 committee, the governing body of the appointing local government
2272 shall adopt an amendment to its local housing assistance plan to
2273 incorporate the local housing incentive strategies it will
2274 implement within its jurisdiction. The amendment must include,
2275 at a minimum, the local housing incentive strategies specified
2276 ~~as defined~~ in paragraphs (4)(a)-(j) ~~s. 420.9071(16)~~.
2277 Section 28. Subsection (2) of section 420.9079, Florida
2278 Statutes, is amended to read:
2279 420.9079 Local Government Housing Trust Fund.--
2280 (2) The corporation shall administer the fund exclusively
2281 for the purpose of implementing the programs described in ss.
2282 420.907-420.9078 and this section. With the exception of
2283 monitoring the activities of counties and eligible
2284 municipalities to determine local compliance with program
2285 requirements, the corporation shall not receive appropriations
2286 from the fund for administrative or personnel costs. For the
2287 purpose of implementing the compliance monitoring provisions of
2288 s. 420.9075(9) ~~(8)~~, the corporation may request a maximum of one-
2289 quarter of 1 percent of the annual appropriation ~~$200,000~~ per
2290 state fiscal year. When such funding is appropriated, the
2291 corporation shall deduct the amount appropriated prior to
2292 calculating the local housing distribution pursuant to ss.
2293 420.9072 and 420.9073.
2294 Section 29. Paragraph (c) of subsection (1) and paragraph
2295 (e) of subsection (2) of section 624.5105, Florida Statutes, are
2296 amended to read:

2297 624.5105 Community contribution tax credit; authorization;
2298 limitations; eligibility and application requirements;
2299 administration; definitions; expiration.--
2300 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--
2301 (c) The total amount of tax credit which may be granted
2302 for all programs approved under this section and ss.
2303 212.08(5)(q) and 220.183 is $10 ~~$12~~ million annually for
2304 projects that provide homeownership opportunities for low-income
2305 or very-low-income households as defined in s. 420.9071(19) and
2306 (28) and $3 million annually for all other projects.
2307 (2) ELIGIBILITY REQUIREMENTS.--
2308 (e)~~1. For the first 6 months of the fiscal year, the~~
2309 ~~Office of Tourism, Trade, and Economic Development shall reserve~~
2310 ~~80 percent of the first $10 million in available annual tax~~
2311 ~~credits, and 70 percent of any available annual tax credits in~~
2312 ~~excess of $10 million, for donations made to eligible sponsors~~
2313 ~~for projects that provide homeownership opportunities for low-~~
2314 ~~income or very-low-income households as defined in s.~~
2315 ~~420.9071(19) and (28). If any such reserved annual tax credits~~
2316 ~~remain after the first 6 months of the fiscal year, the office~~
2317 ~~may approve the balance of these available credits for donations~~
2318 ~~made to eligible sponsors for projects other than those that~~
2319 ~~provide homeownership opportunities for low-income or very-low-~~
2320 ~~income households.~~
2321 ~~2. For the first 6 months of the fiscal year, the office~~
2322 ~~shall reserve 20 percent of the first $10 million in available~~
2323 ~~annual tax credits, and 30 percent of any available annual tax~~
2324 ~~credits in excess of $10 million, for donations made to eligible~~

2325 ~~sponsors for projects other than those that provide~~
2326 ~~homeownership opportunities for low-income or very-low-income~~
2327 ~~households as defined in s. 420.9071(19) and (28). If any~~
2328 ~~reserved annual tax credits remain after the first 6 months of~~
2329 ~~the fiscal year, the office may approve the balance of these~~
2330 ~~available credits for donations made to eligible sponsors for~~
2331 ~~projects that provide homeownership opportunities for low-income~~
2332 ~~or very-low-income households.~~
2333 1.~~3.~~ If, during the first 10 business days of the state
2334 fiscal year, eligible tax credit applications for projects that
2335 provide homeownership opportunities for low-income or very-low-
2336 income households as defined in s. 420.9071(19) and (28) are
2337 received for less than the ~~available~~ annual tax credits
2338 available for those projects ~~reserved under subparagraph 1.~~, the
2339 office shall grant tax credits for those applications and shall
2340 grant remaining tax credits on a first-come, first-served basis
2341 for any subsequent eligible applications received before the end
2342 of the ~~first 6 months of the~~ state fiscal year. If, during the
2343 first 10 business days of the state fiscal year, eligible tax
2344 credit applications for projects that provide homeownership
2345 opportunities for low-income or very-low-income households as
2346 defined in s. 420.9071(19) and (28) are received for more than
2347 the ~~available~~ annual tax credits available for those projects
2348 ~~reserved under subparagraph 1.~~, the office shall grant the tax
2349 credits for those ~~the~~ applications as follows:
2350 a. If tax credit applications submitted for approved
2351 projects of an eligible sponsor do not exceed $200,000 in total,

2352 the credits shall be granted in full if the tax credit
2353 applications are approved~~, subject to subparagraph 1~~.
2354 b. If tax credit applications submitted for approved
2355 projects of an eligible sponsor exceed $200,000 in total, the
2356 amount of tax credits granted under sub-subparagraph a. shall be
2357 subtracted from the amount of available tax credits ~~under~~
2358 ~~subparagraph 1.~~, and the remaining credits shall be granted to
2359 each approved tax credit application on a pro rata basis.
2360 ~~c. If, after the first 6 months of the fiscal year,~~
2361 ~~additional credits become available under subparagraph 2., the~~
2362 ~~office shall grant the tax credits by first granting to those~~
2363 ~~who received a pro rata reduction up to the full amount of their~~
2364 ~~request and, if there are remaining credits, granting credits to~~
2365 ~~those who applied on or after the 11th business day of the state~~
2366 ~~fiscal year on a first-come, first-served basis.~~
2367 2.~~4.~~ If, during the first 10 business days of the state
2368 fiscal year, eligible tax credit applications for projects other
2369 than those that provide homeownership opportunities for low-
2370 income or very-low-income households as defined in s.
2371 420.9071(19) and (28) are received for less than the ~~available~~
2372 annual tax credits available for those projects ~~reserved under~~
2373 ~~subparagraph 2.~~, the office shall grant tax credits for those
2374 applications and shall grant remaining tax credits on a first-
2375 come, first-served basis for any subsequent eligible
2376 applications received before the end of the ~~first 6 months of~~
2377 ~~the~~ state fiscal year. If, during the first 10 business days of
2378 the state fiscal year, eligible tax credit applications for
2379 projects other than those that provide homeownership

2380 opportunities for low-income or very-low-income households as
2381 defined in s. 420.9071(19) and (28) are received for more than
2382 the ~~available~~ annual tax credits available for those projects
2383 ~~reserved under subparagraph 2.~~, the office shall grant the tax
2384 credits for those ~~the~~ applications on a pro rata basis. ~~If,~~
2385 ~~after the first 6 months of the fiscal year, additional credits~~
2386 ~~become available under subparagraph 1., the office shall grant~~
2387 ~~the tax credits by first granting to those who received a pro~~
2388 ~~rata reduction up to the full amount of their request and, if~~
2389 ~~there are remaining credits, granting credits to those who~~
2390 ~~applied on or after the 11th business day of the state fiscal~~
2391 ~~year on a first-come, first-served basis.~~
2392 Section 30. Paragraph (b) of subsection (9) of section
2393 1001.42, Florida Statutes, is amended to read:
2394 1001.42 Powers and duties of district school board.--The
2395 district school board, acting as a board, shall exercise all
2396 powers and perform all duties listed below:
2397 (9) SCHOOL PLANT.--Approve plans for locating, planning,
2398 constructing, sanitating, insuring, maintaining, protecting, and
2399 condemning school property as prescribed in chapter 1013 and as
2400 follows:
2401 (b) Sites, buildings, and equipment.--
2402 1. Select and purchase school sites, playgrounds, and
2403 recreational areas located at centers at which schools are to be
2404 constructed, of adequate size to meet the needs of projected
2405 students to be accommodated.
2406 2. Approve the proposed purchase of any site, playground,
2407 or recreational area for which district funds are to be used.

2408 3. Expand existing sites.
2409 4. Rent buildings when necessary.
2410 5. Enter into leases or lease-purchase arrangements, in
2411 accordance with the requirements and conditions provided in s.
2412 1013.15(2), with private individuals or corporations for the
2413 rental of necessary grounds and educational facilities for
2414 school purposes or of educational facilities to be erected for
2415 school purposes. Current or other funds authorized by law may be
2416 used to make payments under a lease-purchase agreement.
2417 Notwithstanding any other statutes, if the rental is to be paid
2418 from funds received from ad valorem taxation and the agreement
2419 is for a period greater than 12 months, an approving referendum
2420 must be held. The provisions of such contracts, including
2421 building plans, shall be subject to approval by the Department
2422 of Education, and no such contract shall be entered into without
2423 such approval. As used in this section, "educational facilities"
2424 means the buildings and equipment that are built, installed, or
2425 established to serve educational purposes and that may lawfully
2426 be used. The State Board of Education may adopt such rules as
2427 are necessary to implement these provisions.
2428 6. Provide for the proper supervision of construction.
2429 7. Make or contract for additions, alterations, and
2430 repairs on buildings and other school properties.
2431 8. Ensure that all plans and specifications for buildings
2432 provide adequately for the safety and well-being of students, as
2433 well as for economy of construction.

2434 9. Provide affordable housing for teachers and other
2435 instructional personnel independently or in conjunction with
2436 other agencies as described in s. 1001.43(5).
2437 Section 31. The Florida Housing Finance Corporation may
2438 adopt rules pursuant to ss. 120.536(1) and 120.54, Florida
2439 Statutes, as necessary to implement the provisions of this act.
2440 Section 32. The sum of $20 million is appropriated from
2441 the State Housing Trust Fund to the Florida Housing Finance
2442 Corporation for the 2006-2007 fiscal year to provide funds to
2443 teachers eligible for affordable housing pursuant to s. 420.5088
2444 or s. 420.5089, Florida Statutes, and to assist in teacher
2445 retention and recruitment as a response to the state's teacher
2446 shortage.
2447 Section 33. The sum of $32 million is appropriated from
2448 the Local Government Housing Trust Fund to the Florida Housing
2449 Finance Corporation for the 2006-2007 fiscal year to assist in
2450 production of housing units for extremely low income persons.
2451 Section 34. Except as otherwise expressly provided in this
2452 act, this act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1367 Contracting Exemptions
SPONSOR(S): Evers
TIED BILLS: **IDEN./SIM. BILLS:** SB 2472

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation Committee	15 Y, 0 N	Livingston	Liepshutz
2) Local Government Council		Smith T.L.S.	Hamby
3) Commerce Council			
4)			
5)			

SUMMARY ANALYSIS

Part I of chapter 489, F.S., addresses construction contracting. Construction contractors are governed by the Construction Industry Licensing Board (CILB), under the Department of Business and Professional Regulation (DBPR). Part II of chapter 489, F.S., addresses electrical and alarm system contractors who are governed by the Electrical Contractors' Licensing Board (ECLB) under the DBPR. With certain statutorily specified exceptions, individuals who practice contracting in Florida must be certified by or registered with the CILB or ECLB, as appropriate.

Currently, s. 489.103(7), F.S., provides, in part, for an exemption from licensure as a construction contractor for persons who comply with statutorily specified requirements and who are "owners of property when building or improving farm outbuildings or one or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings, at a cost not to exceed $25,000, on such property for the occupancy or use of such owner and not offered for sale or lease." Similar regulatory provisions apply to electrical contracting.

The bill increases the construction ceiling from $25,000 to $75,000 for exemption from licensure as a construction contractor for persons who are owners of property and are building or improving commercial buildings on the property for the occupancy or use of the owner and not offered for sale or lease.

The bill requires the property owner to satisfy any applicable local permitting agency requirements demonstrating that the owner has an understanding of the owner's responsibilities and obligations under the construction statutes. If a person violates the exemption requirements, the bill requires the local permitting agency to withhold final approval of the project, revoke the permit, or pursue any action or remedy for unlicensed activity.

Similarly, the bill increases the owner licensure exemption ceiling for electrical work on commercial buildings from $25,000 to $75,000 and imposes ownership responsibilities and potential penalties.

The bill creates a construction licensure exemption for owners of one-family, two-family or three-family residences for occupancy by the owner or tenant relating to roofing and reroofing after the issuance of an Executive Order by the Governor declaring the existence of a state of emergency. The exemption would apply when repairing or replacing wood shakes or asphalt or fiberglass shingles on one-family, two-family, or three-family residences for the occupancy or use of the owner of the property or tenant of the owner. The bill limits the exemption to a situation where the property has been damaged by natural causes from an event designated by executive order issued by the Governor declaring the existence of a state of emergency, such as the aftermath of a hurricane.

The bill is not anticipated to have a significant fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/Promote personal responsibilities – The bill increases the construction ceiling from $25,000 to $75,000 for exemption from licensure as a construction contractor for persons who are owners of property and are building or improving commercial buildings on the property for occupancy or use of the owner and not offered for sale or lease. The bill also increases the owner licensure exemption ceiling for electrical work on commercial buildings from $25,000 to $75,000 and imposes ownership responsibilities and potential penalties in the same manner as for the property owner construction exemption. Additionally, the bill provides an exemption from licensure for certain roofing and reproofing activities under specific circumstances. The bill expands opportunities for property owners to improve their facilities under certain circumstances.

B. EFFECT OF PROPOSED CHANGES:

Present situation

Part I of chapter 489, F.S., addresses construction contracting. Construction contractors are governed by the Construction Industry Licensing Board (CILB), under the DBPR. Part II of chapter 489, F.S., addresses electrical and alarm system contractors who are governed by the Electrical Contractors' Licensing Board (ECLB) under the DBPR.

Construction contracting essentially means building or altering a structure, for compensation. Several specific varieties of contracting are set forth in the chapter, each with a license that may be obtained for that activity, such as for roofing, plumbing, etc. Section 489.115, F.S., provides that no person may engage in the business of contracting in the state without first being certified or registered in one or more of the defined contracting categories. The reference to the term license is often statutorily used interchangeably with the terms certificate or registration. Similar regulatory provisions apply to electrical contracting.

With certain statutorily specified exceptions, individuals who practice contracting in Florida must be certified by or registered with the CILB or ECLB, as appropriate. Certification allows an individual to practice contracting in any jurisdiction in the state. A "certificate" may be issued to a person who makes application, shows appropriate education and experience and passes a state examination. "Registration" allows an individual to practice contracting only in the jurisdiction which issues that individual's local license. The registration is issued by the DBPR upon proof of local licensure. Proof consists of an occupational license issued by the local jurisdiction, and evidence of compliance with local licensing requirements, if a local licensing requirement exists.

Currently, s. 489.103(7), F.S., provides, in part, for an exemption from licensure as a construction contractor for persons who comply with statutorily specified requirements and who are

> owners of property....when building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings, at a cost not to exceed $25,000, on such property for the occupancy or use of such owner and not offered for sale or lease....

The residential exemption allows an unlimited cost of construction for residential property and the commercial exemption caps commercial costs at $25,000.

Statutory regulation of construction contracting has existed for some time.

> Authority for issuance of state and local licenses has been provided by chapter 205, Florida Statutes, for all types of contractors from 1937. This law does not require competency assurance, but is primarily a revenue source which identifies the contractor through a required license. However, many local occupational licensing operations have included examination for competency as a prerequisite to issuance of licenses.[1]

State regulation of general contractors, building contractors, and residential building contractors was initiated in 1967 by chapter 67-110, L.O.F., codified as part II, chapter 468, F.S. This act created the CILB, provided its duties and responsibilities, and, with statutorily specified exemptions, established mandatory statewide certification or locally restricted registration. One of the exemptions, with restrictions, applied to residential property owners when working on their own homes.

The residential exemption language was amended in 1972 and the changes added the provision that owners of commercial property are exempt from licensure when "...building or improving commercial buildings at a cost of under twenty-five thousand dollars ($25,000) on such property..." An additional limitation was also added to restrict the exemption if the residential or commercial property is offered for "lease" in addition to the sale of the property.

Construction activity pursuant to ss. 489.103 (7) and 489.503, F.S., by an owner of the property, must be conducted in accordance with the same standards as a licensed practitioner, such as compliance with appropriate building codes, providing workers' compensation coverage, etc.

Currently, the CILB and ECLB have sole authority to discipline state certified contractors. Local jurisdictions can discipline contractors holding locally issued licenses. In theory, the discipline is then reported to the CILB, who may act against the state registration.

Unlicensed construction contracting, as generally understood, is actually a set of specific violations set forth as paragraphs under s. 489.127(1), F.S., (and similar provisions in s. 489.531, F.S., relating to electrical contracting). This section provides, in part, that no person shall:

- engage in the business or act in the capacity of a contractor or advertise himself or herself or a business organization as available to engage in the business or act in the capacity of a contractor without being duly registered or certified or having a certificate of authority; and
- commence or perform work for which a building permit is required pursuant to part VII of chapter 553, F.S., without such building permit being in effect; or
- willfully or deliberately disregard or violate any municipal or county ordinance relating to uncertified or unregistered contractors.

This section also provides criminal penalties for unlicensed activity. An unlicensed person who violates applicable prohibitions commits a first degree misdemeanor for a first offense and a felony for subsequent offenses. Any unlicensed person who commits a violation of one of the above provisions during the existence of a state of emergency declared by executive order of the Governor commits a third degree felony.

Chapter 455, F.S., provides general powers for the regulation of the areas of jurisdiction under the DBPR. Among these powers is the authority to enforce unlicensed activity provisions pursuant to s. 455.228, F.S. The DBPR may impose administrative penalties including fines in an amount not to exceed $5,000 against any person not licensed by the DBPR or a regulatory Board within the DBPR and who violates a regulatory statute.

Effect of proposed changes

[1] See Fla. S. Comm. on Govtl. Ops., A Review of Chapter 468, Part II, F.S., Licensing of Construction Industry, (November 1978) (Prepared Pursuant to the Regulatory Reform Act, Chapter 76-168, L.O.F.) (on file with the Business Regulation Committee).

The bill increases the construction ceiling from $25,000 to $75,000 for exemption from licensure as a construction contractor for persons who are owners of property and are building or improving commercial buildings on the property for the occupancy or use of the owner and not offered for sale or lease.

The bill requires the property owner to satisfy any applicable local permitting agency requirements demonstrating that the owner has an understanding of the owner's responsibilities and obligations under the construction statutes. If a person violates the exemption requirements, the bill requires the local permitting agency to withhold final approval of the project, revoke the permit, or pursue any action or remedy for unlicensed activity.

Similarly, the bill increases the owner licensure exemption ceiling for electrical work on commercial buildings from $25,000 to $75,000 and imposes ownership responsibilities and potential penalties in the same manner as for the property owner construction exemption.

The bill creates a construction licensure exemption for owners of one-family, two-family or three-family residences for occupancy by the owner or a tenant residential rental property relating to roofing and reroofing after the issuance of an Executive Order by the Governor declaring the existence of a state of emergency. The exemption would apply when repairing or replacing wood shakes or asphalt or fiberglass shingles on one-family, two-family, or three-family residences for the occupancy or use of the owner of the property or tenant of the owner. The bill limits the exemption to a situation where the property has been damaged by natural causes from an event designated by executive order issued by the Governor declaring the existence of a state of emergency, such as the aftermath of a hurricane.

C. SECTION DIRECTORY:

Section 1. Amends s. 489.103, F.S., to increase the construction ceiling from $25,000 to 75,000 and imposes ownership responsibilities and potential penalties; creates an additional construction licensure exemption for owners of property relating to roofing and reroofing contracts.

Section 2. Amends s. 489.503, F.S., to increase the construction ceiling from $25,000 to $75,000 and imposes ownership responsibilities and potential penalties.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Not anticipated to be significant.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill expands opportunities for property owners to improve their facilities under certain circumstances.

D. FISCAL COMMENTS:

According to DBPR, "There is no fiscal impact on the department as the bill merely expands the parameters of certain existing licensure exemptions."

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor 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 & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to contracting exemptions; amending ss.
3 489.103 and 489.503, F.S.; revising exemptions for certain
4 owners of property from certain contracting provisions;
5 increasing maximum construction costs allowed for
6 exemption; requiring owners of property to satisfy certain
7 local permitting agency requirements; providing for
8 penalties; providing an exemption for owners of property
9 damaged by certain natural causes; providing an effective
10 date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Subsection (7) of section 489.103, Florida
15 Statutes, is amended to read:
16 489.103 Exemptions.--This part does not apply to:
17 (7) Owners of property when acting as their own contractor
18 and providing direct, onsite supervision themselves of all work
19 not performed by licensed contractors:~~,~~
20 (a) When building or improving farm outbuildings or one-
21 family or two-family residences on such property for the
22 occupancy or use of such owners and not offered for sale or
23 lease, or building or improving commercial buildings, at a cost
24 not to exceed $75,000 ~~$25,000~~, on such property for the
25 occupancy or use of such owners and not offered for sale or
26 lease. In an action brought under this part, proof of the sale
27 or lease, or offering for sale or lease, of any such structure
28 by the owner-builder within 1 year after completion of same

29 creates a presumption that the construction was undertaken for
30 purposes of sale or lease.
31 (b) When repairing or replacing wood shakes or asphalt or
32 fiberglass shingles on one-family, two-family, or three-family
33 residences for the occupancy or use of such owner or tenant of
34 the owner and not offered for sale within 1 year after
35 completion of the work and when the property has been damaged by
36 natural causes from an event recognized as an emergency
37 situation designated by executive order issued by the Governor
38 declaring the existence of a state of emergency as a result and
39 consequence of a serious threat posed to the public health,
40 safety, and property in this state.
41
42 This subsection does not exempt any person who is employed by or
43 has a contract with such owner and who acts in the capacity of a
44 contractor. The owner may not delegate the owner's
45 responsibility to directly supervise all work to any other
46 person unless that person is registered or certified under this
47 part and the work being performed is within the scope of that
48 person's license. For the purposes of this subsection, the term
49 "owners of property" includes the owner of a mobile home
50 situated on a leased lot. To qualify for exemption under this
51 subsection, an owner must personally appear and sign the
52 building permit application and must satisfy local permitting
53 agency requirements, if any, proving that the owner has a
54 complete understanding of the owner's obligations under the law
55 as specified in the disclosure statement in this section. If any
56 person violates the requirements of this subsection, the local

57 permitting agency shall withhold final approval, revoke the
58 permit, or pursue any action or remedy for unlicensed activity
59 against the owner and any person performing work that requires
60 licensure under the permit issued. The local permitting agency
61 shall provide the person with a disclosure statement in
62 substantially the following form:
63
64 Disclosure Statement
65
66 State law requires construction to be done by licensed
67 contractors. You have applied for a permit under an exemption to
68 that law. The exemption allows you, as the owner of your
69 property, to act as your own contractor with certain
70 restrictions even though you do not have a license. You must
71 provide direct, onsite supervision of the construction yourself.
72 You may build or improve a one-family or two-family residence or
73 a farm outbuilding. You may also build or improve a commercial
74 building, provided your costs do not exceed $75,000 ~~$25,000~~. The
75 building or residence must be for your own use or occupancy. It
76 may not be built or substantially improved for sale or lease. If
77 you sell or lease a building you have built or substantially
78 improved yourself within 1 year after the construction is
79 complete, the law will presume that you built or substantially
80 improved it for sale or lease, which is a violation of this
81 exemption. You may not hire an unlicensed person to act as your
82 contractor or to supervise people working on your building. It
83 is your responsibility to make sure that people employed by you
84 have licenses required by state law and by county or municipal

85 licensing ordinances. You may not delegate the responsibility
86 for supervising work to a licensed contractor who is not
87 licensed to perform the work being done. Any person working on
88 your building who is not licensed must work under your direct
89 supervision and must be employed by you, which means that you
90 must deduct F.I.C.A. and withholding tax and provide workers'
91 compensation for that employee, all as prescribed by law. Your
92 construction must comply with all applicable laws, ordinances,
93 building codes, and zoning regulations.
94 Section 2. Subsection (6) of section 489.503, Florida
95 Statutes, is amended to read:
96 489.503 Exemptions.--This part does not apply to:
97 (6) An owner of property making application for permit,
98 supervising, and doing the work in connection with the
99 construction, maintenance, repair, and alteration of and
100 addition to a single-family or duplex residence for his or her
101 own use and occupancy and not intended for sale or an owner of
102 property when acting as his or her own electrical contractor and
103 providing all material supervision himself or herself, when
104 building or improving a farm outbuilding or a single-family or
105 duplex residence on such property for the occupancy or use of
106 such owner and not offered for sale or lease, or building or
107 improving a commercial building with aggregate construction
108 costs of under $75,000 ~~$25,000~~ on such property for the
109 occupancy or use of such owner and not offered for sale or
110 lease. In an action brought under this subsection, proof of the
111 sale or lease, or offering for sale or lease, of more than one
112 such structure by the owner-builder within 1 year after

113 completion of same is prima facie evidence that the construction
114 was undertaken for purposes of sale or lease. This subsection
115 does not exempt any person who is employed by such owner and who
116 acts in the capacity of a contractor. For the purpose of this
117 subsection, the term "owner of property" includes the owner of a
118 mobile home situated on a leased lot. To qualify for exemption
119 under this subsection, an owner shall personally appear and sign
120 the building permit application and must satisfy local
121 permitting agency requirements, if any, proving that the owner
122 has a complete understanding of the owner's obligations under
123 the law as specified in the disclosure statement in this
124 section. If any person violates the requirements of this
125 subsection, the local permitting agency shall withhold final
126 approval, revoke the permit, or pursue any action or remedy for
127 unlicensed activity against the owner and any person performing
128 work that requires licensure under the permit issued. The local
129 permitting agency shall provide the owner with a disclosure
130 statement in substantially the following form:
131
132 Disclosure Statement
133
134 State law requires electrical contracting to be done by
135 licensed electrical contractors. You have applied for a permit
136 under an exemption to that law. The exemption allows you, as the
137 owner of your property, to act as your own electrical contractor
138 even though you do not have a license. You may install
139 electrical wiring for a farm outbuilding or a single-family or
140 duplex residence. You may install electrical wiring in a

141 commercial building the aggregate construction costs of which
142 are under $75,000 ~~$25,000~~. The home or building must be for your
143 own use and occupancy. It may not be built for sale or lease. If
144 you sell or lease more than one building you have wired yourself
145 within 1 year after the construction is complete, the law will
146 presume that you built it for sale or lease, which is a
147 violation of this exemption. You may not hire an unlicensed
148 person as your electrical contractor. Your construction shall be
149 done according to building codes and zoning regulations. It is
150 your responsibility to make sure that people employed by you
151 have licenses required by state law and by county or municipal
152 licensing ordinances.
153 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1375 Manatee County
SPONSOR(S): Reagan
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

With limited exceptions, independent special districts, including independent special fire control districts, may only be created by the Legislature. The creation of independent fire control special districts is governed by ch. 189, F.S., the "Uniform Special District Accountability Act of 1989", and ch. 191, F.S., the "Independent Special Fire Control District Act". However, the legislature may provide an exemption from the general law requirements in chs.189 and 191, F.S., in a local bill creating an independent special district.

HB 1375 creates the Duette Fire and Rescue District, an independent special fire control district, with all powers under ch. 189 and 191, F.S., with a few exceptions. The bill requires a referendum for the District to collect impact fees, while under general law, there is no such requirement. The bill also creates an exception to general law by removing the referendum requirement for non-ad valorem assessments.

This bill also grants the District all powers and authority under ch. 170 and 197, F.S. Chapter 170, F.S., provides municipalities supplemental and alternative methods of making local municipal improvements. Granting the District this power grants the District the authority held by a municipality in constructing, reconstructing, and maintaining various infrastructure needs, as well as the methodologies available for assessing and collecting special assessments and issuing bonds. Chapter 197, F.S., provides methodologies for tax collections, sales, and liens.

The bill creates another exemption to general law, ch. 171.093,F.S., in regards to the annexation of territories by municipalities and other fire control districts. This bill allows the territory to be annexed by a municipality or other fire control district, but provides that the District would continue to be the sole taxing and service provider to the area, and that the taxes and fees for said services may be collected by the municipality and paid to the District annually.

This bill is effective upon its approval by a majority vote of those qualified electors of the District voting in a referendum.

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill may create such an exemption.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government and Ensure lower taxes - This bill creates an independent special fire control district with the power to levy ad valorem taxes, non-ad valorem special assessments, user charges, and impact fees. The bill also gives the fire control district the powers and duties of a municipality in making local municipal improvements and the authority to collect special assessments and issue bonds under those powers and duties.

B. EFFECT OF PROPOSED CHANGES:

With limited exceptions provided in general law, independent special districts, including independent special fire control districts, may only be created by the Legislature. The creation of independent fire control special districts is governed by ch. 189, F.S., the "Uniform Special District Accountability Act of 1989", and ch. 191, F.S., the "Independent Special Fire Control District Act". However, the legislature may provide an exemption from the general law requirements in chs.189 and 191, F.S., in a local bill creating an independent special district. If a local bill creates an exemption from general law, Rule 5.5 of the Florida House of Representatives prohibits the local bill from being placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills.

The Uniform Special District Accountability Act of 1989

Chapter 189, F.S., known as the "Uniform Special District Accountability Act of 1989", includes requirements that must be satisfied when the Legislature creates any independent special district, including independent special fire control districts created under ch. 191, F.S. Unless the Legislature has enacted a special law exempting a particular independent special district, all districts must comply with applicable provisions of ch. 189, F.S., including provisions related to issues that must be addressed in a district's charter, election of district governing board members, bond referenda, public records and meetings, and reporting requirements.

The Independent Special Fire Control District Act

Chapter 191, F.S., is known as the "Independent Special Fire Control District Act" (the Act). Section 191.002, F.S., sets forth the Act's purpose, which is to establish standards and procedures concerning the operations and governance of independent special fire control districts (districts), and to provide greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of districts.

Unless otherwise exempted by special or general law, the Act requires each district, whether created by special act, general law of local application, or county ordinance, to comply with the Act and provides that it is the intent of the Legislature that the Act supersede all special acts or general laws of local application provisions that contain the charter of a district. Provisions that address district boundaries and geographical subdistricts for the election of members of the governing board are excepted.

District Governing Board

Section 191.005, F.S., prescribes procedures for the election, composition, and general administration of a district's governing board. With the exception of districts whose governing boards are appointed collectively by the Governor, the county commission, and any cooperating city within the county, requires the business affairs of each district to be conducted and administered by a five-member board. Each member must be elected for a term of 4 years and serve until the member's successor assumes office. Each member of the board must be a qualified elector at the time he or she qualifies and continually throughout his or her term. Any board member who ceases to be a qualified elector is

automatically removed pursuant to the Act. Prior to election, each candidate must qualify for election by either paying a filing fee or obtaining the signatures of at least 25 registered electors of the district on petition forms provided by the supervisor of elections and submitted and checked in the same manner as petitions filed by nonpartisan judicial candidates. A candidate who does not collect contributions and whose only expense is the filing fee is not required to appoint a campaign treasurer or designate a primary campaign depository.

The electors of the district must elect board members at the next general election following the effective date of a special act or general act of local application creating a new district. Except as provided by the Act, all elections must be held at the time and in the manner prescribed by law for holding general elections in accordance with s. 189.405(2)(a) and (3), F.S. If a vacancy occurs on the board due to the resignation, death, or removal of a board member, or the failure of anyone to qualify for a board seat, the remaining members may appoint a qualified person to fill the seat until the next general election, at which time an election must be held to fill the vacancy for the remaining term, if any.

Members of the board may each be paid a salary or honorarium to be determined by at least a majority plus one vote of the board but which may not exceed $500 per month for each member. Separate compensation for the board member serving as treasurer may be authorized by like vote so long as total compensation for the board member does not exceed $500 per month. Members may be reimbursed for travel and per diem expenses as provided in general law.

Each member must, upon assuming office, take and subscribe to the oath of office prescribed by s. 5(b), Art. II of the State Constitution and s. 876.05, F.S. Each member, within 30 days of assuming office, must also give the Governor a good and sufficient surety bond in the sum of $5,000, the cost thereof being borne by the district, conditioned on the member's faithful performance of his or her duties of office.

The board must keep a permanent record book in which the minutes of all meetings, resolutions, proceedings, certificates, bonds given by commissioners, and corporate acts are recorded. The record book must be open to inspection in the same manner as state, county, and municipal records are open under ch. 119. F.S., and s. 24, Art. I of the State Constitution. All meetings of the board must be open to the public consistent with ch. 286, s. 189.417, and other applicable general laws.

General Powers

Section 191.006, F.S., sets forth the following general powers of a district, which may be exercised by a majority vote of the district's governing board:

- To sue and be sued in the name of the district, to adopt and use a seal and authorize the use of a facsimile thereof, and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- To provide for a pension or retirement plan for its employees. In accordance with general law, the board may provide for an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees whose performance exceeds standards, if the program provides that a bonus payment may not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years.
- To contract for the services of consultants to perform planning, engineering, legal, or other professional services.
- To borrow money and accept gifts, to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith, and to hold, use, sell, and dispose of such moneys or property for any district purpose in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
- To adopt resolutions and procedures prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of other documents and records of the district. The board may also adopt ordinances and resolutions that are necessary to conduct district business, if such ordinances do not conflict with any

ordinances of a local general purpose government within whose jurisdiction the district is located. Any resolution or ordinance adopted by the board and approved by referendum vote of district electors may only be repealed by referendum vote of district electors.

- To maintain an office at places it designates within a county or municipality in which the district is located and appoint an agent of record.
- To acquire, by purchase, lease, gift, dedication, devise, or otherwise, real and personal property or any estate therein for any purpose authorized by this act and to trade, sell, or otherwise dispose of surplus real or personal property. The board may purchase equipment by an installment sales contract if funds are available to pay the current year's installments on the equipment and to pay the amounts due that year on all other installments and indebtedness.
- To hold, control, and acquire by donation or purchase any public easement, dedication to public use, platted reservation for public purposes, or reservation for those purposes authorized by this act and to use such easement, dedication, or reservation for any purpose authorized by this act consistent with applicable adopted local government comprehensive plans and land development regulations.
- To lease as lessor or lessee to or from any person any facility or property of any nature for the use of the district when necessary to carry out the district's duties and authority under this act.
- To borrow money and issue bonds, revenue anticipation notes, or certificates payable from and secured by a pledge of funds, revenues, taxes and assessments, warrants, notes, or other evidence of indebtedness, and mortgage real and personal property when necessary to carry out the district's duties and authority under this act.
- To charge user and impact fees authorized by resolution of the board, in amounts necessary to conduct district activities and services, and to enforce their receipt and collection in the manner prescribed by resolution and authorized by law. However, the imposition of impact fees may only be authorized as provided by general law.
- To exercise the right and power of eminent domain, pursuant to general law, over any property within the district, except municipal, county, state, special district, or federal property used for a public purpose, for the uses and purposes of the district relating solely to the establishment and maintenance of fire stations and fire substations, specifically including the power to take easements that serve such facilities consistent with applicable adopted local government comprehensive plans and land development regulations.
- To cooperate or contract with other persons or entities, including other governmental agencies, as necessary, convenient, incidental, or proper in connection with providing effective mutual aid and furthering any power, duty, or purpose authorized by this act.
- To assess and impose upon real property in the district ad valorem taxes and non-ad valorem assessments as authorized by this act.
- To impose and foreclose non-ad valorem assessment liens as provided by this act or to impose, collect, and enforce non-ad valorem assessments pursuant to general law.
- To select as a depository for its funds any qualified public depository as defined by general law which meets all the requirements of ch. 280, F.S., and has been designated by the Chief Financial Officer as a qualified public depository, upon such terms and conditions as to the payment of interest upon the funds deposited as the board deems just and reasonable.
- To provide adequate insurance on all real and personal property, equipment, employees, volunteer firefighters, and other personnel.
- To organize, participate in, and contribute monetarily to organizations or associations relating to the delivery of or improvement of fire control, prevention, emergency rescue services, or district administration.

Special Powers

Section 191.008, F.S., requires districts to provide for fire suppression and prevention by establishing and maintaining fire stations and fire substations and by acquiring and maintaining firefighting and fire protection equipment deemed necessary to prevent or fight fires. All construction must be in compliance with applicable state, regional, and local regulations, including adopted comprehensive plans and land development regulations.

This section grants districts the following special powers relating to facilities and duties authorized by the Act:

- To establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical, and other emergency equipment, pursuant to general law and any certificate of public convenience and necessity or its equivalent issued thereunder.
- To employ, train, and equip such personnel, and train, coordinate, and equip such volunteer firefighters, as are necessary to accomplish the duties of the district. The board may employ and fix the compensation of a fire chief or chief administrator. The board must prescribe the duties of such person, which include supervision and management of the operations of the district and its employees and maintenance and operation of its facilities and equipment. The fire chief or chief administrator may employ or terminate the employment of such other persons, including, without limitation, professional, supervisory, administrative, maintenance, and clerical employees, as are necessary and authorized by the board. The board must provide the compensation and other conditions of employment of the officers and employees of the district.
- To conduct public education to promote awareness of methods to prevent fires and reduce the loss of life and property from fires or other public safety concerns.
- To adopt and enforce firesafety standards and codes and enforce the rules of the State Fire Marshal consistent with the exercise of the duties authorized by chs. 553 or 633, F.S., with respect to fire suppression, prevention, and firesafety code enforcement.
- To conduct arson investigations and cause-and-origin investigations.
- To adopt hazardous material safety plans and emergency response plans in coordination with the county emergency management agency.
- To contract with general purpose local government for emergency management planning and services.

District Funding Mechanisms

Section 191.009, F.S., authorizes districts to levy ad valorem taxes, special assessments, user charges, and impact fees.

Ad Valorem Taxes -- An elected board may levy and assess ad valorem taxes on all taxable property in the district to construct, operate, and maintain district facilities and services, to pay the principal of, and interest on, general obligation bonds of the district, and to provide for any sinking or other funds established in connection with such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, may not exceed 3.75 mills unless a higher amount has been previously authorized by law, subject to a referendum as required by the State Constitution and the Act. The levy of ad valorem taxes must be approved by referendum called by the board when the proposed levy of ad valorem taxes exceeds the amount authorized by prior special act, general law of local application, or county ordinance approved by referendum. The tax is assessed, levied, and collected in the same manner as county taxes.

Non-Ad Valorem Assessments -- A district may levy non-ad valorem assessments to construct, operate, and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board pursuant to statutory procedures. Non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous 5 years. Non-ad valorem assessment rate increases within the personal income threshold are deemed to be within the maximum rate authorized by law at the time of initial imposition. Proposed non-ad valorem assessment increases which exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance, whichever is more recent, by more than the average annual growth rate in Florida personal income over the last 5 years, or the first-time levy of non-ad valorem assessments in a district, must be approved by referendum of the electors of the district. The referendum on the first-time levy of an assessment must include a notice of the future non-ad valorem assessment rate increases permitted by the Act without a

referendum. Non-ad valorem assessments must be imposed, collected, and enforced pursuant to general law.

User Charges -- The board may provide a reasonable schedule of user charges for the following services:

- Special emergency services, including firefighting occurring in or to structures outside the district, motor vehicles, marine vessels, aircraft, or rail cars, or as a result of the operation of such motor vehicles or marine vessels, to which the district is called to render such emergency service, and may charge a fee for the services rendered in accordance with the schedule;
- Fighting fires occurring in or at refuse dumps or as a result of an illegal burn, which fire, dump, or burn is not authorized by general or special law, rule, regulation, order, or ordinance and which the district is called upon to fight or extinguish;
- Responding to or assisting or mitigating emergencies that either threaten or could threaten the health and safety of persons, property, or the environment, to which the district has been called, including a charge for responding to false alarms; and
- Inspecting structures, plans, and equipment to determine compliance with firesafety codes and standards.

The district has a lien upon any real property, motor vehicle, marine vessel, aircraft, or rail car for any user charge assessed.

Impact Fees -- If the general purpose local government has not adopted an impact fee for fire services which is distributed to the district for construction within its jurisdictional boundaries, the board may establish a schedule of impact fees to pay for the cost of new facilities and equipment, the need for which is in whole or in part the result of new construction. The impact fees collected by the district must be kept separate from other revenues of the district and must be used exclusively to acquire, purchase, or construct new facilities or portions thereof needed to provide fire protection and emergency services to new construction. The term "new facilities" is defined as land, buildings, and capital equipment, including, but not limited to, fire and emergency vehicles, radiotelemetry equipment, and other firefighting or rescue equipment. The board must maintain adequate records to ensure that impact fees are expended only for permissible new facilities or equipment. The board may enter into agreements with general purpose local governments to share in the revenues from fire protection impact fees imposed by the governments.

District Bonds

Section 191.012, F.S., authorizes a district to issue general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes, or other evidences of indebtedness to finance all or a part of any proposed improvements authorized to be undertaken under the Act or other law, provided the total annual payments for the principal and interest on such indebtedness does not exceed 50 percent of the total annual budgeted revenues of the district. This section also provides detailed instructions and procedures regarding the issuance and satisfaction of district bonds.

Bonds are payable from non-ad valorem assessments or other non-ad valorem revenues, including, without limitation, user fees or charges or rental income authorized to be levied or collected or received pursuant to the Act or general law. General obligation bonds payable from ad valorem taxes may also be issued by the district, but only after compliance with s. 12, Art. VII of the State Constitution. Subject to referendum approval, a district may pledge its full faith and credit for the payment of principal and interest on general obligation bonds and for any reserve funds provided therefore and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all property in the district to the extent necessary for the payment thereof. A district is authorized, after notice and opportunity to be heard has been afforded to those affected, to impose, charge, and collect non-ad valorem revenues in connection with any of the improvements authorized under the Act and to pledge the same for the payment of bonds.

District Boundaries and Mergers

Section 191.014, F.S., provides that boundaries of a district may be modified, extended, or enlarged only upon approval or ratification by the Legislature. The merger of a district with all or portions of other independent special districts or dependent fire control districts is effective only upon ratification by the Legislature. A district may not, solely by reason of a merger with another governmental entity, increase ad valorem taxes on property within the original limits of the district beyond the maximum established by the district's enabling legislation, unless approved by the electors of the district by referendum.

Municipal Annexation within Independent Special Districts

The purpose of s. 171.093, F.S., a provision within the "Municipal Annexation or Contraction Act, "is to provide an orderly transition of special district service responsibilities in an annexed area from an independent special district which levies ad valorem taxes to a municipality following the municipality's annexation of property located within the jurisdictional boundaries of an independent special district, if the municipality elects to assume such responsibilities."

The municipality may make such an election by adopting a resolution evidencing the election and forwarding the resolution to the office of the special district and the property appraiser and tax collector of the county in which the annexed property is located. In addition, the municipality may incorporate its election into the annexation ordinance.

Upon a municipality's election to assume the district's responsibilities, the municipality and the district may enter into an interlocal agreement addressing the orderly transfer of service responsibilities, real assets, equipment and personnel to the municipality. The agreement must address:

- allocation of responsibility for special district services;
- avoidance of double taxation of property owners for such services in the area of overlapping jurisdiction;
- prevention of loss of any district revenues which may be detrimental to the continued operations of the independent district;
- avoidance of impairment of existing district contracts;
- disposition of property and equipment of the independent district and any assumption of indebtedness for it;
- the status and employee rights of any adversely affected employees of the independent district; and
- any other matter reasonably related to the transfer of responsibilities.

If the municipality and the district are unable to enter into an interlocal agreement, the municipality is required to so advise the district and the property appraiser and tax collector of the county in which the annexed property is located. The district remains the service provider in the annexed area for a period of four years beginning October 1 of the calendar year immediately following the calendar year in which the municipality declares its intent to assume service responsibilities in the annexed area. During the four-year period, the municipality is required to pay the district an amount equal to the ad valorem taxes or assessments that would have been collected had the property remained in the district.

By the end of the four-year period, or any mutually agreed upon extension, the municipality and the district are required to enter into an agreement that identifies the existing district property located in the municipality or primarily serving the municipality that will be assumed by the municipality, the fair market value of such property, and the manner of transfer of such property and any associated indebtedness. If the municipality and district are unable to agree to an equitable distribution of the district's property and indebtedness, the matter proceeds to circuit court. In equitably distributing the district's property and associated indebtedness, the taxes and other revenues paid the district by or on behalf of the residents of the annexed area are taken into consideration.

During the four-year period, or during any mutually agreed upon extension, district service and capital expenditures within the annexed area are required to be rationally related to the annexed area's service needs. Service and capital expenditures within the annexed area also must be rationally related to the percentage of district revenue received on behalf of the residents of the annexed area when compared to the district's total revenue. The district cannot make a capital expenditure greater than $25,000 for use primarily within the annexed area without the express consent of the municipality.

If the municipality elects not to assume the district's responsibilities, the district remains the service provider in the annexed area. The geographical boundaries of the district continue to include the annexed area, and the district may continue to levy ad valorem taxes and assessments on the real property located within the annexed area. If the municipality elects to assume the district's responsibilities, the district's boundaries contract to exclude the annexed area at the time and in the manner provided in the agreement.

If the municipality elects to assume the district's responsibilities and the municipality and the district are unable to enter into an interlocal agreement, and the district continues to remain the service provider in the annexed area, the geographical boundaries of the district contract to exclude the annexed area on the effective date of the beginning of the four-year period.

Nothing in this section precludes the contraction of the boundary of any independent special district by a special act of the Legislature. The district may not levy ad valorem taxes or assessments on the annexed property in the calendar year in which its boundaries contract and subsequent years, but it may continue to collect and use all ad valorem taxes and assessments levied in prior years. Nothing in the section prohibits the district from assessing user charges and impact fees within the annexed area while it remains the service provider.

In addition to any other authority provided by law, the municipality is authorized to levy assessments on property located in an annexed area to offset all or a portion of the costs incurred by the municipality in assuming district responsibilities. Such assessments may be collected pursuant to and in accordance with applicable law.

These provisions do not apply to districts created pursuant to chs. 190 (community development districts) or 373 (water management districts), F.S.

Effect of Proposed Changes

This bill creates the Duette Fire and Rescue District (District), as an independent special fire control district, in Manatee County, Florida. The bill specifies the purposes of the district as providing fire prevention services to an area of approximately 88, 320 acres[1] with a current population estimate of 809 residents, experiencing a 25.6 percent increase in population from April 1, 2000 to March 21, 2005.[2] The day time working population increases almost 5 times due to migrant farm workers.

The District is granted all the powers under chs. 189 and 191, F.S., as more fully set forth above, with 1 addition and 1 exception to the general law as follows:

- The bill imposes on the District the requirement of a referendum for the first-time levy of impact fees, which is to include notice of the future increase of impact fees permitted by the charter. Under s. 191.009(4), F.S., no referendum is required to impose impact fees. Section 191.009(4), F.S., does require that the board establish a schedule of impact fees in compliance with the standards set by general law for the new construction to pay for the cost of new facilities and equipment. The only impact fee increases permissible would be those tied to new construction.

[1] E-mail from Chris Lyon, March 23, 3006.
[2] Letter from Leon Kotecki, Principal Planner, Manatee County Planning Department, to John O'Connor, regarding Duette Fire District Population and Trends Request # 0503558, June 7, 2005.

- The bill makes an exception to general law by removing the requirement of a referendum for the first-time levy of non-ad valorem assessments. Section 191.009(2), F.S., requires a referendum for the first-time levy of non-ad valorem assessments, which is required to include a notice of the future non-ad valorem assessment rates increases that are permitted without an additional referendum.

This bill also grants the District all powers and authority under chs. 170 and 197, F.S. Chapter 170, F.S., provides municipalities supplemental and alternative methods of making local municipal improvements. Granting the District this power grants them the authority held by a municipality in constructing, reconstructing, and maintaining various infrastructure needs, including but not limited to: roads, sidewalks, canopies over sidewalks, greenbelts, swales, culverts, storm sewers, canals, drains, water mains, water laterals, alternative water supply systems, parks, and other recreational facilities., as well as the methodologies available for assessing and collecting special assessments and issuing bonds. Chapter 197, F.S., provides methodologies for tax collections, sales, and liens.

The bill also creates an exception to general law, ch. 171.093, F.S., regarding municipal annexation within independent special districts. The bill provides that if any municipality or other local fire district annexes land within the district, the district remains the sole taxing, service providing authority for the annexed land. A municipality is allowed to collect the District's assessments or taxes and pay the District annually at the adopted standard rate.

C. SECTION DIRECTORY:

Section 1: Provides short title.
Section 2: Provide definitions.
Section 3: Provides the purpose of the District, specifies it as a independent special district under ch. 191, F.S., and provides boundaries.
Section 4: Provides intent of the District.
Section 5: Provides for the Board of Commissioners; including officers, bonds, and compensation.
Section 6: Provides terms, elections, qualifications, and certification of single candidate for Board of Commissioners.
Section 7: Authorizes the District with all powers under chs. 170, 189, 191, and 197, F.S, and provides for the use of funds.
Section 8: Authorizes the District to levy ad valorem taxes, non-ad valorem assessment without a referendum, user charges, and impact fees with a referendum.
Section 9: Creates a 5 year plan for identifying needed facilities and for the plan to count as a facilities report.
Section 10: Provides for terms of boundaries and mergers.
Section 11: Provides for exception to general law regarding annexation of territories by municipalities and other fire control district.
Section 12: Provides amendment of charter through special act only.
Section 13: Provides for merger or dissolution of the District.
Section 14: Provides for severability of the act.
Section 15: Provides for a referendum.
Section 16: Provides that the act is effective only upon approval by a majority vote of qualified electors in a referendum held by Manatee County Supervisor of Elections and held on or before December 30, 2006.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 1, 2005.

WHERE? *The Herald*, Bradenton, Manatee, Florida.

B. REFERENDUM(S) REQUIRED? Yes [X] No []

IF YES, WHEN? On or before December 30, 2006.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues:

The term "district" needs to be consistent as either "District" or "district" throughout.

The title in section 11 needs to be corrected to include annexations of territories by other fire control districts, as provided for in the section.

Other Comments:

Chapters 170 and 197, F.S., Powers

The bill grants the District all the powers and duties set forth in chapters 170 and 197, F.S., which include numerous powers and duties not applicable to a fire control district.

Exemption from General Law

Section 191.009(2) allows a district to levy non-ad valorem assessments to construct, and maintain district facilities and services. The first-time levy of an assessment requires a referendum, which is to include a notice of the future non-ad valorem assessment rate increases permitted by s. 191.009(2), F.S. without a referendum. This bill removes the requirement of referendum for the imposition of non-ad valorem assessments, which would also remove notice of permitted increases in assessments, though increases would still be controlled by s. 191.009(2), F.S.

This bill also creates an exception from s. 171.093, F.S., regarding the annexation of territories by municipalities and other fire control districts. This bill allows the territory to be annexed by a municipality or other fire control district, but provides that the District would continue to be the sole taxing and service provider to the area, and that the taxes and fees for said services may be collected by the municipality and paid to the District annually.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill as it may provide exemptions to s. 171.093 and ch. 175, F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

HB 1375

THE HERALD

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102 Manatee Avenue West
Bradenton, FL 34205-8894
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The Herald
Published Daily
Bradenton, Manatee, Florida

STATE OF FLORIDA
COUNTY OF MANATEE;

Before the undersigned authority personally appeared Sandy Riley, who on oath says that she is a Legal Advertising Representative of The Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, being a Legal Advertisement in the matter of **NOTICE OF INTENT TO SEEK LEGISLATION** in the Court, was published in said newspaper in the issues of, **12/1/05**
Affiant further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sandy Riley
(Signature of Affiant)

Sworn to and subscribed before me this
10th Day of January 2006

DIANE S. BACRO
Notary Public
State of Florida
My comm. exp. 08-15-2007
Comm. No. DD 206531

Diane S. Bacro
SEAL & Notary Public
Personally Known X OR Produced Identification _____
Type of Identification Produced _____

NOTICE OF INTENT TO SEEK LEGISLATION

The Duette Volunteer Fire Department, in Manatee County, hereby gives notice pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, of its intent to seek legislation before the 2006 Florida Legislature creating the Duette Fire and Rescue District (hereinafter "District"). This legislation will create the Duette Fire and Rescue District, an independent special fire district by special act as required by Sections 189.429 and 191.015, Florida Statutes. This legislation conforms with the Independent Special Fire Control District Act, Chapter 191, F.S., the Uniform Special District Accountability Act, Chapter 189, F.S., and other applicable general laws. The legislation will provide a District charter; provide the District's boundary description; provide for the election of a District board of commissioners; provide the District with authority to disburse and use funds; provide for District authority upon annexation of District lands; provide for dissolution; provide for District powers, functions and duties; provide for a referendum; and provide an effective date.
12/1/05

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: House Bill 1375
SPONSOR(S): Rep. Ron Reagan
RELATING TO: Duette Fire and Rescue District, Manatee County, Florida
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Manatee County
CONTACT PERSON: Annalee Morris
PHONE # and E-MAIL 941/727-6447 annalee.morris@myfloridahouse.gov

I. House policy requires that three things occur before a Council or Committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the bill's purpose cannot be accomplished at the local level; (2) a local public hearing must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. ***Local bills will not be considered by a Council or Committee without a completed, original Local Bill Certification Form.***

Does the delegation certify that the purpose of the bill cannot be accomplished locally?
YES [X] NO [ ]

Has a public hearing been held? **YES [X] NO [ ]**

Date hearing held: January 10, 2006
Location: Senate Conference Room, Tallahassee, Leon County, Florida

Was this bill formally approved by a majority of the delegation members?
YES [ ] NO [ ] UNIT RULE [ ] UNANIMOUS [X]

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided in general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this Constitutional requirement been met?

Notice published: **YES [X] NO [ ]** **Date:** December 1, 2005

Where? Bradenton Herald **County:** Manatee

Referendum in lieu of publication: **YES [X] NO [ ]**

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional requirement been met?
YES [X] NO [ ] NOT APPLICABLE [ ]

House policy requires that an Economic Impact Statement for Local Bills be prepared at the local level.

Lisa Miller, Jr. 7 Mar 06
Delegation Chair (Original Signature) Date

HOUSE LOCAL GOVERNMENT COUNCIL

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a Council or Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact.

BILL #: HB 1375

SPONSOR(S): Reagan

RELATING TO: Duette Fire and Rescue District, Manatee County

[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures:	FY 06-07	FY 07-08
Option A: If referendum question added to existing ballot:	$ 0	$ 0
Option B: If additional page is required to add referendum question to existing ballot:	$1,000	$ 0
OptionC: If no existing ballot and special election is required:	$20,000-30,000	$ 0

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	$ 0	$ 0
State:	$ 0	$ 0
Local: Option A:	$ 0	$ 0
Option B:	$1,000	$ 0
Option C:	$20,000-30,000	$ 0

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	$ 0	$ 0

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: If approved by referendum, residents of the District will receive professional fire and rescue service funded by non-ad valorem assessments and impact fees. As there is an election scheduled for November 2006, the estimated impact to local government would be either $0 or $1,000, depending on available space on ballot.

Disadvantages: None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDE SOURCE[S] OF DATA):

Review of general and special laws, information from staff of the District contemplated by the Bill, information from Manatee County Supervisor of Elections, and prior experience representing special districts.

PREPARED BY: David E. Ramba 2/9/06
[Must be signed by Preparer] Date

TITLE: David E. Ramba, District Special Counsel

REPRESENTING: Duette Volunteer Fire Rescue

PHONE: (850) 222-5702

Email address: dramba@llw-law.com

1 A bill to be entitled
2 An act relating to Manatee County; creating the Duette
3 Fire and Rescue District, an independent special district;
4 creating a district charter; providing a short title;
5 providing definitions; providing territorial boundaries of
6 the district; providing purposes and intent; providing for
7 a board of commissioners of the district; providing for
8 qualification, election, membership, terms of office, and
9 compensation of the board; providing for the filling of
10 vacancies; providing for meetings; providing powers and
11 duties of the board; providing for use of district funds;
12 authorizing the district to issue bonds and levy ad
13 valorem taxes, non-ad valorem assessments, impact fees,
14 and user charges; providing for a 5-year plan; providing
15 for modification of district boundaries; providing for
16 merger with certain other districts under certain
17 circumstances; providing requirements for annexation;
18 providing for amendment of the charter by special act of
19 the Legislature; providing requirements for merger or
20 dissolution; providing severability; requiring a
21 referendum; providing an effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:
24
25 Section 1. The Duette Fire and Rescue District, an
26 independent special district in Manatee County, is created and
27 established pursuant to chapters 189 and 191, Florida Statutes,
28 and the charter for such district is created to read:

29 Section 1. Short title.--This act may be cited as the
30 "Duette Fire and Rescue District Act."
31 Section 2. Definitions.--Unless the context otherwise
32 requires, the following terms shall have the following meanings
33 ascribed to them:
34 (1) "Board" means the Board of Commissioners of the Duette
35 Fire and Rescue District.
36 (2) "Commissioner" means a member of the Board of
37 Commissioners of the district.
38 (3) "County" means Manatee County, Florida.
39 (4) "District" means the Duette Fire and Rescue District.
40 (5) "Elector" means a person who is a resident of the
41 district and is qualified to vote in a general election in
42 Manatee County.
43 (6) "Emergency medical service" means basic life support
44 service and advanced life support service, as defined in section
45 401.23, Florida Statutes.
46 (7) "Governor" means the Governor of the State of Florida.
47 Section 3. Formation; boundaries.--For the purpose of
48 providing fire prevention services pursuant to chapter 191,
49 Florida Statutes, an independent special district is hereby
50 created and incorporated to be known as the Duette Fire and
51 Rescue District, hereinafter the "district," in Manatee County
52 and shall embrace and include the territory described as:
53
54 Sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35 and 36,
55 all lying in Township 33 South, Range 20 East; Sections 1
56 through 36, all lying in Township 33 South, Range 21 East;

57 Sections 1 through 36, all lying in Township 33 South,
58 Range 22 East; Sections 1, 2, 11, 12, 13, 14, 23, 24, 25,
59 26 and 27, all lying in Township 34 South, Range 20 East;
60 Sections 1 through 30, all lying in Township 34 South,
61 Range 21 East; Sections 1 through 30, all lying in Township
62 34 South, Range 22 East.
63
64 Section 4. Intent.--The purposes of this act are to:
65 (1) Provide standards, direction, and procedures
66 concerning the operation and governance of the special fire
67 control district known as the Duette Fire and Rescue District.
68 (2) Provide uniformity between the Duette Fire and Rescue
69 District and other independent special fire control districts.
70 (3) Provide financing authority of the Duette Fire and
71 Rescue District without hampering the efficiency and
72 effectiveness of current authorized and implemented methods and
73 procedures of raising revenues.
74 (4) Improve communication and coordination between the
75 Duette Fire and Rescue District and other local governments with
76 respect to short-range and long-range planning to meet the
77 demands for service delivery while maintaining fiscal
78 responsibility.
79 (5) Provide uniform procedures for electing members of the
80 governing board of the Duette Fire and Rescue District to ensure
81 greater accountability to the public.
82 Section 5. Board of Commissioners; officers; bond;
83 compensation.--
84 (1) The business affairs of the district shall be

85 conducted and administered, pursuant to chapter 191, Florida
86 Statutes, by the Board of Commissioners of the Duette Fire and
87 Rescue District, which is established as a board of five
88 commissioners. Annually, within 60 days after newly elected
89 members have taken office, the board shall organize by electing
90 from its members a chair, a vice chair, a secretary, and a
91 treasurer. The positions of secretary and treasurer may be held
92 by one member. The office of each commissioner comprising the
93 Board of Commissioners of the Duette Fire and Rescue District is
94 hereby designated as being a seat on the commission,
95 distinguished from each of the other seats by a numeral: 1, 2,
96 3, 4, or 5. The numerical seat designation does not designate a
97 geographical subdistrict of the district.
98 (2) Each commissioner shall, upon assuming office, take
99 and subscribe to the oath of office prescribed by section 5(b),
100 Article II of the State Constitution and section 876.05, Florida
101 Statutes. Each commissioner, upon taking office and in
102 accordance with chapters 189 and 191, Florida Statutes, shall
103 execute to the Governor for the benefit of the district a bond
104 conditioned upon the faithful performance of the duties of the
105 commissioner's office. The premium for such bonds shall be paid
106 from district funds.
107 (3) Members of the board may each be paid a salary or
108 honorarium to be determined by at least a majority plus one vote
109 of the board, which salary or honorarium may not exceed $500 per
110 month for each member. Special notice of any meeting at which
111 the board will consider a salary change for a board member shall
112 be published at least once, at least 14 days prior to the

113 meeting, in a newspaper of general circulation in the county.
114 Separate compensation for the board member serving as treasurer
115 may be authorized by like vote so long as total compensation for
116 the board member does not exceed $500 per month. Members may be
117 reimbursed for travel and per diem expenses, as provided in
118 section 112.061, Florida Statutes.
119 (4) Members of the board shall comply with the financial
120 disclosure, noticing, and reporting requirements of chapter 112,
121 Florida Statutes, and any other applicable law or regulation.
122 Section 6. Board of Commissioners; terms; election,
123 qualifications, certification of single candidate.--
124 (1) District elections and referenda shall be held in
125 accordance with chapter 191, Florida Statutes.
126 (2) Except as provided in this subsection, each of the
127 five commissioners shall hold his or her respective seat on the
128 Board of Commissioners of the Duette Fire and Rescue District
129 for a term of 4 years and shall be elected by majority vote of
130 the electors of the district voting at a general election. In
131 the first election following the effective date of this act,
132 seats 1, 3, and 5 shall be designated for 4-year terms, and
133 seats 2 and 4 shall be designated for 2-year terms. All
134 commissioners must be qualified electors within the district and
135 must reside within the district.
136 (3) Voting for commissioners shall be districtwide and
137 nonpartisan.
138 (4) If a vacancy occurs on the board due to the
139 resignation, death, or removal of a commissioner, or the failure
140 of anyone to qualify for a board seat, the remaining members may

141 appoint a qualified person to fill the seat until the next
142 general election, at which time an election shall be held to
143 fill the vacancy for the remaining term, if any. The board shall
144 remove any member who has three consecutive, unexcused absences
145 from regularly scheduled meetings. The board shall adopt
146 policies by resolution defining excused and unexcused absences.
147 (5) Each commissioner, whenever elected, shall assume
148 office 10 days following his or her election and shall serve
149 until his or her successor is elected.
150 (6) All candidates shall qualify with the County
151 Supervisor of Elections. All candidates may qualify by paying a
152 filing fee of $25 or by obtaining the signatures of at least 25
153 registered electors of the district on petition forms provided
154 by the Supervisor of Elections, which petitions shall be
155 submitted and checked in the same manner as petitions filed by
156 nonpartisan judicial candidates pursuant to section 105.035,
157 Florida Statutes.
158 (7) The names of all candidates qualifying for election to
159 a seat on the Board of Commissioners shall be included on the
160 ballot or voting machines provided for use in the district,
161 along with the candidates for county office at each regular
162 county election, in such a way as to clearly indicate the
163 respective seat for which each qualified candidate for district
164 commissioner is running.
165 (8) Any expense of holding elections for commission seats
166 at the regular county elections shall be paid out of the funds
167 of the district, if required by proper authority.
168 (9) The board shall keep a permanent record book entitled

169 "Record of Proceedings of Duette Fire and Rescue District" in
170 which the minutes of all meetings, resolutions, proceedings,
171 certificates, bonds given by commissioners, and corporate acts
172 shall be recorded. The record book shall be open to inspection
173 in the same manner as state, county, and municipal records are
174 open under chapter 119, Florida Statutes, and section 24,
175 Article I of the State Constitution. The record book shall be
176 kept at the office or other regular place of business maintained
177 by the board in the county or municipality in which the district
178 is located.
179 (10) All meetings of the board shall be open to the
180 public, consistent with chapter 286, Florida Statutes, section
181 189.417, Florida Statutes, and other applicable general laws.
182 Section 7. Powers; use of district funds.--
183 (1) The district shall have, and the board may exercise,
184 all the powers and duties set forth in chapters 170, 189, 191,
185 and 197, Florida Statutes, as they may be amended from time to
186 time.
187 (2) No funds of the district shall be used for any
188 purposes other than the administration of the affairs and
189 business of the district; the construction, care,
190 maintenance, upkeep, operation, and purchase of
191 firefighting and rescue equipment or a fire station or
192 stations; the payment of public utilities; and the payment
193 of salaries of district personnel as the board may from
194 time to time determine to be necessary for the operations
195 and effectiveness of the district.
196 (3) The board is authorized and empowered to buy,

197 own, lease, and maintain a fire department within the
198 district and to purchase, acquire by gift, lease, own, and
199 dispose of firefighting equipment and property, real and
200 personal, that the board may from time to time deem
201 necessary or needful to prevent and extinguish fires within
202 the district.
203 Section 8. Taxes; non-ad valorem assessments; impact fees;
204 user charges; bond issuance.--
205 (1) The district shall hold all powers, functions, and
206 duties set forth in this act and chapters 170, 189, 191, and
207 197, Florida Statutes, as amended from time to time, including,
208 but not limited to, ad valorem taxation, bond issuance, other
209 revenue-raising capabilities, budget preparation and approval,
210 liens and foreclosure of liens, and use of tax deeds and tax
211 certificates as appropriate for non-ad valorem assessments and
212 contractual agreements. The district may be financed by any
213 method established in this act or chapter 170, chapter 189,
214 chapter 191, or chapter 197, Florida Statutes, as amended from
215 time to time.
216 (2) The district shall be authorized to levy non-ad
217 valorem assessments. The methods for assessing and collecting
218 non-ad valorem assessments, fees, or service charges shall be as
219 set forth in chapter 170, chapter 189, chapter 191, or chapter
220 197, Florida Statutes, as amended from time to time. Upon
221 compliance with all applicable provisions of ss. 191.009,
222 197.3631, and 197.3632, Florida Statutes, the district shall be
223 authorized to levy non-ad valorem assessments against all
224 assessable real property located within the district. The

225 initial assessment shall not be subject to referendum approval
226 pursuant to section 191.009, Florida Statutes. Proposed non-ad
227 valorem assessment increases set by the board may not exceed the
228 average annual growth rate in Florida personal income over the
229 previous 5 years. Any increase that exceeds the average annual
230 growth rate in Florida personal income over the previous 5 years
231 must be approved by referendum of the electors of the district.
232 (3) Impact fees are hereby authorized. The impact fees
233 collected by the district pursuant to this section shall be kept
234 as a separate fund from other revenues of the district and shall
235 be used exclusively for the acquisition, purchase, or
236 construction of new facilities or portions thereof required to
237 provide fire protection and emergency medical service to new
238 construction. "New facilities" means land, buildings, and
239 capital equipment, including, but not limited to, fire and
240 emergency vehicles and radio telemetry equipment. The fees shall
241 not be used for the acquisition, purchase, or construction of
242 facilities that must be obtained in any event, regardless of
243 growth within the district. The board of commissioners shall
244 maintain adequate records to ensure that impact fees are
245 expended only for permissible new facilities. The first-time
246 levy of impact fees by the district must be approved by
247 referendum of the electors of the district. The referendum on
248 the first-time levy of an impact fee shall include a notice of
249 the future impact fee rate increases permitted by this charter
250 without a referendum.
251 Section 9. Five-year plan.--The district shall adopt a 5-
252 year plan to identify the facilities, equipment, personnel, and

253 revenue needed by the district during that 5-year period. The
254 plan shall be updated in accordance with section 189.415,
255 Florida Statutes, and shall satisfy the requirement for a public
256 facilities report required by section 189.415(2), Florida
257 Statutes.
258 Section 10. Boundaries and mergers.--
259 (1) The boundaries of the district may be modified,
260 extended, or enlarged upon approval or ratification by the
261 Legislature.
262 (2) The merger of the district with all, or portions of,
263 other independent special districts or dependent fire control
264 districts is effective only upon ratification by the
265 Legislature. A district may not, solely by reason of a merger
266 with another governmental entity, increase ad valorem taxes on
267 property within the original limits of the district beyond the
268 maximum established by the district's enabling legislation,
269 unless approved by the electors of the district by referendum.
270 Section 11. Annexation of territories by
271 municipalities.--Notwithstanding section 171.093, Florida
272 Statutes, or any other applicable law or ordinance, if any
273 municipality or other fire control district annexes land within
274 the district, the district shall continue as the sole taxing,
275 enforcing, and service-providing authority for district purposes
276 in the annexed land. However, any municipality or other fire
277 control district that annexes such land may collect the
278 applicable assessment or tax for fire services and pay the
279 district for such services at the district's annually adopted
280 standard rate.

281 Section 12. Amendment of charter.--This charter may be
282 amended only by special act of the Legislature.
283 Section 13. Merger or dissolution.--Merger or dissolution
284 of the district shall occur as permitted by sections 189.4042
285 and 189.4045, Florida Statutes, as amended from time to time.
286 Section 14. Severability.--Should any provision of this
287 act be held to be unconstitutional, inoperative, or void, such
288 holding or invalidity shall not affect the remaining portions of
289 this act.
290 Section 2. Referendum.--On or before December 30, 2006,
291 the Board of County Commissioners of Manatee County shall call
292 and the County Supervisor of Elections shall conduct a
293 referendum of the qualified voters of the district on the
294 question of whether the district shall be created by special act
295 of the Legislature.
296 Section 3. This act shall take effect only upon its
297 approval by a majority vote of those qualified electors of the
298 district voting in a referendum election to be held by the
299 Manatee County Supervisor of Elections and to be held on or
300 before December 30, 2006, in accordance with the provisions of
301 law relating to elections currently in force in the district,
302 except that this section and section 2 shall take effect upon
303 becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1399 North Naples Fire Control and Rescue District, Collier County
SPONSOR(S): Davis
TIED BILLS: **IDEN./SIM. BILLS:** SB 2780

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Nelson	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 1399 amends the special act relating to the North Naples Fire Control and Rescue District in Collier County. The bill provides that a municipality which annexes within the boundaries of the district must annually pay the district the equivalent of the premium tax revenues that are attributable to the annexed property for a four-year period, or until the expiration of a period provided for by interlocal agreement or the extension of any such agreement, whichever is later.

During the term of the district's provision of fire protection services to the annexed area, the district's regulations and inspection requirements apply, and the district retains its authority to collect inspection fees and impact fees. The bill provides an effective date of upon becoming law.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Municipal Annexation within Independent Special Districts

The purpose of s. 171.093, F.S., a provision within the "Municipal Annexation or Contraction Act, "is to provide an orderly transition of special district service responsibilities in an annexed area from an independent special district which levies ad valorem taxes to a municipality following the municipality's annexation of property located within the jurisdictional boundaries of an independent special district, if the municipality elects to assume such responsibilities."

The municipality may make such an election by adopting a resolution evidencing the election and forwarding the resolution to the office of the special district and the property appraiser and tax collector of the county in which the annexed property is located. In addition, the municipality may incorporate its election into the annexation ordinance.

Upon a municipality's election to assume the district's responsibilities, the municipality and the district may enter into an interlocal agreement addressing the orderly transfer of service responsibilities, real assets, equipment and personnel to the municipality. The agreement must address:

- allocation of responsibility for special district services;
- avoidance of double taxation of property owners for such services in the area of overlapping jurisdiction;
- prevention of loss of any district revenues which may be detrimental to the continued operations of the independent district;
- avoidance of impairment of existing district contracts;
- disposition of property and equipment of the independent district and any assumption of indebtedness for it;
- the status and employee rights of any adversely affected employees of the independent district; and
- any other matter reasonably related to the transfer of responsibilities.

If the municipality and the district are unable to enter into an interlocal agreement, the municipality is required to so advise the district and the property appraiser and tax collector of the county in which the annexed property is located. The district remains the service provider in the annexed area for a period of four years beginning October 1 of the calendar year immediately following the calendar year in which the municipality declares its intent to assume service responsibilities in the annexed area. During the four-year period, the municipality is required to pay the district an amount equal to the ad valorem taxes or assessments that would have been collected had the property remained in the district.

By the end of the four-year period, or any mutually agreed upon extension, the municipality and the district are required to enter into an agreement that identifies the existing district property located in the municipality or primarily serving the municipality that will be assumed by the municipality, the fair market value of such property, and the manner of transfer of such property and any associated indebtedness. If the municipality and district are unable to agree to an equitable distribution of the

district's property and indebtedness, the matter proceeds to circuit court. In equitably distributing the district's property and associated indebtedness, the taxes and other revenues paid the district by or on behalf of the residents of the annexed area are taken into consideration.

During the four-year period, or during any mutually agreed upon extension, district service and capital expenditures within the annexed area are required to be rationally related to the annexed area's service needs. Service and capital expenditures within the annexed area also must be rationally related to the percentage of district revenue received on behalf of the residents of the annexed area when compared to the district's total revenue. The district cannot make a capital expenditure greater than $25,000 for use primarily within the annexed area without the express consent of the municipality.

If the municipality elects not to assume the district's responsibilities, the district remains the service provider in the annexed area. The geographical boundaries of the district continue to include the annexed area, and the district may continue to levy ad valorem taxes and assessments on the real property located within the annexed area. If the municipality elects to assume the district's responsibilities, the district's boundaries contract to exclude the annexed area at the time and in the manner provided in the agreement.

If the municipality elects to assume the district's responsibilities and the municipality and the district are unable to enter into an interlocal agreement, and the district continues to remain the service provider in the annexed area, the geographical boundaries of the district contract to exclude the annexed area on the effective date of the beginning of the four-year period.

Nothing in this section precludes the contraction of the boundary of any independent special district by a special act of the Legislature. The district may not levy ad valorem taxes or assessments on the annexed property in the calendar year in which its boundaries contract and subsequent years, but it may continue to collect and use all ad valorem taxes and assessments levied in prior years. Nothing in the section prohibits the district from assessing user charges and impact fees within the annexed area while it remains the service provider.

In addition to any other authority provided by law, the municipality is authorized to levy assessments on property located in an annexed area to offset all or a portion of the costs incurred by the municipality in assuming district responsibilities. Such assessments may be collected pursuant to and in accordance with applicable law.

These provisions do not apply to districts created pursuant to chs. 190 (community development districts) or 373 (water management districts), F.S.

Firefighters' Pension Plans

Chapter 175, F.S., originally enacted in 1939, regulates and provides funding for municipal and special district firefighters' pension plans. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993. This chapter creates a uniform retirement system providing defined-benefit retirement plans for firefighters, setting standards for operation and funding of these pension systems. Municipalities and special districts that elect to create plans governed by this chapter may impose a premium tax on property insurance covering properties within their jurisdiction.[1]

Retirement plan funding comes from the premium tax, employee contributions, and other pledged revenue sources. If these sources are insufficient, the municipality or special district must pay what is necessary to keep the plan actuarially sound. Responsibility for overseeing and monitoring these plans

[1] The amount of premium taxes collected under ch. 175, F.S., is equal to 1.85 percent of all property insurance written within the city limits or boundaries (in the case of fire districts) of the participating plan. When a property insurance policy is written, the insurance agent is required to report to the insurance company whether the property is located within a municipality/district making the policy subject to a premium tax. The insurance company is then liable for collecting the tax, reporting aggregate monies to each municipality/district, and paying the tax collected over to the state. The Department of Revenue collects the tax, and reports the aggregate collections from all insurance companies to the Division of Retirement, which distributes the appropriate funds to each municipality/district.

lies with the Division of Retirement of the Department of Management Services, but day-to-day operational control rests with local boards of trustees.

North Naples Fire Control and Rescue District

Chapter 99-450, L.O.F. is the special act which codified the special laws relating to the North Naples Fire Control and Rescue District in Collier County (ch. 61-2032, L.O.F.; ch. 75-359, L.O.F.; ch. 76-349, L.O.F.; ch. 77-532, L.O.F.; ch. 77-533, L.O.F.; ch. 78-493, L.O.F.; ch. 80-488, L.O.F.; ch. 80-491, L.O.F.; ch. 82-283, L.O.F.; ch. 83-390, L.O.F.; ch. 84-416, L.O.F.; s. 1 of ch. 88-519, L.O.F.; ch. 89-448, L.O.F.; ch. 89-455, L.O.F.; ss.1 and 3 of ch. 91-375, L.O.F.; ch. 96-512, L.O.F.; and all references to the North Naples Fire Control and Rescue District contained in ch. 98-489, L.O.F. The act has not been amended since 1999.

Section 3 of Art. III of this act currently provides that if property in the North Naples Fire Control and Rescue District is annexed by the City of Naples between January 1 and July 1 of any year, the property will be regarded as removed from the district as of January 1 of that year for the purpose of the levy of general ad valorem taxes by the district. If annexation occurs after July 1, the property is assessed by the district for ad valorem taxes for that year.

On and after the effective date of annexation, the district is relieved of providing fire service to the annexed area. The city and the district may reach an agreement to determine what portion, if any, of the existing indebtedness or property of the district shall be assumed by the city, the fair value of such indebtedness or property, and the manner of transfer and financing. The annexed property is not relieved from the payment of general obligation debt service incurred by the district before annexation. This language was added by ch. 89-44, L.O.F.

Effect of Proposed Changes

HB 1399 amends section 3 of Art. III of s. 3 of ch. 99-450, L.O.F, to remove current provisions regarding annexations within the district. The new language provides that s.171.093, F.S., applies to annexations by a municipality within the boundaries of the district.

The bill additionally provides that the annexing municipality is required to annually pay the district the equivalent of the premium tax revenues authorized in ss. 175.041 and 175.101, F.S, that are attributable to annexed properties during the duration of the period provided for in s.171.093(4), F.S., or the expiration of an interlocal agreement, or any extension of such agreement, as authorized in s. 171.093(3), F. S., whichever is later This language would appear to require an annexing municipality to pay the district premium tax revenues for the four-year period triggered by s. 171.093, F.S., whether or not the district provides services within the area at issue, thereby causing a funding deficit for its own retirement plan.

During the term of the district's provision of fire protection services to the annexed area, the district's regulations and inspection requirements are to apply within the annexed area, terms which could be subject to negotiation under the various scenarios described under s. 171.093, F.S. Also, the bill confirms that during the term of the districts' provision of fire protection services it retains the authority to collect inspection fees and impact fees within the annexed area. See, s. 171.093(6), F.S.

The act provides an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends section 3 of Art. III of s. 3 of ch. 99-450, L.O.F.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? January 20, 2006

WHERE? The *Naples Daily News*, a newspaper published in Collier County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill as it may provide exemptions to s. 171.093 and ch. 175, F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Sponsor of the bill intends to offer a strike-all amendment that:

- removes all language referring to annexation within the charter of the North Naples Fire Control and Rescue District, and adds a statement affirming that s. 171.093, F.S. applies to annexations by a municipality within the boundaries of the district.
- provides that the district has the authority to provide housing or housing assistance for its employed personnel.

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL AMENDMENT POLICY

All substantive amendments to local bills must be approved by the legislative delegation. This form must accompany all substantive amendment(s) (committee, council or floor). All substantive amendments must be reviewed by appropriate House staff. This form is not needed for technical, clarifying or conforming amendments.

BILL #: HB 1399

SPONSOR(S): Representative Davis

RELATING TO: North Naples Fire Control Rescue District, Collier County
[Indicate Area Affected (City, County, Special District) and Subject]

SPONSOR OF AMENDMENT: Davis

CONTACT PERSON: Laura Jacobs

PHONE # and E-mail: 813-495-0575; ljacobs@cowmpa.com

REVIEWED BY HOUSE STAFF [ ] (must be checked)

I. BRIEF DESCRIPTION OF AMENDMENT DESIRED:

Authorizes the North Naples Fire Control District to provide housing or housing assistance for its employed personnel. Removes the bill's language as it relates to the premium tax inequity and the provision of the fire protection services upon annexation.

II. REASON/NEED FOR AMENDMENT:

As a result of increasing housing costs in Collier County (approximately $500,000.00 median home price), there is a severe lack of affordable housing available to District employees, including firefighters. The District recognizes its ability to provide fire protection is impaired if its employees are unable to find housing. This amendment authorizes the District to provide housing or housing assistance. Although **

III. THE AMENDMENT DESCRIBED ABOVE HAS BEEN APPROVED BY A MAJORITY OF THE DELEGATION:

YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

**we believe that the District currently has this authority, this amendment specifically grants it.

Approve

Delegation Chair *(Original Signature)* **Date**

0
NAPLES DAILY NEWS
Published Daily
Naples, FL 34102

Affidavit of Publication

State of Florida
County of Collier

Before the undersigned they serve as the authority, personally appeared B. Lamb, who on oath says that they serve as the Assistant Corporate Secretary of the Naples Daily, a daily newspaper published at Naples, in Collier County, Florida; distributed in Collier and Lee counties of Florida; that the attached copy of the advertising, being a

PUBLIC NOTICE

in the matter of Public Notice
as published in said newspaper 1

time(s) in the issue January 20th, 2006

Affiant further says that the said Naples Daily News is a newspaper published at Naples, in said Collier County, Florida, and that the said newspaper has heretofore been continuously published in said Collier County, Florida; distributed in Collier and Lee counties of Florida, each day and has been entered as second class mail matter at the post office in Naples, in said Collier County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

(Signature of affiant)

Sworn to and subscribed before me
This February 7th, 2006

(Signature of notary public)

Harriett Bushong
MY COMMISSION # DD234667 EXPIRES
July 24, 2007
BONDED THRU TROY FAIN INSURANCE, INC

NOTICE OF INTENT TO SEEK LEGISLATION BY THE NORTH NAPLES FIRE CONTROL & RESCUE DISTRICT

TO WHOM IT MAY CONCERN: Notice is hereby given that the North Naples Fire Control & Rescue District in Collier County is intending to apply to the 2006 Legislature for passage of an act relating to its district boundaries and the applicable requirements and procedures following annexation within its boundaries; providing clarification of the district's authority as it relates to personnel housing; and providing an effective date.

January 20 No. 1301095

HOUSE OF REPRESENTATIVES

2005 LOCAL BILL CERTIFICATION

BILL #: HB 1399

SPONSOR(S): Davis

RELATING TO: North Naples Fire Control and Rescue District
[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Collier County

CONTACT PERSON: Laura Jacobs

PHONE # and E-Mail: 813-495-0575 ljacobs@cowmpa.com

I. *House policy requires that three things occur before a council or a committee of the House consider a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [x] NO [ ]

(2) Has a public hearing been held? YES [x] NO [ ]

Date hearing held: December 14, 2005

Location: Immokalee Community Park

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE January 20, 2006

Where? Naples Daily News **County** Collier

Referendum in lieu of publication: YES [ ] NO [x]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [X]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Mike Davis 3/27/06
Delegation Chair (*Original Signature*) **Date**

HOUSE OF REPRESENTATIVES
2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be competed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL: HB 1399

SPONSOR(S): Davis

RELATING TO: **North Naples Fire Control & Rescue District in Collier County; boundaries**

[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:		
	FY 06-07	**FY 07-08**
Expenditures: ***cost of local bill passage**	**minimal***	**n/a**
II. ANTICIPATED SOURCE(S) OF FUNDING:		
	FY 06-07	**FY 07-08**
Federal:	**n/a**	**n/a**
State:	**n/a**	**n/a**
Local:	**n/a**	**n/a**
III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:		
	FY 06-07	**FY 07-08**
Revenues:	**n/a**	**unknown**

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:
This local bill allows a potential lawsuit between the City of Naples and the North Naples Fire Control & Rescue District (District) to be avoided by clarifying that section 171.093, Florida Statutes, applies when the City of Naples annexes within the District's boundaries. Both local governments would save the legal fees that would arise if litigation is pursued. **This local bill also allows the district to continue to receive the premium tax revenues associated with the annexed property during the period that the district continues to provide fire protection services to the annexed property.**
V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:
None
VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]: **Financial documentation from the North Naples Fire Control & Rescue District**

PREPARED BY: Laura Jacobs 1/31/07
[Must be signed by Preparer] **Date**

TITLE: Special Legislative Counsel

REPRESENTING: North Naples Fire Control & Rescue District

PHONE: 813-495-0575

E-Mail Address: ljacobs@cowanpa.com

1 A bill to be entitled
2 An act relating to the North Naples Fire Control and
3 Rescue District, Collier County; amending chapter 99-450,
4 Laws of Florida; providing for the payment of certain
5 taxes and fees and the application of certain regulations
6 and requirements in the event of annexation by a
7 municipality within the boundaries of the district;
8 providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Section 3 of Article III of section 3 of
13 chapter 99-450, Laws of Florida, is amended to read:
14 ARTICLE III
15 Boundaries of the District
16 Section 3. Section 171.093, Florida Statutes, applies to
17 annexations by a municipality within the boundaries of the
18 district. The annexing municipality shall annually pay the
19 district the equivalent of the premium tax revenues authorized
20 in sections 175.041 and 175.101, Florida Statutes, that are
21 attributable to the annexed properties during the duration and
22 until the later of the expiration of the period provided for in
23 section 171.093(4), Florida Statutes, or the expiration of the
24 interlocal agreement, or any extension of such agreement, as
25 authorized in section 171.093(3), Florida Statutes. During the
26 term of the district's provision of fire protection services to
27 the annexed area, the district's regulations, inspection
28 requirements, and authority to collect inspection fees and

29 impact fees shall apply within the annexed area. ~~In the event~~
30 ~~that property in the district is annexed by the City of Naples~~
31 ~~between January 1 and July 1 of any year, the property shall be~~
32 ~~regarded as removed from the North Naples Fire Control and~~
33 ~~Rescue District as of January 1 of that year for the purpose of~~
34 ~~the levy of general ad valorem taxes by the district. If~~
35 ~~annexation occurs after July 1, the property shall be assessed~~
36 ~~by the district for ad valorem taxes for that year. On and after~~
37 ~~the effective date of annexation, the district shall be relieved~~
38 ~~of providing fire service to the annexed area. The city and the~~
39 ~~district may reach an agreement to determine what portion, if~~
40 ~~any, of the existing indebtedness or property of the district~~
41 ~~shall be assumed by the municipality of which the annexed~~
42 ~~territory will become a part, the fair value of such~~
43 ~~indebtedness or property, and the manner of transfer and~~
44 ~~financing. Nothing herein shall relieve the property annexed~~
45 ~~from the payment of general obligation debt service incurred by~~
46 ~~the district before annexation.~~
47 Section 2. This act shall take effect upon becoming a law.

HB 1445

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1445 West Villages Improvement District, Sarasota County
SPONSOR(S): Reagan
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

The West Villages Improvement District (District) is an independent special district wholly within the City of North Port, Sarasota County, Florida. The District consists of approximately 8,194 acres. The District's charter grants the District the powers, functions, and duties under chs. 189 (Special District: General Provisions) and 298 (Draining and Water Control), F.S., with a few exceptions. The District has the authority to levy non-ad valorem assessments.

This bill adds approximately 3,740 acres of unincorporated land in Sarasota County into the District. The bill edits the District's charter to provide for the same requirements governing the interactions with the District and the City of North Port, to apply to Sarasota County, and where appropriate, the Englewood Water District. The bill also requires an interlocal agreement with Sarasota County prior to the District exercising any of its powers, functions, or duties relative to infrastructure planning , programming, or construction within its territory located within Sarasota County.

The bill provides residency requirements for two seats on the board, based on population goals.

The bill also calls for a referendum within 60 days after becoming law, in which a majority vote of the acreage cast of all landowners (including those within the current District and those in the purposed expanded boundaries) is required to add the new territory. The referendum is to be held on a one acre, one vote basis at the expense of the District.

The bill provides an effective date of upon becoming law, except for the annexation, which will take effect only upon approval by the land owners.

The estimated cost of administration, implementation, and enforcement are expected to be offset by the anticipated new and increased revenues in both FY 2006/07 and FY 2007/08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government/Ensure Lower Taxes: If approved by the Board of Commissioners of Sarasota County and a majority vote of the acreage cast, this bill would add approximately 3,740 acres of unincorporated land in Sarasota County into the District, in which the District may exercise its authorities and powers, as formally set out below. The District has the authority to levy non-ad valorem assessments.

B. EFFECT OF PROPOSED CHANGES:

Current Situation:

The West Villages Improvement District (District) is an independent special district wholly within the City of North Port, Sarasota County, Florida. The District consists of approximately 8,194 acres. The District's charter grants the District the powers, functions, and duties under chs. 189 (Special District: General Provisions) and 298 (Draining and Water Control), F.S., with a few exceptions.

The powers of the District are summarized as follows:

a) To adopt bylaws for the regulation of its affairs and the conduct of its business.
b) To adopt rules for the implementation, regulation, and enforcement consistent with the purpose of the District.
c) To adopt an official seal.
d) To acquire real or personal property or an easement, license, estate or interest therein, for the purposes of the District by a variety of means, including the power of eminent domain when necessary and to sell or otherwise convey out all or any portion of those interests to or with other entities. However, the District is not authorized to obtain fee simple title to real property within the District except by dedication on an approved plat, and with the approval of the North Port Commission, or if otherwise required by another governmental entity or agency. All District property interests used for nonpublic or private commercial purposes, are subject to all taxes and assessments as if privately owned.
e) To finance and carry on specific planning functions related to the design, acquisition, modification and maintenance of components of a "modern comprehensive water management drainage; environmental; mitigation preservation; erosion, quality and control purposes." However, the District shall agree at the request of the City of North Port and subject to a developer's agreement with the City of North Port, to donate any and turn over operation of any or all of the water management system to the City.
f) To regulate, modify, control, and redirect the supply of water within the District, including division of waters between water bodies and control facilities, if consistent with City and Southwest Florida Water Management District rules and regulations. To control and restrict development and use of natural or artificial water bodies; and to prevent or alleviate erosion, flooding, or water quality problems, in accordance with applicable federal, state and local rules and regulations.
g) To finance studies to assist in implementing the District's purposes.
h) To finance, plan, generally implement, and maintain irrigation works.
i) To finance, plan, generally implement, and maintain roadways, parkways, bridges, bicycle and jogging paths, street lighting, entry features, traffic signals; including an annual non-ad valorem assessment.
j) To finance, plan, generally implement, and maintain entry features, garages, parking facilities, district offices, buildings, facilities, and structures.

k) To finance, plan, generally implement, and maintain community of public preserves, uplands, wetlands, playgrounds, parks, gymnasiums, stadiums, ballfields, greenways, waterways, and facilities for indoor and outdoor recreational, sport, cultural and educational uses.
l) To finance, plan, generally implement, and collect fees on the production, desalination, purification, sales, and distribution of water for consumption, irrigation, or other purposes.
m) To finance, plan, generally implement, maintain, and collect fees on the collection, disposal and reuse of effluent, waste, residue, or other byproducts of a ewer system; the prevention of pollution, and improvement of water quality; including the charging of connection fees and charges.
n) To finance, plan, generally implement, and maintain mosquito control.
o) To finance, plan, generally implement, and maintain preservation areas, conservation areas, environmental areas, mitigation areas, and wildlife habitat or sanctuaries, including the maintenance of any plant or animal species.
p) To finance, plan, generally implement, and maintain systems and facilities for school buildings and related structures.
q) To levy non-ad valorem assessments; establish and collect rates, fees, rentals, fares or other charges for property, facilities, and services made available by the district.
r) To discontinue service and charge reasonable penalties, including attorney's fees, related to delinquent charges.
s) To enter into agreements for facilities and services authorized and implied by this act.
t) To borrow money, issue negotiable or other bonds, and issue negotiable or other notes, in anticipation of the collection of levies, fees, penalties, charges, fares, and assessments or revenues of the district; to pledge such non-ad valorem assessments and other revenues to secure bonds, note or other obligations, and to sell, discount, negotiate or dispose of such instruments.
u) To provide for safety enhancements and contract with the appropriate local general government agencies for an increased level of such service.
v) To provide systems for fire prevention, including the construction or purchase of fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.
w) To obtain permits and to enter contracts and to employ consultants and other employees and agents.
x) To require any individual or entity to obtain written authorization for use of certain district property, rights-of-way, or to connect to works of the district.
y) To include in a plan improvements the engineer's report and authorizing ch. 170, F.S., authorizing documents (Supplemental and Alternative Method of Making Local Municipal Improvements) to substitute for engineer's report..
z) To assess benefits and damages to the district's lands as regards ch. 170, F.S.
aa) To establish and create departments, committees, boards, or other agencies, including a public relations committee.
bb) Require compliance with the City of North Port comprehensive plan, unified land development code, zoning code and other city codes.
cc) To establish employee benefits.
dd) To invest surplus funds.
ee) To submit the infrastructure improvements plan to the City of North Port.
ff) To apply, obtain, and utilize grants from other entities.
gg) To be limited as to maintaining levels of service on any concurrency regulated facilities in unincorporated Sarasota County
hh) To collect fair share contributions from Sarasota County when approved.

The District's charter contains the following exemptions from general law:

- The charter excludes s. 189.4045(2), F.S., from applying to the District.[1] Section 189.4045(2), F.S., provides for the transfer of assets and debts to the local general-purpose government upon the dissolution of a special district. Rather, the District relies on its non-ad valorem assessment

[1] See ch. 2004-456, L.O.F., § 2(3).

authority as security for debts and the usage of s. 197.363 and s. 197.3632, F.S., for the collection of said non-ad valorem assessments.

- The charter provides for a maintenance assessment in lieu of the maintenance tax provided for in s. 298.54, F.S.[2]
- The charter grants exclusive authority for the issuance of bonds by the District, while s. 298.47, F.S., provides the board of supervisors of a ch. 298, F.S., district the authority for the issuance of bonds.[3]
- The charter does not require that the District validate its bonds under ch. 75, F.S., while s. 75.02, F.S., provides that any county, municipality, taxing district or other political district, may determine its authority to incur bonded debt by means of a validation proceeding. [4]
- The charter does not require the approval or consent of the bondholders when an amendment is made to the plan of improvement, the engineer's report, or ch. 170 authorizing documents, regardless of any contrary language in ch. 298, F.S., ch. 170 authorizing documents, or provisions of the charter. Section 298.77, F.S., provides that adjustments to assessments may only be made provided the owners of 25% of the acreage and the holders of not less than 95% of any outstanding indebtedness, petition for a readjustment of assessments.[5]
- The charter requires a referendum prior to the amendment of a plan of improvement for any unit which has been sold to the general public. Existing law, s. 298.329, F.S., allows the board of supervisors to amend the plan of improvement and levy an additional assessment. [6]

Effect of Bill:

This bill adds approximately 3,740 acres of unincorporated land in Sarasota County into the District.[7] Before the boundaries can be expanded by the approval of the Legislature and majority of landowners in the current District and proposed addition, the bill requires prior approval from the Board of County Commissioners of Sarasota County.

The bill contains amendments to the charter's various sections to address the addition of the new territory. The bill makes edits to provide for the same requirements governing the interactions with the District and the City of North Port, to also apply to Sarasota County, and where appropriate, the Englewood Water District. The bill requires that where authorization and prior approval from the North Port Commission was required to implement certain District powers and authorities within the territory of the City, the District must now also receive prior approval from the Board of Commissioners of Sarasota County for the District to use those powers within the County's territory, and requires the Board for the Englewood Water District to approve the District's use of power in that territory. The bill imposes the same requirements regarding compliance and consistency with the plans and studies of the local general purpose and special district governing bodies in the varied parts of the territory.

The bill requires that the District to donate and turn over the operation of its water management, public roadway, water, wastewater systems within the territory being added within the County or, when appropriate, Englewood Water District, at the request of the Board of County Commissioners of Sarasota County or Board of the Englewood Water District, or their designees, and subject to a developer's agreement with Sarasota County or the Englewood Water District.

The bill also requires an interlocal agreement with Sarasota County prior to the District exercising any of its powers, functions, or duties relative to infrastructure planning , programming, or construction within its territory located within Sarasota County.

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[2] See ch. 2004-456, L.O.F., § 7(1).
[3] See ch. 2004-456, L.O.F., § 10(1).
[4] See ch. 2004-456, L.O.F., § 10(12).
[5] See ch. 2004-456, L.O.F., § 14(3).
[6] See ch. 2004-456, L.O.F., § 14(4).
[7] 2006 Economic Impact Statement, HB 1445.

The bill provides that one supervisor of the board elected be a resident of the City when the population of landowners that are registered voters in the City is at least 6,000 on or before January 1 of any year. The same requirement is instituted for the unincorporated area when there are at least 3,000 landowners registered as voters.

The bill requires publication of notices to include Sarasota County. The bill also institutes two weeks advanced notice of the board's intent to establish a unit or units to either the City of North Port City Manager or the Sarasota County Administrator, depending on where the unit is being formed.

The bill also calls for a referendum within 60 days after becoming law, in which a majority vote of the acreage cast of all landowners (including those within the current District and those in the purposed expanded boundaries) is required to add the new territory. The referendum is to be held on a one acre, one vote basis at the expense of the District.

C. SECTION DIRECTORY:

Section 1: Amend ss. 2, 3, 4, 5, 11, 12, 17, and 19 of ch. 2004-456, L.O.F., to add new boundaries and make changes in the charter to apply powers and duties to the new boundaries in the same manner as required for the City of North Port.

Section 2: Provides for a referendum.

Section 3: Provides on effective date of approval by a majority vote of those qualified landowners for s. 1, and upon becoming law for ss. 2 and 3.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? October 22, 2005.

WHERE? *Sun Newspapers*, Charlotte, DeSoto, Englewood, North Port, and Venice, Florida.

B. REFERENDUM(S) REQUIRED? Yes [X] No []

IF YES, WHEN? Within 60 days of s. 2 and 3 becoming law.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

The estimated cost of administration, implementation, and enforcement is $90,000 for FY 2006/07 and $120,000 for FY 2007/08. The anticipated new and increased revenues are $90,000 for FY 2006/07 and $120,000 for FY 2007/08.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues:

Line 622, page 23, "county's" needs to be capitalized.

Other Comment:

Sarasota County will have to provide standard zoning and police enforcement services to the subject acreage, when developed, which the District does not have the authority to provide.[8]

There will be overlapping boundaries with the proposed addition and the Englewood Water District. Englewood Water District is a water, wastewater and reuse provider and their revenue source is utility fees. The West Villages Improvement District also has the authority to do similar functions within its territory and the ability to charge access, user, or connections fees in carrying out these functions. This may cause a double taxation, double service problem. However, the bill does require prior authorization from the Board of the Englewood Water District before taking any action regarding these functions within Englewood's territory.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

[8] 2006 Economic Impact Statement, HB 1445.

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL AMENDMENT POLICY

All substantive amendments to local bills must be approved by the legislative delegation. This form must accompany all substantive amendment(s) (committee, council or floor). All substantive amendments must be reviewed by appropriate House staff. This form is not needed for technical, clarifying or conforming amendments.

BILL #: HB 1445

SPONSOR(S): Representative Ron Reagan

RELATING TO: West Villages Improvement District
[Indicate Area Affected (City, County, Special District) and Subject]

SPONSOR OF AMENDMENT: _____

CONTACT PERSON: _____

PHONE # and E-mail: _____

REVIEWED BY HOUSE STAFF [ ] (must be checked)

I. BRIEF DESCRIPTION OF AMENDMENT DESIRED:

1. Deletion of the words "agree" and "to" on page 11, lines 296 and 301, and on page 13 lines 351 and 356.

2. Inclusion of Section 10 of current law at the bottom of page 29 revising subparagraph (2) to include the words "and Sarasota County". The change is as follows:

> (2) Provided that any and all loans or bonds of the district are nonrecourse as to the City of North Port "and Sarasota County", the board of supervisors may issue bonds not to exceed …

II. REASON/NEED FOR AMENDMENT:

These amendments were requested by Sarasota County in order to obtain certain assurances or clarifications as a result of the Bill's proposed addition to the District's jurisdictional boundary of additional acreage within the unincorporated area of Sarasota County, Florida.

III. THE AMENDMENT DESCRIBED ABOVE HAS BEEN APPROVED BY A MAJORITY OF THE DELEGATION:

YES [ ] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

Ron Reagan

Delegation Chair *(Original Signature)* **Date**

1445

FAX 56-655-3775
MAIL

SUN NEWSPAPERS

Charlotte • DeSoto • Englewood • North Port • Venice

STATE OF FLORIDA
COUNTY OF CHARLOTTE/SARASOTA

Before the undersigned personally appeared **Treva Ward** who on oath says that he/she is **THE LEGAL REPRESENTATIVE** of the Charlotte Sun Herald/Englewood Sun Herald/North Port Sun Herald/DeSoto Sun Herald, a daily newspaper printed at Charlotte Harbor in Charlotte County, Florida, and at **Venice in Sarasota County, Florida;** that the attached copy of advertisement being a **Public Notice**

in the matter of **Special Legislation**

Affiant further says that the said newspaper has heretofore continuously published in Charlotte County, Florida, Sarasota County, Florida, and DeSoto County, Florida, each day and has been entered as Second-Class mail matter at the Post Office in Punta Gorda, in said Charlotte County, Florida and at mailing offices, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says he/she has neither paid nor promised any person, firm or corporation and discount, rebate, commission or refund for the purpose of securing this advertisement **October 22, 2005**

Treva Ward
(Signature of Affiant)

Sworn to and subscribed before me this **1ST DAY OF NOVEMBER, 2005**

Carolann L. Mozik
(Signature of notary public)
Carolann L. Mozik
(Name of Notary Public) Personally known X or Produced Identification__

CAROLANN L. MOZIK
Notary Public, State of Florida
My comm. expires Nov. 4, 2007
Comm. No. DD0231693
Bonded Thru (800) 432-4254

NOTICE OF INTENTION TO SEEK ENACTMENT OF SPECIAL LEGISLATION

Pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, the Board of Supervisors of the West Villages Improvement District does hereby give notice of its intention to seek the enactment of special legislation during the 2006 session of the Florida Legislature. The special legislation will recreate, amend and reenact Chapter 2004-456, Laws of Florida, provide for expanding the territorial boundaries of the District; provide for a referendum for expanding territorial boundaries; supplement the conditions and requirements for the exercise of the District's powers, functions and duties; repeal all prior special acts relating to the West Villages Improvement District; provide for severability; provide that the special legislation shall take precedence over any conflicting law to the extent of such conflict; and provide an effective date.

BY ORDER OF THE BOARD OF SUPERVISORS
WEST VILLAGES IMPROVEMENT DISTRICT

WEST VILLAGES IMPROVEMENT DISTRICT

PUBLISH: October 22, 2005

NOV 07 2005

AFFIDAVIT OF PUBLICATION

SARASOTA HERALD-TRIBUNE
PUBLISHED DAILY
SARASOTA, SARASOTA COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF SARASOTA

BEFORE THE UNDERSIGNED AUTHORITY PERSONALLY APPEARED SHARI BRICKLEY, WHO ON OATH SAYD SHE IS ADVERTISING MANAGER OF THE SARASOTA HERALD-TRIBUNE, A DAILY NEWSPAPER PUBLISHED AT SARASOTA, IN SARASOTA COUNTY FLORIDA; AND CIRCULATED IN SARASOTA COUNTY DAILY; THAT THE ATTACHED COPY OF ADVERTISEMENT BEING A NOTICE IN THE MATTER OF:

NOTICE OF INTENTION TO SEEK ENACTMENT OF SPECIAL LEGISLATION Pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, the Board of Supervisors of the West Villages Improvement District does hereby give notice o

IN THE COURT WAS PUBLISHED IN THE SARASOTA EDITION OF SAID NEWSPAPER IN THE ISSUES OF:

10/25 1x

AFFIANT FURTHER SAYS THAT THE SAID SARASOTA HERALD-TRIBUNE IS A NEWSPAPER PUBLISHED AT SARASOTA, IN SAID SARASOTA COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS THERETOFORE BEEN CONTINUOUSLY PUBLISHED IN SAID SARASOTA COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MAIL MATTER AT THE POST OFFICE IN SARASOTA, IN SAID SARASOTA COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF THE ATTACHED COPY OF ADVERTISEMENT; AND AFFIANT FURTHER SAYS THAT SHE HAS NEITHER PAID NOR PROMISED ANY PERSON, FIRM OR CORPORATION ANY DISCOUNT, REBATE, COMMISSION OR REFUND FOR THE PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN THE SAID NEWSPAPER.

SIGNED Shari Brickley

SWORN OR AFFIRMED TO, AND SUBSCRIBED BEFORE ME THIS 2nd DAY OF NOV., A.D., 2005 BY SHARI BRICKLEY WHO IS PERSONALLY KNOWN TO ME.

Bobbie J Clark
Notary Public

My commission expires 11th day of Oct., 2008.

Bobbie J Clark
My Commission DD347713
Expires October 11, 2008

NOTICE OF INTENTION
TO SEEK ENACTMENT OF SPECIAL LEGISLATION

Pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, the Board of Supervisors of the West Villages Improvement District does hereby give notice of its intention to seek the enactment of special legislation during the 2006 session of the Florida Legislature. The special legislation will re-create, amend and re-enact Chapter 2004-456, Laws of Florida, provide for expanding the territorial boundaries of the District; provide for a referendum for expanding territorial boundaries; supplement the conditions and requirements for the exercise of the District's powers, functions and duties; repeal all prior special acts relating to the West Villages Improvement District; provide for severability; provide that the special legislation shall take precedence over any conflicting law to the extent of such conflict; and provide an effective date.

BY ORDER OF THE BOARD OF SUPERVISORS
WEST VILLAGES IMPROVEMENT DISTRICT

Pub: October 25, 2005

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: 1445 West Villages

SPONSOR(S): Rep. Reagan

RELATING TO: West Villages

[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: Sarasota County

CONTACT PERSON: Annalee Morris / Rep. Ron Reagan Dist 67

PHONE # and E-Mail: 850-488-6341 / 850-321-3306 annalee.morris@myfloridehouse

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: 11/3/05

Location: Sarasota County Commission Chambers

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [ ]

Where? paper **County** Sarasota

Referendum in lieu of publication: YES [ ] NO [ ]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [ ] NO [ ] NOT APPLICABLE [ ]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Delegation Chair *(Original Signature)* **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representative that no bill will be considered by a council or the committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: HB 1445

SPONSOR(S): Representative Ron Reagan

RELATING TO: West Villages Improvement District
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	FY 06-07	FY 07-08
Expenditures:	$ 90,000	$ 120,000

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	None	None
State:	None	None
Local:	Gifts, loans and special/or assessments on real property located within the district's proposed jurisdictional boundaries.	

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues: Estimated	$ 90,000	$ 120,000

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Provides for the coordinated development of approximately 3,740 acres for residential and commercial uses within the unincorporated area of Sarasota

County, which development will be carried out in conjunction with the approximately 8,194 acres currently located within the West Villages Improvement District. This additional development will greatly expand the tax base of the unincorporated Sarasota County, Florida, and surrounding areas.

Disadvantages: Sarasota County will have to provide standard zoning and police enforcement services on behalf of the future owners and residents of the subject acreage which cannot be provided by the District.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

The anticipated construction of public infrastructure, dwelling units and related facilities will likely result in hundreds of jobs being created. During and at build out, the new residential and commercial uses in the District and Sarasota County, Florida, will provide increased employment opportunities and markets for goods and services.

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

Experience in the establishment and operation of independent special districts.

PREPARED BY: Kenneth W. Edwards 03/13/2006

Kenneth W. Edwards Date

TITLE: Attorney

REPRESENTING: West Villages Improvement District

PHONE: (561) 655-0620

E-Mail Address: edwards@caldwellpacetti.com

1 A bill to be entitled
2 An act relating to the West Villages Improvement District,
3 Sarasota County; amending chapter 2004-456, Laws of
4 Florida; expanding the territorial boundaries of the
5 district; supplementing the conditions and requirements
6 for the exercise of its powers, functions, and duties;
7 providing for a referendum; providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Sections 2, 3, 4, 5, 11, 12, 17, and 19 of
12 chapter 2004-456, Laws of Florida, are amended to read:
13 Section 2. District; creation, jurisdiction, and
14 purpose.--
15 (1) The West Villages Improvement District, herein
16 referred to as the "district," is hereby created and
17 incorporated as an independent special district, pursuant to
18 chapter 189, Florida Statutes, to be known as the West Villages
19 Improvement District, in the City of North Port and in
20 unincorporated~~,~~ Sarasota County, which independent special
21 district shall be a public body corporate and politic.
22 (2) The district's territorial boundary shall embrace and
23 include that real property described in following section 17.
24 (3) The district is created for all purposes as shall be
25 liberally construed from and set forth in this act, under
26 sections 189.401-189.429, Florida Statutes, provided that
27 section 189.4045(2), Florida Statutes, is specifically excluded
28 and not applicable to the district or to the City of North Port

29 as to that portion of the district located within the City of
30 North Port jurisdictional boundaries, or to Sarasota County as
31 to that portion of the district located within the
32 unincorporated area, and chapter 298, Florida Statutes, as the
33 same may be amended from time to time, and may perform such acts
34 as shall be necessary, convenient, incidental, or proper for the
35 provision, acquisition, development, operation, and maintenance
36 of those public infrastructure works and services authorized
37 herein, including all facilities necessary and incidental
38 thereto.
39 (4) The district charter created by this act may be
40 amended only by special act of the Legislature. Any expansion of
41 the powers or the boundaries of the district within the City of
42 North Port shall require prior approval of the City of North
43 Port Commission or its designee. Any expansion of the powers or
44 the boundaries of the district within the unincorporated area of
45 Sarasota County shall require prior approval of the Board of
46 County Commissioners of Sarasota County or its designee.
47 (5) The definition of terms and phrases shall be as set
48 forth in chapters 189 and 298, Florida Statutes, unless
49 otherwise herein defined.
50 Section 3. District powers, functions, and duties.--
51 (1) In addition to any powers, functions, and duties set
52 forth in this act, the district shall have the authority to
53 exercise such powers, functions, and duties as may be set forth
54 in chapter 298, Florida Statutes.
55 (2) The district is hereby authorized and empowered as
56 follows:

57 (a) To adopt by resolution bylaws for the regulation of
58 its affairs and the conduct of its business.
59 (b) To adopt by resolution rules as necessary for
60 implementation, regulation, and enforcement as are consistent
61 with the purposes of the district and this act.
62 (c) To adopt an official seal reflecting the name and
63 nature of the district.
64 (d) To acquire by grant, loan, purchase, gift, transfer,
65 exchange, dedication, lease, devise, or, when reasonably
66 necessary for the implementation of district-authorized public
67 infrastructure works, facilities, or services by means of the
68 exercise of the right of eminent domain pursuant to the laws of
69 the state and in accordance with section 12 of this act, all
70 property, real or personal, or any easement, license, estate, or
71 interest therein necessary, desirable, or convenient for the
72 purposes of this act, and to sell, convey, transfer, gift,
73 lease, rent, dedicate, forfeit, abandon, exchange, or assign all
74 or any part thereof to or with other entities, including
75 governmental entities and agencies, and to exercise all of its
76 powers and authority with respect thereto. The district shall
77 not have the right of eminent domain outside of the boundaries
78 of the district. Notwithstanding anything contained herein, the
79 district shall not obtain fee simple title to any real property
80 within the district except by dedication on an approved plat:
81 1. As to that portion of the district located within the
82 City of North Port jurisdictional boundaries, with the approval
83 of the City of North Port Commission or its designee;

84 2. As to that portion of the district located within the
85 unincorporated area, with the approval of the Board of County
86 Commissioners of Sarasota County or its designee;~~,~~ or
87 3. As ~~if~~ otherwise required by another governmental entity
88 or agency.
89
90 Any property interests owned by the district which are used for
91 nonpublic or private commercial purposes shall be subject to all
92 ad valorem taxes, intangible personal property taxes, or non-ad
93 valorem assessments, as would be applicable if said property
94 were privately owned.
95 (e) To finance, plan (as to that portion of the district
96 located within the City of North Port jurisdictional boundaries,
97 consistent with the City of North Port Comprehensive Plan and
98 implementing ordinances, studies, and plans; and, as to that
99 portion of the district located within the unincorporated area,
100 consistent with the Sarasota County Comprehensive Plan and
101 implementing ordinances, studies, and plans), design, acquire,
102 construct, install, operate, equip, upgrade, reclaim, replace,
103 extend, renovate, mitigate, and maintain canals, swales,
104 outfalls, dams, control structures, pumps and pumping systems,
105 aerators, seawalls, berms, ditches, telemetry and monitoring
106 equipment, retention areas, holding basins, marshes, wetlands,
107 uplands, drains, levees, lakes, ponds, and other works or
108 elements for modern comprehensive water management drainage,
109 environmental, mitigation preservation, erosion, quality, and
110 control purposes, and:

111 1. As to that portion of the district located within the
112 City of North Port jurisdictional boundaries, ~~further that~~ the
113 district shall agree, at the request of the City of North Port
114 Commission or its designee, subject to a developer's agreement
115 with the City of North Port (neither party's consent to said
116 developer's agreement shall be unreasonably withheld), to donate
117 and turn over operation to the City of North Port of all or any
118 portion of said water management system located within the City
119 of North Port jurisdictional boundaries; and
120 2. As to that portion of the district located within the
121 unincorporated area, the district shall agree, at the request of
122 the Board of County Commissioners of Sarasota County or its
123 designee, subject to a developer's agreement with Sarasota
124 County (neither party's consent to said developer's agreement
125 shall be unreasonably withheld), to donate and turn over
126 operation to Sarasota County of all or any portion of said water
127 management system located within the unincorporated area ~~to the~~
128 ~~City of North Port~~.
129 (f) To regulate, modify, control, and redirect the supply
130 and level of water within the district if consistent with the
131 rules and regulations of:
132 1. The City of North Port as to that portion of the
133 district located within the City of North Port's jurisdictional
134 boundaries;
135 2. Sarasota County, as to that portion of the district
136 located within the unincorporated area; and
137 3. The ~~Port and~~ Southwest Florida Water Management
138 District ~~rules and regulations~~,

139
140 including the division of waters from one area, lake, pond,
141 river, stream, basin, or water control facility to another; to
142 control and restrict the development and use of natural or
143 artificial streams or bodies of water, lakes, or ponds; and to
144 take of measures determined by the board to be necessary or
145 desirable to prevent or alleviate land erosion, flooding, or
146 water quality problems or issues, provided all such activity
147 shall be carried out in accordance with applicable federal,
148 state, and local government rules and regulations.
149 (g) To finance the implementation of appropriate studies,
150 whether by the district or in conjunction with other agencies or
151 entities, to assist in implementing the district's powers,
152 authorities, and purposes as set forth herein and to facilitate
153 the orderly management of the district and its works and
154 facilities.
155 (h) To finance, plan (as to that portion of the district
156 located within the City of North Port jurisdictional boundaries,
157 consistent with City of North Port Comprehensive Plan and
158 implementing ordinances, studies, and plans; and, as to that
159 portion of the district located within the unincorporated area,
160 consistent with the Sarasota County Comprehensive Plan and
161 implementing ordinances, studies, and plans), design, acquire,
162 construct, install, operate, equip, upgrade, replace, extend,
163 renovate, and maintain irrigation works, machinery, plants, and
164 appurtenances.
165 (i) To finance, plan (as to that portion of the district
166 located within the City of North Port jurisdictional boundaries,

167 consistent with City of North Port Comprehensive Plan and
168 implementing ordinances, studies, and plans; and, as to that
169 portion of the district located within the unincorporated area,
170 consistent with the Sarasota County Comprehensive Plan and
171 implementing ordinances, studies, and plans), design, acquire,
172 construct, install, operate, equip, upgrade, replace, extend,
173 renovate, and maintain roadways; and to include either as a
174 component of such roads or independently by themselves,
175 parkways, bridges, landscaping, irrigation, bicycle and jogging
176 paths, street lighting, entry features, traffic signals, road
177 striping, and all other customary elements or appurtenances of a
178 modern road system for the exclusive use and benefit of the
179 district, a unit of development, and/or its landowners,
180 residents, and invitees in order to control ingress and egress;
181 to finance and maintain said roads and their associated elements
182 and components as a part of a plan of improvements; to construct
183 and maintain security structures to control the use of said
184 roads; to make provision for access by fire, police, and
185 emergency vehicles and personnel for the protection of life and
186 property; to include, in the annual assessment of non-ad valorem
187 assessments as authorized, sufficient funds to finance and
188 maintain said roads as a part of a plan of improvements, and to
189 adopt, by resolution of the board, rules and regulations for the
190 control of traffic, noise levels, crime, and the use of the
191 roads by those authorized. Provided that in the event the
192 district should construct all or any portion of a major
193 thoroughfare or transportation route as identified in section
194 163.3177(6)(b), Florida Statutes, the district will not be

195 permitted to limit said thoroughfare or transportation route for
196 the exclusive use and benefit of the district, a unit of
197 development, and/or its residents without the written consent of
198 the applicable local general purpose government. Notwithstanding
199 anything to the contrary herein:
200 1. As to that portion of the district located within the
201 City of North Port jurisdictional boundaries, construction of
202 roads by the district shall not be in conflict with City of
203 North Port rules, master plans, plans, specifications, or
204 regulations; and
205 2. As to that portion of the district located within the
206 unincorporated area, construction of roads by the district shall
207 not be in conflict with rules, master plans, plans,
208 specifications, or regulations of Sarasota County.
209
210 As to that portion of the district located within the City of
211 North Port jurisdictional boundaries, the district shall agree,
212 at the request of the City of North Port Commission or its
213 designee, subject to applicable impact fee ordinances and a
214 developer's agreement with the City of North Port (neither
215 party's consent to said developer's agreement shall be
216 unreasonably withheld), to donate and turn over operation of all
217 or any portion of any public roadway system within the City of
218 North Port jurisdictional boundaries. As to that portion of the
219 district located within the unincorporated area, the district
220 shall agree, at the request of the Broad of County Commissioners
221 of Sarasota County or its designee, subject to applicable impact
222 fee ordinances and a developer's agreement with Sarasota County

223 (neither party's consent to said developer's agreement shall be
224 unreasonably withheld), to donate and turn over operation of all
225 or any portion of any public roadway system within the
226 unincorporated area to Sarasota County ~~to the City of North~~
227 ~~Port~~.
228 (j) To finance, plan (as to that portion of the district
229 located within the City of North Port jurisdictional boundaries,
230 consistent with City of North Port Comprehensive Plan and
231 implementing ordinances, studies, and plans; and, as to that
232 portion of the district located within the unincorporated area,
233 consistent with the Sarasota County Comprehensive Plan and
234 implementing ordinances, studies, and plans), design, acquire,
235 construct, install, operate, equip, upgrade, replace, extend,
236 renovate, and maintain entry features, garages, parking
237 facilities, district offices, buildings, facilities, and
238 structures.
239 (k) To finance, plan (as to that portion of the district
240 located within the City of North Port jurisdictional boundaries,
241 consistent with City of North Port Comprehensive Plan and
242 implementing ordinances, studies, and plans; and, as to that
243 portion of the district located within the unincorporated area,
244 consistent with the Sarasota County Comprehensive Plan and
245 implementing ordinances, studies, and plans), design, acquire,
246 construct, install, operate, equip, upgrade, replace, extend,
247 renovate, reclaim, mitigate, protect, remove exotics, and
248 maintain improvements, works, landscaping, systems, structures,
249 buildings, and facilities for community or public preserves,
250 uplands, wetlands, playgrounds, parks, gymnasiums, stadiums,

251 ballfields, greenways, waterways, and facilities for indoor and
252 outdoor recreational, sport, cultural, and educational uses.
253 (l)1. To finance, plan (as to that portion of the district
254 located within the City of North Port jurisdictional boundaries,
255 consistent with City of North Port Comprehensive Plan and
256 implementing ordinances, studies, and plans; as to that portion
257 of the district located within the unincorporated area,
258 consistent with the Sarasota County Comprehensive Plan and
259 implementing ordinances, studies, and plans; and as to that
260 portion of the district located within the Englewood Water
261 District service area, consistent with the Englewood Water
262 District's adopted studies and plans), design, acquire,
263 construct, install, operate, set, and charge by resolution
264 access, user, or connection fees and charges, equip, upgrade,
265 replace, store, extend, renovate, and maintain water plants and
266 systems, plus appurtenances, to produce, desalinate, purify,
267 sell, and distribute water for consumption, irrigation, or other
268 purposes; provided that the exercise of such construction,
269 operation, fee establishment, and production powers by the
270 district shall:
271 a. As to that portion of the district located within the
272 City of North Port jurisdictional boundaries, require the prior
273 approval of the City of North Port Commission or its designee;
274 b. As to that portion of the district located within the
275 unincorporated area, require the prior approval of the Board of
276 County Commissioners of Sarasota County or its designee; and
277 c. As to that portion of the district located within the
278 Englewood Water District service area, require the prior

279 approval of the Board of the Englewood Water District or its
280 designee.
281 2. As to that portion of the district located within the
282 City of North Port jurisdictional boundaries, ~~and further that~~
283 the district shall agree, at the request of the City of North
284 Port Commission or its designee, subject to a utility
285 developer's agreement with the City of North Port (neither
286 party's consent to said developer's agreement shall be
287 unreasonably withheld), to donate and turn over operation of all
288 or any portion of said water system within the City of North
289 Port jurisdictional boundaries to the City of North Port.
290 3. As to that portion of the district located within the
291 unincorporated area and outside of the Englewood Water District
292 service area, the district shall agree, at the request of the
293 Board of County Commissioners of Sarasota County or its
294 designee, subject to a utility developer's agreement with
295 Sarasota County (neither party's consent to said developer's
296 agreement shall be unreasonably withheld), to donate and turn
297 over operation of all or any portion of said water system within
298 the unincorporated area to Sarasota County.
299 4. As to that portion of the district located within the
300 Englewood Water District service area, the district shall agree,
301 at the request of the Board of the Englewood Water District or
302 its designee, subject to an interlocal agreement or other
303 appropriate agreement with the Englewood Water District (neither
304 party's consent to said developer's agreement shall be
305 arbitrarily or unreasonably withheld), to donate and turn over
306 operation of all or any portion of said water system within the

307 Englewood Water District service area to the Englewood Water
308 District.
309 (m)1. To finance, plan (as to that portion of the district
310 located within the City of North Port jurisdictional boundaries,
311 consistent with City of North Port Comprehensive Plan and
312 implementing ordinances, studies, and plans; as to that portion
313 of the district located within the unincorporated area,
314 consistent with the Sarasota County Comprehensive Plan and
315 implementing ordinances, studies, and plans; and as to that
316 portion of the district located within the Englewood Water
317 District service area, consistent with the Englewood Water
318 District's adopted studies and plans), design, acquire,
319 construct, install, operate, set, and charge by resolution
320 access, user, or connection fees and charges, equip, upgrade,
321 replace, extend, renovate, and maintain sewer systems, plus
322 appurtenances, for the collection, disposal, and reuse of
323 effluent, waste, residue, or other byproducts of such system,
324 prevent pollution, and improve water quality; provided that the
325 exercise of such construction, operation, and fee establishment
326 powers by the district shall:
327 a. As to that portion of the district located within the
328 City of North Port jurisdictional boundaries, require the prior
329 approval of the City of North Port Commission or its designee;
330 b. As to that portion of the district located within the
331 unincorporated area, require the prior approval of the Board of
332 County Commissioners of Sarasota County or its designee; and
333 c. As to that portion of the district located within the
334 Englewood Water District service area, require the prior

335 approval of the Board of the Englewood Water District or its
336 designee.
337 2. As to that portion of the district located within the
338 City of North Port jurisdictional boundaries, ~~and further that~~
339 the district shall agree, at the request of the City of North
340 Port Commission or its designee, subject to a utility
341 developer's agreement with the City of North Port (neither
342 party's consent to said developer's agreement shall be
343 unreasonably withheld), to donate and turn over operation of all
344 or any portion of said wastewater system within the City of
345 North Port jurisdictional boundaries to the City of North Port.
346 3. As to that portion of the district located within the
347 unincorporated area and outside of the Englewood Water District
348 service area, the district shall agree, at the request of the
349 Board of County Commissioners of Sarasota County or its
350 designee, subject to a utility developer's agreement with
351 Sarasota County (neither party's consent to said developer's
352 agreement shall be unreasonably withheld), to donate and turn
353 over operation of all or any portion of said wastewater system
354 within the unincorporated area to Sarasota County.
355 4. As to that portion of the district located within the
356 Englewood Water District service area, the district shall agree,
357 at the request of the Board of the Englewood Water District or
358 its designee, subject to an interlocal agreement or other
359 appropriate agreement with the Englewood Water District (neither
360 party's consent to said developer's agreement shall be
361 arbitrarily or unreasonably withheld), to donate and turn over
362 operation of all or any portion of said wastewater system within

363 the Englewood Water District service area to the Englewood Water
364 District.
365 (n) To finance, plan (if not inconsistent with other
366 responsible agencies or authorities), design, acquire,
367 construct, install, operate, equip, upgrade, replace, extend,
368 renovate, and maintain improvements and facilities for and take
369 measures to control mosquitoes or other insects and arthropods
370 of public health importance.
371 (o) To finance, plan (as to that portion of the district
372 located within the City of North Port jurisdictional boundaries,
373 consistent with City of North Port Comprehensive Plan and
374 implementing ordinances, studies, and plans; and, as to that
375 portion of the district located within the unincorporated area,
376 consistent with the Sarasota County Comprehensive Plan and
377 implementing ordinances, studies, and plans), design, acquire,
378 construct, install, operate, equip, upgrade, replace, extend,
379 renovate, and maintain lands, works, systems, landscaping, and
380 facilities for preservation areas, conservation areas,
381 environmental areas, mitigation areas, and wildlife habitat or
382 sanctuaries, including the maintenance of any plant or animal
383 species, and any related interest in real or personal property.
384 The district shall allow the City of North Port access to all
385 such improvements within the City of North Port jurisdictional
386 boundaries and shall allow access by the public when
387 appropriate. The district shall allow Sarasota County access to
388 all such improvements within the unincorporated area of the
389 district and shall allow access by the public when appropriate.

390 (p) To finance, plan (as to that portion of the district
391 located within the City of North Port jurisdictional boundaries,
392 consistent with City of North Port Comprehensive Plan and
393 implementing ordinances, studies, and plans; and, as to that
394 portion of the district located within the unincorporated area,
395 consistent with the Sarasota County Comprehensive Plan and
396 implementing ordinances, studies, and plans), design, acquire,
397 construct, install, operate, equip, upgrade, replace, extend,
398 renovate, and maintain additional systems and facilities for
399 school buildings and related structures which may be donated to
400 a public school district, subject to a developer's agreement
401 (neither party's consent to said developer's agreement shall be
402 unreasonably withheld), for use in the educational system;
403 provided that donation of any land and the exercise of such
404 construction powers by the district shall require the prior
405 approval of the School Board of Sarasota County and either:
406 1. As to that portion of the district located within the
407 City of North Port jurisdictional boundaries, the City of North
408 Port City Commission or its designee; or
409 2. As to that portion of the district located within the
410 unincorporated area, the Board of County Commissioners of
411 Sarasota County or its designee.
412 (q) To levy non-ad valorem assessments; prescribe, fix,
413 establish, and collect rates, fees, rentals, fares, or other
414 charges, and to revise the same from time to time, for property,
415 facilities, and services made available, furnished, or to be
416 furnished by the district; and to recover the cost of making or
417 authorizing the connection to any district facility or system or

418 installing works or improvements on or within district property
419 interests. However, no rates, fares, charges, or fees shall be
420 established until after a public hearing of the board at the
421 district at which all affected persons shall be given an
422 opportunity to be heard.
423 (r) To provide for the discontinuance of service and
424 reasonable penalties, including reasonable attorney's fees,
425 against any user or property for any such rates, fees, rentals,
426 fares, or other charges that become delinquent and require
427 collection.
428 (s) To enter into agreements with any person, firm,
429 entity, partnership, or corporation (public, private, or
430 governmental) for the furnishing by such person, firm, entity,
431 partnership, or corporation of any facilities and services of
432 the type provided for, authorized, or necessarily implied as
433 being authorized in this act.
434 (t) To borrow money and issue negotiable or other bonds of
435 said district as hereinafter provided; and to borrow money, from
436 time to time, and issue negotiable or other notes of said
437 district therefore, bearing interest at not exceeding the
438 maximum interest allowable by law, in anticipation of the
439 collection of levies, fees, penalties, charges, fares, and
440 assessments or revenues of said district, and to pledge or
441 hypothecate such non-ad valorem assessments, levies,
442 assessments, and revenues to secure such bonds, notes, or
443 obligations, and to sell, discount, negotiate, and dispose of
444 the same.

445 (u) To provide for safety enhancements, including, but not
446 limited to, security, guardhouses, fences, and gates, and
447 electronic intrusion detection systems; except that the district
448 shall not be authorized or empowered to exercise any police
449 power, but may contract with the appropriate local general
450 purpose government agencies for an increased level of such
451 service. Notwithstanding anything to the contrary, nothing
452 herein shall allow the district to limit the level of law
453 enforcement provided by federal, state, or local governmental
454 agencies.
455 (v) To provide, at the request of local general purpose
456 governments consistent with the plans of the local general
457 purpose government, systems and facilities for fire prevention
458 and control and emergency medical services, including the
459 construction or purchase of fire stations, water mains and
460 plugs, fire trucks, and other vehicles and equipment consistent
461 with any adopted local general purpose government ordinances,
462 rules, or regulations. ~~and, further, that~~ The district shall
463 agree:
464 1. As to that portion of the district located within the
465 City of North Port jurisdictional boundaries, ~~at the request of~~
466 ~~the local general purpose government,~~ subject to a developer's
467 agreement with the City of North Port (neither party's consent
468 to said developer's agreement shall be unreasonably withheld),
469 to donate and turn over operation of all or any portion of said
470 facilities within the City of North Port jurisdictional
471 boundaries to the City of North Port; and

472 2. As to that portion of the district located within the
473 unincorporated area, subject to a developer's agreement with
474 Sarasota County (neither party's consent to said developer's
475 agreement shall be unreasonably withheld), to donate and turn
476 over operation of all or any portion of said facilities within
477 the unincorporated area to Sarasota County ~~local general purpose~~
478 ~~government~~.
479 (w) To submit for and obtain permits, plus make and enter
480 into contracts and agreements as are necessary or incidental to
481 the performance of the duties imposed and the execution of the
482 powers granted under this act, and to employ such consulting and
483 other engineers, superintendents, managers, administrators,
484 construction and financial experts, attorneys, and such
485 employees and agents as may, in the judgment of the district, be
486 necessary, and to fix their compensation.
487 (x) To require any individual or entity desiring to
488 construct any structure in, over, under, upon, or occupying real
489 ~~district~~ property interests or rights-of-way owned by the
490 district ~~right-of-way~~ or connecting to or utilizing the works of
491 the district to first obtain written authorization from the
492 district and, as appropriate, either the City of North Port as
493 to that portion of the district located within the City of North
494 Port jurisdictional boundaries or Sarasota County as to that
495 portion of the district located within the unincorporated area
496 ~~comply with all City of North Port and district plans, rules,~~
497 ~~regulations, policies, and specifications~~, provided that said
498 written authorization shall be issued upon a demonstration that
499 the applicant has complied ~~compliance~~ with such Sarasota County,

500 ~~applicable~~ City of North Port, or ~~and~~ district plans, rules,
501 regulations, policies, and specifications as may be applicable.
502 The board of supervisors shall be permitted the discretion to
503 deny or revoke any written authorization or application for same
504 if they find that the matter for which the authorization is
505 sought or granted does not comply with such Sarasota County, ~~the~~
506 City of North Port, or ~~and~~ district plans, rules, regulations,
507 ~~or~~ policies, and specifications as may be applicable. All fees
508 and costs, including construction, review, inspection, copying,
509 engineering, legal, and administrative expenses of the district,
510 shall be paid by the applicant seeking the authorization. Any
511 such district written authorization shall not be deemed or
512 construed as being an alternative to or in place of the
513 applicant's obligation to also obtain all other governmental
514 building and construction permits and approvals. With regard to
515 that portion of the district located within the City of North
516 Port jurisdictional boundaries, any conflict between City of
517 North Port and district plans, rules, regulations, policies, and
518 specifications shall be resolved in favor of the City of North
519 Port. With regard to that portion of the district located within
520 the unincorporated area, any conflict between Sarasota County
521 and district plans, rules, regulations, policies, and
522 specifications shall be resolved in favor of Sarasota County.
523 (y) To include in a plan of improvements, the engineer's
524 report, or the authorizing and implementing documents under
525 chapter 170, Florida Statutes, which shall include, but are not
526 limited to, all applicable resolutions, assessment maps, and/or
527 assessment rolls (the "chapter 170 authorizing documents"), all

528 or one or more of the various powers and functions, including
529 individual parts or components thereof, of the district or any
530 combination of same and to construct and finance said individual
531 or combination of such powers and functions, including
532 individual parts or components thereof. It is the intent of this
533 section that a plan of improvements, the engineer's report, or
534 chapter 170 authorizing documents may provide for a single
535 benefit to the land authorized by the laws pertaining to the
536 district or one or more of all of said benefits or combination
537 thereof as long as there are benefits accruing to the land.
538 (z) To provide in a plan of improvements, the engineer's
539 report, or chapter 170 authorizing documents that in assessing
540 the benefits and damages to be incurred by lands of the district
541 from the implementation, provision, or construction of a plan of
542 improvements or improvements or services pursuant to chapter 170
543 authorizing documents, the varying types of existing or proposed
544 land uses of the land within the unit or affected by such
545 construction or implementation, as the case may be, may be
546 considered and be entitled to so assess the benefits and
547 damages. The district may levy non-ad valorem assessments based
548 upon the benefits assessed in such manner, taking into account
549 the varying existing or proposed land uses of the land affected
550 by such construction as shall provide for the equitable
551 apportionment of such assessments. Such assessments may be
552 levied on the basis of lots, units, acreage, parcels, equivalent
553 connection, or uses or as otherwise set forth in the engineer's
554 report or in the chapter 170 authorizing documents.

555 (aa) To establish and create such departments, committees,
556 boards, or other agencies, including a public relations
557 committee, as from time to time the board of supervisors may
558 deem necessary or desirable in the performance of the acts or
559 other things necessary to the exercise of the powers provided in
560 this act, and to delegate to such departments, committees,
561 boards, or other agencies such administrative duties and other
562 powers as the board of supervisors may deem necessary and to
563 exercise all other powers necessary convenient or proper in
564 connection with any of the powers or duties of said district
565 stated in this act by and through the board of supervisors.
566 Notwithstanding anything contained herein:
567 1. As to that portion of the district located within the
568 City of North Port jurisdictional boundaries, no such
569 departments, committees, boards, or other agencies shall have
570 the power or authority to supersede any powers or authorities of
571 the City of North Port; and
572 2. As to that portion of the district located within the
573 unincorporated area, no such departments, committees, boards, or
574 other agencies shall have the power or authority to supersede
575 any powers or authorities of Sarasota County.
576 (bb) Notwithstanding any authority contained within this
577 section:
578 1. As to that portion of the district located within the
579 City of North Port jurisdictional boundaries, the development,
580 operation, or maintenance of any district facilities or services
581 shall comply with the adopted comprehensive plan, unified land

582 development code, zoning code, and any other city codes and
583 ordinances of the City of North Port; and
584 2. As to that portion of the district located within the
585 unincorporated area, the development, operation, or maintenance
586 of any district facilities or services shall comply with the
587 adopted comprehensive plan, land development regulations, zoning
588 code, and any other codes and ordinances of Sarasota County.
589 (cc) To establish, or otherwise make available, a plan for
590 retirement, disability, dental, death, hospitalization, and
591 other appropriate benefits for employees of the district.
592 (dd) To invest surplus funds of the district consistent
593 with the Investment of Local Government Surplus Funds Act, part
594 IV, chapter 218, Florida Statutes.
595 (ee) As to that portion of the district located within the
596 City of North Port jurisdictional boundaries, to submit to the
597 City of North Port the plan of improvement for major government
598 infrastructure capital elements that may eventually be dedicated
599 or donated to the City of North Port so that the city can rely
600 on and incorporate said plan of improvement into the city's
601 Capital Improvement Plan; and, as to that portion of the
602 district located within the unincorporated area, to submit to
603 Sarasota County the plan of improvement for major government
604 infrastructure capital elements that may eventually be dedicated
605 or donated to Sarasota County so that the county can rely on and
606 incorporate said plan of improvement into the county's Capital
607 Improvement Plan.

608 (ff) To apply for, obtain, and utilize any grants from
609 other entities consistent with the powers of the district;
610 provided, however, that:
611 1. As to that portion of the district located within the
612 City of North Port jurisdictional boundaries, the district shall
613 coordinate with and obtain timely authorization from the City of
614 North Port Commission or its designee prior to the submittal of
615 any grant application; and
616 2. As to that portion of the district located within the
617 unincorporated area, the district shall coordinate with and
618 obtain timely authorization from the Board of County
619 Commissioners of Sarasota County or its designee prior to the
620 submittal of any grant application.
621 (gg) Following methodology consistent with Sarasota ~~the~~
622 county's concurrency management regulations, and notwithstanding
623 any authority contained within this section, the district shall
624 not construct any improvements within that portion of the
625 district located within the City of North Port jurisdictional
626 boundaries, pursuant to any municipal development order, where
627 that development would cause the level of service on any
628 concurrency regulated facility in unincorporated Sarasota County
629 to drop below the level of service adopted as of the effective
630 date of this act, or subsequently reduced level of service, in
631 the Sarasota County Comprehensive Plan pursuant to chapter 163,
632 Florida Statutes, without paying its fair share contribution to
633 improving that facility, and Sarasota County shall have the
634 right under section 163.3215, Florida Statutes, to contest any
635 such municipal development order on the basis that it fails to

636 require the district to pay its fair share contribution. The
637 fair share contribution shall include both the contribution to
638 the county from the fair share collected by the City of North
639 Port pursuant to the county's impact fee ordinance and
640 interlocal agreements between Sarasota County and the City of
641 North Port, as well as direct contributions made to the county
642 by the district. Nothing contained herein shall be construed as
643 limiting the obligations of the district or property owners
644 therein as set forth in Florida Statutes and applicable rules.
645 Any fair share contribution required to address the impact of
646 development within that portion of the district located in
647 unincorporated Sarasota County shall be governed by the laws and
648 ordinances of Sarasota County.
649 (hh) The district shall have the power to collect fair
650 share contributions from Sarasota County should Sarasota County
651 approve any development order in unincorporated Sarasota County
652 that creates impacts to concurrency regulated facilities within
653 the district, which would cause the level of service on any
654 concurrency regulated facility in the district within the City
655 of North Port jurisdictional boundaries to drop below the level
656 of service adopted by the City of North Port for such facility
657 as of the effective date of this act, or subsequently reduced
658 level of service.
659 (3) To include in a plan of improvements, the engineer's
660 report, chapter 170 authorizing documents, or otherwise provide,
661 for the exercise of the district's powers, services, facilities,
662 and improvements beyond the territorial boundaries of the
663 district, when necessary and appropriate in order to provide a

664 benefit on behalf of lands located within the district and
665 pursuant to an approved plan of improvements or chapter 170
666 authorizing documents. Any such construction must be in
667 accordance with the city's master plans and requirements. Any
668 such construction within unincorporated Sarasota County must be
669 in accordance with the county's comprehensive plan, master
670 plans, and thoroughfare plan. The ~~West Villages Improvement~~
671 district shall cooperate and coordinate its activities with the
672 units of general-purpose local government in which it is
673 located, including the City of North Port and Sarasota County.
674 Prior to exercising any of the district powers, functions, or
675 duties relative to infrastructure planning, programming, or
676 construction within that portion of the district located in
677 unincorporated Sarasota County, the district shall enter into an
678 interlocal agreement with Sarasota County, which agreement shall
679 specify the process for the district to coordinate its
680 infrastructure planning, programming, and construction
681 activities with Sarasota County and include a means to
682 coordinate infrastructure planning and programming between the
683 parties. Neither the district nor Sarasota County shall
684 arbitrarily or unreasonably withhold or delay its approval and
685 execution of such interlocal agreement. The district is
686 authorized to enter into interlocal agreements with the City of
687 North Port, Sarasota County, the Englewood Water District, or
688 any other units of government. Whenever the district intends to
689 utilize its powers to construct or cause to be constructed
690 infrastructure projects or programs within the district, the
691 district shall provide copies of all plans and infrastructure

692 permit applications to the Sarasota County Planning Director and
693 Development Services Business Center at such time as the
694 district submits such plans or permit applications to the City
695 of North Port or other permitting authority but in any event no
696 less than 30 days before the City of North Port or other
697 permitting authority issues permits for those projects. The
698 district shall allow the county 20 days from submittal to the
699 county to comment on those plans and permit applications, but as
700 to construction or improvements that are not within
701 unincorporated Sarasota County, the county's approval is not
702 required for the district to proceed with the project. Sarasota
703 County shall not unduly interfere with the district's exercise
704 of its powers conferred by this act.
705 Section 4. Board of supervisors; election, organization,
706 powers, duties, and terms of office.--
707 (1) There is hereby created a Board of Supervisors of the
708 West Villages Improvement District, which shall be the governing
709 body of said district.
710 (2) Said board of supervisors shall consist of five
711 persons who, except as herein otherwise provided, shall each
712 hold office for terms of 4 years each and until their successors
713 shall be duly elected and qualified.
714 (3) The first board of supervisors of the district shall
715 be composed of five persons, two of whom shall hold office for 4
716 years, one of whom shall hold office for 3 years, one of whom
717 shall hold office for 2 years, and one of whom shall hold office
718 for 1 year, which terms shall terminate in June of their
719 applicable final year. Within 120 days after this act becomes a

720 law, a special meeting of landowners of the West Villages
721 Improvement District shall be held for the purpose of electing
722 the first board of supervisors for the West Villages Improvement
723 District as herein provided. Notice of such special meeting of
724 landowners shall be given by causing publication thereof to be
725 made once a week for 2 consecutive weeks prior to such meeting
726 in the newspaper of general paid circulation in which ~~that~~ the
727 City of North Port publishes notices of city meetings, and prior
728 to the meeting, ~~provision of~~ 2 weeks' ~~weeks~~ advance written
729 notice shall be provided to the City of North Port City Manager,
730 including the agenda and any backup material. Such special
731 meeting of landowners shall be held in a public place in the
732 City of North Port, and the place, date, and hour of holding
733 such meeting and the purpose thereof shall be stated in the
734 notice. The landowners when assembled shall organize by electing
735 a chair who shall preside at the meeting and a vice chair,
736 secretary, and treasurer. At such meeting, each and every acre,
737 or any fraction thereof, of land in the district shall represent
738 one vote and each owner shall be entitled to one vote in person
739 or by written proxy for every acre of land, or any fraction
740 thereof, owned by such owner in the district. Candidates must be
741 citizens of the United States and shall be nominated prior to
742 commencement of the initial election. The landowners shall first
743 vote for the 2 supervisors who are to hold office for the 2
744 seats with an initial term of 4 years as herein provided, and
745 the persons receiving the highest and next highest number of
746 votes for such supervisor offices shall be declared and elected
747 as the supervisors for said 2 seats. The landowners shall next

748 vote for the supervisor who is to hold office for that seat with
749 a term of 3 years as provided herein, and the person receiving
750 the highest number of votes for such supervisor shall be
751 declared and elected as such supervisor for said seat. Said
752 landowners shall continue to so vote for each remaining seat
753 until the supervisor who is to hold office for the term of 1
754 year as herein provided is elected for said seat. The landowners
755 present or voting by proxy at the meeting shall constitute a
756 quorum.
757 (4) Each year during the month of June, beginning with
758 June of the second year following the first election, a
759 supervisor shall be elected, as hereinafter provided, by the
760 landowners of said district to take the place of the retiring
761 supervisor. All vacancies or expirations on said board shall be
762 filled as provided by this act. All supervisors of the district
763 shall be citizens of the United States. Following the initial
764 election of supervisors in order to be eligible for election, a
765 candidate for an office of supervisor shall be required to file
766 a written notice of intention to be a candidate in said office
767 of the district at least 30 calendar days but not earlier than
768 90 calendar days before but not including the day of the annual
769 meeting of the landowners. In case of a vacancy in the office of
770 any supervisor, the remaining supervisors within 90 calendar
771 days of the vacancy shall fill such vacancy until the expiration
772 of that seat's outstanding term when a successor shall be
773 elected by the landowners. <u>If, on or before January 1 of any</u>
774 <u>calendar year, there are 6,000 owners of real property in that</u>
775 <u>portion of the district located within the City of North Port</u>

776 that are registered voters in the City of North Port, at least
777 one supervisor elected at the next regularly scheduled election
778 shall be a resident of and owner of real property in that
779 portion of the district located within the City of North Port.
780 If, on or before January 1 of any calendar year, there are 3,000
781 owners of real property in that portion of the district located
782 within the unincorporated area of Sarasota County that are
783 registered voters of Sarasota County, at least one supervisor
784 elected at the next regularly scheduled election shall be a
785 resident of and owner of real property in that portion of the
786 district located within unincorporated Sarasota County.
787 (5) As soon as practicable after their election and the
788 taking of oaths of office, the board of supervisors of the
789 district shall organize by choosing a chair and vice chair of
790 the board of supervisors and by electing some suitable persons
791 secretary and treasurer, who may or may not be members of the
792 board. The board of supervisors shall adopt a seal which shall
793 be the seal of the district.
794 (6) Each supervisor shall hold office until his or her
795 successor shall be elected and qualified. Whenever any election
796 shall be authorized or required by this act to be held by the
797 landowners at any particular or stated time or day, and if for
798 any reason such election shall not or cannot be held at such
799 time or on such day, then in such event and in all and every
800 such event, the power or duty to hold such election shall not
801 cease or lapse, but such election shall be held thereafter as
802 soon as practicable and consistent with this act.

803 (7) The supervisors shall not receive any compensation for
804 their services.
805 Section 5. Meetings of landowners.--
806 (1) Each year during the month of June, a meeting of the
807 landowners of the district shall be held, when necessary, for
808 the purpose of electing a supervisor and hearing reports of the
809 board of supervisors and considering any matters upon which the
810 board of supervisors may request the advice and views of the
811 landowners. The board of supervisors shall have the power to
812 call special meetings of the landowners at any time to consider
813 and act upon any matter upon which the board of supervisors may
814 request action, direction, or advice. Notice of all meetings of
815 the landowners shall be given by the board of supervisors by
816 causing publication thereof to be made for 2 consecutive weeks
817 prior to such meeting in the newspaper of general paid
818 circulation in which ~~that~~ the City of North Port publishes
819 notices of city meetings and in a newspaper of general paid
820 circulation in which Sarasota County publishes notices of its
821 board meetings, and prior to the meeting, ~~provision of~~ 2 weeks'
822 ~~weeks~~ advance written notice shall be provided to the City of
823 North Port City Manager and the Sarasota County Administrator,
824 or their designees, regarding any matters affecting that portion
825 of the district located within the City of North Port
826 jurisdictional boundaries or the unincorporated area,
827 respectively, including the agenda and any backup material. The
828 meetings of the landowners shall be held in a public place in
829 the City of North Port, and the place, day, and hour of holding
830 such meetings shall be stated in the notice. The landowners when

831 assembled shall organize by electing a chair who shall preside
832 at the meeting. The secretary of the board of supervisors shall
833 be the secretary of such meeting. At all such meetings each and
834 every acre, or any fraction thereof, of land in the district
835 shall represent one vote, and each owner shall be entitled to
836 one vote in person or by written proxy for every acre, or any
837 fraction thereof, of land owned by such owner in the district.
838 The eligible person receiving the highest number of votes for a
839 supervisor position shall be declared and elected as such
840 supervisor. Those landowners present or voting by proxy at the
841 meeting, including the initial meeting, shall constitute a
842 quorum at any meeting of the landowners.
843 (2) Guardians may represent their wards, and personal
844 representatives may represent the estates of deceased persons.
845 Trustees may represent lands by them in trust, and private and
846 municipal corporations may be represented by their officers or
847 duly authorized agents. Guardians, personal representatives,
848 trustees, and corporations may vote by proxy.
849 Section 11. Unit development; powers of supervisors to
850 designate units of development and adopt systems of progressive
851 development by units; plan of improvements and financing
852 assessments, for each unit.--
853 (1) Upon written petition signed by the owners of 51
854 percent of the acreage in any area, the board of supervisors of
855 the district shall have the power and is hereby authorized in
856 its discretion to exercise such powers authorized in this act,
857 the lands in said designated area or part of the district to be
858 called a "unit." The units into which said district may be so

859 divided shall be given appropriate numbers or names by said
860 board of supervisors, so that said units may be readily
861 identified and distinguished. The board of supervisors shall
862 have the power to fix and determine the location, area, and
863 boundaries of and lands to be included in each and all such
864 units with the consent of the owners of 51 percent of the
865 acreage in any area, and the method of carrying on the work in
866 each unit. If the board of supervisors shall determine that it
867 is advisable to conduct the work of the district by units, as
868 authorized by this section, said board shall, by resolution duly
869 adopted and entered upon its minutes, declare its purpose to
870 conduct such work accordingly and, upon petition of the owners
871 of 51 percent of the acreage in any area, shall at the same time
872 and manner fix the number, location, and boundaries of and
873 description of lands within such unit or units and give
874 appropriate numbers or names, which unit or units may overlay or
875 overlap one or more other units. As soon as practicable after
876 the adoption and recording of a resolution as to any unit, said
877 board of supervisors shall publish a notice once a week for 2
878 consecutive weeks in the newspaper of general paid circulation
879 in which ~~that~~ the City of North Port publishes notices of city
880 meetings and in a newspaper of general paid circulation in which
881 Sarasota County publishes notices of its board meetings~~, and by~~
882 ~~provision of 2 weeks advance written notice to the City of North~~
883 ~~Port City Manager,~~ briefly describing the unit or units into
884 which the district has been divided and the lands embraced in
885 each unit, giving the name, number, or other designation of such
886 units, requiring all owners of lands in the district to show

887 cause in writing before said board of supervisors at a time and
888 place to be stated in such notice why such division of said
889 district into such unit or units should not be approved, and why
890 the proceedings and powers authorized by this section of this
891 act should not be had, taken, and exercised. Two weeks' advance
892 written notice of the board's intent to establish said unit or
893 units shall also be provided:
894 (a) To the City of North Port City Manager or his or her
895 designee as to that portion of the district located within the
896 City of North Port jurisdictional boundaries; or
897 (b) To the Sarasota County Administrator or his or her
898 designee as to that portion of the district located within the
899 unincorporated area.
900
901 At the time and place stated in said notice, said board of
902 supervisors shall hear all objections or causes of objection,
903 all of which shall be in writing, of any landowner in the
904 district to the matters mentioned and referred to in such
905 notice, and if no objections are made, or if said objections, if
906 made, shall be overruled by said board, then said board shall
907 enter in its minutes its finding and order confirming said
908 resolution and may thereafter proceed with the development of
909 the district by unit or units pursuant to such resolution and to
910 the provisions of this act. If, however, said board of
911 supervisors shall find as a result of such objections, or any of
912 them, or the hearing thereon, that the division of the district
913 into such unit or units as aforesaid should not be approved, or
914 that the proceedings and powers authorized by this section of

915 this act should not be had, taken, or exercised, or that any
916 other matter or thing embraced in said resolution would not be
917 in the best interest of the landowners of said unit or units or
918 would be unjust or unfair to any landowner therein or otherwise
919 inconsistent with fair and equal protection and enforcement of
920 the rights of every landowner in said unit or units, then the
921 board of supervisors shall not proceed further under such
922 resolution, but said board of supervisors may, as a result of
923 such hearing, modify or amend said resolution so as to meet such
924 objections so made, and thereupon said board may confirm said
925 resolution as so modified or amended and may thereafter proceed
926 accordingly. If said board of supervisors shall overrule or
927 refuse to sustain any such objections in whole or in part made
928 by any landowner in the district, or if any such landowner shall
929 deem himself or herself aggrieved by any action of the board of
930 supervisors in respect to any objections so filed, such
931 landowner may, within 10 days after the ruling of said board,
932 file his or her complaint in the Circuit Court for Sarasota
933 County, against said district, praying an injunction or other
934 appropriate relief against the action or any part of such action
935 proposed by such resolution or resolutions of said board, and
936 such suits shall be conducted like other suits, except that said
937 suits shall have preference over all other pending actions
938 except criminal actions and writs of habeas corpus. Upon the
939 hearing of said cause, the circuit court shall have the power to
940 hear the objections and receive the evidence thereon of all
941 parties to such cause and approve or disapprove said resolutions

942 and action of the board in whole or in part, and to render such
943 decree in such cause as right and justice require.
944 (2) When said resolutions creating said unit or units
945 shall be confirmed by the board of supervisors (or by the
946 Circuit Court for Sarasota County, if such proposed action shall
947 be challenged by a landowner by the judicial proceedings
948 hereinabove authorized), the board of supervisors may adopt a
949 plan of improvements or chapter 170 authorizing documents for
950 and in respect to any or all such units, and to have the
951 benefits and damages resulting therefrom assessed and
952 apportioned as is provided by law in regard to a plan of
953 improvements or chapter 170 authorizing documents for and
954 assessments for benefits and damages of the entire district.
955 With respect to the plan of improvements, notices, appointment
956 of engineer to prepare a report assessing the benefits and
957 damages, the engineer's report and notice and confirmation
958 thereof, the levy of assessments, including maintenance
959 assessments, the issuance of bonds, the exercise or use of
960 chapter 170, Florida Statutes, proceedings and all other
961 proceedings as to each and all of such units, said board shall
962 follow and comply with the same procedure as is provided by law
963 with respect to the entire district; and said board of
964 supervisors shall have the same powers in respect to each and
965 all of such units as is vested in them with respect to the
966 entire district. All the provisions of this act shall apply to
967 the improvement of each, any, and all of such units, and the
968 enumeration of or reference to specific powers or duties of the
969 supervisors or any other officers or other matters in this act

970 as hereinabove set forth, shall not limit or restrict the
971 application of any and all of the proceedings and powers herein
972 for such units as fully and completely as if such unit or units
973 were specifically and expressly named in every section and
974 clause of this act where the entire district is mentioned or
975 referred to. All assessments, levies, bonds, and other
976 obligations made, levied, assessed, or issued for or in respect
977 to any such unit or units shall be a lien and charge solely and
978 only upon the lands in such unit or units, respectively, for the
979 benefit of which the same shall be levied, made, or issued, and
980 not upon the remaining units or lands in the district. The board
981 of supervisors, upon an affirmative vote of a simple majority of
982 qualified electors, as defined in chapter 189, Florida Statutes,
983 within said unit voting in a referendum, or upon approval of the
984 landowners of 51 percent of the acreage in said unit if there
985 are no residents in said unit, may at any time amend its
986 resolutions by changing the location and description of lands in
987 any such unit or units and provided, further, that if the
988 location or description of lands located in any such unit or
989 units is so changed, notice of such change shall be published as
990 hereinabove required in this section for notice of the formation
991 or organization of such unit or units; provided, however, that
992 no lands against which benefits shall have been assessed may be
993 detached from any such unit after the final adoption of the
994 engineer's report of benefits or chapter 170 authorizing
995 document, in such unit or units or the issuance of bonds or
996 other obligations which are payable from assessments for
997 benefits levied upon the lands within such unit or units.

998 (3) Provided, however, that if, after adoption of the
999 engineer's report of benefits chapter 170, authorizing document,
1000 in such unit or units, or the issuance of bonds or other
1001 obligations which are payable from assessments for benefits
1002 levied upon lands within such unit or units, the board of
1003 supervisors finds the plan of improvements, the engineer's
1004 report, or chapter 170 authorizing documents for any such unit
1005 or units insufficient or inadequate for efficient development,
1006 same may be amended or changed as provided in this act, chapter
1007 170 or chapter 298, Florida Statutes, and the unit or units may
1008 be amended or changed as provided in this section, by changing
1009 the location and description of lands in any such unit or units,
1010 by detaching lands therefrom or by adding land thereto, upon the
1011 approval of at least 51 percent of the landowners according to
1012 acreage, in any such unit, and provided that in such event all
1013 assessments, levies, fees, bonds, and other obligations made,
1014 levied, assessed, incurred, or issued for or in respect to any
1015 such unit or units may be allocated and apportioned to the
1016 amended unit or units in proportion to the benefits assessed by
1017 the engineer's report, for the amended plan of improvements and
1018 said report shall specifically provide for such allocation and
1019 apportionment. The landowners shall file their approval of or
1020 objections to such amended plan of improvements within the time
1021 provided in section 298.301, Florida Statutes, or, when used
1022 such applicable deadline provision, if any, of chapter 170,
1023 Florida Statutes, and shall file their approval of or objections
1024 to the amendment of such unit as provided in this section.

1025 (4) No assessable lands shall be detached from any unit
1026 after the issuance of bonds or other obligations for such unit
1027 except upon the consent of a majority the holders, based on face
1028 value of the outstanding bonds, of such bonds or other
1029 obligations. In the event of the change of the boundaries of any
1030 unit as provided herein and the allocation and apportionment to
1031 the amended unit or units of assessments, levies, fees, bonds,
1032 and other obligations in proportion to the benefits assessed,
1033 the holder of the bonds or other obligations heretofore issued
1034 for the original unit who consents to such allocation and
1035 apportionment shall be entitled to all rights and remedies
1036 against any lands added to the amended unit or units as fully
1037 and to the same extent as if such added lands had formed and
1038 constituted a part of the original unit or units at the time of
1039 the original issuance of such bonds or other obligations, and
1040 regardless of whether the holders of such bonds or other
1041 obligations are the original holders thereof or the holders from
1042 time to time hereafter, and the rights and remedies of such
1043 holders against the lands in the amended unit or units,
1044 including any lands added thereto, under such allocation and
1045 apportionment, shall constitute vested and irrevocable rights
1046 and remedies to the holders from time to time of such bonds or
1047 other obligations as fully and to the same extent as if such
1048 bonds or other obligations had been originally issued to finance
1049 the improvements in such amended unit or units.
1050 (5) Upon the formation of a unit, the board is authorized
1051 to levy a one-time organizational special assessment tax per
1052 acre on the lands in a unit sufficient to prepare a plan of

1053 improvements or chapter 170 authorizing documents and have the
1054 benefits assessed as provided herein.
1055 (6) The territorial limits of a unit may be expanded to
1056 include additional land by agreement between the district and
1057 all of the landowners of the land to be included in the unit,
1058 provided that at the time of the execution of the agreement, the
1059 additional land is contained within the jurisdictional
1060 boundaries of the district. Land included in the unit by
1061 agreement shall thereafter be subject to the payment of all
1062 assessments or fees levied by the district in the unit and shall
1063 be subject to the provisions of all laws under which the
1064 district operates. The agreement shall be in recordable form and
1065 filed in the official records.
1066 (7) The district shall not amend any plan of improvement
1067 for any unit in which any real property has been sold to the
1068 general public at large for residential and non-commercial
1069 purposes, in such a way that said amendment results in any
1070 increase in the principal amount of debt then authorized for
1071 that unit, without an affirmative vote of a simple majority of
1072 qualified electors, as so defined in chapter 189, Florida
1073 Statutes, within said unit voting in a referendum.
1074 Section 12. Eminent domain.--The said board of supervisors
1075 is hereby authorized and empowered, when reasonably necessary
1076 for the implementation of district authorized public
1077 infrastructure works, facilities, or services, to exercise
1078 within the district, with prior approval by resolution of the
1079 governing body of the district, ~~and the municipality or outside~~
1080 ~~the district's territorial boundaries and within the City of~~

1081 ~~North Port with prior approval, by resolution, of the City of~~
1082 ~~North Port City Commission, (which approval shall not be~~
1083 ~~unreasonably withheld),~~ the right and power of eminent domain,
1084 pursuant to the provisions of chapters 73 and 74, Florida
1085 Statutes, over any property within the district and the City of
1086 North Port or unincorporated Sarasota County, except municipal,
1087 county, state, and federal property, for the uses and purposes
1088 of the district relating solely to water, sewer, district roads,
1089 and water management, specifically including, without
1090 limitation, the power for the taking of easements for the
1091 drainage of the land of one person over and through the land of
1092 another; however, the exercise of any such power of eminent
1093 domain:
1094 (1) Within the territorial boundaries of the City of North
1095 Port, whether or not within the district boundaries, shall
1096 require the prior approval, by resolution, of the City of North
1097 Port City Commission (which approval shall not be unreasonably
1098 withheld); or
1099 (2) Within the unincorporated area, whether or not within
1100 the district boundaries, shall require the prior approval, by
1101 resolution, of the Board of County Commissioners of Sarasota
1102 County (which approval shall not be unreasonably withheld).
1103 Section 17. Territorial boundaries.--
1104 (1) The territorial boundaries of the district shall be as
1105 follows, to wit:
1106
1107 LANDS LOCATED IN TOWNSHIP 39 SOUTH, RANGE 20 EAST,
1108 SARASOTA COUNTY, FLORIDA:

1109
1110 That part of Section 21, lying Southwesterly of County
1111 Road No. 777 (West River Road). All that part of
1112 Section 28, lying West of County Road No. 777 (West
1113 River Road). All of Section 29, less and except the
1114 following:
1115
1116 Right-of-way for U. S. Highway No. 41 (State Road No.
1117 45). All of Section 30, less and except the following:
1118 Right-of-way for U. S. Highway No. 41 (State Road No.
1119 45); That portion conveyed to Florida Power and Light
1120 Company consisting of approximately 4.66 acres in the
1121 SW1/4 as described in Official Record Book 1036, Page
1122 802, Public Records of Sarasota County, Florida; That
1123 portion lying West of lands described in Official
1124 Record Book 1036, Page 802, South of the westerly
1125 extension of the North line of said lands described in
1126 Official Records Book 1036, Page 802, and North of the
1127 northerly Right of Way line of U.S. Highway No. 41.
1128 All of Section 31, less and except the following:
1129 Right-of-way of U. S. Highway No. 41 (State Road No.
1130 45). All of Section 32, less and except the following:
1131 Right-of-way of U. S. Highway No. 41 (State Road No.
1132 45); That portion conveyed in Official Record Book
1133 2785, Page 634 of the Public Records of Sarasota
1134 County, Florida, (Sarasota County Hospital Board);
1135 That portion conveyed in Official Record Book 1571,
1136 Page 2172 of the Public Records of Sarasota County,

1137 Florida, (Manatee Community College); Right-of-way for
1138 Pine Street Extension as recorded in Official Record
1139 Book 2536, pages 811-974 of The Public Records of
1140 Sarasota County, Florida; That portion conveyed in
1141 Official Record Book 2785, Page 641 of the Public
1142 Records of Sarasota County, Florida, (120 wide
1143 perpetual Non-Exclusive easement); That portion lying
1144 South of lands conveyed in Official Record Book 1571,
1145 Page 2172 and East of lands described in Official
1146 Record Book 2785, Page 641, Public Records of Sarasota
1147 County, Florida. That portion of Section 33, lying
1148 North of U.S. Highway No. 41 (State Road No. 45) and
1149 West of County Road #777 (West River Road); also that
1150 portion of Section 33, lying South of U.S. Highway No.
1151 41 (State Road No. 45), West of a 200 ft. wide access
1152 easement described in Official Records Book 2389, Page
1153 528, Public Records of Sarasota County, Florida, and
1154 North of lands conveyed in Official Records Book 1571,
1155 Page 2172, Public Records of Sarasota County, Florida;
1156 also that portion of Section 33, lying South of U.S.
1157 Highway No. 41 (State Road No. 45), described as
1158 follows:
1159
1160 COMMENCE at the East Quarter Corner of Section 33,
1161 Township 39 South, Range 20 East, Sarasota County
1162 Florida; thence S. 00°16'02"W., along the East line of
1163 said Section 33, a distance of 289.08 feet to a point
1164 on the Southerly Right of Way Line of U.S. Highway No.

1165 41, (State Road No. 45) per Florida Department of
1166 Transportation Right of Way Map Section 17010-2508,
1167 same being a point on a curve to the right having a
1168 radius of 3011.73 feet, a central angle of 24°58'49",
1169 a chord bearing of N. 66°51'56"W., and a chord length
1170 of 1032.71 feet; thence along the arc of said curve
1171 and said Southerly Right of Way of U.S. No. 41, an arc
1172 length of 1313.08 feet to the point of tangency of
1173 said curve; thence N. 54°22'31"W., along said
1174 southerly Right of Way, a distance of 66.57 feet to
1175 the POINT OF BEGINNING, same being the Northwest
1176 corner of Lands described in Official Records
1177 Instrument No. 1998166153, per Public Records of
1178 Sarasota County, Florida; thence along the Westerly
1179 line of said Lands described in Official Records
1180 Instrument No. 1998166153 the following three (3)
1181 courses and distances; (1) S. 35°37'26"W., a distance
1182 of 161.93 feet to the point of curvature of a curve to
1183 the right having a radius of 559.97 feet, a central
1184 angle of 29°49'56", a chord bearing of S. 50°32'24"W.,
1185 and a chord length of 288.28 feet; (2) thence along
1186 the arc of said curve an arc length of 291.56 feet to
1187 the end of said curve; (3) thence S. 00°01'27"W., a
1188 distance of 1074.23 feet; thence N. 48°24'50"W.,
1189 leaving said Westerly Line, a distance of 2914.38 feet
1190 to the Northeast corner of Lands described as Manatee
1191 Community College per Official Records Book 1571, Page
1192 2172, same being the point of curvature of a curve to

1193 the left having a radius of 4577.37 feet, a central
1194 angle of 06°20'23", a chord bearing of N. 60°40'02"W.,
1195 and a chord length of 506.22 feet; thence along the
1196 arc of said curve and Northerly Line of Lands
1197 described as Manatee Community College, an arc length
1198 of 506.48 feet to the end of said curve, same being
1199 the Southeast corner of lands described in Official
1200 Records Book 2389, Page 529, Public Records of
1201 Sarasota County, Florida; thence N. 65°18'18"E., along
1202 the Easterly Line of said lands, a distance of 188.09
1203 feet; thence continue N. 00°00'19"W., along said
1204 Easterly Line, a distance of 144.96 feet to the
1205 Northeast corner of said Lands; thence N. 65°21'46"W
1206 along the Northerly Line of said Lands, a distance of
1207 400.68 feet to the Northwest corner of said Lands,
1208 same being a point on the Easterly Line of a 200 foot
1209 wide access Easement per Official Records Book 1571,
1210 Pages 2172 through 2175 and Official Records Book
1211 2389, Pages 528 through 530, Public Records of
1212 Sarasota County, Florida; thence N. 00°30'25"E., along
1213 the Easterly Line of said 200 foot wide access
1214 Easement, a distance of 786.89 feet to the Southerly
1215 Right of Way of U.S. No. 41, same being a point on a
1216 curve to the right having a radius of 5597.58 feet, a
1217 central angle of 03°08'33", a chord bearing of S.
1218 69°13'16"E., and a chord length of 306.97 feet; thence
1219 along the arc of said curve an arc length of 307.01
1220 feet to the end of said curve; thence continue along

1221 said Southerly Right of Way Line the following
1222 fourteen (14) courses and distances; (1) S.
1223 22°19'13"W., a distance of 10.00 feet to the point of
1224 curvature of a curve to the right having a radius of
1225 5587.58 feet, a central angle of 00°45'15", a chord
1226 bearing of S. 67°16'21"E., and a chord length of 73.55
1227 feet; (2) thence along the arc of said curve an arc
1228 length of 73.55 feet; (3) thence N. 23°06'16"E., a
1229 distance of 10.00 feet to the point of curvature of a
1230 curve to the right having a radius of 5597.58 feet, a
1231 central angle of 08°17'44", a chord bearing of S.
1232 62°44'52"E., and a chord length of 809.74 feet; (4)
1233 thence along the arc of said curve an arc length of
1234 810.45 feet; (5) thence S. 31°08'57"W., a distance of
1235 10.00 feet to the point of curvature of a curve to the
1236 right having a radius of 5587.58 feet, a central angle
1237 of 00°45'12", a chord bearing of S. 58°13'22"E., and a
1238 chord length of 73.47 feet; (6) thence along the arc
1239 of said curve an arc length of 73.47 feet; (7) thence
1240 N. 32°24'25"E., a distance of 10.00 feet to the point
1241 of curvature of a curve to the right having a radius
1242 of 5597.58 feet, a central angle of 03°28'13",a chord
1243 bearing of S. 56°06'38"E., and a chord length of
1244 338.98 feet; (8) thence along the arc of said curve an
1245 arc length of 339.03 feet to the end of said curve;
1246 thence (9) S. 56°35'34"E.; a distance of 155.08 feet;
1247 (10) thence S. 54°22'31"E., a distance of 1102.52
1248 feet; (11) thence S. 51°00'40"E., a distance of 101.66

1249 feet; (12) thence S. 54°20'43"E., a distance of 199.02
1250 feet; (13) thence S. 48°43'03"E., a distance of 100.71
1251 feet; (14) thence S. 54°22'31"E., a distance of 447.75
1252 feet to the POINT OF BEGINNING.
1253
1254 That portion of the North Half of the Southwest
1255 Quarter of the Northwest Quarter of Section 34, lying
1256 West of River Road (County Road No. 777); also that
1257 portion of the Southeast Quarter of Section 34, lying
1258 West of the Myakka River, South of the South line of
1259 lands described in Official Record Instrument No.
1260 2000002794, Public Records of Sarasota County, Florida
1261 (River Road Office Park, Inc.), and easterly of the
1262 maintained right of way line of a paved road running
1263 from River Road to the South line of the Northeast
1264 Quarter of said Section 34, (Old River Road), less and
1265 except the following: That portion described in
1266 Official Record Instrument No. 1999111833, Public
1267 Records of Sarasota County, Florida, (Right of Way for
1268 County Road No. 777). All of Section 35 lying West of
1269 the Myakka River. Also, a portion of Sections 32, 33
1270 and 34, Township 39 South, Range 20 East, Sarasota
1271 County, Florida, being more particularly described as
1272 follows: BEGIN at the Southeast corner of Section 32,
1273 Township 39 South, Range 20 East; thence N.
1274 89°04'43"W., along the South line of said Section 32,
1275 a distance of 410.14 feet to the Southeast corner of
1276 the lands described in Official Records Book 2785 at

1277 Page 634, of the Public Records of Sarasota County,
1278 Florida; thence N. 00°30'25"E., along the East line of
1279 said lands described in Official Records Book and
1280 Page, same being the West line of a 120.00 foot wide
1281 Perpetual Non-exclusive Easement per Official Records
1282 Book 2785 at Page 641, a distance of 1400.76 feet to a
1283 point on the westerly extension of the southerly
1284 boundary line of lands described in Official Records
1285 Book 1571 at Page 2172, of the Public Records of
1286 Sarasota County, Florida; thence along the westerly
1287 extension and boundary of said lands described in
1288 Official Records Book 1571, at Page 2172 the following
1289 two (2) courses: (1) S. 89°29'35"E., a distance of
1290 1960.21 feet; (2) thence N. 00°30'25"E., a distance of
1291 2062.70 feet to the Northeast corner of said lands;
1292 thence S. 48°24'50"E., a distance of 2914.38 feet to
1293 the Southwest corner of lands described in Official
1294 Records Instrument 1998166154, of the Public Records
1295 Sarasota County, Florida; thence along the boundary of
1296 said lands described in Official Records Instrument
1297 1998166154 the following three (3) courses: (1) S.
1298 89°58'33"E., a distance 676.50 feet; (2) thence N.
1299 00°01'27"E., a distance of 752.33 feet; (3) thence N.
1300 28°06'22"E., a distance of 362.06 feet to a point on
1301 the southerly right of way line of U.S. Highway No.
1302 41, as per Florida Department of Transportation Right
1303 of Way Map, Section 17010-2508, said point being on a
1304 curve concave to the northeast and having a radius of

1305 3011.73 feet, a central angle of 14°28'18", a chord
1306 bearing of S. 72°07'12"E. and a chord distance of
1307 758.67 feet; thence in an easterly direction, along
1308 the arc of said curve, an arc distance of 760.69 feet
1309 to a point on the West line of Section 34, Township 39
1310 South, Range 20 East, Sarasota County, Florida; thence
1311 S. 00°16'02"W., along the West line of said Section
1312 34, and leaving said southerly right of way line, a
1313 distance of 379.82 feet; thence S. 89°37'27"E., a
1314 distance of 1329.90 feet to a point on the westerly
1315 right of way line of County Road #777 (South River
1316 Road) as per Florida Department of Transportation
1317 Right of Way Map, Section 17550-2601; thence along
1318 said westerly right of way line, the following six (6)
1319 courses; (1) S. 00°07'30"W., a distance of 5.48 feet;
1320 (2) thence S. 89°23'52"E., a distance of 9.74 feet;
1321 (3) thence S. 36°39'07"E., a distance of 64.18 feet to
1322 the point of curvature of a circular curve to the
1323 right, having a radius of 5599.32 feet, a central
1324 angle of 02°00'54", a chord bearing of S. 35°38'40"E.
1325 and a chord distance of 196.90 feet; (4) thence
1326 southeasterly, along the arc of said curve, an arc
1327 distance of 196.91 feet to the end of said curve; (5)
1328 thence N. 55°21'47"E., radial to the last described
1329 curve, a distance of 20.00 feet to a point on a curve
1330 concentric with the last described curve and having a
1331 radius of 5619.32 feet, a central angle of 15°31'30",
1332 a chord bearing of S. 26°52'28"E. and a chord distance

1333 of 1517.98 feet; (6) thence in a southerly direction
1334 along the arc of said curve, an arc distance of
1335 1522.64 feet to the Northeast corner of lands
1336 described in Official Records Instrument 2000002794,
1337 of the Public Records Sarasota County, Florida; thence
1338 S. 78°41'04"W., along the northerly line of said lands
1339 described in Official Records Instrument 2000002794, a
1340 distance of 2240.20 feet to the Southeast corner of
1341 Section 33, Township 39 South, Range 20 East, Sarasota
1342 County, Florida; thence N. 89°39'52"W., along the
1343 South line of said Section 33, a distance of 5318.90
1344 feet to the POINT OF BEGINNING.
1345
1346 LANDS LOCATED IN TOWNSHIP 40 SOUTH, RANGE 20 EAST,
1347 SARASOTA COUNTY, FLORIDA:
1348
1349 All of Section 3, less and except the following: That
1350 portion conveyed in Order of Taking recorded in
1351 Official Record Book 2679, Page 2750-2754, of the
1352 Public Records of Sarasota County, Florida (County
1353 Road No 777); That portion conveyed in Official Record
1354 Instrument No. 2000002794 of the Public Records of
1355 Sarasota County, Florida, (River Road Office Park,
1356 Inc.); The maintained right-of-way of County Road No.
1357 777 (South River Road). All of Section 4, Less and
1358 except the following: That portion described in
1359 Official Record Instrument No. 2000002794, of the
1360 Public Records of Sarasota County, Florida, (River

1361 Road Office Park, Inc.). All of Section 5, less and
1362 except the following: Right-of-way conveyed for Pine
1363 Street Extension recorded in Official Record Book
1364 2536, Page 811-974, of the Public Records of Sarasota
1365 County, Florida. All of Section 6, less and except the
1366 following: Right-of-way conveyed for Pine Street
1367 Extension recorded in Official Record Book 2536, Page
1368 811-974, of the Public Records of Sarasota County,
1369 Florida. All of Section 7, less and except the
1370 following: Right-of-way conveyed for Pine Street
1371 Extension recorded in Official Record Book 2536, Page
1372 811-974, of the Public Records of Sarasota County,
1373 Florida. All of Section 8. All of Section 9. All of
1374 Section 10, less and except the following: The
1375 maintained right-of-way for County Road No. 777 (South
1376 River Road) ALL OF THE ABOVE ARE SUBJECT TO EASEMENTS
1377 OF RECORD, OR OTHERWISE, USED FOR DRAINAGE, UTILITIES
1378 AND/OR INGRESS AND EGRESS.
1379
1380 The above described property contains a total of
1381 8193.7478 acres more or less.
1382
1383 (2) The territorial limits of West Villages Improvement
1384 District shall also embrace and include those parcels of land
1385 described as follows:
1386
1387 LANDS LOCATED IN TOWNSHIP 39 SOUTH, RANGE 20 EAST,
1388 SARASOTA COUNTY, FLORIDA:

1389
1390 All that part of Section 21, as lies Southwesterly of
1391 County Road # 777 (West River Road). All that part of
1392 Section 28 lying West of County Road # 777 (West River
1393 Road). All that part of Section 32, described as
1394 follows:
1395
1396 Commence at the Northeast corner of said Section 32;
1397 thence S.00E30'23"W., along the easterly line of the
1398 Northeast 1/4 of said Section 32, a distance of
1399 2658.68 feet to the southeast corner of said Northeast
1400 1/4; thence N.89E23'27"W. a distance of 290.00 feet to
1401 the POINT OF BEGINNING; thence N.00E30'23"E., parallel
1402 with the easterly line of said Section 32, a distance
1403 of 2497.34 feet to the southerly right-of-way of U.S.
1404 Highway 41, being a point on a curve to the left the
1405 center of which lies S.06E30'20"W., a radial distance
1406 of 5603.58 feet; thence along the arc in a westerly
1407 direction, passing through a central angle of
1408 01E13'57", a distance of 120.53 feet; thence
1409 S.00E30'23"W., a distance of 5165.77 feet; thence
1410 S.89E05'08"E., a distance of 120.00 feet; thence
1411 N.00E30'23"E., a distance of 2657.98 feet to the POINT
1412 OF BEGINNING.
1413
1414 All that part of Section 33, described as follows:
1415 Commence at the NW corner of Section 33, Township 39
1416 South, Range 20 East, Sarasota Florida; run thence S.0

1417 degrees 30'44"W. along the westerly line of said
1418 Section 33, 105.39' to the centerline of U.S. 41;
1419 thence continue S.0 degrees 30'44"W. along said
1420 westerly line 1372.36'; thence S.89 degrees 29'16"E.
1421 along the northerly line of Tract, 810' to the POINT
1422 OF BEGINNING of said centerline of said 200 foot wide
1423 Tract; thence N.0 degrees 30'44"E., parallel to the
1424 said westerly line of Section 33, 1078.74' to the
1425 southerly right-of-way line of U.S. 41 (right-of-way
1426 being 100 feet from centerline at this point) for a
1427 POINT OF TERMINATION.
1428
1429 All that part of Section 34 described as follows: The
1430 North Half of the Northwest Quarter of the Southwest
1431 Quarter lying South of U.S. Highway #41 (State Road
1432 #45) and West of the right of way of County Road #777
1433 (as realigned) in Official Records Book 2679 at Pages
1434 2750-2574, LESS the following described lands: East
1435 200' (as measured along the South Right-of-Way of
1436 Tamiami Trail, or arc distance) of the West 392.7 feet
1437 measured along the South Right-of-Way of said Tamiami
1438 Trail, arc distance; on the following described
1439 property: That portion of the Northwest 1/4 of the
1440 Northwest 1/4 of the Southwest 1/4 of Section 34,
1441 Township 39 South, Range 20 East, Sarasota County,
1442 Florida, lying South of Tamiami Trail and being more
1443 particularly described as follows: Begin at the West
1444 1/4 of section corner of Section 34, Township 39

1445 South, Range 20 East and run South on the section line
1446 196.71 feet to the South Right-of-Way line of the
1447 Tamiami Trail for a Point of Beginning: thence
1448 continue S.89E58'00"E 659 feet; thence N.00E00'20"W
1449 424.57 feet to the South Right-of-Way of the said
1450 Tamiami Trail; thence in a Northwesterly direction
1451 along the curve of said Tamiami Trail a distance of
1452 662.5 feet to the Point of Beginning. Said above
1453 described lands being more particularly described and
1454 surveyed as follows: Commence at the West quarter
1455 corner of said Section 34, thence South along the
1456 Westerly section line of said Section 34, a distance
1457 of 668.85 feet; thence S.89E58'00"E. a distance of
1458 190.40 feet to the Point of Beginning of this
1459 description. Thence N.00E00'00"E. a distance of 350.24
1460 feet to a point on the Southerly Right-of-Way line of
1461 Tamiami Trail also known as STATE ROAD No. 45. and
1462 U.S. 41 as per Florida Department of Transportation
1463 Right-of-Way maps Section No. 17010-2508 (204' Right-
1464 of-Way) said point also being on the arc of a circular
1465 curve to the left whose radius point bears
1466 N.06E36'51"E., thence along the arc of said curve in
1467 an easterly direction through a central angle of
1468 03E48'13", having a radius distance of 3011.73 feet,
1469 an arc distance of 199.93 feet; thence South leaving
1470 said Right-of-Way line a distance of 333.93 feet;
1471 thence N.89E58'00"W. a distance of 199.22 feet to the
1472 Point of Beginning; The NE 1/4 of the SW 1/4, lying

1473 easterly of right of way for County Road #777 (as
1474 realigned) as per Official Records Book 2679, at Pages
1475 2750-2754, Less the NW 1/4 of the NE 1/4 of the SW
1476 1/4, Also Less lands described in Official Records
1477 Instrument Number 1999111833; That part of the West
1478 Half of the SE 1/4, lying westerly of maintained right
1479 of way for South River Road (Old River Road), and
1480 northerly of lands described in Official Records
1481 Instrument Number 1999111833.
1482
1483 IN TOWNSHIP 40 SOUTH, RANGE 20 EAST, SARASOTA COUNTY,
1484 FLORIDA:
1485
1486 All of Section 15, less and except the following: The
1487 maintained right-of-way for County Road #777 (South
1488 River Road); Right-of-way conveyed in Official Records
1489 Instrument Number 2000163556.
1490
1491 All of Section 17, less and except the following:
1492 Right-of-way conveyed for Pine Street Extension
1493 recorded in Official Record Book 2536, Page 811-974,
1494 of the Public Records of Sarasota County, Florida.
1495
1496 All of Section 18, less and except the following:
1497 Right-of-way conveyed for Pine Street Extension
1498 recorded in Official Record Book 2536, Page 811-974,
1499 of the Public Records of Sarasota County, Florida.
1500

1501 All of Section 19, less and except the following:
1502 Right-of-way conveyed for Pine Street Extension
1503 recorded in Official Record Book 2536, Pages 811-974,
1504 of the Public Records of Sarasota County, Florida.
1505
1506 All of Section 20, less and except the following:
1507 Right-of-way conveyed for Pine Street Extension
1508 recorded in Official Record Book 2536, Pages 811-974,
1509 of the Public Records of Sarasota County, Florida;
1510 Maintained right-of-way for County Road #777 (South
1511 River Road).
1512
1513 All of Section 21, less and except the following:
1514 Maintained right-of-way for County Road #777 (South
1515 River Road); The SW 1/4 of the SE 1/4; The North 50
1516 feet of the South 380 feet of the SW 1/4 lying East of
1517 County Road #777 (South River Road); Right-of-way
1518 conveyed in Official Record Book 2097, Page 396, of
1519 the Public Records of Sarasota County, Florida; Right-
1520 of-way conveyed in Official Records Instrument Number
1521 2000163556.
1522
1523 Parcel Contains 3739.9714 Acres more or less.
1524 Section 19. Limitations of powers.--All governmental
1525 planning, environmental, and land development laws, regulations,
1526 and ordinances apply to all development of the land within the
1527 district. The district does not have the power of a local
1528 government to adopt a comprehensive plan, building code, zoning

1529 code, or land development code, as those terms are defined in
1530 the Local Government Comprehensive Planning and Land Development
1531 Regulation Act. The district shall take no action which is
1532 inconsistent with applicable comprehensive plans, ordinances, or
1533 regulations of the applicable local general-purpose government.
1534 Nothing in this act shall create any delegation of any
1535 responsibilities or authorities from Sarasota County or the City
1536 of North Port to the district. Notwithstanding anything to the
1537 contrary, as to any lands located within the City of North Port
1538 jurisdictional boundaries or the unincorporated area, the
1539 district shall be required to obtain any and all permits for
1540 infrastructure planning and construction from the City of North
1541 Port or Sarasota County, respectively, that would otherwise be
1542 required of a private entity performing the same work. The
1543 district shall not have the power to supersede ~~supercede~~,
1544 contravene, or overrule any development or annexation agreements
1545 entered into by landowners within or outside of the district or
1546 any City of North Port joint planning agreements or interlocal
1547 agreements with Sarasota County or any other governmental
1548 entities.
1549 Section 2. Referendum.--No expansion of the territorial
1550 boundaries of the district shall be effective until a landowner
1551 referendum is conducted by the board of supervisors within 60
1552 days after the effective date of this act on the question of
1553 expanding the territorial boundaries of the district. All
1554 landowners (which include the landowners within the current
1555 district and expanded district boundaries) are entitled to vote
1556 in the referendum held pursuant to this section. The referendum

1557 shall be held on a one acre, one vote basis at the expense of
1558 the district. If the landowners approve the referendum described
1559 in this section by a majority vote of the acreage cast, then
1560 this act shall take effect immediately.
1561 Section 3. This act shall take effect only upon its
1562 approval by a majority vote of those qualified landowners of the
1563 area described in section 17, as amended, voting in a referendum
1564 to be held by the Board of Supervisors of the West Villages
1565 Improvement District voting in a special election, except that
1566 this section and section 2 shall take effect upon becoming a
1567 law.

HB 1481

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1481 Homosassa Special Water District, Citrus County
SPONSOR(S): Dean
TIED BILLS: **IDEN./SIM. BILLS:** SB 2770

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Finance & Tax Committee			
3)			
4)			
5)			

SUMMARY ANALYSIS

Homosassa Special Water District (District) is an independent special district in Citrus County, Florida. The District currently serves an area of approximately 14,720 acres, with an estimated population of 6,150. Under the charter, the District has the authority to collect ad valorem taxes, a tax on all taxable property, and special assessments. The District's millage rate for the 2005/06 year is 0.694 mills with an estimated revenue of $272,363.

This bill extends the boundaries of the District to include land in three discreet areas: A, B, and C. Each area would be annexed separately, subject to approval by a majority of voters of the District and the majority of voters in each area to be annexed. If the expansions are approved at referendum, property owners in the annexed areas will be subject to ad valorem tax at a rate not to exceed 3 mills and, potentially, special assessments.

Provisions of this bill would take effect upon approval by a majority of qualified voters, and the referendum provision would take effect upon becoming law.

The attached Economic Impact Statement indicates that there will be an increase in revenues of $22,993 in FY 05-06 and at least $22,993 in FY 06-07. Please see the Economic Impact Statement for a narrative discussion of the estimated impact on individuals, business, and governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: If the proposed annexations are approved by voters of the District and the areas to be annexed, property owners in the annexed areas will be subject to an annual levy of ad valorem tax at a rate of up to 3 mills and may be subject to special assessments imposed by the District. The current ad valorem millage rate is .06948 mills.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Homosassa Special Water District (District) is located in Citrus County and is an independent special district originally created in 1947. There is approximately 14,720 acres in the existing District, with an estimated 6,150 people residing within the District.[1] The District is governed ch. 189, F.S., The Uniform Special District Accountability Act of 1989, and the District's charter, which was codified by the Legislature in 2003. Ch. 2003-354, L.O.F.

According to its charter, the purpose of the District is to: (1) supply water within the District for public, domestic, industrial, and fire protection; (2) fix and collect rates and charges for the services and facilities furnished by the water supply and distribution system; and (3) fix and collect charges for making connections with the system.

The governing body of the District is a board of five Commissioners who must be residents of the District and elected in nonpartisan general elections. The affirmative vote of a majority of the governing board members present and voting is necessary to transact business.

The powers, functions, and duties of the District regarding ad valorem taxation, bond issuance, other revenue raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements are set forth in the District's charter, chs. 189 and 197, F.S., and other applicable general or special laws.

Ad Valorem Taxes

The charter of the District authorizes the levy and collection of an annual ad valorem tax at a rate not exceeding 3 mills per annum on all taxable real and personal property in the District. Tax proceeds must be used to fund:

(1) Administrative functions of the District;
(2) Preliminary expenses in connection with the acquisition of the water supply and distribution system and placing the system in operation; or
(3) Maintenance, improvement, enhancement, repair, extension, enlargement, reconstruction, ownership, operation, management, and control of the water supply and distribution system.

The District currently levies ad valorem taxes at a rate of 0.6948 mills. The revenue for FY 2005/06 is estimated at $272,363.[2]

The District is also authorized and required by its charter to annually levy a tax upon all taxable property within the District sufficient to pay the principal of and interest on all bonds issued under the

[1] E-mail from David Purnell, Superintendent of Homosassa Special Water District, March 27, 2006.
[2] E-mail from David Purnell, Superintendent of Homosassa Special Water District, March 27, 2006.

charter as the bonds respectively become due and payable, and to create a sinking fund to pay the principal thereof at or before maturity; however, any yearly revenues received in excess of the amount required to pay the current expenses of administration, operation, maintenance, renewals, and replacements of the District's water supply and distribution system must be applied to pay such interest and principal and only such portion or amount of the annual tax as would otherwise be required is actually levied and collected. According to the District, this tax is not currently levied.

Special Assessments

The District is authorized to levy special assessments to provide for the construction, reconstruction, repair, and/or maintenance of improvements to the water supply and distribution system of a local nature and of special benefit to the properties served. Special assessments against property deemed to be benefited by improvements must be assessed upon the property specially benefited by the improvement and proportioned by the benefits to be derived. Special benefits must be determined and prorated according to the front footage of the respective property specially benefited by the improvement or by other methods prescribed by the District.

The District's charter includes specific requirements regarding the manner in which the Board may adopt resolutions imposing special assessments, including provisions requiring public notice and opportunity for public participation.

Effect of Proposed Changes

The bill extends the District's boundaries to include land in three discreet areas described in the bill: Area A, Area B, and Area C. The bill requires the District to call for a separate referendum on the annexation of each Area no later than December 30, 2006. The purpose of the referendums will be to determine whether the land in each of the three described Areas will be included within the territorial limits of the District and subject to ad valorem taxation at a rate not to exceed 3 mills. The Areas consists of the following acreage and population:[3]

- Area A: approximately 30 acres with an estimated population of 6.
- Area B: approximately 30 acres with an estimated population of 175.
- Area C: approximately 1,120 acres with an estimated population of 360.

Only voters registered in the Area for which the referendum is called, and voters in the existing territorial limits of the District, may vote in a referendum related to a particular Area. If the majority of qualified voters in the Area and a majority of qualified votes residing within the existing territory of the District approve the annexation of the Area into the District and, the Area must be included in the District within 10 days after the referendum.

C. SECTION DIRECTORY:

Section 1: Provides for extension of District boundaries into Area A by voter referendum.
Section 2: Provides for extension of District boundaries into Area B by voter referendum.
Section 3: Provides for extension of District boundaries into Area C by voter referendum.
Section 4: Provides that Section 1-3 of the bill are effective upon approval by a majority of qualified voters, and that Section 4 is effective on upon becoming law.

[3] E-mail from David Purnell, Superintendent of Homosassa Special Water District, March 27, 2006

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? January 31, 2006.

WHERE? *Citrus County Chronicle*, Crystal River, Citrus County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [X] No []

IF YES, WHEN? On or before December 30, 2006 in each area.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Article VII, section 9(b) of the Florida Constitution provides that ad valorem taxes may be assessed by special districts at a millage authorized by law and approved by a vote of qualified electors.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1481

Proof of Publication

from the

CITRUS COUNTY CHRONICLE

Crystal River, Citrus County, Florida

PUBLISHED DAILY

STATE OF FLORIDA
COUNTY OF CITRUS
Before the undersigned authority personally appeared

Kathleen Niehaus

Of the Citrus County Chronicle, a newspaper published daily at Crystal River, in Citrus County, Florida, that the attached copy of advertisement being a public notice in the matter of the
182-0202 THCRN PUBLIC NOTICE NOTICE OF LEGISLATION TO WHOM IT MAY CONCERN: NOTICE IS HEREBY GIVEN that the undersigned intends to apply to the Legislature of the State of Florida, at its regular session held in the year 2006 for the passage of A bill

Court, was published in said newspaper in the issues of

February 2nd, 2006,

Affiant further says that the Citrus County Chronicle is a Newspaper published at Crystal River in said Citrus County, Florida, and that the said newspaper has heretofore been continuously published in Citrus County, Florida, each week and has been entered as second class mail matter at the post office in Inverness in said Citrus County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Kathleen Niehaus

The forgoing instrument was acknowledged before me

This 2nd day of February, 2006

By: Kathleen Niehaus

who is personally known to me and who did take an oath.

Notary Public

NOTARY PUBLIC STATE OF FLORIDA
BETSY B. KING
MY COMMISSION # DD 267499
EXPIRES: November 16, 2007
1-800-3-NOTARY FL Notary Discount Assoc. Co.

182-0202 THCRN
PUBLIC NOTICE

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that the undersigned intends to apply to the Legislature of the State of Florida, at its regular session held in the year 2006 for the passage of

A bill to be entitled

An act relating to the Homosassa Special Water District, Citrus County; providing for annexation of specified areas; requiring a referendum; providing an effective date.

DATED at Inverness, Florida, this 31st day of January, 2006.

DENISE A. LYN
Florida Bar No. 126349
DENISE A. LYN, P.A.
307 N. Apopka Ave.
Inverness, FL 34450
(352) 726-9400 - Phone

Published one (1) time in the Citrus County Chronicle, February 2, 2006.

HOUSE OF REPRESENTATIVES

2006 LOCAL BILL CERTIFICATION

BILL #: HB 1481

SPONSOR(S): DEAN, FASANO

RELATING TO: HOMOSASSA SPECIAL WATER DISTRICT

[Indicate Area Affected (City, County, Special District) and Subject]

NAME OF DELEGATION: CITRUS COUNTY LEGISLATIVE DELEGATION

CONTACT PERSON: Ryan Tyson

PHONE # and E-Mail: 488-0805, ryan.tyson@myflorida house.gov

I. *House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation.* ***Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.***

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES [X] NO [ ]

(2) Has a public hearing been held? YES [X] NO [ ]

Date hearing held: 9/20/05

Location: Citrus County Courthouse

(3) Was this bill formally approved by a majority of the delegation members?
YES [X] NO [ ] UNIT RULE [ ] UNANIMOUS [ ]

II. *Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE [2/2/06 **]**

Where? Citrus County Chronicle **County** Citrus

Referendum in lieu of publication: YES [X] NO [ ]

III. *Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

Has this constitutional taxation requirement been met?
YES [X] NO [ ] NOT APPLICABLE [ ]

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Charles S. Dean 3-07-06

Delegation Chair (*Original Signature*) **Date**

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: HB 1481

SPONSOR(S): Representative Charles Dean

RELATING TO: Homosassa Special Water District - Citrus County, FL - Boundary Expansion

[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	FY 06-07	FY 07-08
Expenditures:	0	0

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 06-07	FY 07-08
Federal:	0	0
State:	0	0
Local:	0	0

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 06-07	FY 07-08
Revenues:	$22,993	at least $22,993

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: The total fiscal advantages are indeterminate at this time. The District is not aware of the individual costs to homeowners to install individual wells and how many private wells exist within the proposed area. Customers will incur a charge for connecting to the water system, but such should be less than to install an individual well. Non-economic advantages include providing potable water to individuals in the coastal hazard zone who are currently not served by a public water system. The District also provides fire flow protection and emergency back-up water to private water systems in the area.

Disadvantages: Those individual taxpayers who vote to be included within the District would see an additional ad valorem tax. The amount of ad valorem tax would depend on the District's yearly millage rate and the value of the taxpayer's property. The District's ad valorem millage is limited by its charter to a maximum of 3 mills. The District's current Millage is .6948.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None.

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

In determining the anticipated increase in revenue, the District multiplied its current millage by the total taxable value within the proposed area.

PREPARED BY: [Must be signed by Preparer] Denise A. Lyn 3/7/06 Date

TITLE: Attorney

REPRESENTING: Homosassa Special Water District

PHONE: (352-726-9400)

E-Mail Address: dlyn@tampabay.rr.com

1 A bill to be entitled
2 An act relating to the Homosassa Special Water District,
3 Citrus County; providing for annexation of specified
4 areas; requiring a referendum; providing an effective
5 date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Extension of district boundaries; Area A.--
10 (1) The Homosassa Special Water District shall call for a
11 referendum no later than December 30, 2006, in accordance with
12 provisions of law relating to elections currently in force. The
13 purpose of said referendum shall be to determine whether the
14 lands within Area A as described below will be included within
15 the territorial limits of the district and will be subject to ad
16 valorem taxation at a rate not exceeding 3 mills. Only those
17 registered voters residing within Area A and only those
18 registered voters residing within the existing territorial
19 limits of the district may vote in said referendum.
20 (2) The legal description of Area A is as follows:
21
22 The SE quarter of the NE quarter of Section 16,
23 Township 19 South, Range 17 East.
24
25 (3) If the majority of the voters residing within Area A
26 and a majority of voters residing within the territorial limits
27 of the district voting in the referendum as provided in
28 subsection (1) determine that the lands described in subsection

29 (2) should be included within the territorial limits of the
30 district, said lands shall be included within the district
31 boundaries 10 days following the date of the referendum.
32 Section 2. Extension of district boundaries; Area B.--
33 (1) The Homosassa Special Water District shall call for a
34 referendum no later than December 30, 2006, in accordance with
35 provisions of law relating to elections currently in force. The
36 purpose of said referendum shall be to determine whether the
37 lands within Area B as described below will be included within
38 the territorial limits of the district and will be subject to ad
39 valorem taxation at a rate not exceeding 3 mills. Only those
40 registered voters residing within Area B and only those
41 registered voters residing within the existing territorial
42 limits of the district may vote in said referendum.
43 (2) The legal description of Area B is as follows:
44
45 SPRING GARDENS Subdivision as described in Plat Book
46 11, Page 98, Public Records of Citrus County, Florida.
47
48 (3) If the majority of the voters residing within Area B
49 and a majority of voters residing within the territorial limits
50 of the district voting in the referendum as provided in
51 subsection (1) determine that the lands described in subsection
52 (2) should be included within the territorial limits of the
53 district, said lands shall be included within the district
54 boundaries 10 days following the date of the referendum.
55 Section 3. Extension of district boundaries; Area C.--
56 (1) The Homosassa Special Water District shall call for a

57 referendum no later than December 30, 2006, in accordance with
58 provisions of law relating to elections currently in force. The
59 purpose of said referendum shall be to determine whether the
60 lands within Area C as described below will be included within
61 the territorial limits of the district and will be subject to ad
62 valorem taxation at a rate not exceeding 3 mills. Only those
63 registered voters residing within Area C and only those
64 registered voters residing within the existing territorial
65 limits of the district may vote in said referendum.
66 (2) The legal description of Area C is as follows:
67
68 Begin at a point on the West line of Section 23,
69 Township 19 South, Range 17 East, said point being the
70 intersection of said West line and the W'LY extension
71 of the North line of Block 178 as shown on the plat of
72 Unit 4 of Homosassa as recorded in Plat Book 1, Page
73 46, Public Records Of Citrus County, Florida, thence
74 E'LY and NE'LY along the North line of Blocks 178,
75 179, 182 & 181 as shown on said Plat, to the
76 intersection of the E'LY extension of the North line
77 of said Block 181 and the East line of said Plat, said
78 line also being the West line of Homosassa Highlands
79 as recorded in Plat Book 7, Page 33, Public Records Of
80 Citrus County, Florida, thence N'LY along said West
81 line to the intersection of the South line of Lot 10
82 of said Plat, thence E'LY along said South line to the
83 SE corner of said Lot, then S'LY along the East line
84 of Lot 9 of said plat to the intersection of the W'LY

85 extension of Lot 27 of said Plat, thence E'LY along
86 the North line of said Lot and the North line of Lots
87 23, 24, 25, & 26 of said plat to the intersection of
88 the E'LY extension of the North line of said Lot 23
89 and the West line of Lot 56 of said plat, thence N'LY
90 along said West line to the NW corner of lands
91 described in OR Book 1459, Page 143, Public Records Of
92 Citrus County, Florida, thence E'LY and S'LY along
93 said lands to the South line of said Lot 56, thence
94 E'LY along the South line of said lot and the E'LY
95 extension thereof to the East line of said plat also
96 being the East line of said Section 23.
97
98 AND
99
100 The SE 1/4 and the S 1/2 of the SW 1/4 of Section 24,
101 Township 19 South, Range 17 East.
102
103 AND
104
105 The N 1/2 of the NE 1/4 and the N 1/2 of the NW 1/4,
106 Section 25, Township 19 South, Range 17 East.
107
108 AND
109
110 Begin at the SE corner of Lot 13, Block 12, Green
111 Acres, Addition 6, Unit 3, as recorded in Plat Book 8,
112 Page 94, Public Records Of Citrus County, Florida,

113 said point also being on the East line of Section 26,
114 Township 19 South, Range 17 East, thence W'LY and
115 NW'LY along the S'LY line of said Block 12 to the
116 intersection the SW'LY line of Lot 11 of said Block,
117 and the NE'LY extension of Lot 1, Block 11 of said
118 plat, thence SW'LY along said extension to the most
119 E'LY corner of said Lot 1, thence continue SW'LY,
120 NW'LY and SE'LY along the SE'LY line of said lot to
121 the SE'LY corner of Lot 9 of said Block, thence SW'LY
122 along the South line of said Lot 9 to the SE'LY corner
123 of Lot 6 of said Block, thence NW'LY along the SW'LY
124 line of said lot and as extended to a point on the
125 SE'LY line of Lot 3, Block 15 of said plat, thence
126 SW'LY along said line and the SE'LY of Lot 4 of said
127 block to the most S'LY corner of said Lot 4, thence
128 NW'LY along the SW'LY line of said Lot 4 and the SW'LY
129 line of Lot 5 of said Block to an intersection of said
130 SW'LY line of Lot 5 and the NE'LY extension of the
131 SE'LY line of Lot 9, Block 14 of said plat, thence
132 SW'LY along said extension and said SE'LY line of said
133 Lot 9 to a point on the West boundary of said plat,
134 said point also being on the East line of the NW 1/4
135 of said section, and the North 1/2 of the NW 1/4 of
136 said Section less UNIT 4 of HOMOSASSA PB 1, PG 46,
137 LOTS 6, 7, 8, 9, 10, 11, & 12 & N 20 FT OF LTS 19 THRU
138 25 BLK 166.
139
140 AND

141
142 The SE 1/4 and the S 1/2 of the SW 1/4 of Section 19,
143 Township 19 South, Range 18 East.
144
145 AND
146
147 The N 1/2 of the NE 1/4 and the N 1/2 of the NW 1/4 of
148 Section 30, Township 19 South, Range 18 East.
149
150 (3) If the majority of the voters residing within Area C
151 and a majority of voters residing within the territorial limits
152 of the district voting in the referendum as provided in
153 subsection (1) determine that the lands described in subsection
154 (2) should be included within the territorial limits of the
155 district, said lands shall be included within the district
156 boundaries 10 days following the date of the referendum.
157 Section 4. Sections 1, 2, and 3 of this act shall take
158 effect only upon their approval by a majority vote of those
159 qualified electors authorized under such sections and voting in
160 a referendum election to be called by the Homosassa Special
161 Water District to be held before December 30, 2006, in
162 accordance with the provisions of law relating to elections
163 currently in force, except that this section shall take effect
164 upon becoming a law.

HB 1583

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1583 Community Redevelopment
SPONSOR(S): Davis
TIED BILLS: **IDEN./SIM. BILLS:** SB 2364

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) Growth Management Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

The Community Redevelopment Act of 1969 (Act) was established with the intent to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state." CRAs are funded primarily through tax increment financing (TIF). As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund. These revenues are used to service bonds issued to finance redevelopment project. CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years. As of March 26, 2006, there were 171 CRAs in Florida.

This bill amends the Community Redevelopment Act to revise procedures for calculating tax increment revenues, adopting community redevelopment plans or modifications to plans that expand boundaries of a community redevelopment area, and revise procedures for delegating community redevelopment powers to cities by charter counties. Generally, the bill:

- Revises procedures regarding the adoption of community redevelopment plans by certain Community Redevelopment Agencys (CRAs), and modifications of community redevelopment plans that expand the boundaries of a redevelopment area, to require a joint hearing between the county and municipality to discuss competing policies and uses for the public funds.
- Establishes limitations in certain circumstances on the amount of tax increment contributions that taxing authorities must contribute to CRAs created after July 1, 2006 in a non-charter county, or to CRAs that extend a redevelopment plan beyond a specified time period. These limitations also apply to a CRA in a charter county if the CRA modifies its redevelopment plan after July 1, 2006, to expand the boundaries of the redevelopment area. The bill also authorizes interlocal agreements to provide alternative methods of calculating increment revenues contributed by a taxing authority to a CRA.
- Requires a charter county to approve or deny a city's request for delegation of community redevelopment powers within 120 days or the request is deemed approved.
- Authorizes city and counties to create a slum or blight area study prior to adopting a resolution to create a CRA.

The bill does not appear to have a fiscal impact on the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Community Redevelopment Act Generally
The Community Redevelopment Act of 1969, Ch. 163, Part II, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state." The Act authorizes each local government to establish one Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a "finding of necessity" and a further finding of a "need for a CRA to carry out community redevelopment." During the last two decades, municipalities, and to a lesser extent counties, have increasingly relied upon CRAs as a mechanism for community redevelopment.

CRAs are funded primarily through tax increment financing (TIF). As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund. These revenues are used primarily to service bonds issued to finance redevelopment projects. CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years.

As of March 26, 2006, there were 171 CRAs in Florida.[1]

Creation of Community Redevelopment Agencies
A county or municipality may not exercise redevelopment powers conferred by the Act until after the governing body has adopted a resolution finding that:

> (1) One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist in such county or municipality; and,
> (2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.[2]

Further, "[c]ommunity redevelopment in a community redevelopment area shall not be planned or initiated unless the governing body has, by resolution, determined such area to be a slum area, a blighted area, or an area in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, or a combination thereof, and designated such area as appropriate for community redevelopment."[3]

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[1] Department of Community Affairs, Special District Detail Report, http://www.floridaspecialdistricts.org/OfficialList/report.asp, March 26, 2006
[2] s. 163.355, F.S.
[3] s. 163.360(1), F.S.

The Act[4] defines "slum area" and "blighted area" as follows:

> (7) "Slum area" means an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired by reason of dilapidation, deterioration, age, or obsolescence, and exhibiting one or more of the following factors:
>
> (a) Inadequate provision for ventilation, light, air, sanitation, or open spaces;
> (b) High density of population, compared to the population density of adjacent areas within the county or municipality; and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
> (c) The existence of conditions that endanger life or property by fire or other causes.
>
> (8) "Blighted area" means an area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:
>
> (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
> (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;
> (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
> (d) Unsanitary or unsafe conditions;
> (e) Deterioration of site or other improvements;
> (f) Inadequate and outdated building density patterns;
> (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
> (h) Tax or special assessment delinquency exceeding the fair value of the land;
> (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
> (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
> (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
> (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
> (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
> (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.
>
> However, the term "blighted area" also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a) agree, either by interlocal agreement or agreements with the agency or by resolution, that the area is blighted. Such agreement or resolution shall only determine that the area is blighted. For purposes of qualifying for the tax credits authorized in chapter 220, "blighted area" means an area as defined in this subsection.

A "community redevelopment area" is defined as "a slum area, a blighted area, or an area in which there is a shortage of housing that is affordable to residents of low or moderate income, including the elderly, or a coastal and tourist area that is deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout or inadequate street layout, or a combination thereof which the governing body designates as appropriate for community redevelopment."

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[4] s. 163.340, F.S.

The division of authority between a county and municipality regarding the creation or expansion of a municipal CRA depends upon whether the county is a non-charter or charter county, or whether a CRA was created *prior* to adoption of a county charter. The division of authority may be summarized as follows:

	Authority over creation, expansion, or modification of a CRA
Charter County	Charter counties possess sole authority to create CRAs within the county, but may delegate authority to a municipality via interlocal agreement.
Non-Charter County	Non-charter counties do not have authority over the creation, expansion, or modification of municipal CRAs within the county. Therefore, a municipality may create a CRA and operate the CRA, requiring the long-term contribution of TIF payments from the county, even if the county objects or has other county funding issues to address.
A CRA created in a charter county *prior* to adoption of the county charter	The charter county does not have authority over the operations of the CRA, including modification of the redevelopment plan or expansion of CRA boundaries.

Governance of a Community Redevelopment Agency

The governing body of the local government creating a CRA may appoint a board of commissioners of between 5 and 7 members to govern the CRA, or the governing body may declare itself to be the CRA. A governing body that consists of five members may appoint two additional persons to act as members of the CRA board. In a home rule charter county, powers granted under the Act must be exercised exclusively by the governing body of the charter county unless the county adopts a resolution delegating such powers within the boundaries of a municipality to the governing body of the municipality.[5] This limitation does not apply, however, to a CRA created by a municipality prior to the adoption of a county home rule charter. In addition, a non-charter county cannot exercise powers conferred by the Act within the boundaries of a municipality unless the governing body of the municipality expresses its consent by resolution.[6]

Community Redevelopment Agency Plans

Each community redevelopment area must have an approved community redevelopment plan in conformance with the local government comprehensive plan.[7] The plan must be sufficiently complete to indicate any land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation to be carried out in the designated area.[8] The plan must also provide for the development of affordable housing in the area or state the reasons for not addressing the issue in the plan.[9] The local government may subsequently modify the community redevelopment plan upon the recommendation of the CRA.[10]

Section 163.361, F.S., governs the modification of community redevelopment plans, and authorizes CRAs -- those created by counties or cities -- to modify such plans after public notice and a public hearing. Section 163.361(1), F.S., allows amendments to the redevelopment plan to change the boundaries of a redevelopment area or the development and implementation of community policing

[5] s. 163.410, F.S.
[6] s. 163.415, F.S.
[7] s. 163.358(2)(a), F.S.
[8] s. 163.358(2)(b), F.S.
[9] s. 163.358(2)(c), F.S.
[10] s. 163.361, F.S.

innovations. The section places no restrictions on the magnitude of expansions or exclusions, nor does the section distinguish between modifications to plans in charter and non-charter counties.

Redevelopment Trust Funds and Tax Increment Financing

Section 163.387, F.S., provides for the creation of a redevelopment trust fund for each CRA. Funds allocated to and deposited into this fund are used by the CRA to finance any community redevelopment undertaken based on an approved community redevelopment plan. In tax increment financing, property values in a certain defined community redevelopment area are frozen by local ordinance at the assessed value for the base year, which is the year in which the community redevelopment area was established. As redevelopment proceeds within the redevelopment area, the actual assessed value of property within the redevelopment area should increase, generating tax increment revenues for the CRA.

Section 163.340(2), F.S., defines "taxing authority" to mean the state or any county, municipality, authority, special district as defined in s. 165.031(5), F.S., or other public body of the state, except a school district." Taxing authorities that levy ad valorem taxes on property located within a community redevelopment area are required to deposit the incremental revenue generated as a result of this increase in property value into a redevelopment trust fund for the CRA's use. Section 163.387, F.S., specifically provides that "the annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with undertaking and carrying out of community redevelopment under this part."

Exemptions from Tax Increment Financing

Section 163.387(2)(c), F.S., exempts the following public bodies or taxing authorities created prior to July 1, 1993, from the requirement to deposit an appropriation equaling incremental revenue into a CRA's redevelopment trust fund:

- A special district that levies ad valorem taxes on taxable real property in more than one county.
- A special district, the sole available source of revenue of which is ad valorem taxes at the time an ordinance is adopted under this section.
- A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.
- A neighborhood improvement district created under the Safe Neighborhoods Act.
- A metropolitan transportation authority.
- A water management district created under s. 373.069, F.S.

In addition, a local governing body that creates a CRA may exempt a special district that levies ad valorem taxes within that community redevelopment area from the requirement to deposit incremental revenue into a CRA's redevelopment trust fund.[11] The local governing body may grant the exemption either in its sole discretion or in response to the request of the special district. The local governing body must establish procedures by which a special district may submit a written request for an exemption from contributing to the trust fund. In deciding whether to deny or grant a special district's request for exemption, the local governing body must consider certain specified factors.

The local governing body must hold a public hearing on a special district's request for exemption after public notice of the hearing is published in a newspaper having a general circulation in the county or municipality that created the community redevelopment area. The notice must describe the time, date, place and purpose of the hearing, identify generally the community redevelopment area covered by the plan, and the impact of the plan on the special district that requested the exemption. If a local governing body grants an exemption to a special district, the local governing body and the special district must enter into an interlocal agreement that establishes the conditions of the exemption,

[11] s. 163.387(2)(d), F.S.

including the period of time for which the exemption is granted. If a local governing body denies a request for exemption by a special district, the local governing body must provide the special district with a written analysis specifying the rationale for the denial.

The decision to either deny or grant an exemption must be made by the local governing body within 120 days after the date the written request was submitted to the local governing body pursuant to procedures established by the governing body.

Community Redevelopment Agency Powers
CRAs are granted those powers "necessary or convenient to carry out and effectuate the purposes of the act." These powers include the power to issue bonds and acquire property by eminent domain, if approved by the governing body that established the CRA. CRAs are also granted the power to undertake and carry out community redevelopment and related activities within the community redevelopment area. Redevelopment may include such activities as the acquisition and disposition of real property located within the community redevelopment area and the repair or rehabilitation of structures within the community redevelopment area for dwelling uses.[12]

Charter counties and non-charter counties are treated differently under the Act. Section 163.410, F.S., grants charter counties exclusive authority to exercise the powers of the Act, but allows a charter county to delegate such powers to a municipality. In 1983, ch. 83-29, L.O.F., was enacted to provide that the section does not apply to any community redevelopment agency created by a municipality prior to adoption of a county home rule charter. Noncharter counties are not granted exclusive control over community redevelopment activities.

Legislative Committee on Intergovernmental Relations (LCIR) Study
During the 2003-2004 interim, the LCIR conducted a study of economic revitalization initiatives in distressed urban areas. During the study, local governments in Florida cited CRAs as the most commonly used economic development and revitalization program in Florida. The LCIR continued reviewing the issue of urban revitalization with an emphasis on CRAs. At the conclusion of the review, LCIR issued a comprehensive report in January 2005 entitled Local Government Concerns Regarding Community Redevelopment Agencies in Florida (Report). The Report included the following "Findings":

- County and municipal governments agree that CRAs are useful mechanisms for addressing slum and blight.
- Representatives from municipal government and CRA officials prefer no change to existing CRA statutes, stating that current law has resulted in improvements to areas previously designated as slum or blighted.
- Representatives from municipal government and CRA officials also submit that any problems can best be addressed locally through interlocal agreements rather than statutory changes.
- Representatives of county government advocate changes to existing CRA statutes, stating current law is responsible for creating an imbalance in power between municipal and county governments.
- Problems cited by county government representatives include, among others: county government has insufficient input into operations and expansion of existing CRA districts and creation of new districts; and non-charter counties have no voice whatsoever in CRA activities within their jurisdiction.
- Current law does not require or provide for interlocal agreements between county and municipal governments.
- According to 2003 millage rates for county and municipal governments, 78 municipalities with CRAs have lower millage rates than their host county and 36 municipalities with CRAs have higher millage rates than their host county.
- LCIR staff estimates that, based on 2003 millage rates, county government contributes $81,674 to municipal CRAs per each $100,000 increase in the CRA district's taxable value (assumed

[12] s. 163.370(1)(c), F.S.

increase), compared to municipal government contribution of $66,905 to municipal CRAs per each $100,000 increase in the CRA district's taxable value.

- A recent evaluation of three CRAs in Florida, sponsored by the Florida Redevelopment Association, found that TIF payments impose a greater financial burden on municipalities than on counties when measured as a percent of taxable property values and as a percent of overall operating revenues. In addition, some municipalities contribute larger TIF payments than do their host counties.

Effect of Proposed Changes

Section 1. Amending s. 163.340, F.S., relating to Definition of "Taxing Authorities"
This section amends. s. 163.340, F.S., to create a definition of the term "taxing authorities" as follows: "Taxing authority" means any local government other than a school district that levies ad valorem millage against the property within a community redevelopment area." Under the Act, a taxing authority must appropriate tax increment revenues to the CRA for use in redevelopment projects.

Section 2. Amending s. 163.346, F.S., relating to Notice to Taxing Authorities
Currently, s. 163.346, F.S., requires a city or county governing body to notify all taxing authorities prior to enacting any resolution or ordinance required to create a community redevelopment agency; prior to approving, adopting, or amending a community redevelopment plan; and prior to issuing redevelopment revenue bonds. The governing body must provide public notice of such proposed action and, at least 15 days before such proposed action, mail by registered mail a notice to each taxing authority that levies ad valorem taxes on taxable real property contained within the geographic boundaries of the redevelopment area.

This bill amends s. 163.346, F.S., to also require notice to taxing authorities if the governing body of the city or county adopts a resolution establishing a slum and blight study area under s. 163.354, F.S., as created by this bill.

Section 3. Creates s. 163.354, F.S., relating to Development of Study Area
This new section authorizes the governing body of a city or county to adopt a resolution establishing a slum and blight study area before adopting a resolution making a finding of necessity to create a CRA as required by s. 163.355, F.S.

Section 4. Amends s. 163.360, F.S., relating to Community Redevelopment Plans
Under current s. 163.360, F.S., a county, municipality, or CRA may itself prepare or cause to be prepared a community redevelopment plan, or any person or agency, public or private, may submit such a plan to a community redevelopment agency. The CRA must submit any community redevelopment plan it recommends for approval, together with its written recommendations, to the governing body and to each taxing authority that levies ad valorem taxes on taxable real property contained within the geographic boundaries of the redevelopment area. The governing body must conduct a public hearing on a community redevelopment plan after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the county or municipality. The notice must describe the time, date, place, and purpose of the hearing, identify generally the community redevelopment area covered by the plan, and outline the general scope of the community redevelopment plan under consideration. Following the hearing, the governing body may approve the community redevelopment and the plan if it makes certain determinations required by law.

This bill amends that section to create additional procedures for approving plans recommended by CRAs created after January 1, 2006, that were not created pursuant to a delegation of authority by a charter county to a city.

Within 30 days after receipt of any community redevelopment plan recommended by a CRA, the charter county must provide written notice to the governing body of the municipality that the county has competing policy goals and plans for the public funds the county would be required to contribute to the

tax increment under the proposed community redevelopment plan. If the county provides timely notice, the board of county commissioners and the governing body of the municipality that created the community redevelopment agency must schedule and hold a joint hearing chaired by the county chair at which the competing policy goals for the public funds will be discussed. Any such hearing must be held within 90 days after receipt by the county of the recommended community redevelopment plan. Prior to the joint public hearing, the county may propose an alternative redevelopment plan to address the conditions identified in the resolution making a finding of necessity required by s. 163.355, F.S. The municipality may not proceed with the adoption of the plan until 45 days after the joint hearing unless the board of county commissioners failed to schedule and attend the joint hearing within the required 90-day period.

Notwithstanding these timeframes, the county and the municipality may, at any time, engage in the voluntary dispute resolution process established in ch. 164, F.S., the Florida Governmental Conflict Resolution Act, to attempt to resolve any competing policy goals between the county and municipality related to the CRA.

Section 5. Amends s. 163.361, F.S., relating to Modification of Redevelopment Plans
Currently, if at any time after the approval of a community redevelopment plan by the governing body of the city or county creating a CRA it becomes necessary or desirable to amend or modify the plan, the governing body may do so upon the recommendation of the CRA. The CRA recommendation to amend or modify a redevelopment plan may include a change in the boundaries of the redevelopment area to add land to or exclude land from the redevelopment area, or may include the development and implementation of community policing innovations. The governing body must hold a public hearing on a proposed modification of any community redevelopment plan after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the CRA.

Prior to the adoption of any modification to a community redevelopment plan that expands the boundaries of the community redevelopment area or extends the time certain set forth in the redevelopment plan, the CRA must report the proposed modification to each taxing authority in writing or by an oral presentation, or both, regarding the proposed modification.

This bill amends s. 163.361, F.S., to create additional procedures applicable to municipal CRAs there were not created pursuant to a delegation of authority from a charter county if these CRAs wish to modify an adopted community redevelopment plan in a manner than expands the boundaries of the redevelopment area.

Within 30 days after receipt of any report of a proposed modification that expands the boundaries of the redevelopment area of a CRA created by a city located within a charter county without a delegation of authority from the county, the county must provide notice to the governing body of the municipality if the county has competing policy goals and plans for the public funds the county would be required to contribute to the tax increment under the proposed modification to the community redevelopment plan.

If the county provides timely notice, the board of county commissioners and the governing body of the municipality that created the community redevelopment agency must schedule and hold a joint hearing chaired by the county chair at which the competing policy goals for the public funds are discussed. A hearing must be held within 90 days after receipt by the county of the recommended modification of the adopted community redevelopment plan. Prior to the joint public hearing, the county may propose an alternative modified community redevelopment plan to address the conditions identified in the resolution making a finding of necessity required under s. 163.355.The municipality may not proceed with the adoption of the plan until 45 days after the joint hearing unless the board of county commissioners failed to schedule and attend the joint hearing within the required 90-day period.

Notwithstanding these timeframes, the county and the municipality may, at any time, engage in voluntary dispute resolution process established in chapter 164, the Florida Governmental Conflict

Resolution Act, to attempt to resolve any competing policy goals between the county and municipality related to the expansion of the boundaries of the community redevelopment agency.

6. Amends s. 163.387, F.S., relating to the Redevelopment Trust Fund

Section 163.387, F.S., requires the establishment of a redevelopment trust fund into which all tax increment revenues are deposited. This section establishes the mechanism for calculating the tax increment revenues deposited into the trust fund for redevelopment purposes. CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years.

The bill amends s. 163.387, F.S., to limit the amount of tax increment revenue owed by taxing authorities to any CRA created after July 1, 2006, that is not created pursuant to a delegation of authority by a charter county, or that extends the time certain set forth in the redevelopment plan beyond 40 years after the later of the fiscal year in which the initial redevelopment plan is adopted or the most recent amendment to the redevelopment plan is adopted. The amount of tax increment to be contributed by any taxing authority is limited as follows:

a. If a taxing authority imposes a millage rate that exceeds the millage rate imposed by the governing body that created the trust fund, the amount of tax increment to be contributed by the taxing authority is calculated using the millage rate imposed by the governing body that created the trust fund, provided that any taxing authority may voluntarily contribute amounts of tax increment at a higher rate for a period of time as specified by interlocal agreement between the taxing authority and the community redevelopment agency.

b. At any time more than 19 years after the fiscal year in which a taxing authority made its first contribution to a redevelopment trust fund, the taxing authority may limit the amount of increment contributed by the taxing authority to the trust fund to the average annual amount the taxing authority was obligated to contribute to the trust fund in the 3 fiscal years immediately preceding the adoption of such resolution, plus any increase in the increment after the adoption of the resolution computed using the taxable values of any area which is subject to an area reinvestment agreement.

For any community redevelopment agency that was not created pursuant to a delegation of authority by a county that has adopted a home rule charter and that modifies its adopted community redevelopment plan after July 1, 2006, in a manner that expands the boundaries of the redevelopment area, the amount of increment to be contributed by any taxing authority with respect to the expanded area is limited as set forth in a. and b. above.

The bill also authorizes interlocal agreements between any taxing authority and the governing body that created the CRA that may govern amount and time of payment, interest rates, formulae and limits other than those specified by law.

Section 7. Amends s. 163.410, F.S., relating to Charter Counties

Currently, s. 163.410, F.S., provides that in a charter county, the powers conferred by the Act must be exercised exclusively by the governing body of the county unless the county governing body delegates the power, by resolution, to the governing body of a municipality. A delegation to a municipality confers only those powers that are specifically enumerated in the delegating resolution. Any power not specifically delegated is reserved exclusively to the county governing body. This provision does not, however, affect any CRA created by a municipality prior to the adoption of a county home rule charter.

Unless otherwise provided by an existing ordinance, resolution, or interlocal agreement between a charter county and a municipality, the charter county governing body must "act on" any request from a municipality for a delegation of powers or a change in an existing delegation of powers within 120 days after the receipt of all required documentation or such request must be immediately sent to the county governing body for consideration.

This bill amends s. 163.410, F.S., to require the county to "approve or deny" a request for a delegation within 120 days after receipt of all required documentation. If the charter county does not approve or deny the request within that timeframe, the request is deemed approved. Any request by the county for additional documentation or other information must be made in writing to the municipality. The county must notify the municipality in writing within 30 days after receiving all the required documentation and other requested information. If the meeting of the county commission at which the request for a delegation of powers or a change in an existing delegation of powers is unable to be held due to events beyond the control of the county, the request may be acted upon at the next regularly scheduled meeting of the county commission without regard to the 120-day limitation.

C. SECTION DIRECTORY:

Section 1. Amending s. 163.340, F.S.; defining the term "taxing authority";
Section 2. Amending s. 163.346, F.S.; revising a requirement that a governing body notify taxing authorities before taking certain actions;
Section 3. Creating s. 163.354, F.S.; authorizing the adoption of a resolution establishing a slum and blight study area before making a finding of necessity;
Section 4. Amending s. 163.360, F.S.; specifying additional notice, hearing, and dispute resolution procedures for adoption of a community redevelopment plan for certain community redevelopment agencies;
Section 5. Amending s. 163.361, F.S.; specifying additional notice, hearing, and dispute resolution procedures for adoption of a modified community redevelopment plan expanding redevelopment area boundaries for certain community redevelopment agencies;
Section 6. Amending s. 163.387, F.S.; specifying for certain redevelopment agencies certain limitations on amounts of increment contributed to a redevelopment trust fund by certain taxing authorities; authorizing enactment of an interlocal agreement providing for an alternative determination of amounts of, payment schedules for, and interest on increment contributions to a redevelopment trust fund;
Section 7. Amending s. 163.410, F.S.; providing requirements for actions by certain counties delegating or changing a delegation of powers to a municipality for community redevelopment areas;
Section 8. Providing an effective date.

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: This bill provides limitations on the required contributions of a taxing authority in a CRA in certain circumstances. It also allows for an alternative method of calculating the amount, times of payment, and interest on increment revenues.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

1 A bill to be entitled
2 An act relating to community redevelopment; amending s.
3 163.340, F.S.; defining the term "taxing authority";
4 amending s. 163.346, F.S.; revising a requirement that a
5 governing body notify taxing authorities before taking
6 certain actions; creating s. 163.354, F.S.; authorizing
7 the adoption of a resolution establishing a slum and
8 blight study area before making a finding of necessity;
9 amending s. 163.360, F.S.; specifying additional notice,
10 hearing, and dispute resolution procedures for adoption of
11 a community redevelopment plan for certain community
12 redevelopment agencies; amending s. 163.361, F.S.;
13 specifying additional notice, hearing, and dispute
14 resolution procedures for adoption of a modified community
15 redevelopment plan expanding redevelopment area boundaries
16 for certain community redevelopment agencies; amending s.
17 163.387, F.S.; specifying for certain redevelopment
18 agencies certain limitations on amounts of increment
19 contributed to a redevelopment trust fund by certain
20 taxing authorities; authorizing enactment of an interlocal
21 agreement providing for an alternative determination of
22 amounts of, payment schedules for, and interest on
23 increment contributions to a redevelopment trust fund;
24 amending s. 163.410, F.S.; providing requirements for
25 actions by certain counties delegating or changing a
26 delegation of powers to a municipality for community
27 redevelopment areas; providing an effective date.
28

29 Be It Enacted by the Legislature of the State of Florida:
30
31 Section 1. Subsection (2) of section 163.340, Florida
32 Statutes, is amended, and subsection (24) is added to that
33 section, to read:
34 163.340 Definitions.--The following terms, wherever used
35 or referred to in this part, have the following meanings:
36 (2) "Public body" ~~or "taxing authority"~~ means the state or
37 any county, municipality, authority, special district as defined
38 in s. 165.031(5), or other public body of the state, except a
39 school district.
40 (24) "Taxing authority" means any local government other
41 than a school district that levies ad valorem millage against
42 the property within a community redevelopment area.
43 Section 2. Section 163.346, Florida Statutes, is amended
44 to read:
45 163.346 Notice to taxing authorities.--Before the
46 governing body adopts any resolution or enacts any ordinance
47 required under s. 163.354, s. 163.355, s. 163.356, s. 163.357,
48 or s. 163.387; establishes a study area; creates a community
49 redevelopment agency; approves, adopts, or amends a community
50 redevelopment plan; or issues redevelopment revenue bonds under
51 s. 163.385, the governing body must provide public notice of
52 such proposed action pursuant to s. 125.66(2) or s.
53 166.041(3)(a) and, at least 15 days before such proposed action,
54 mail by registered mail a notice to each taxing authority which
55 levies ad valorem taxes on taxable real property contained
56 within the geographic boundaries of the redevelopment area.

57 Section 3. Section 163.354, Florida Statutes, is created
58 to read:
59 163.354 Development of study area.--Prior to adopting a
60 resolution making a finding of necessity required by s. 163.355,
61 the governing body may adopt a resolution establishing a slum
62 and blight study area.
63 Section 4. Subsection (6) of section 163.360, Florida
64 Statutes, is amended to read:
65 163.360 Community redevelopment plans.--
66 (6)(a) The governing body shall hold a public hearing on a
67 community redevelopment plan after public notice thereof by
68 publication in a newspaper having a general circulation in the
69 area of operation of the county or municipality. The notice
70 shall describe the time, date, place, and purpose of the
71 hearing, identify generally the community redevelopment area
72 covered by the plan, and outline the general scope of the
73 community redevelopment plan under consideration.
74 (b) For any community redevelopment agency created after
75 January 1, 2006, that was not created pursuant to a delegation
76 of authority under s. 163.410 by a county that has adopted a
77 home rule charter, the following additional procedures are
78 required prior to the governing body's adopting a community
79 redevelopment plan under subsection (7):
80 1. Within 30 days after receipt of any community
81 redevelopment plan recommended by a community redevelopment
82 agency under subsection (5), the county shall provide written
83 notice to the governing body of the municipality that the county
84 has competing policy goals and plans for the public funds the

85 county would be required to contribute to the tax increment
86 under the proposed community redevelopment plan.
87 2. If the notice required in subparagraph 1. is timely
88 provided, the board of county commissioners and the governing
89 body of the municipality that created the community
90 redevelopment agency shall schedule and hold a joint hearing
91 chaired by the county chair at which the competing policy goals
92 for the public funds shall be discussed. Any such hearing must
93 be held within 90 days after receipt by the county of the
94 recommended community redevelopment plan. Prior to the joint
95 public hearing, the county may propose an alternative
96 redevelopment plan to address the conditions identified in the
97 resolution making a finding of necessity required by s. 163.355.
98 3. If the notice required in subparagraph 1. is timely
99 provided, the municipality may not proceed with the adoption of
100 the plan under subsection (7) until 45 days after the joint
101 hearing unless the board of county commissioners has failed to
102 schedule and attend the joint hearing within the required 90-day
103 period.
104 4. Notwithstanding the timeframes established in
105 subparagraphs 2. and 3., the county and the municipality may at
106 any time voluntarily use the dispute resolution process
107 established in chapter 164 to attempt to resolve any competing
108 policy goals between the county and municipality related to the
109 community redevelopment agency. Nothing in this subparagraph
110 grants the county or the municipality the authority to require
111 the other to participate in the dispute resolution process.

112 Section 5. Subsection (3) of section 163.361, Florida
113 Statutes, is amended to read:
114 163.361 Modification of community redevelopment plans.--
115 (3)(a) In addition to the requirements of s. 163.346, and
116 prior to the adoption of any modification to a community
117 redevelopment plan that expands the boundaries of the community
118 redevelopment area or extends the time certain set forth in the
119 redevelopment plan as required by s. 163.362(10), the agency
120 shall report such proposed modification to each taxing authority
121 in writing or by an oral presentation, or both, regarding such
122 proposed modification.
123 (b) For any community redevelopment agency that was not
124 created pursuant to a delegation of authority under s. 163.410
125 by a county that has adopted a home rule charter and that
126 modifies its adopted community redevelopment plan in a manner
127 that expands the boundaries of the redevelopment area, the
128 following additional procedures are required prior to the
129 governing body's adopting a modified community redevelopment
130 plan:
131 1. Within 30 days after receipt of any report of a
132 proposed modification that expands the boundaries of the
133 redevelopment area, the county shall provide notice to the
134 governing body of the municipality that the county has competing
135 policy goals and plans for the public funds the county would be
136 required to contribute to the tax increment under the proposed
137 modification to the community redevelopment plan.
138 2. If the notice required in subparagraph 1. is timely
139 provided, the board of county commissioners and the governing

140 body of the municipality that created the community
141 redevelopment agency shall schedule and hold a joint hearing
142 chaired by the county chair at which the competing policy goals
143 for the public funds shall be discussed. Any such hearing shall
144 be held within 90 days after receipt by the county of the
145 recommended modification of the adopted community redevelopment
146 plan. Prior to the joint public hearing, the county may propose
147 an alternative modified community redevelopment plan to address
148 the conditions identified in the resolution making a finding of
149 necessity required under s. 163.355.
150 3. If the notice required in subparagraph 1. is timely
151 provided, the municipality may not proceed with the adoption of
152 the plan under s. 163.360(7) until 45 days after the joint
153 hearing unless the board of county commissioners has failed to
154 schedule and attend the joint hearing within the required 90-day
155 period.
156 4. Notwithstanding the timeframes established in
157 subparagraphs 2. and 3., the county and the municipality may at
158 any time voluntarily use the dispute resolution process
159 established in chapter 164 to attempt to resolve any competing
160 policy goals between the county and municipality related to the
161 expansion of the boundaries of the community redevelopment
162 agency. Nothing in this subparagraph grants the county or the
163 municipality the authority to require the other to participate
164 in the dispute resolution process.
165 Section 6. Subsection (1), paragraph (a) of subsection
166 (2), and subsection (3) of section 163.387, Florida Statutes,
167 are amended to read:

168 163.387 Redevelopment trust fund.--
169 (1)(a) After approval of a community redevelopment plan,
170 there shall be established for each community redevelopment
171 agency created under s. 163.356 a redevelopment trust fund.
172 Funds allocated to and deposited into this fund shall be used by
173 the agency to finance or refinance any community redevelopment
174 it undertakes pursuant to the approved community redevelopment
175 plan. No community redevelopment agency may receive or spend any
176 increment revenues pursuant to this section unless and until the
177 governing body has, by ordinance, provided for the funding of
178 the redevelopment trust fund for the duration of a community
179 redevelopment plan. Such ordinance may be adopted only after the
180 governing body has approved a community redevelopment plan. The
181 annual funding of the redevelopment trust fund shall be in an
182 amount not less than that increment in the income, proceeds,
183 revenues, and funds of each taxing authority derived from or
184 held in connection with the undertaking and carrying out of
185 community redevelopment under this part. Such increment shall be
186 determined annually and shall be that amount equal to 95 percent
187 of the difference between:
188 1.~~(a)~~ The amount of ad valorem taxes levied each year by
189 each taxing authority, exclusive of any amount from any debt
190 service millage, on taxable real property contained within the
191 geographic boundaries of a community redevelopment area as
192 indicated by the preliminary assessment roll; and
193 2.~~(b)~~ The amount of ad valorem taxes which would have been
194 produced by the rate upon which the tax is levied each year by
195 or for each taxing authority, exclusive of any debt service

196 millage, upon the total of the assessed value of the taxable
197 real property in the community redevelopment area as shown upon
198 the most recent assessment roll used in connection with the
199 taxation of such property by each taxing authority prior to the
200 effective date of the ordinance providing for the funding of the
201 trust fund.
202
203 However, the governing body of any county as defined in s.
204 125.011(1) may, in the ordinance providing for the funding of a
205 trust fund established with respect to any community
206 redevelopment area created on or after July 1, 1994, determine
207 that the amount to be funded by each taxing authority annually
208 shall be less than 95 percent of the difference between
209 subparagraphs 1. and 2. ~~paragraphs (a) and (b)~~, but in no event
210 shall such amount be less than 50 percent of such difference.
211 (b)1. For any community redevelopment agency created after
212 July 1, 2006, that was not created pursuant to a delegation of
213 authority under s. 163.410 by a county that has adopted a home
214 rule charter, or that extends the time certain set forth in the
215 redevelopment plan as required by s. 163.362(10) beyond 40 years
216 after the later of the fiscal year in which the initial
217 redevelopment plan is adopted or the most recent amendment to
218 the redevelopment plan is adopted, the amount of tax increment
219 to be contributed by any taxing authority shall be limited as
220 follows:
221 a. If a taxing authority imposes a millage rate that
222 exceeds the millage rate imposed by the governing body that
223 created the trust fund, the amount of tax increment to be

224 contributed by the taxing authority imposing the higher millage
225 rate shall be calculated using the millage rate imposed by the
226 governing body that created the trust fund, provided that any
227 taxing authority may voluntarily contribute amounts of tax
228 increment at a higher rate for a period of time as specified by
229 interlocal agreement between the taxing authority and the
230 community redevelopment agency.
231 b. At any time more than 19 years after the fiscal year in
232 which a taxing authority made its first contribution to a
233 redevelopment trust fund, the taxing authority, by resolution
234 effective no sooner than the next fiscal year and adopted by
235 majority vote of the taxing authority's governing body at a
236 public hearing held not less than 30 or more than 45 days after
237 written notice delivered to the community redevelopment agency
238 and published in a newspaper of general circulation in the
239 redevelopment area, may limit the amount of increment
240 contributed by the taxing authority to the trust fund to the
241 average annual amount the taxing authority was obligated to
242 contribute to the trust fund in the 3 fiscal years immediately
243 preceding the adoption of such resolution, plus any increase in
244 the increment after the adoption of the resolution computed
245 using the taxable values of any area which is subject to an area
246 reinvestment agreement. As used in this subparagraph, the term
247 "area reinvestment agreement" means an agreement between the
248 community redevelopment agency and a private party, with or
249 without additional parties, provided that all the increment
250 computed for a specific area shall be reinvested in public
251 infrastructure or services, or both, or debt service for such

252 infrastructure supporting a specific project identified in the
253 agreement to be constructed within that area. Any such
254 reinvestment agreement must specify the estimated total amount
255 of public investment necessary to provide the public
256 infrastructure or services, or both, including any applicable
257 debt service. The increase in the increment of any area that is
258 subject to an area reinvestment agreement following the passage
259 of a resolution as provided in this subparagraph is limited to
260 the amount specified in the area reinvestment agreement as
261 necessary to provide the public infrastructure or services, or
262 both, including any applicable debt service, that is the subject
263 of the agreement. The increase in the increment of any area that
264 is subject to an area reinvestment agreement following the
265 passage of a resolution as provided in this sub-subparagraph
266 shall cease when the amount specified in the area reinvestment
267 agreement as necessary to provide the public infrastructure or
268 services, or both, including any applicable debt service, have
269 been invested.
270 2. For any community redevelopment agency that was not
271 created pursuant to a delegation of authority under s. 163.410
272 by a county that has adopted a home rule charter and that
273 modifies its adopted community redevelopment plan after July 1,
274 2006, in a manner that expands the boundaries of the
275 redevelopment area, the amount of increment to be contributed by
276 any taxing authority with respect to the expanded area shall be
277 limited as set forth in subparagraph 1.
278 (2)(a) Except for the purpose of funding the trust fund
279 pursuant to subsection (3), upon the adoption of an ordinance

280 providing for funding of the redevelopment trust fund as
281 provided in this section, each taxing authority shall, by
282 January 1 of each year, appropriate to the trust fund for so
283 long as any indebtedness pledging increment revenues to the
284 payment thereof is outstanding (but not to exceed 30 years) a
285 sum that is no less than the increment as defined and determined
286 in subsection (1) or paragraph (3)(b) accruing to such taxing
287 authority. If the community redevelopment plan is amended or
288 modified pursuant to s. 163.361(1), each such taxing authority
289 shall make the annual appropriation for a period not to exceed
290 30 years after the date the governing body amends the plan.
291 However, for any agency created on or after July 1, 2002, each
292 taxing authority shall make the annual appropriation for a
293 period not to exceed 40 years after the fiscal year in which the
294 initial community redevelopment plan is approved or adopted.
295 (3)(a) Notwithstanding the provisions of subsection (2),
296 the obligation of the governing body which established the
297 community redevelopment agency to fund the redevelopment trust
298 fund annually shall continue until all loans, advances, and
299 indebtedness, if any, and interest thereon, of a community
300 redevelopment agency incurred as a result of redevelopment in a
301 community redevelopment area have been paid.
302 (b) Notwithstanding the provisions of subsections (1) and
303 (2), an alternative method of determining the amount and time or
304 times of payment of, and rate of interest upon, tax increments
305 contributed to the trust fund, including formulae and limits
306 different than those specified in subsection (1), may be enacted
307 by interlocal agreement between any of the other taxing

308 authorities required to contribute a tax increment to the trust
309 fund and the governing body that created the community
310 redevelopment agency.
311 Section 7. Section 163.410, Florida Statutes, is amended
312 to read:
313 163.410 Exercise of powers in counties with home rule
314 charters.--In any county which has adopted a home rule charter,
315 the powers conferred by this part shall be exercised exclusively
316 by the governing body of such county. However, the governing
317 body of any such county which has adopted a home rule charter
318 may, in its discretion, by resolution delegate the exercise of
319 the powers conferred upon the county by this part within the
320 boundaries of a municipality to the governing body of such a
321 municipality. Such a delegation to a municipality shall confer
322 only such powers upon a municipality as shall be specifically
323 enumerated in the delegating resolution. Any power not
324 specifically delegated shall be reserved exclusively to the
325 governing body of the county. This section does not affect any
326 community redevelopment agency created by a municipality prior
327 to the adoption of a county home rule charter. Unless otherwise
328 provided by an existing ordinance, resolution, or interlocal
329 agreement between any such county and a municipality, the
330 governing body of the county that has adopted a home rule
331 charter shall approve or deny ~~act on~~ any request from a
332 municipality for a delegation of powers or a change in an
333 existing delegation of powers within 120 days after the receipt
334 of all required documentation or such request shall be deemed
335 approved. Any request by the county for additional documentation

336 or other information shall be made in writing to the
337 municipality. The county shall notify the municipality in
338 writing within 30 days after receiving all the required
339 documentation and other requested information. If the meeting of
340 the county commission at which the request for a delegation of
341 powers or a change in an existing delegation of powers is unable
342 to be held due to events beyond the control of the county, the
343 request may be acted upon at the next regularly scheduled
344 meeting of the county commission without regard to the 120-day
345 limitation ~~immediately sent to the governing body for~~
346 ~~consideration~~.
347 Section 8. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1609 Collection of Delinquent Property Taxes
SPONSOR(S): Goldstein
TIED BILLS: **IDEN./SIM. BILLS:** SB 1272

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		DiVagno	Hamby
2) Finance & Tax Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

Tax collectors have the authority to collect all taxes shown on the tax rolls by the date of delinquency. If taxes become delinquent, the tax collector may collect delinquent taxes, interests, and costs, by sale of tax certificates on real property and by seizure and sale of personal property. Costs include reasonable attorney fees and court costs in proceedings to recover delinquent taxes.

This bill allows tax collectors to contract with outside counsel to collect all delinquent personal property taxes. The outside counsels' fee is set at 33% of the total of the unpaid taxes, penalties, and costs. This fee is a collection fee, added in addition to the taxes, penalties, and costs. The bill provides for taxpayers to be informed of these new fees and compensation in their tax notices. The bill also contains an acceleration clause that adds any unpaid taxes attached to the property, to be included with the warrant for unpaid personal property taxes.

This bill would take effect July 1, 2006.

The potential fiscal impact is indeterminate.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: This bill creates a 33% collection fee, paid by taxpayers, on unpaid personal property taxes, penalties, and costs.

B. EFFECT OF PROPOSED CHANGES:

Current Situation:

Tax collectors have the authority to collect all taxes shown on the tax rolls by the date of delinquency. Taxes are due and payable on November 1st of each year, or as soon as the certified tax roll is received by the tax collector. Taxes become delinquent on April 1st of the following year in which they are assessed, or 60 days from the mailing of the original notice, whichever is later. If the delinquency date for ad valorem taxes is later than April 1st of the year following the assessment on which taxes are due, all dates or time period regarding the collection of, or administrative procedures regarding the collection of, delinquent taxes shall be extended a like number of days. [1] If taxes become delinquent, the tax collect may collect delinquent taxes, interests, and costs, by sale of tax certificates on real property and by seizure and sale of personal property. Costs include the publication of notices and reasonable attorney fees and court costs in proceedings to recover delinquent taxes.[2]

Before May 1st of each year following the assessment, the tax collector prepares a roll of all unpaid personal property taxes. Prior to April 30th of the next year, the tax collector shall prepare warrants against the delinquent taxpayers. The warrants allow for the levy upon, and seizure of, tangible personal property. Within 30 days after preparing the warrants, the tax collector files a petition in the circuit court for the county they serve in. The petition describes the levies and nonpayment of taxes, the issuance of warrants, proof of publication of notices, and the names and addresses of all taxpayers who failed to pay taxes. There is one petition naming multiple delinquent taxpayers. The petition prays for an order ratifying and confirming the warrants, and directing the tax collector to levy upon and seize the personal property of all delinquent tax payers to satisfy payment of unpaid taxes.[3]

Upon filing a petition with the court, the tax collector must request the earliest time for a hearing, and the clerk of court shall notify each delinquent taxpayer listed in the petition that a petition is filed and, if ratified, warrants will be issued and their property will be seized and sold to pay unpaid taxes, plus costs, interest, attorney's fees, and other charges.[4]

The tax collector is authorized to employ counsel to conduct such suits. They may agree upon counsel's compensation, which may come out of the general office expense fund and be included in their budget.[5] These fees are allowed to be collected from delinquent taxpayers by adding them to the unpaid taxes.

Effect of Bill:

This bill requires the original tax notice to inform the taxpayer that any delinquent tangible personal property tax, penalty, and interest may be referred to contract legal counsel for collection. Additionally, the notice must inform the taxpayer of the contract counsel's compensation, and that it and certain

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[1] Section 197.333, F.S.
[2] Section 197.332, F.S.
[3] Section 197.413(2), F.S.
[4] Sections 197.413(4), (5), F.S.
[5] Section 197.413(3), F.S.

other costs, including court and advertising costs, will be added to the amount owed on delinquent taxes.

The bill accelerates the collection of unpaid taxes by allowing any current taxes assessed against the property that are unpaid, but not yet delinquent, to be included in the warrant to collect delinquent tangible personal property taxes.

The bill changes the current lien against the property into a personal debt liability against the owner of the property. The owner becomes personally liable for any unpaid personal property taxes, penalties, and interest. This subjects the owner of property with delinquent personal property taxes to a civil action for debt collection. Under current law, the tax collector can seize and then sell the personal property for satisfaction of the taxes owed. This bill will hold the property owner personally liable as well, giving the tax collector, and anyone with an interest in the debt, which would include contract counsel, a separate collection tool aimed at other assets than just tangible personal property.[6]

The bill also expands the tax collectors ability to use legal counsel in collecting unpaid taxes. The bill specifies that the tax collector may retain in-house counsel or, may contract with outside counsel to collect by suit, or other means, all delinquent tangible personal property taxes, and any other unpaid taxes also included in the warrant, as provided in the acceleration clause. The bill provides contract counsel a statutory compensation of 33% of the total amount of delinquent taxes, penalties, and interests collected. To pay this cost, the bill authorizes a collector's fee of 33% of delinquent taxes, penalties, and interests to be added to all personal property taxes, penalties, and interest reaming unpaid upon referral to contract counsel. In a warrant or other cause of action for unpaid taxes in which a collection fees has not been imposed, the bill allows the tax collector to recover attorney's fees in the amount of 33% of the amount of taxes, penalty, and interest adjudged by the court.

C. SECTION DIRECTORY:

Section 1: Amends s. 197.333, F.S., forming sub-sections (1) and (2), to require additional information in tax notices regarding contract counsel and their compensation.

Section 2: Amends s. 197.413 to accelerate the collection of unpaid taxes, create a personal liability for unpaid taxes, and provide contract counsel with statutorily set collection fee.

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Operational Impact is to be determined by the Department of Revenue.[7]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See fiscal comments below.

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[6] E-mail from Glenna Hodge, Partner and Director of Governmental Affairs, Linebarger Goggan Blair & Sampson, LLP, March 21, 2006.

[7] Department of Revenue Bill Analysis, HB 1609.

2. Expenditures:

See fiscal comments below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill creates a 33% collection fee, set in statute.

D. FISCAL COMMENTS:

The bill provides a tax collector and legal counsel an additional method of collecting unpaid taxes and fees by turning unpaid taxes, penalties, and costs into a personal debt, rather than a lien on the property. By making this a personal debt, collection can be undertaken in a civil action.

The bill also authorizes the creation of a 33% collection fee on all delinquent personal property taxes, and other unpaid taxes added to a delinquent personal property tax warrant, which takes attorney's fees out the tax collectors and courts hands.

With an 18% interest rate per year from the date of delinquency and an additional 33% of the total of unpaid taxes, penalties, and costs, a taxpayer, within a year, can potentially be personally liable for an additional 50% of what was additionally owed.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments:

Opponents: The Florida Tax Collectors Association, Inc., opposes the bill. It is their position that tax collectors are already able to use legal counsel, the fees of which can already be added to the delinquent amounts. There is also concern with the changing of the lien on property into a personal debt and whether this is constitutional.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to collection of delinquent property
3 taxes; amending s. 197.333, F.S.; specifying required
4 information in an original tax notice relating to contract
5 legal counsel to collect delinquent taxes; amending s.
6 197.413, F.S.; providing for including certain unpaid but
7 not delinquent taxes in a warrant to collect unpaid
8 delinquent taxes; specifying owner liability for taxes,
9 penalties, and interest; revising provisions authorizing a
10 tax collector to hire counsel to collect delinquent taxes;
11 imposing a collection fee to defray counsel costs;
12 authorizing recovery of attorney fees under certain
13 circumstances; providing an effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Section 197.333, Florida Statutes, is amended
18 to read:
19 197.333 When taxes due; delinquent.--
20 (1) All taxes shall be due and payable on November 1 of
21 each year or as soon thereafter as the certified tax roll is
22 received by the tax collector. Taxes shall become delinquent on
23 April 1 following the year in which they are assessed or
24 immediately after 60 days have expired from the mailing of the
25 original tax notice, whichever is later. If the delinquency date
26 for ad valorem taxes is later than April 1 of the year following
27 the year in which taxes are assessed, all dates or time periods
28 specified in this chapter relative to the collection of, or

29 administrative procedures regarding, delinquent taxes shall be
30 extended a like number of days.
31 (2) The original tax notice must inform the taxpayer that:
32 (a) Any delinquent tangible personal property tax,
33 penalty, and interest may be referred to contract legal counsel
34 for collection.
35 (b) Such contract counsel's compensation and certain other
36 costs, including court costs and the cost of advertising, shall
37 be added to the total amount owed by the delinquent taxpayer.
38 Section 2. Subsections (1) and (3) of section 197.413,
39 Florida Statutes, are amended to read:
40 197.413 Delinquent personal property taxes; warrants;
41 court order for levy and seizure of personal property; seizure;
42 fees of tax collectors.--
43 (1) Prior to May 1 of each year immediately following the
44 year of assessment, the tax collector shall prepare a list of
45 the unpaid personal property taxes containing the names and
46 addresses of the taxpayers and the property subject to the tax
47 as the same appear on the tax roll. Prior to April 30 of the
48 next year, the tax collector shall prepare warrants against the
49 delinquent taxpayers providing for the levy upon, and seizure
50 of, tangible personal property. The cost of advertising
51 delinquent tax shall be added to the delinquent taxes at the
52 time of advertising. The tax collector is not required to issue
53 warrants if delinquent taxes are less than $50. However, such
54 taxes shall remain due and payable. Any current taxes assessed
55 against the property that are unpaid but not yet delinquent may
56 be included in a warrant to collect delinquent tangible personal

57 property taxes. An owner is liable for unpaid delinquent
58 personal property taxes, penalties, and interest.
59 (3) The tax collector may employ in-house counsel, and
60 agree upon the counsel's compensation, for conducting such suit
61 or suits and may pay such compensation out of the general office
62 expense fund and include such item in the budget. Alternatively,
63 the tax collector may contract with outside counsel to collect
64 by suit or otherwise all delinquent tangible personal property
65 taxes. Such counsel's compensation shall be set at 33 percent of
66 the total amount of the delinquent taxes, penalty, and interest
67 collected. In order to defray the expense of the contract
68 counsel's compensation for collecting those taxes, a collection
69 fee in the amount of 33 percent of the amount of the delinquent
70 taxes, penalty, and interest owed shall be added to all personal
71 property taxes, penalty, and interest remaining unpaid upon
72 referral to contract counsel. In a warrant or other action on
73 proceedings that include unpaid taxes for the current year for
74 which the collection fee has not been imposed, the tax collector
75 may recover attorney's fees in the amount of 33 percent of the
76 amount of the taxes, penalty, and interest adjudged due by the
77 court.
78 Section 3. This act shall take effect July 1, 2006.